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SITTING DAYS—2014

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SECOND PERIOD

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

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

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

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

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</table>

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

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

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

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

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

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

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

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

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

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

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

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

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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Tony Abbott MP</td>
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<tr>
<td><strong>Minister for Indigenous Affairs</strong></td>
<td>Senator the Hon Nigel Scullion</td>
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<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon Erich Abetz</td>
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<tr>
<td>Minister Assisting the Prime Minister for Women</td>
<td>Senator the Hon Michaelia Cash</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Josh Frydenberg MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>The Hon Alan Tudge MP</td>
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<tr>
<td><strong>Minister for Infrastructure and Regional Development</strong> (Deputy Prime Minister)</td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>Assistant Minister for Infrastructure and Regional Development</td>
<td>The Hon Jamie Briggs MP</td>
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<tr>
<td><strong>Minister for Foreign Affairs</strong></td>
<td>The Hon Julie Bishop MP</td>
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<tr>
<td><strong>Minister for Trade and Investment</strong></td>
<td>The Hon Andrew Robb AO MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>Senator the Hon Brett Mason</td>
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<tr>
<td><strong>Minister for Employment</strong> (Leader of the Government in the Senate)</td>
<td>Senator the Hon Erich 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>
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<td>Senator the Hon George Brandis QC</td>
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<tr>
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<td>Senator the Hon George Brandis QC</td>
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<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
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<td>Minister for Justice</td>
<td>The Hon Michael Keenan MP</td>
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<td>The Hon Joe Hockey MP</td>
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<td><strong>Minister for Small Business</strong></td>
<td>The Hon Bruce Billson MP</td>
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<td>Acting Assistant Treasurer</td>
<td>Senator the Hon Mathias Cormann</td>
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<td>The Hon Steven Ciobo MP</td>
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<td>The Hon Sussan Ley MP</td>
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<td>The Hon Bob Baldwin MP</td>
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<td>Senator the Hon Mitch Fifield</td>
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<td>(Manager of Government Business in the Senate)</td>
<td>Senator the Hon Marise Payne</td>
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<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<td>The Hon Malcolm Turnbull MP</td>
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<tr>
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<td><em>Senator the Hon Michael Ronaldson</em></td>
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<td><em>The Hon Darren Chester MP</em></td>
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<tr>
<td><strong>Minister for the Environment</strong></td>
<td>The Hon Greg Hunt MP</td>
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 09:30, read prayers and made an acknowledgement of country.

BILLS

Privacy Amendment (Privacy Alerts) Bill 2014
Second Reading

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

Senator SINGH (Tasmania) (09:31): I rise to speak to the Privacy Amendment (Privacy Alerts) Bill 2014. Labor believes Australians should be told when there has been a breach of their privacy. It is time that companies who are required to protect Australians' personal data should also have the complementary duty to tell a consumer when their personal data has been the subject of unauthorised public release. Businesses that already implement good privacy practices and comply with current voluntary guides from the Office of the Australian Information Commissioner, the OAIC, will have little difficulty in transitioning to the new scheme.

A consumer should have the right to know if their personal information has become compromised or if their bank or telecommunications provider has lax security standards. Consumers need to have the power to change their passwords, improve their security settings online, cancel credit cards or completely change providers such as banks and telecommunications companies.

In an increasingly digital world, more and more data and personal information is being collected from Australian families. This bill puts in place a compulsory notification regime in order to strengthen the protections around this information and build on the privacy regime Labor implemented when it was in government. The bill will require all entities currently regulated by the act to notify affected individuals and the OAIC when there has been a data breach that gives rise to a real risk of serious harm to an affected individual. A real risk is defined as a risk that is not a remote risk. Therefore, only the more serious data breaches will need to be notified—a responsible approach to implementing this important privacy regulation.

The OAIC will have the power to compel notification to affected individuals were it becomes aware of a serious data breach that has not been notified. The OAIC will also be given the power to exempt an entity from the notification requirement where it is in the public interest to do so. The bill ensures that the victims of a data breach will receive comprehensive and useful information about the circumstances of the relevant breach. Firstly, it must contain a description of the breach. Secondly, it must contain a list of the types of personal information that were accessed or disclosed. Thirdly, the notification must contain recommendations about the steps that individuals should take in response to the breach. Finally, contact information for affected individuals to obtain more information and assistance must also be included.
Noncompliance with the scheme would attract the normal Privacy Act remedies. These include public or personal apologies, compensation payments or enforceable undertakings. Under the new privacy regime enacted by the Gillard Labor government, a civil penalty can be sought where there has been serious or repeated noncompliance with mandatory notification requirements.

This bill is in substantially similar terms to the Privacy Amendment (Privacy Alerts) Bill 2013 previously introduced into the parliament in 2013 by the Gillard Labor government. It was to be the next step in the important reforms of Australia's privacy legislation being delivered by the Labor government, but the bill lapsed when parliament was prorogued ahead of the 2013 federal election.

The privacy reforms passed in the last parliament were significant Labor reforms to an area of law about which Australians are deeply concerned, and rightly so. That legislation, which has recently begun operation, delivered a number of important changes. The Privacy Act now contains a set of 13 Australian Privacy Principles which apply to Australian and Norfolk Island governments and some private sector organisations. The APPs harmonised and replaced the two sets of principles which previously applied to government and the private sector. The Office of the Australian Information Commissioner has been given new powers to assess and enforce privacy compliance and to seek civil penalties where serious breaches occur.

There are new provisions in the Privacy Act governing credit reporting. The law now provides for both more comprehensive credit reporting and an improved process for correcting reporting errors and dealing with complaints. Civil penalties now apply for certain breaches of the credit reporting provisions. The Privacy Act now provides for the recognition of external dispute resolution schemes for handling privacy complaints and for the registration of binding privacy codes.

These are all important reforms. They are important Labor reforms. It took a Labor government to enact the Privacy Act 1988 and it took a Labor government to deliver the most significant reforms to that act in the decade and a half since. Labor understands that privacy is a human right. Labor understands that technological change has made privacy a pressing everyday concern for many, many Australians. These reforms are well within the long and proud Labor tradition of consumer protection. They are an example of Labor's commitment to responsible regulation which protects rights which make a real and positive difference in the way Australians work and live.

The bill I speak to today is the next step in that package of reforms. The bill will introduce a new consumer privacy protection for Australians that will keep their personal information more secure in the digital age. It will also encourage agencies and private sector organisations to improve their data security practices. The risk of data breaches and the seriousness of their consequences have grown as new technology has allowed government and the private sector to collect more and more personal information about Australians. A data breach can severely affect an individual whose personal information has been compromised. People can lose money. The identity can be stolen. They can be embarrassed and distressed by the release of sensitive personal information.

Labor believes that individuals should know when their privacy has been interfered with. Currently, the law imposes no obligation on organisations who suffer a data breach to notify
those whose privacy has been compromised. Labor thinks that is manifestly inadequate. It is out of step with what our community expects. It is out of step with the way that technology has changed the way we live our lives. Labor is committed to act to remedy this gap in our privacy laws. We were committed to doing this in government and we remain committed to doing it in opposition.

Data breaches are of significant concern to modern Australia. There have been a number of high-profile breaches in Australia in recent times. One that comes to mind recently was the Department of Immigration in February this year, which published personal details of around 10,000 asylum seekers held in Australia. Similarly, between February 2012 and May 2013, the information of 15,775 of a telco's customers from 2009 and earlier were accessible on the internet. This included the information of 1,257 active silent customers. Previously, the personal information of approximately 734,000 customers had been made publicly available online in December 2011. Other large companies have had data breach issues as well, and the OAIC is aware of 56 data breaches in 2011-12.

But data breaches are a concern not only for individuals. The security of personal data is of commercial importance to Australian companies. Data breaches are bad for business and can be incredibly costly due to the errors that come about from them. Companies stand to lose not just time and money rectifying a data breach but also their reputation, and in a modern information economy the important trust of consumers in a company's privacy compliance is an incredibly important part of a company's goodwill. In 2012, the ABC reported that the average data breach incident in Australia cost the organisation in question some $2 million. What is more, that average cost has been steadily rising year on year.

Labor understands the importance of this issue not only to individuals but also to business and to the competitiveness of Australian companies and we have introduced this bill from opposition to ensure that appropriate action is now taken. This bill, rightly, has strong support from Australia's various information and privacy commissioners, from relevant industries, from IT security experts and from privacy and consumer advocates. But most importantly, the Australian public demand the protection this bill will provide. In a survey conducted last year, the OAIC reported that some 96 per cent of Australians believed that they should be notified of data breaches if they are affected by them.

In government, Labor consulted extensively with relevant stakeholders. We focused on making these reforms as flexible as possible. We focused on minimising the compliance burden on companies and agencies while making sure that the privacy rights of individuals are steadfastly protected. We took both industry and consumer concerns on board, and the widespread support for the bill very much reflects this. So given that the hard work of this bill has been done by Labor and given that consumers and industry support its passage, we might wonder why the new Attorney-General has sat on his hands. This month the suite of privacy reforms that were passed by the Gillard Labor government entered into force and this bill comprises an important addition to that package of reforms.

So why hasn't the government acted? Industry and the community are ready for this reform and, indeed, it will be easier for compliance if this bill could enter into operation more or less alongside the other major changes to the Privacy Act which have just now come into force. Delaying the passage of this bill would leave Australia behind developments in comparable jurisdictions, notably jurisdictions like the US and the EU. Australian consumers deserve
protection every bit as good as that which the citizens of other nations enjoy, and Australian businesses must stay ahead of the curve to be competitive.

The Liberals did support this bill, though, when last in parliament and, when the bills lapsed at the conclusion of the 43rd Parliament, there were reports in the press that an incoming Liberal government would continue this important work and work towards the enactment of a privacy alert law when in government. Well, they have now had six months in power, and yet we have heard nothing from this government. Nor is it the case that the Abbott government or the Attorney-General, Senator Brandis, have more important things to do. Senator Brandis's only legislative work in the time he has been in office has been the bills he contributed to the Abbott government's repeal day media event. In many cases the main function of these bills was the correction of typographical errors and grammatical mistakes: a worthy enterprise, but not one that carries much legislative weight. As my colleagues in another place pointed out yesterday, the Attorney-General is yet to introduce any legislation of substance.

I hope that the Attorney-General's unedifying recent appearance on Alan Jones's show on 2GB radio does not indicate that he is now preparing to walk away from privacy law reform. On 14 March, in a display of disingenuousness, Senator Brandis appeared to disown the privacy laws that he and his party had voted for in the last parliament. Mr Jones put a number of confused complaints to the Attorney-General about the operation of the new credit reporting provisions of the privacy legislation, and this is what our bold Attorney-General said in the course of his response:

… these were measures that were introduced by the Gillard Government.

He said that the new privacy laws were:

… something we inherited from Gillard.

What a shameless act of buck-passing, when they supported the privacy reforms in the last parliament. The Liberal Party supported these privacy reforms in the last parliament. So though it was Labor that spearheaded these reforms, and Labor that did the hard yards, the Liberal Party did do the right thing in supporting our privacy reforms in the last parliament. They were right to do that at that time and so that is why it is now disappointing that they should not have the integrity to continue to hold to that responsible policy position—some six months have passed and they have had so many opportunities in the time we have been sitting in parliament for them to have done so.

When Australians want to know their Attorney-General's position on issues that matter to them, should they trust the way he votes in this parliament, or should they trust his throwaway lines on talkback radio? The only thing the public can count on is the opportunism of the Attorney-General. Why doesn't he have the courage of his convictions to stick by the Labor reforms that he so rightly supported? And why doesn't he explain the operation of legislation that he did vote for, rather than slinking away from it at the slightest hint of public debate—like the example I just gave of him on talkback radio? Does the Attorney-General support privacy law reform again, now that he is back in the cloisters of the parliament? What is his position on this issue which is of such importance to Australians in their everyday lives, and will continue to be important to them as we continue into this age of the digital economy?
Given the paucity of his own legislative record as Attorney-General, I would have thought Senator Brandis would be desperate to claim some credit for any good policy that had passed through this place. Now the Attorney-General has another chance to support good privacy policy with the introduction of this privacy alerts bill. This privacy alerts bill is a constructive policy proposal. It is ready to go. The people want it. Industry wants it. But where is our Attorney-General and where is the Abbott government on privacy law reforms? Why has it fallen to the opposition to provide this parliament with some real policy substance? The Liberal Party has been in government for some time now. There have been a number of opportunities for the new Abbott government to introduce privacy law reforms, to continue on with the good work started by the Labor government in this area of privacy reform. It is something that Australian consumers want. It is something that industry wants. In fact, it is something that ensures that industry has better data hygiene, if you like, around the way that its data complies with privacy laws.

This government and this Attorney-General might be a policy-free zone, but the Labor opposition is here to help. I sincerely hope that, as they rightly did when they were in opposition, the Liberals will support this prudent bill—this bill that is needed; this bill that will put us in step with other jurisdictions such as the EU and the US; this bill that will ensure we have certainty for consumers and for industry as we move further into this digital age. I hope the government will help us continue the good work in this area of the previous Labor government and I hope they will support this bill. I commend the bill to the Senate.

Senator BOYCE (Queensland) (09:51): Well, here we are at Groundhog Day again! I am surprised that the opposition would want to remind the Australian people of the bureaucratic and administrative mishmash and nightmare that purported to be government by the Labor Party.

The government strongly supports all efforts to improve privacy provisions for the Australian people and Australian organisations but—surprise, surprise!—we do not support doing it in the erratic, inexperienced, unthinking way that Labor would try to go about this. This piece of legislation was first brought to the House in June last year by the then government and came to the Senate with a whole 1½ days for a committee to hold an inquiry into the effects that it would have. It, of course, was something that they apparently had forgotten to include in their first tranche of legislation on privacy—and why would we be surprised by that? In the annals of history, the FoFA—Future of Financial Advice—legislation will stand in years to come for administrators to use as an example of how never to try and go about public policy: three tranches of legislation, some of it actually contradictory; some of it requiring that an IT system that had been put in place to meet the requirements of a first bill would subsequently have to be changed—within six months, was what the government first wanted—by those working in the industry. So we had once again the usual complete inability, apparently, of the Labor Party to grasp that some people out there are trying to make profits to create jobs and to create growth in our economy. This bill that we are now debating came into that category entirely.

I am somewhat bemused by Senator Singh's suggestion that Labor has consulted extensively with stakeholders in government. I will just quote from a couple of witnesses—well, not witnesses, because we did not have time to hold a full inquiry; it was done on the paper—for the inquiry held last year by the Legal and Constitutional Affairs Legislation
Committee. The Cyberspace Law and Policy Centre of the University of New South Wales pointed out that it had 'around 10 working hours in which to collaborate on, draft and finalise a submission'. I am not sure that that constitutes extensive consultation. The Australian Privacy Foundation, who are dedicated to ensuring that the Privacy Principles apply to Australians, said that the great rush of the Labor government to get this piece of legislation through on reporting of breaches had a:

... seriously negative impact on the democratic process that is inherent in the provision by the Parliament of 1-1/2 working days, during which civil society organisations are expected to discuss, draft and finalise a Submission to your Committee.

Those comments go back to June last year, when this was an urgent, urgent piece of legislation to fix up, presumably, something that the then government had left out of the Privacy Act.

On 21 March, Minter Ellison pointed out to its clients that the bill was introduced with 'little fanfare' by Labor Senator Lisa Singh and that it brought up the same amendments that had been proposed by the then government back in June, when it was such an urgent, urgent issue. Minter Ellison said:

The timing is likely to be concerning for those entities still coming to grips with implementing the changes required by the amendments to the Privacy Act which commenced on 12 March this year.

The then opposition, the now government, did indeed support the Privacy Act put forward and the principles that changed it, but we also warned that there was no need to introduce these particular reporting requirements in a whole new piece of legislation at the same time that we were asking Commonwealth organisations and other reporting entities to get their heads and their systems around implementing the changes that were required under the Privacy Act and were to be implemented on 12 March. We have, yet again, the situation where a Labor government apparently thought it was okay to ask organisations to change their systems every 20 minutes on the whim of a government that did not have a clue what it was doing in terms of the costs it was imposing and the problems it was creating.

We only have to go back as far as the original changes to the Privacy Act that has now come into play: if it had gone ahead as the then Labor government wanted, most banks in Australia would have had to change the way they went about data processing. We were told during a committee hearing on the Privacy Act itself that a lot of data processing for Australian banks occurs offshore, including in New Zealand, yet if the legislation, as Labor drafted it, had stood this would have become at least fraught and possibly illegal. So there is a lot of good to be gained out of an inquiry process of the Senate.

I am not quite sure who Senator Singh has consulted so widely with, but certainly none of the stakeholders that I am aware of feel as though they have been consulted. To whip this legislation in now and then come up with some righteous platitudes, trying to suggest that only Labor cares about privacy, is the typical sort of stunt that one expects from a Labor opposition. It is not only Labor who cares about privacy. The basic legislation of the Privacy Act has been in operation now for a good two weeks. For heaven's sake, can we not let that settle down before we look at other changes that may very well need to be made and may in fact be useful changes?

Who knows is the problem. Who knows? This stunt appears to be designed to try to maximise some publicity out of the recent breach by the Department of Immigration and Border
Protection, which, of course, this government abhors and has certainly dealt with in terms of repairing the damage that has been done as far as possible.

The model that Senator Singh would have us pass suggests that every government organisation, every reporting entity, should pass on to the Australian Information Commissioner data breaches which have given rise to a 'real risk of serious harm' to an affected individual. No-one, of course, has any issue whatsoever with that statement. The government would support the development of principles that would ensure that we were aware when serious breaches that caused real harm had occurred. The problem, of course, comes down to what exactly are we talking about when we talk about the 'real risk of serious harm'. Senator Singh says we define 'real risk' as 'not a remote risk'. Great! But what is 'serious harm'? What is a 'serious breach'? There is very little definition in it—and, of course, that will vary from individual to individual. The way to flesh out where the limits of this legislation should be, the costs that might be imposed by putting this legislation through, is to consult extensively, which certainly has not happened, with stakeholders.

The implications of this legislation, when we do not have a significant view of what constitutes 'real risk' or 'real harm', could be huge. We simply do not know where it would stop and start. Of course the people who are being asked to enforce it would not know where it should stop and where it should start. It is quite possible that if your PIN, for example, was inadvertently revealed, in some situations this could cause serious harm. It could be a serious breach. With a bank with very good security systems that could alert the individual immediately that somehow this had happened, then it may not cause serious harm or be a serious breach, because it has not caused damage to the individual.

Once again, we do not really know what the Labor Party is on about. Without having a full inquiry into how this would work, where the parameters should be, it cannot happen. But, of course, Senator Singh is not really interested in getting this legislation passed; she is interested in the smoke and mirrors of pretending to care more than the government about a principle which, of course, is one that this government more than any other has embedded into the culture of Australia. Privacy is something that has been of great concern and great interest to this government and this party. It is ridiculous of the Labor Party to suggest that they could, through their bureaucratic approach, improve the system that is in place.

The restrictive time frame on this legislation when it was first put up by the then government and the lack of analysis in most of the submissions—simply because the submitters did not have time to do it properly—was most unfortunate. There was no thorough or detailed scrutiny of this bill and there still hasn't been. All we have is the pious platitudes from Senator Singh suggesting that this is the right way to go. We have no idea how companies would be asked to interpret the legislation and what it means; we have no idea what the costs of adding this reporting process to the system would be; and we have no idea how this would interact with the current new Privacy Act that has come into force on the 12 March and which companies are happily, currently, put into place. Let us bed that down before we get on with the very real job that we would agree is vital to do, to ensure that breaches of privacy are reported to the Australian Information Commissioner and to the individuals concerned.

There is certainly an underreporting of privacy breaches in Australia. No-one is arguing about that. That needs to be fixed. But you would have thought that a piece of legislation that
introduced 13 privacy principles and was supported by the now government would have come a long way towards fixing that. If it did not fix that, what was wrong with the then government, the Labor government, in the first place? Why on earth couldn't that have been a significant part of their original legislation? Let us see how the legislation that has now come into fruition—and has been operational now for just on two weeks—works before we go into the world of compulsory reporting, particularly compulsory reporting based on 'serious harm', 'real risk' and 'serious breach'. As I have pointed out, what constitutes a 'serious breach'? Certainly in the examples that Senator Singh gave no-one would have any problems saying, 'Yes, they are serious breaches of privacy principles—serious breaches,' and they have both come to public attention and they have both been dealt with. But there are many, many times when a company would need to consider whether a breach had the 'real risk', as opposed to a 'remote risk', of causing serious harm and was in fact a serious breach. These would be matters for judgement in many cases. This legislation gives companies no guidance whatsoever on what is a real risk or a serious breach or what would cause serious harm to an individual. There are, at the borders of this, many times that organisations would have to consider whether what was being proposed was in fact a problem or not a problem.

So, if Senator Singh had been serious about this legislation and wanting it to pass, she would not have snuck it into the Senate with, as Minter Ellison points out, little fanfare; she would have brought it to the attention of the Attorney-General, had it discussed and sought an inquiry from the relevant committee on this legislation so that all the stakeholders could tell us what their concerns were and how we might address any problems that were seen to be in the legislation, and she would have had the courtesy to give the many organisations that have just put new privacy principles in place a heads-up and a long time frame in which to decide how these changes might best sit with the changes that they have already had to make in the last few months to meet the new Privacy Act requirements. But none of this happened, of course, because Labor are not at all interested in getting this legislation through. They do not really care about breaches of privacy for individuals. They just care about trying to make a bit of a song and dance and carry on as though the government is in fact not looking at the issue.

It is quite bizarre that Senator Singh has chosen to approach it in this way. This legislation was allegedly urgent in June last year, according to the then government. If it was so urgent, they had plenty of opportunity to enact it. They pushed the Senate committee to make its inquiry in less than a few days. We did not have time to call witnesses; it was done on the papers. I have already used a couple of examples from the many submitters who made the point that, within that time frame, they could not put in a decent submission setting out in detail their concerns about this piece of legislation. Without any further consultation or any further work whatsoever, Senator Singh thinks that the Senate should simply roll over and put in place her piece of legislation when, as we said, no-one knows how it will pan out in practice. Without consulting the people who would have the difficulties—the onerous task—of ensuring that it goes into practice, it is ridiculous of Senator Singh to be suggesting that this legislation should go through.

I would make the point that, in the comments made by coalition senators on that extraordinarily rushed inquiry last year, we said:

Coalition senators note the concerns expressed by a number of submitters regarding the lack of definition of the terms 'serious breach' or 'serious harm' in the legislation.
Not only were the submitters concerned about the fact that there was no true definition there and in many cases it would be a matter of employing people to sit and decide what that meant; the industry also expressed great concern at the regulatory overload that the then government was putting on them or attempting to put on them. None of us would be surprised, of course, at the fact that industry—which, as I said, is driving our economy—would be complaining about regulatory overload from the then Labor government, the Rudd-Gillard government, because 'regulatory overload' was their middle name. Let us look at this legislation properly and not play political games.

Senator LUDWIG (Queensland) (10:11): Normally it would be uncharacteristic of me to comment on a previous senator’s contribution, other than to indicate that perhaps it was a little muddled and a little circuitous in its argument. But, nonetheless, it gives me an opportunity to correct some of the misconceived ideas in the contributions that have been made by those opposite on this important bill, the Privacy Amendment (Privacy Alerts) Bill 2014.

Labor is a proud champion of the rights of Australians, including the right to privacy—unlike, it appears, those opposite, but that surprised me nonetheless. Unlike the Liberal and National Party government, who have shown a blatant disregard for the rights of Australians, whether against racial discrimination or against breaches of privacy, in this instance Labor is taking action. It is deplorable that it takes an opposition to do what is, in effect, basic work of a government.

This bill provides another simple, basic plank in the protection of the right of Australian citizens to have their data held safely and, when breaches occur, to be notified. It is a very simple concept. The Australian government is the custodian of some of the most sensitive data and information of individuals. It is imperative that government departments and agencies act above and beyond best practice in the handling, management and storage of and access to the data of individuals.

It was the Liberal and National government who dispassionately oversaw the release of thousands of personal details of people in the government’s care. It took a news outlet, *The Guardian*, to alert the department and cause it to act responsibly. That is in the face of what already exists on the record, which is the April 2012 document *Data breach notification—a guide to handling personal information security breaches*, a guideline produced by an Australian government agency, the Office of the Australian Information Commissioner. One would have thought the government would at least have managed to follow those guidelines, but no. If that is the standard that this government has for the privacy of people in its direct care and responsibility then it is apparent what its disregard for privacy as a whole would be.

Only Labor cares about the rights of individuals to have their privacy protected. It is, frankly, damming in the extreme that the government has not picked up the work of the former government and continued this important reform. It speaks volumes of the priorities and the choices being made by the Abbott government. Whether it is letting jobs and industries fall off the cliff, or tearing away the basic protections against racial discrimination, or instituting knights and dames—which I think is becoming comical—it is now clear that this government stands for little and is doing little. The Abbott government is not standing up for Australians and is not working in the best interests of their privacy or their rights.

I notice that the Attorney-General is in the chamber, so let us consider his track record. Let us look at what he has done during the six months he has been in office. Has he introduced
measures to protect privacy? No. Has he looked at a reform agenda? If you put the Racial Discrimination Act in that bin, I think the answer is no. The only piece of legislation the Attorney-General has introduced into the parliament is to correct typos in a bill dating back to 1901! How apt it is that this anachronistic Attorney-General's first priority in this chamber has been correcting commas and removing hyphens from words such as 'email' rather than protecting the important rights of Australian citizens. This is an Attorney-General who has become absolutely catatonic when it comes to being the first law officer of the land. He has ground his department to a screaming halt—no reforms, no protections, no actions. After his 'commas and hyphens bill' his first priority—and I quote his own cabinet colleagues—has been 'to drink the right wing Kool-Aid'. That comment does not come from this side; it comes from his own side. His own cabinet and backbench have had to pull him away from the ideological cliff. Be that as it may, I think the truth is that the Attorney-General has his eyes on the bigger prize—and Senator Abetz, the leader in this place, does seem to be looking over his shoulder. I think—

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Senator Ludwig, I draw your attention to standing order 193 and the imputation of improper motives against any other member.

Senator LUDWIG: If the Attorney-General were serious, he would be in the business of actual law reform. The privacy legislation was ready to go, but it has been sitting on the Attorney-General's windowsill, yellowing with age. Mr Acting Deputy President, you can picture the Attorney-General sitting in his office—or, as he called it yesterday, his 'chambers'—probably wearing his robe and wig, calling public servants to 'come hither'. And up they would run, with their briefs in their arms. But there would be not one brief about reform, not one that the first law officer of the land could sign off on that deals with privacy or protections for individuals. Instead, there would be one about commas and hyphens. Frankly, I think we need an Attorney-General who is a little bit more in touch. The bill will implement—

The ACTING DEPUTY PRESIDENT: Senator Ludwig, I draw your attention to standing order 193 about personal reflections on members.

Senator LUDWIG: The introduction of a mandatory data breach notification requirement will be a major consumer privacy protection reform. It will enable individuals affected by a data breach to take action to prevent identity theft and fraud by taking actions such as cancelling credit cards or changing passwords. It will encourage government agencies and private sector organisations to lift their security standards and be more transparent about how they handle personal information.

The proposals in the bill had been developed over a long period of time in consultation with a diverse range of industry groups and privacy and consumer advocates—unlike what the previous speaker spoke of. The bill will require all entities currently regulated by the act to notify affected individuals and the Office of the Australian Information Commissioner where there has been a data breach that gives rise to 'a real risk of serious harm' to an affected individual. A 'real risk' is defined as 'a risk that is not a remote risk'. That is one matter that was raised a number of times by Senator Boyce in her contribution. But if the good senator had done her homework she would have gone back to the ALRC's original report dealing with data breach notifications. In that report, the ALRC provided guidance about this particular
matter—real risk of serious harm. I draw the Senate's attention to provision 51.85 of the ALRC's 2008 review No.108. It says:

In international law, the term 'a real risk of serious harm' has been refined to mean 'a reasonable degree of likelihood', 'real and substantial danger' and 'a real and substantial risk'.

And the ALRC cites a case on that point, at footnote 133, which is 'R v Secretary of State for the Home Department'.

In its draft voluntary information security breach notification guide the OPC sets out a number of questions to evaluate the risk associated with the breach: 'What personal information is involved and how sensitive is it? Could the information be used for fraudulent purposes? What is the cause and extent of the breach—for example, is there a risk of ongoing breaches? Is the information easily accessible? Was the breach deliberate, or inadvertent? Who is affected, how many people are affected, and are they particularly at risk of harm? What harm could result—for example, who is the recipient of the information; could the breach lead to fraud, financial loss or humiliation; and what impact would the breach have on the organisation or agency concerned?'

This is a matter that has been well thought through. The OAIC will have the power to compel notification to affected individuals where it becomes aware, as a result of complaints by individuals or otherwise, of serious data breaches that have not been notified. The OAIC will also be given the power to exempt an entity from the notification requirements where it is in the public interest to do so.

This is a scheme that has not only had extensive consultation; it has effectively already been embodied in a guide for the Public Service since April 2012. It is certainly not new to the Public Service or, more broadly, to those who work in the privacy area, including those companies which already take steps to protect people's privacy—for the obvious reason that it is good business practice.

Notification is ultimately about empowering the consumers, the individuals, where there have been breaches. The notification itself must contain at least four key pieces of information. It should contain a description of the breach, a list of the types of personal information that were accessed or disclosed, recommendations about the steps that individuals should take in response to the breach and, finally, contact information to allow affected individuals to obtain more information or assistance. It is quite a simple scheme that allows individuals to take appropriate action where their privacy may have been compromised.

Noncompliance with the scheme would attract normal Privacy Act remedies. These could include public or personal apologies, compensation payments or enforceable undertakings. A civil penalty could be sought where there has been serious or repeated noncompliance with the mandatory notification scheme.

This proposal has strong support from state and federal information privacy commissioners, from IT security companies and from privacy and consumer advocates. Some industry groups have asked for the proposals to be delayed, citing a large privacy law workload. Most, however, believe that it would easier for compliance purposes if the proposals were to commence with the other major privacy reforms in March 2014—which I agree with. Implementing this bill alongside those reforms would add to, not detract from,
business certainty. It would help with compliance obligations for businesses as well as, more importantly, providing appropriate protections for individuals.

Delaying the proposals until the impact of the 2014 privacy reforms have been assessed would effectively postpone this action until around 2015 or 2016. This would attract, I think, significant negative criticism from consumer and privacy advocates and leave Australian developments well behind those of the US and EU in this important area. Some of the concerns raised by industry groups have been addressed in this bill, particularly those relating to the cost impacts. As a result, the bill now contains concessions to industry concerns, including more flexible notification and more clarity around the process for seeking exemption from notification requirements.

It is instructive on these issues to go back to the original ALRC report of May 2008, For your information—Australian privacy laws and practice. It said:
The Privacy Act should provide for notification by agencies and organisations to individuals affected by a data breach.
It is not simply about data breaches as an esoteric concept in the broad. As the ALRC report goes on to say:
… the primary rationale for data breach notification laws is that notifying people that their personal information has been breached can help to minimise the damage caused by the breach. Notification acknowledges the fact that a data breach potentially can expose an individual to a serious risk of harm. By arming individuals with the necessary information, they have the opportunity, for example, 'to monitor their accounts, take preventative measures such as new accounts, and be ready to correct any damage done'.

But the risks are not limited to financial matters. The ALRC report continues:
Other types of personal information, such as health information, if disclosed, could subject a person to discriminatory treatment or damage to his or her reputation. Informing a person that such information has been disclosed makes that person aware of what may be the possible consequences of the breach. All of that points to the importance of ensuring that personal information is maintained in the appropriate way and, if it is not—if there is either an inadvertent breach or a deliberate breach—to the importance of notification. Individuals, once notified, can take appropriate action. By notifying them, you arm them—you give the individual the power to do something rather than just be a target.

A data breach notification also provides incentives to businesses to improve their data security. There are a range of reasons why some companies might not want to notify consumers. The reputational damage that could follow a high-profile data breach, or the commercial consequences of such a breach, provides a powerful incentive not to notify. This bill will ensure that they do notify and give them the proactive ability to arm individuals with the necessary things to help them deal with such a data breach. Overall, it also creates a market incentive. Those companies with good, strong data protection notification regimes or privacy alert regimes and those with good information on privacy practices will have a competitive advantage in the marketplace. Consumers and individuals will feel more confident in dealing with those types of businesses, amongst an array of competing businesses, who can stand out and say: 'When you give us your personal information, feel confident that we will protect it. If we inadvertently fail in that, we have a privacy alert in
place that will proactively deal with it in a range of ways.' In today's modern business world, I think that is a far better way to deal with areas of privacy.

One of the disappointing things is that there is a long list of speakers for this bill. I assume many from those opposite want to contribute to such a positive bill from Senator Singh. I do not think they ultimately disagree with it, but I do worry that they might simply be talking it out so we do not get on to another bill, the environmental bill dealing with supertrawlers. I would not think that ordinarily; I would think everyone has a positive view about dealing with privacy. I would encourage those on the other side to support what is good public policy and what provides for good outcomes for privacy. Ultimately, I think that the government will pass the bill in this form or a similar form when the Attorney-General gets off his hands and that they will be back in this chamber supporting it.

Senator IAN MACDONALD (Queensland) (10:32): I start my contribution by suggesting to Senator Ludwig that his attempt at humour at the expense of the Attorney-General was not only tawdry but a complete failure. I am sure Senator Brandis enjoyed it! I can see him now trembling at the vicious attack with a lettuce leaf! I suggest to Senator Ludwig that he sticks to his day job, like single-handedly destroying the northern beef cattle industry. I have been here awhile and Senator Brandis is one of the best attorneys-general I have seen in this parliament. Certainly in the last six years there is no comparison. He is a lawyer, a deep thinker and someone who understands the importance of his role. He is able to contribute not only with style but with expertise, common sense and a deep understanding of the law. Senator Ludwig's attempt at a humorous attack on the best Attorney-General I have seen was a complete failure.

Senator Ludwig did suggest that the Privacy Amendment (Privacy Alerts) Bill 2014 was sitting on the Attorney's windowsill going yellow in the sunlight, or some other such analogy. If this bill is so important, why did the former government leave it until the dying days of the Rudd-Gillard-Rudd governments to try to get it through? If it is as important as Senator Ludwig is saying, one wonders why it took the Labor Party 5½ years to get to where it is?

I do want to comment on the provisions of the bill. Before I do that, I pose this question to the other speakers in this debate, particularly to the Greens political party. I would guess that because it is a Labor bill, the Greens political party will be supporting it. I have no rationale for that, except Labor and the Greens seem to vote together on everything and have done for years. I wonder what Senator Ludlam will say in his contribution to this bill? It might be a little hard for him to contribute to the bill because I understand he is being paid to be here working in this chamber.

He is not here contributing to the debate, but perhaps other Greens senators who will speak might be able to answer this query. What do the Greens say about Senator Ludwig's attempt to bring into the parliament two people of questionable legality to give evidence at a parliamentary committee? I refer to Senator Ludwig's attempt to call as witnesses Mr Assange and Mr Snowdon. Mr Snowdon has been described in this chamber as a traitor to his country. Those two gentlemen, as I understand it, have no respect for anyone's privacy and certainly no respect for their nation's privacy—that is, their nation's security. Yet, here we have the Greens talking about privacy, indicating how important it is, when they are wanting to bring to a
parliamentary committee two people who do not respect privacy at all and in fact disrespect privacy to the highest degree in that they have no regard for the security of their own nations.

So it will be interesting to see how the Greens will distinguish their support for their friends in the Labor Party on this and every other bill with their attempt to destroy everyone's privacy by getting Snowdon and Assange to give evidence. If they do give evidence, it might be interesting if they tell the world just how they hacked into everyone's privacy, into the national privacy. Perhaps we can all learn something from them if we can get the details on how they hacked into the nation's privacy. So I will be listening to the debate very keenly to hear how the Greens address those issues.

The Privacy Amendment (Privacy Alerts) Bill 2014 is similar to a bill that, as I mentioned, was introduced by the Labor government in 2013. I again repeat the point that if there is a concern about the passage of this bill, why didn't the Labor government do something about it in the previous six years rather than leaving it to a couple of days before the last parliament was prorogued? It did actually pass through the House of Representatives in June last year.

The bill was considered by the Senate Legal and Constitutional Legislation Committee, which reported to the Senate on 24 June. Senator Boyce in her quite distinguished and perceptive contribution—she was a member of the Senate Legal and Constitutional Legislation Committee at the time it considered the bill—to this debate spoke with some authority. She had actually sat through the hearings of the legislation committee's inquiry into the forerunner of this bill.

Senator Boyce and then Senator Humphries provided some additional comments to the report of the committee, which of course had a Labor majority. They expressed some concern at the lack of definition of the terms 'serious breach' or 'serious harm' in the legislation. As I read their report and listened to Senator Boyce, they also cited concerns about the regulatory overload for business.

The regulatory overload for business is costing our country money. We have made it quite clear in our pre-election commitments and by actions since then that we understand the impost of regulatory burden on business, particularly small business, and we are trying to do something about it. We have introduced several bills into the other house trying to get rid of some of the regulation that costs Australia so dearly, that makes Australia uncompetitive in its trading activities around the world and uncompetitive within our own country.

Here we are, as a government, trying to reduce the regulatory burden to encourage business activity—that is, to encourage employment, to heighten our standard of living in this country. At the same time, the Labor Party and the Greens are doing everything possible to, again, impose regulation on the Australian public, and particularly on business. That is because the Labor Party and the Greens particularly have this inflated view that people are not capable of looking after themselves; that they in the Labor Party and the Greens know better how to regulate people's lives and people's businesses than people, business men and women. A classic example of this was the embarrassment of the Senate inquiries into the Qantas issue where the Green senators tried to suggest to one of the biggest businesses in the world how they should run a business. It was laughable. If anyone had a look at the transcript of those two Senate inquiries, they would appreciate just how embarrassing it is to sit in on those committees and hear some of the inane questions that were asked by Greens and Labor
senators about a multinational business—I digress slightly. I want to get back to my point: we are trying to reduce regulation; the Labor Party and the Greens are trying to increase it.

Comment on the regulatory impact of this bill was made in the dissenting report of coalition senators when this bill last came before the parliament. The last bill was intended to strengthen the existing voluntary data breach notification framework in order to counter underreporting of data breaches and to help prevent or reduce the effects of serious crimes like identity theft. The previous bill, on which this bill is based, was predicated on the general requirements of the Australian Privacy Principle 11, which requires regulated entities to hold personal information to prevent loss, unauthorised disclosure or misuse of that personal information. The 2014 bill, the one we are debating today, operates in much the same way.

The proposed model would create a requirement to identify the Office of the Australian Information Commissioner, which I will subsequently refer to as OAIC, and affected individuals where there has been a data breach which has given rise to a real risk of serious harm to the affected individual. That was the ALRC's recommended approach. A 'real risk' is defined as a risk that is not a remote risk. This would mean that entities would not be required to report less serious privacy breaches to affected individuals or to the OAIC.

If I can pause there again and refer to the Assange and Snowden issue, where the Greens are trying to get these people to give evidence in some Senate inquiry about electronic security, electronic transmission of data and electronic storage of data. As I say, it is going to be fascinating to see what the Greens think that Mr Assange and Mr Snowden can tell us about maintaining people's privacy when, quite clearly, they are two persons who have no regard for anyone's privacy.

The bill before us has a requirement to notify that would apply to data breaches involving personal information, credit-reporting information, credit eligibility information and tax file number information. So where there were breaches relating to those things there would be a requirement to notify. I wonder whether—again, referring to Assange and Snowden—we should perhaps even put into the legislation where there are data breaches involving the nation's personal information, that is, its security.

But the content requirements of the notification are, at a minimum, a description of the breach, a list of the kinds of personal information concerned, contact information for affected individuals to obtain more information and assistance, and recommendations about the steps that individuals would take in response to the breach. There are several other provisions of this bill, which my colleague Senator Boyce has explained and which, I am sure, others will as well during their contribution.

I believe that this is a bill that the parliament should not be pressured into agreeing to without giving it full and proper consideration. I would suggest that the move by the Labor Party to introduce the bill without appropriate consultation is premature. This was the thought of coalition senators on the committee that inquired into a similar bill last year.

Can I suggest that, if the opposition were serious about privacy issues and this bill in particular, they might have introduced this bill in a proper way, which would have included informing us a bit earlier of their proposals to bring this forward. I understand there was very little notice given by the opposition to anyone or to the government generally that this bill was
to be introduced. If they wanted to really address the issue, I suggest that they should have taken the opportunity to consult more widely.

It is clear that the government is not opposed to considering proposals that improve data security practices. Measures that enhance the protection of security of personal information of Australians are critical. However, I do refer the Senate to some comments made by business figures when the matter came before the Senate committee last time. The Communications Alliance argued that specific actions outlined in one of the provisions are contrary to good business practice, as reflected in the OAIC guide. Indeed, they said:

… good business practice would be to (a) contain the breach and do an assessment; (b) evaluate the risks; and then, if necessary, notify those affected by the breach. It is concerning that the Bill places more emphasis on notifying—and potentially confusing or alarming customers—than containing the breach, rectifying the issue and preventing its reoccurrence.

That indicates the sort of concerns that were raised, which I think are still current.

As I say, I am not opposed and I understand that the government is not opposed to considering proposals that improve data security services. But a lot more work has to be done, including consulting broadly on the implications of a mandatory notification scheme. I suggest to the mover of this motion that this has not been done and that we need to consult broadly with both community and industry. Until that is done and until all of the matters that were raised and, I might say, highlighted in the additional comments by coalition senators in the report of the committee that looked at the previous bill have been considered, then I do not think we should be rushed into this.

The government is not prepared to agree to a proposal without giving it full and proper consideration. I emphasise that we on this side of the chamber have always thought of the broader principles of privacy protection for individuals. We have previously expressed concerns about the detail of this bill. Given the importance of the matter, we continue to express those same concerns, including that a thorough and detailed scrutiny be afforded to this bill.

### Senator RUSTON (South Australia) (10:51):

I too rise to speak on the Privacy Amendment (Privacy Alerts) Bill 2014, which contains proposed amendments to the Privacy Act. It is really disappointing that for the second time in a week we are standing here and discussing a bill that we support in principle. The concept of improving the provisions of security around privacy of information is something that I do not think anybody in this place would dispute as being a terribly important thing for us to do to maximise the protection of individuals. It is very frustrating that, instead of being able to stand up here today and say how fabulous this bill is and that we can support it, we cannot. Once again, there has been a lack consultation and a lack of regard by those on the other side for the reasonably simple and sensible changes that we would have expected.

As you have probably heard in previous contributions, Mr Acting Deputy President, this bill was substantively put before the House of Representatives in 2013. That bill was passed in the House of Representatives but the coalition, which was in opposition at the time, expressed a level of concern about a number of things in it. So the bill was subsequently sent up to this place and referred off to the appropriate committee for investigation. A report came back from the coalition senators—who, at the time, were a minority on the Legal and Constitutional Affairs Legislation Committee looking into bill—with additional comments...
suggesting that they would like to see some things done to make the bill more appealing in order for them to support it. Now in 2014 we find that the bill has just been plonked down again, without those opposite taking any of the issues that were raised at that time into account. Once again, there has been no consultation and no attempt to address any of those issues raised—and many of them were quite simple.

I was just reading through the comments made by the coalition senators about the 2013 bill, and I would have thought that those opposite might have thought those comments warranted further investigation. The Cyberspace Law and Policy Centre of the University of New South Wales Faculty of Law highlighted that it had around 10 working hours in which to collaborate on a draft on the bill and finalise its submission. The Australian Privacy Foundation also made the comment:

... seriously negative impact on the democratic process that is inherent in the provision by the Parliament of 1-1/2 working days, during which civil society organisations are expected to discuss, draft and finalise a Submission to your Committee.

It seems to me that it would not actually be all that difficult to go out and deal with a number of these organisations, which obviously have a major input and a major interest in this area, to find out what their concerns are in relation to this bill, because they are the ones who actually have to deal with the fall-out when this legislation is passed without consultation and fails. I would have thought that it was a pretty simple thing for us to be able to do that. I condemn those opposite for not having dealt with their concerns, albeit minor as they may well have seemed at the time, in the reintroduction of a very similar bill to that which was before this place in 2013.

The really sad thing is that this seems to be a bit of trend. Only last week we were before this place speaking on a bill about the Woomera prohibited area. As a fellow South Australian, Mr Acting Deputy President Fawcett, I am sure you would have had concerns about it, because we would like to see the economic potential of this area unlocked for the benefit of our fellow citizens in South Australia. But, once again, we had a bill that was rushed into this place without the appropriate consultation with the wide range of people who are interested in this area, particularly when we had made it quite clear that we were very keen to see legislation passed to assist with the unlocking of this land. I believe it was only this week that the government's bill in relation to the Woomera prohibited area was introduced in the other place. We see these silly, rushed political exercises by those opposite in bringing these sorts of bills into this place when there is a proper process. A sensible consultation process needs to be undertaken and it is very, very frustrating that we are seeing silly politics being played when it would be really nice to see some good outcomes instead.

This whole concept of policy on the run probably warrants a little more comment because it does have some very, very serious implications. Even with the best intent and the best of ideas, if you do not actually get the details sorted out, you can cause yourself amazing and significant problems. You have often heard the saying, 'the devil is in the detail'—and that is often the case with legislation and regulation. The unintended consequences of ill-conceived or not properly researched and consulted policy can have major impacts. I can assure you, Mr Acting Deputy President, having been a business person before I came into this place, I have seen the consequences of policy that has not been properly thought out and the people who were the recipients of that policy affected by it, because nobody actually bothered to go out
and speak to them. They are the people who will be able to tell you, 'If you do this, this is what the consequence will be in reality.' It is not something that you will find in a textbook. It is not something that you will learn at university. It is not something that your union mates will have told you about. You need to speak to the people who are going to be impacted by the changes in legislation.

I can think of millions of examples of this, but none more than current the debacle which was revealed last night in the NBN interim report. The problem with the NBN was not the concept of providing faster, more reliable and more affordable internet services to the majority of Australians. We all support that as a concept. There is no argument about that in any party, whether it be a minority party, a majority party or the Independents in this place. We would all like to see that as an outcome. But what we do not want to see is policy that is developed on the back of a serviette during a VIP flight from Perth, which ends up costing the Australian public way more than it can possibly afford or which makes promises that were never able to be kept because the capacity to keep them was never there—simply because nobody had thought through the details or the machinery behind the delivery of the particular promise. Last night we saw a terribly pathetic attempt to try to defend a legacy that was totally indefensible—a policy developed on the back of a serviette—whereby we have ended up spending nearly $8 billion and managed to provide less than three per cent of Australians with access to the NBN. We can go on: pink batts and the thought-bubble that was GroceryWatch.

It stresses the importance of doing two things: making sure you are properly researched and properly prepared; and making sure you speak to the people at the grassroots level who will be affected by the policy, regulation or legislation. There is no question that we came into this place saying that we would be a government that tried to reduce the regulatory burden—and no-one disagrees that there is a need for regulation in some areas—but there has been an extraordinary increase in the number of regulations placed on the Australian community over the last six years and before that by state governments. There is a need to ensure that, whenever you put legislation before this place, you have made a sensible and thorough assessment of the regulatory impact so that you are not simply putting in a regulation for the sake of regulation. There has to be a need, a benefit; and this confirms that.

We have made it clear that we are not going to regulate for anything unless we have to and that we are intending to reduce the level of regulation out there in the marketplace. Only last week the coalition introduced a suite of bills into the lower house that outlined areas where we think there has been unnecessary and burdensome regulation placed on the Australian public and businesses for too long. The concerns that have been raised about this particular bill are not insurmountable, but we draw attention to the constant attempts by those opposite to dump things into this place. You have to start wondering whether it is simply distracting and malicious activity.

The other issue that came out of this bill—and unlike others in this place, I am no lawyer—is that of definition. In the coalition senators' dissenting report in 2013, they noted the concerns expressed by a number of submissions on the lack of definition of the terms 'serious breach' or 'serious harm' in the legislation. I have had a quick look through the legislation and the explanatory memorandum this morning, and the memorandum refers to:
Serious harm, in this context, includes physical and psychological harm, as well as injury to feelings, humiliation, harm to reputation and financial or economic harm. The risk of harm must be real, that is, not remote, for it to give rise to a serious data breach.

That sounds interesting, but how would you assess that in your institution which holds cold private information for the people you look after. How does someone in one of these institutions make a determination about what constitutes 'psychological harm' or 'injury to feelings'?

If we went around this chamber and surveyed all 76 senators about whether something had injured their feelings, you would probably get 76 different responses. You only need to look at some of the comments from the South Australian election. A pamphlet was put out in relation to one of our candidates. I know this is not about a breach of privacy or security, but it does emphasise the point of how you determine whether something is criminal in nature or whether it is something to be legislated for. The pamphlet basically dog whistled that one of our candidates because of her surname might have been a Middle Eastern terrorist. That may have hurt her feelings—and it probably did—and it may have been humiliating, but the question has to be: did this cause her serious harm? She might have thought it did. It goes to the point of how do you define these sorts of spurious terminologies—'as well as injury to feelings'? I find that an extraordinary thing to put in the explanatory memorandum.

Most concerning of all in this bill—the Privacy Amendment (Privacy Alerts) Bill 2014, a bill for an act to amend the Privacy Act 1998 and related purposes—are the definitions found in division 3. Clause 26ZF 'real risk' is defined as:

For the purposes of this Part, real risk means a risk that is not a remote risk.

And 'harm' is defined as:

For the purposes of this Part, harm includes:

(a) harm to reputation; and
(b) economic harm; and
(c) financial harm.

However, there is also 'serious harm', so I am not sure whether we are talking about 'harm' or 'serious harm'. What is the difference between 'harm' or 'serious harm' in that context? It talks about 'serious harm' in one context and defines 'harm' in another context: does that mean we are not talking about the same thing? In the other schedule of amendments, it says 'the access or disclosure will result in real risk of serious harm', but we do not have a definition of 'serious harm'; we only have a definition of 'harm'.

That is one difficulty I picked up this morning. I would suggest the bill has been rushed. It would be nice to think that, in the future, we might be able to have a thorough and rigorous process that would allow us to deal with all those sorts of little, petty issues which, I am sure, the average person out there who was not affected or impacted on by this particular legislation probably would think we were just being pedantic about. But it highlights the fact that sometimes just the use of a word or a phrase, a comment here or there that has not been thought through properly, can actually have quite a significant impact.

In conclusion, I and all of my colleagues on this side of the chamber support the provisions that ensure and maximise the protection of the individual from security breaches. We have
absolutely no issue whatsoever with making sure that people are protected—or, at least, advised if there is something that is likely to be a problem to them.

What we do not support is something that has been just put through, I believe, because of some political motivation, as a political trick. It is something that could have been very easily fixed by just coming back to this place and speaking in an adult way, and by going back through the committee process to make sure that the concerns of everybody on the committee were addressed and speaking to the people in the community who are most likely to be impacted on by these changes. If we had just gone through that very simple process, we could be standing here today and enabling an amended version of this bill to go through.

Instead, we are standing here today, once again, saying, 'Guys, you haven't done your homework, and if you don't do your homework you're not going to pass.' We all went to school and we all knew that, the harder you worked and the better the research you did, the better your pass mark would be. And, once again, regrettably, you on the other side have got a fail.

Senator McKENZIE (Victoria—Nationals Whip in the Senate) (11:09): I, too, rise this morning to make my contribution to the debate on the Privacy Amendment (Privacy Alerts) Bill 2014. This bill deals with the very real issue of data security and citizens' relationship to that. It deals with how we protect the privacy of the individual in the internet age.

Predominantly, we are looking at data mining, for instance, being a quite a profitable business. The University of Newcastle has done a bit of work in this area. The data mined can be collected, traded, analysed et cetera to ascertain a lot of detailed information about the individual: their preferences, what they like to eat, what they like to purchase, what they like to do with their leisure time and even how they think. Putting all that data together can allow the state, businesses, other individuals, security agencies—a whole raft of individuals and organisations—to understand the individual in a new way that is very different from before.

I think it raises some serious questions for us as a government as to how we ensure that the privacy of the individual is maintained within this environment, as more and more individuals use social media and the internet for a wider and wider variety of purposes, disclosing more and more about their private lives. There used to be a very clear distinction between your public life, which government is allowed to have a role in, and, from my perspective, your private life, which government is not allowed to have a role in. That line is becoming increasingly blurred through the increasingly pervasive—though often useful—role which the internet plays in our everyday lives. So this bill before us looks at that. Also, the University of Newcastle says it is not just the information itself—because obviously there are technological ways in which we can protect identity—but also the patterns that are useful to purchasers. The patterns gleaned from databases can lead to identification of an individual. That is how sophisticated we have become. So it is not just the individual markers themselves but the patterns within the databases that can cause issues.

When we look at how businesses use databases, we like to consider what the Bank of America did during Davos. They watched social media and looked at what was trending on Twitter in order to promote the bank's brand among people interested in economic issues by publishing real-time content related to the conference. So the bank itself was using social media and data to reach those individuals with highly sophisticated messages. To quote the senior vice president of the bank:
The data comes into the room from many sources, and you have to use that data like a modern-day orchestra leader, blending the inputs in real time in a combination that is as much an art as a science … So the sophistication is growing, and we are concerned to ensure that the privacy of the individual is maintained.

I share the concerns aired in Bruce Nolop's blog under the heading, 'Why I hate what big data means for privacy'. He says:

... I fear potential abuses by law enforcement and national-security surveillance programs, and find the threat of cyberattacks, a la the Target experience, to be disconcerting. As citizens and consumers, we should demand safeguards against these risks, but recognize that breaches will be inevitable.

... ... ...

I hate the fact that if I use a search engine to research a topic, my screen space becomes inundated with advertisements for related products or services.

So it is a problem. That problem is growing and it is one that I think all of us involved in this space are concerned about.

But what concerns me about the bill before us today is that this is a huge issue. It is an international issue. Yet, in typical Labor Party fashion, when a bill very similar to this one came before the 43rd Parliament, only two days were given for public comment. It opened on the 18th and closed on the 20th. When we look at the scope of the issue itself, this is an issue that other governments internationally are dealing with and grappling with. We had two days to get our heads around the issue itself and potential solutions and to decide whether a bill very similar to the bill before us was actually going to deal with those issues and was going to result in an outcome that did protect the citizens of Australia in a way that did not impinge or overregulate an environment.

But, you know, that is the Labor way. Putting the bill before us today is, quite simply, an attempt by Labor to keep pushing through their failed legislative agenda even though they are now in opposition—a fact that they are finding very difficult to come to terms with. We had six years to deal with this issue. Even though it passed the House of Representatives on 6 June 2013, prior to the last election, they could not find a way to get it onto the Senate agenda paper so that we could actually deal with it. That was the priority that the government held this piece of legislation in. It is simply evidence again of their denial of the outcome of the last election and refusal to visit the reasons for that—the reasons for the policy vacuum that they are now operating in where we have to just dig up the legislation that did not quite make it the last time.

So here, on a Thursday in the Senate, when we have time to reflect on opposition legislation, they have a chance to put up some bills that they are really keen on and that they want to take forward to address a real concern in the community, and they bring forward legislation that is like the Thursday thought bubble: 'Whoops! We've failed to deliver any significant policy again. Let's just dig out of the bucket beside our drawer.' They rustle around. 'What have we got here? What didn't we get through in six years? Man, the pile is enormous!' The pile of unlegislated issues from the previous government is enormous—so enormous that we, in fact, are having to put forward legislation to ensure that promises made in budgets two years ago are able to be enacted, because you failed to get the bread-and-butter stuff right. You could not even get the bread-and-butter stuff right.
Senator Macdonald mentioned previously that we must ask, if this bill is so important, why it did not get treated as a priority while Labor was in government. It is a pity Senator Macdonald is not quite here, but I am sure he is watching with keen intent, and I just would like to ask: while Labor was prioritising their leadership coups, they managed to prioritise misogynistic rants about blue ties, they managed to prioritise—and I am glad Senator Cameron is here—the failed media laws, they managed to prioritise a whole tranche of legislation that the Australian people were not interested in and that the Australian people did not want to see enacted. The Australian people voted you out because you kept pursuing a legislative agenda that was not in their best interests. You managed to prioritise that, and yet you could not prioritise something which, from all accounts—globally and, indeed, locally—is an issue that we must grapple with: how do we appropriately regulate the issue of big data?

Instead, the Rudd-Gillard government's six years of chaos, waste and mismanagement delivered higher taxes, record boat arrivals and debt and deficit as far as the eye could see. Labor inherited a $20 billion surplus and left behind a projected $30 billion deficit. It turned $50 billion in the bank into a projected net debt of well over $200 billion. It was the fastest deterioration in debt in dollar terms as a share of GDP in modern Australian history.

**Senator Cameron:** There was a global financial crisis.

**Senator McKENZIE:** Labor's debt is already costing $10 billion a year in net interest payments. That is $33 million a day just in interest payments, Senator Cameron.

**The ACTING DEPUTY PRESIDENT (Senator Bernardi):** Order! Senator Cameron and senators on my left. The interjection is disorderly.

**Senator McKENZIE:** That is a lot of schools. That is a lot of teachers. Yet here we are. We are moving to scrap more than 10,000 unnecessary and counterproductive pieces of legislation and regulations. More than 50,000 pages of unnecessary and costly legislation that are a dead weight on business, community groups and households will go. The benefit will be significant. Removing these alone will save individuals and organisations more than $700 million a year—every single year.

**Senator Cameron interjecting—**

**Senator McKENZIE:** That saving, Senator Cameron, can actually be translated into things that I am sure you and the members of the AMWU will be concerned about: actual jobs. When we take the burden off business and when we ensure that the regulatory environment they are operating in gives them more cash in their hand, what they can do is employ the workers of Australia. They can actually get on with doing what they do well, which is producing fabulous product, produce and services, and get on with making our nation's economic base stronger. As I said, we will cut red tape costs by $1 billion a year. We are doing what we said we would do. What a direct contrast to those opposite. We are doing what we said we would do. This week had the first of what will be many days of repealing red tape—and hallelujah to that.

The bill before us today does raise a concern that not all regulation is bad. There are points where a government needs to ensure that appropriate regulation exists, and getting the balance right in this particular space is important to protect the privacy of the individual. Similarly, I was lucky to be on the cybersafety working group, and one of those areas that we looked at was how to get the balance right between ensuring the safety of young people and of young...
Australian children in the cyber environment. It is something that is responding directly to the concerns of Australian parents and, indeed, young people themselves. That does require very light regulation around how to get the balance right to ensure that we can take down quite quickly offensive material that damages and harms our young people. I have got several local examples in Victoria where the appropriate existing mechanisms were followed. I am thinking about a young girl of 12 where there was material up for a year on the website even though repeated requests had been made for it to be taken down. So there is a real need for appropriate regulation, and this may be an area where that exists. However, the way the Labor Party have proceeded to consult, to get their head around the issue and then formulate a cohesive policy response, again, beggars belief, but I should not be surprised—I feel like a broken record at times. When we talk about the process of consultation that the Labor Party underwent with the bill before us today, as I mentioned earlier, submissions opened on the 18th and closed on the 20th. When you are looking at privacy legislation, that is pretty private. In fact I do not think it gets much more private than that. That is what you do for preselection when you do not want anyone to nominate. That might be a tactic that is used more on the opposition side than on this side.

In relation to data breaches the legislation before us seeks to amend the Privacy Act 1988 to establish a framework for the mandatory notification by government agencies and certain private organisations to notify the Australian Information Commissioner and affected individuals of serious data breaches involving their personal information. Mandatory data breach notification commonly refers to a legal requirement to provide notice to affected persons and to the relevant regulator when certain types of personal information is accessed, obtained, used, disclosed, copied or modified by unauthorised persons. Such unauthorised access may occur following a malicious breach of the secure storage and handling of that information, for instance through a hacker attack, an accidental loss, most commonly of IT equipment or hard copy documents, a negligent or improper disclosure of information or otherwise. A data breach arises when there has been unauthorised access for this sort of information.

As I said earlier, a bill very similar to this was considered by the Senate Legal and Constitutional Affairs Legislation Committee and was reported on 24 June 2013.

Senator Cameron interjecting—

Senator Bilyk interjecting—

The ACTING DEPUTY PRESIDENT (Senator Bernardi): Order! Senator McKenzie, ignore the interjections, they are entirely disorderly. Senators on my left, please, Senator Bilyk, Senator Cameron.

Senator McKenzie: Mr Acting Deputy President Bernardi, I do thank you for your protection. The government will not be pressured into agreeing to a proposal without giving it full and proper consideration. There will be no back-of-the-envelope policy decisions on this side, Senator Cameron. The move by Labor Senator the hon. Lisa Singh to introduce such a bill without appropriate consultation is premature. The opposition could have done this in a proper way, including informing the government earlier of their proposal. If the opposition really wanted to address this issue they should have taken the opportunity to consult widely, because that is what you do: you bring people along with you for your good ideas. You could not bring the Australian people along with you for the mining tax; you could not bring the
Australian people along with you for the carbon tax. That was last September—you have got to get over it; it is not working for you. So, start consulting, bring us along with you, and we can start dealing with these sorts of issues in a constructive way to make sure that we get the right policy outcomes, particularly for these types of privacy issues.

The government are not opposed to considering proposals that improve data security practices. Measures that enhance the protection and security of personal information of Australians are critical, particularly in the digital environment, as I have previously outlined. There is more work to be done, including—I know you do not want to hear it; it is against your DNA—consulting broadly on implications of a mandatory notification scheme and consulting broadly with the community and industry. The government are not to prepared to agree to a proposal without giving it full and proper consideration. That is nothing less than what the Australian people ask us to do, to ensure that the policy responses we develop in this place actually address the issue and include them in part of the solution. We have always supported broad principles of privacy protection for individuals.

The lack of consultation with the previous bill was raised by various submitters to the inquiry. I would like to quote one from my home state from Liberty Victoria:

… we note with extreme disappointment that public comment opened on 18 June 2013 and closed two days later on 20 June 2013. This is a not conducive to open and transparent Government and it is extremely unlikely that many members of the public or any other interested party will have had time to review the Bill let alone prepare submissions to this Committee. Privacy is an important issue and with increasing amounts of personal data being collected by both the private and public sectors, the issue as to how that information is used and protected is of high public interest.

It is Thursday Trash Day for the opposition: 'We'll dig around and pull out the privacy bill. We won't actually go out and consult any further and have a look to see if we need any amendment. We won't actually talk to the government. We'll just pull out what we've got because we've got no other policy to bring forward.' The Australian Privacy Foundation similarly said during the prior inquiry:

The APF draws attention to the seriously negative impact on the democratic process that is inherent in the provision by the Parliament of only 1-1/2 working days, during which civil society organisations are expected to discuss, draft and finalise a Submission to your Committee.

Hello, what a failure! In its submission the Cyberspace Law and Policy Centre of the University of New South Wales Faculty of Law highlighted that it had:

… around 10 working hours in which to collaborate on, draft and finalise a submission …

This is an international issue; it is of high public interest. You think you could have given people a little longer than two days to get their high-quality submissions together so that the Senate, through its Legal and Constitutional Committee, last year, could have drafted an appropriate piece of legislation, let alone put any of the thoughts that had come through that inquiry process into the current bill before us—but not from Labor.

Coalition senators believe the concerns raised by those stakeholders should be scrutinised, understood and acted upon by the relevant government agencies as this new privacy regime is rolled out. These concerns still hold for the bill before us today. Privacy is too important not to be considered fully and properly. The coalition remain committed to a considered and consultative approach to policy development and to an open and transparent approach to
government. It is what we said we would do, it is what we promised we would do and it is exactly what we are doing.

Senator SESELJA (Australian Capital Territory) (11:29): I rise to add my voice to the voices of coalition senators in this debate. I commend the words of Senator McKenzie, who outlined the case against this bill very well. She did that, despite being heckled completely unreasonably by those opposite, particularly Senator Cameron. I think that was quite unfair and unreasonable. I think Senator McKenzie was being heckled by the honourable Senator Doug Cameron.

Senator Cameron interjecting—

Senator Bilyk: And Senator Bilyk!

Senator SESELJA: I am sorry. I was not aware, Senator Bilyk, that you were 'an honourable'. If you do have that title—

Senator Bilyk: No, I was just—

Senator SESELJA: So, it is just 'Senator Bilyk'. Thank you.

The DEPUTY PRESIDENT: Order! Senator Seselja, direct your comments to the chair.

Senator SESELJA: Thank you, Mr Deputy President. You are quite right. I am sure that those opposite will not be taking those honorary titles in future, anyway. They have made it very clear what they think of such titles.

Senator Bilyk: Do you want one, Zed?

Senator SESELJA: I could not quite hear the interjection, but I should not respond to interjections.

The DEPUTY PRESIDENT: That is correct, Senator Seselja.

Senator SESELJA: It does not matter if I do not hear them. It is hard to respond to them—it is hard to know whether you want to respond—if you cannot hear. Please heckle louder next time so that we can be clear on what it is you are heckling me on!

I would like to lend my support to what has been said. Senator McKenzie put it really well, and I want to pick up where she left off and where much of her contribution was aimed—that is, in relation to the fact that this government does not want to make the same mistakes that the previous government made. Those mistakes were often about very poor policy—about dumb ideas and not getting a mandate—but they were also very often about very, very poor process. That very poor process, when coupled with some very dumb ideas, led to some very poor outcomes. I want to touch on some of those poor processes because we do not want to make the same mistakes.

There are many things on which we want to differentiate ourselves from the opposition. One of those is that we do not want to follow the poor processes of the previous Labor-Greens government. Senator McKenzie touched on some of those poor processes, and I will expand on some of them. We are hearing right now about one of the poorest processes ever put in place—the pink batts scheme. There were two days for public servants to go away and design a scheme to spend billions of dollars of tax payers' money.

We know about the disastrous results of that very poorly conceived and executed policy. Whether it was a good idea in the first place is one thing; we can all agree that the
implementation was a disaster. That is what happens when you do not get it right and when you rush things.

The National Broadband Network was designed on the back of a beer coaster on a VIP flight. That has led to taxpayers forking out billions of dollars for very little delivery. That scheme would have led, had the Labor Party been returned to office, to at least $30 billion extra being spent on the National Broadband Network because of the poor design and because of the poor rollout.

We know that, in the time the Labor Party had in office, they had time to do damage because of that process. The NBN is another example of where we do not want to be. We do not want to end up doing things like the former, Labor-Greens government did.

The mining tax mark 1 was brought in without proper consultation with industry. It was dumped on industry as a fait accompli. It was not properly consulted on. That led to the chaos that we saw with the removal of a first-term Prime Minister. Then we saw a hastily cobbled together replacement mining tax which ended up getting very little revenue while still doing damage to investment because of the concerns about that type of process and the concerns about that kind of attack on an industry that was so important to Australia.

That is another example of how we do not how to do things. That is the Labor way. The Labor way was to rush things. They would often tell us about how much legislation they had passed—the great success of the previous parliament was just how many pages of legislation they had passed. I put it to senators that the mark of a good government is not how many pages of legislation and regulation you put in place.

So, not content, it seems, with passing ill-conceived and ill-thought-through legislation and policy from government, we now have the Labor Party seeking to impose that model on us from opposition. That is at the heart of our concerns.

I will go to some of the substance of the bill. As has already been stated by government senators, the government has always supported the principles of privacy protection for individuals. In this digital age, protection of personal information is important. We have seen in recent years many serious data breaches which have led to the compromising of personal information. The government understands how serious the issues of financial and identity theft are, but the government will not be pressured into agreeing to a proposal without giving it full and proper consideration. That is where we believe that the introduction of a bill by Senator Singh without appropriate consultation is premature.

If we look back at the criticisms made by coalition senators when a similar bill was introduced last year—criticisms about the lack of due process, time and scrutiny—we believe they still stand. There was a short timeframe for submissions in the original inquiry. The Cyberspace Law and Policy Centre at the University of New South Wales expressed concern about the lack of time to submit. They said that they had had only around 10 working hours to draft and finalise a submission. The Australian Privacy Foundation also expressed concern about having only 1½ days to draft and finalise their submission.
There is also a lack of clarity around the terms 'serious breach' or 'serious harm'. The Australian Privacy Foundation did not support the real risk of serious harm threshold. They argue that the threshold should not be set at too high a risk of harm and risk of harm should not be the only trigger for notification. The AFP said:

Aggregation of terms limiting the nature of the harm that triggers notification increases the risk that organizations will argue that one or other aggregated term do not apply to them. For example, a phrase such as "real risk of serious harm" is a very high threshold, because of the combination of 'real' (i.e. 'not remote') risk, 'serious' harm (with no clear notion of seriousness) and 'harm' which may be given a limited definition …

In addition, a second trigger is necessary. Any significant breach should be subject to notification in any case. If that were not the case, then a significant insecurity would not become apparent, and would not be addressed, and it would be very likely that it would later give rise to a serious breach that was eminently avoidable. A single threshold test would result in a scheme which was a failure.

There is also industry concern about the mandatory notification provisions. The proposed bill requires three specific actions. As soon as practicable, after forming a reasonable belief that a serious data breach has occurred, they must prepare a detailed statement concerning the breach, provide a copy of the statement to the commissioner and take reasonable steps to notify the contents of the statement to each significantly affected individual, and publish a copy of the statement on the entity's website and in at least one newspaper circulating generally in each state and territory if the prescribed general publication conditions are satisfied.

The Communications Alliance argued that these specific actions were contrary to good business practice. They said:

… good business practice would be to (a) contain the breach and do an assessment; (b) evaluate the risks; and then, if necessary, notify those affected by the breach. It is concerning that the Bill places more emphasis on notifying—and potentially confusing or alarming customers—than containing the breach, rectifying the issue and preventing its reoccurrence.

At the heart of the Communications Alliance's argument is that the bill will not do what is claimed it will do. What it could do in practice is cause more harm than good—not focusing on the outcome, which is about containing the breach; rather, potentially confusing customers. Sometimes these bills and Labor Party policies are about being seen to do something rather than actually dealing with the problem at hand. The Communications Alliance makes a good point.

The Australian Bankers Association raised concerns about the final condition of notification and the uncertain scope of the general publication conditions and notification model. Their submission said:

There is a critical element of the notification model in the Bill that is missing because it is unclear what “general publication conditions” will mean if these conditions are satisfied. Without this definition, the real impact of the Bill cannot be assessed because the meaning of this expression will be covered by a regulation-making power in the Bill. Regulations dealing with this aspect have not been provided with the Bill.

It is also important to note the additional regulatory burden this will place on the industry. Without proper consultation it is difficult to assess just how significant this burden is.
The concerns of key stakeholders should not be set aside, and further time to scrutinise the bill and consult with stakeholders is crucial before the bill is passed. The government is not opposed to considering proposals that improve data security practices. Measures that enhance the protection and security of the personal information of Australians are critical, particularly in this digital environment.

In conclusion, the coalition certainly agrees that we need to find ways to ensure data security, but we do not believe that the Labor-Greens way of doing things—which is to rush legislation through, which is to not properly consult with affected stakeholders and which is to not properly take account of serious industry concerns—is the right way to go. That path leads to poor policy, poor legislation and, ultimately, very poor outcomes for consumers in Australia. Those are the concerns that the coalition and I share.

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (11:42): I am delighted to rise to speak to the Privacy Amendment (Privacy Alerts) Bill 2014 as proposed by Senator Singh and to endorse the comments of my colleague Senator Seselja. It is a shame that Senator Singh is not here in the chamber to see the carriage of the discussion. Whether or not that is an indication of her interest in it I do not know, but, nevertheless, it can be taken along those lines. What was interesting to me—

Senator Moore: Mr Deputy President, I rise on a point of order: reflection on another member. I do not believe that was appropriate and it is becoming way too common.

The DEPUTY PRESIDENT: Senator Back, if you did reflect on another member, it would be simple if you just withdrew that.

Senator BACK: I certainly would withdraw any suggestion that I was reflecting on another senator in my comment. Senator Moore, I withdraw, through you, Mr Deputy President. It was not my intention; it was simply to point out the importance of this particular bill and to make some comments on the coalition's points. Part of my reason for making that point was to allow Senator Singh an opportunity in having me respond to a comment that she made in introducing the bill. It was the comment she made to my colleagues about the adequacy of time that has been allowed for public consultation. Quite clearly, we see this as further evidence of the failure of the now Labor opposition in this very area. We are again going to see discussion in this place this afternoon about activity that has resulted from inadequate public consultation and opportunity for the wider community to have its say in these areas.

Senator Singh made the point that there had been adequate time for public consultation. I go to last year's submission of the Cyberspace Law and Policy Centre of the Faculty of Law at the University of New South Wales. This very august body highlighted that, despite the apparent adequacy of the time that had been given for consideration by members of the public, it had had just 10 working hours—not 10 days, not 10 weeks, but 10 hours—in which to collaborate, to draft and to finalise its submission. I would see that as a deep insult to any body whose views were genuinely being sought and who might be able to make a useful contribution.

The Australian Privacy Foundation is another body that one might think would make a useful contribution and that the wider community would have a view on and be particularly keen on hearing from. I know that there would be many people wanting to know what the
Australian Privacy Foundation's interests are. They said a 'seriously negative impact on the democratic process' was inherent in the provision by the parliament of just 1½ working days—very close to that 10 hours of the Cyberspace Law and Policy Centre—for civil society organisations to discuss, draft and finalise a submission to the committee. I would say to anyone who thinks that 10 hours, or 1½ days, is adequate time for a reputable body to consider, discuss, draft and finalise a submission to the committee, that it as a deep insult. Indeed, regrettably, we on this side continue to regard it as a deep insult.

As we know, the proposed model would create a requirement to notify the Office of the Australian Information Commissioner and affected individuals where there has been a data breach that gives rise to a real risk of serious harm. I would go to your background, Mr Deputy President, in the law enforcement area in Australia. How would you regard the words 'real risk of serious harm'? What is real to you might not be real to me. What is serious to Senator Scullion might not be serious to me. If a crocodile were chasing me, I would be very worried. Senator Scullion, on the other hand, would possibly see it as an opportunity that he would relish. I do not use this term flippantly. I would make the point that it would mean entities would not be required to report less serious privacy breaches to affected individuals or to the commissioner.

Senator Seselja spoke eloquently when he referred to the Australian Federal Police in this same area. He made the point that an unintended consequence might be that it makes the issue more serious, rather than less serious, simply because of the point of definition: what constitutes a serious breach of privacy? The requirement to notify would apply to data breaches involving personal information, credit-reporting information, credit eligibility information and tax file information. All of us in the community would share that concern. We do not want to see our private information—tax file, credit eligibility, banking details and personal information—being made public. All of us in this chamber would support that. The wider community would definitely support that proposition.

The important point to make is that the coalition will not allow the Senate to descend into the failure of the Labor opposition, and that is to rush through the decision-making and consultation process. We will not be pressured into agreeing to a proposal without giving it full and proper consideration. I have considered the points that Senator Seselja has made and the comments by Senator Boyce and my colleague Senator McKenzie in the same context. Senator Singh has introduced this bill without proper consultation, and I say that that is premature. The opposition could have done this in a more timely fashion. They could have informed the government of their proposal earlier. There is no good reason why they did not. I heard Senator Singh adversely commenting on the Attorney-General and his apparent lack of speed in introducing legislation in this area. She could have approached him some time earlier. If the opposition had wanted to address this issue seriously and in a timely fashion, they could have taken the opportunity to consult more widely and more quickly.

We are not opposed to considering the proposals to improve data security practices. They are of universal concern. We see around the world now the ease and speed with which cyberhackers and others can interfere with private data and information. And there are no geographic or national borders when it comes to this situation. But we know that there is more work to be done. We know that we must collaborate with officials in other countries—in Europe, the United States, Canada, New Zealand, the Eastern bloc and Asian countries. But
the government is not prepared to agree to a proposal without giving it full and proper consideration. I thank you for the opportunity to comment.

Debate adjourned.

PETITIONS

Coal Seam Gas

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

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

This Petition of citizens of Australia draws to the attention of the Senate:

- present and potential negative impacts of the Coal Seam Gas Mining (CSG) Industry, fracking, tight sands, shale and all other unconventional forms of gas mining on water quality, farm lands, the environment, communities, residents' health, property values and tourism;
- that CSG, fracking, tight sands, shale and all other unconventional gas mining produce greenhouse gas emissions - particularly from large scale methane leakage - such that these industries have a global warming impact that is as bad as if not worse than coal, over a twenty year period;
- that there is evidence that CSG, fracking, tight sands, shale and all other unconventional gas mining lower the fresh water table.

We therefore ask that the Senate:

- declare an immediate moratorium on all CSG, fracking, tight sands, shale and all other unconventional gas mining activities and licences within the boundaries of Australia and its Territorial Seas;
- declare Australia and its Territorial Seas to be a 'CSG, fracking, tight sands, shale and all other unconventional gas mining free zone' and thereafter off limits to these industries.

by Senator Waters (from 7,049 citizens).

Western Australia: Shark Cull

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:51): by leave—I present to the Senate a petition, from 88,160 citizens, which is not in conformity with the standing orders as it is not in the correct form.

Fulton, Ms Roseanne

Senator PERIS (Northern Territory) (11:51): by leave—I present to the Senate the following petition, from 110,000 citizens, which is not in conformity with the standing orders as it is not in the correct form.

Petitions received.

NOTICES

Presentation

Senator Hanson-Young to move:

That the following bill be introduced: A Bill for an Act to amend the Marriage Act 1961, and for related purposes. Recognition of Foreign Marriages Bill 2014.
Senator Di Natale to move:


Withdrawal

Senator EDWARDS (South Australia) (11:52): Pursuant to notice given on 26 March 2014, as the Chair of the Standing Committee on Regulations and Ordinances, I withdraw business of the Senate notice of motion No.1 standing in my name for 10 sitting days after today.

COMMITTEES

Selection of Bills Committee

Report


Ordered that the report be adopted.

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

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 4 OF 2014

1. The committee met in private session on Wednesday, 26 March 2014 at 7.31 pm.

2. The committee resolved to recommend—that—

(a) the provisions of the Australian Charities and Not-for-profits Commission (Repeal) (No. 1) Bill 2014 be referred immediately to the Economics Legislation Committee for inquiry and report by 16 June 2014 (see appendix 1 for a statement of reasons for referral);

(b) the Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 19 June 2014 (see appendix 2 for a statement of reasons for referral);

(c) contingent upon its introduction in the Senate, the Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014 be referred immediately to the Foreign Affairs, Defence and Trade Legislation Committee for inquiry and report by 13 May 2014 (see appendix 3 for a statement of reasons for referral);

(d) the provisions of the Health Insurance Amendment (Extended Medicare Safety Net) Bill 2014 be referred immediately to the Community Affairs Legislation Committee for inquiry and report by 16 June 2014 (see appendix 4 for a statement of reasons for referral);

(e) the provisions of the Independent National Security Legislation Monitor Repeal Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 2 June 2014 (see appendix 5 for a statement of reasons for referral);

(f) contingent upon its introduction in the House of Representatives, the provisions of the Migration Legislation Amendment Bill (No. 1) 2014 be referred immediately to the Legal and Constitutional
Affairs Legislation Committee for inquiry and report by 6 June 2014 (see appendix 6 for a statement of reasons for referral);

(g) contingent upon its introduction in the House of Representatives, the provisions of the Migration Amendment (Offshore Resources Activity) Repeal Bill 2014 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 6 June 2014 (see appendix 7 for a statement of reasons for referral);

(h) the National Broadband Network Companies Amendment (Tasmania) Bill 2014 be referred immediately to the Environment and Communications Legislation Committee for inquiry and report by 26 June 2014 (see appendix 8 for a statement of reasons for referral);

(i) the provisions of the Omnibus Repeal Day (Autumn 2014) Bill 2014 be referred immediately to the Finance and Public Administration Legislation Committee for inquiry and report by 14 May 2014 (see appendix 9 for a statement of reasons for referral); and

(j) the provisions of the Regulatory Powers (Standard Provisions) Bill 2014 that was considered at meeting 3 of 2014 on Wednesday, 19 March 2014 and not referred, was reconsidered. The committee recommends that notwithstanding its previous decision, that the provisions of the bill be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 8 May 2014 (see appendix 10 for a statement of reasons for referral).

3. The committee resolved to recommend—That the following bills not be referred to committees:

- Amending Acts 1901 to 1969 Repeal Bill 2014
- Clean Energy Finance Corporation (Abolition) Bill 2013 [No. 2]
- Dental Benefits Legislation Amendment Bill 2014
- End Cruel Cosmetics Bill 2014
- G20 (Safety and Security) Complementary Bill 2014
- Intellectual Property Laws Amendment Bill 2014
- Major Sporting Events (Indicia and Images) Protection Bill 2014
- Marriage (Celebrant Registration Charge) Bill 2014
- Marriage Amendment (Celebrant Administration and Fees) Bill 2014
- Paid Parental Leave Amendment Bill 2014
- Personal Property Securities Amendment (Deregulatory Measures) Bill 2014
- Privacy Amendment (Privacy Alerts) Bill 2014

The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:

- Export Legislation Amendment Bill 2014
- Export Inspection (Quantity Charge) Amendment Bill 2014
- Export Inspection (Service Charge) Amendment Bill 2014
- Export Inspection (Establishment Registration Charges) Amendment Bill 2014
- Railway Agreement (Western Australia) Amendment Bill 2014
- Safety, Rehabilitation and Compensation Legislation Amendment Bill 2014
- Save Our Sharks Bill 2014
• Social Services and Other Legislation Amendment (Seniors Health Card and Other Measures) Bill 2014
• Student Identifiers Bill 2014
• Veterans’ Affairs Legislation Amendment (Mental Health and Other Measures) Bill 2014.
    (Helen Kroger)
    Chair
    27 March 2014

APPENDIX 1
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
    AUSTRALIAN CHARITIES AND NOT-FOR-PROFITS COMMISSION (REPEAL) (No. 1) BILL 2014
Reasons for referral/principal issues for consideration:
    To thoroughly consider the impacts on Australia's charitable sector of the repeal of the Australian Charities and Not-for-Profits commission and ensure adequate stakeholder consultation.
Possible submissions or evidence from:
    Australian Charities and Not-for-Profits Commission, Department of Social Services, Australian Tax Office, Community Council of Australia, Australian Council of Social Services, Volunteering Australia, Catholic Social Services,
    Church Communities Australia, Philanthropy Australia, Independent Schools Council of Australia, Australian Conservation Foundation, Australian Council for International Development.
Committee to which bill is to be referred:
    Economics legislation committee
Possible hearing date(s):
Possible reporting date:
    16 June 2014
    (signed)
    Senator McEwen
    Whip/Selection of Bills Committee Member

APPENDIX 2
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Bill 2014
Reasons for referral/principal issues for consideration:
• Complex legislation in a policy area affected by rapid technological change.
• Need to consider the view of stakeholders: content producers, importers, distributors, retailers, and consumers.

Possible submissions or evidence from:
To be determined by the committee.

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

Possible hearing date(s):
Possible reporting date:
26 June 2014
(signed)
Senator McEwen
Whip/Selection of Bills Committee Member

APPENDIX 3
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014

Reasons for referral/principal issues for consideration:
Requirement for further consultation with stakeholders, in particular Indigenous Groups, to ensure concerns are further explored and defined.

Possible submissions or evidence from:
Indigenous Groups
South Australian Native Title Services
Resources industry
Pastoralists
Defence industry
South Australian Government
Northern Territory Government
Woomera Township
Railway owners and operator
Commonwealth agencies

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

Possible hearing date(s):
Possible reporting date:
13 May 2014
(signed)
APPENDIX 4
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   HEALTH INSURANCE AMENDMENT (EXTENDED MEDICARE SAFETY NET) BILL 2014
Reasons for referral:
   To scrutinise the implications of this change on Medicare card holders in the context of other proposed changes by the government to private health Insurance and Medicare.
Possible submissions or evidence from:
   Consumers Health Forum, Australian Medicare Locals Alliance, Australian Medical Association
Committee to which bill is to be referred:
   Community Affairs Legislation Committee
Possible hearing date(s):
Possible reporting date:
   16 June 2014
   (signed)
   Senator McEwen
   Whip/Selection of Bills Committee Member

APPENDIX 5
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   Independent National Security Legislation Monitor Repeal Bill 2014
Reasons for referral/principal issues for consideration:
   • The Bill abolishes an important oversight body in the sensitive policy area of national security.
   • The Monitor is a relatively recently established institution and it is important for the Committee to have a chance to assess its performance.
   • The Committee should consider the level of oversight over national security legislation, the importance of ongoing independent review of legislation which can have a serious effect on both national security and civil rights.
Possible submissions or evidence from:
   To be determined by the committee.
Committee to which bill is to be referred:
   Legal and Constitutional Affairs Legislation Committee
   Possible hearing date(s):-
Possible reporting date:

2 June 2014
(signed)
Senator McEwen
Whip/Selection of Bills Committee Member

APPENDIX 6
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
Migration Legislation Amendment Bill (No. 1) 2014

Reasons for referral/principal issues for consideration:
to looking into the governments proposed changes to the Migration Legislation.

Possible submissions or evidence from:
Human Rights Law Centre
Refugee and Immigration Legal Centre
UNHCR
Australian High Commission

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

Possible hearing date(s):
29-30 April

Possible reporting date:
6 June 2014
(signed)
Senator Siewert
Whip/Selection of Bills Committee Member

APPENDIX 7
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
Migration Amendment (Offshore Resources Activity) Repeal Bill

Reasons for referral/principal issues for consideration:
The previous Migration Amendment (Offshore Resources Activity) Bill 2013 was introduced to protect Australian jobs and provides for regulations and protections for foreign workers in the offshore resources activity Industry and should not be repealed.

Possible submissions or evidence from:
Relevant unions and stakeholders
Committee to which bill is to be referred:
Legal and Constitutional Affairs Committee

Possible hearing date(s):
April 2014

Possible reporting date:
June 2014
(signed)
Senator Siewert
Whip/Selection of Bills Committee Member

APPENDIX 8
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:

Name of bill:
National Broadband Network Companies Amendment (Tasmania) Bill 2014

Reasons for referral/principal issues for consideration:
Introduction of a specific subsection to the National Broadband Network Companies Act 2011.
Impact on Tasmanian economic growth and the provision of essential services such as health and education in Tasmania.
Impact on Retail Service Providers operating in Tasmania.
Impact on contractors participating in the rollout of the NBN in Tasmania.

Possible submissions or evidence from:
Civil Contractors Federation, Tasmania
Digital Tasmania (consumer group)
TasICT (industry group)
Unions Tasmania
Communications Electricity and Plumbing Union
Tasmanian Chamber of Commerce and Industry
Tasmanian Government
NBN Co
VisionStream (principal contractor)
Telstra
Optus
iiNet
Federal Government, Department of Communications

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

Possible hearing date(s):
May 2014 in Hobart, Launceston and Burnie, Tasmania.
Possible reporting date:
   26 June 2014
   (signed)
   Senator McEwen
   Whip/Selection of Bills Committee Member

APPENDIX 9
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
   Omnibus Repeal Day (Autumn 2014) Bill 2014
Reasons for referral/principal issues for consideration:
   To consider the broad range of decisions that are captured in this bill.
Possible submissions or evidence from:
   To be determined by committee, could be done on the papers.
Committee to which bill is to be referred:
   Finance and Public Administration Legislation Committee
Possible hearing date(s):
Possible reporting date:
   14 May 2014
   (signed)
   Senator McEwen
   Whip/Selection of Bills Committee Member

APPENDIX 10
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee:
Name of bill:
Reasons for referral/principal issues for consideration:
   This bill purports to create an extensive framework for regulatory powers exercised by Commonwealth agencies, with many technical provisions about investigation powers, compliance and enforcement.
Possible submissions or evidence from:
   Law Council of Australia and other stakeholders.
   Committee to which bill is to be referred. Legal and Constitutional Affairs
Possible hearing date(s):
   during April and May 2014
Possible reporting date:
   May or June 2014
Business

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (11:53): I move:
That—
(a) the following government business orders of the day be considered from 12.45 pm today:
Marriage (Celebrant Registration Charge) Bill 2014
Marriage Amendment (Celebrant Administration and Fees) Bill 2014.
(b) business of the Senate orders of the day nos 2 and 4 relating to committee reports be called on, if not dealt with earlier today, and considered till not later than 2 pm; and
(c) government business be called on after consideration of the committee reports listed in paragraph (b) and considered till not later than 2 pm today.

Senator MOORE (Queensland) (11:53): Mr President, I seek leave to amend Senator Fifield's motion by omitting paragraph (b) and substituting: (b) Business of the Senate orders of the day nos 1 to 7.

Leave granted.

Senator MOORE: I move the following amendment:
Paragraph (b), omit “nos 2 and 4”, substitute “nos 1 to 7”.

Question agreed to.

Rearrangement

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (11:57): I move:
That the order of general business for consideration today be as follows:
(a) general business notice of motion no. 213 standing in the names of Senators Madigan and Xenophon relating to Commonwealth procurement policy; and
(b) orders of the day relating to government documents.

Question agreed to.

Committees

Environment and Communications Legislation Committee

Reporting Date

Senator KROGER (Victoria—Chief Government Whip) (11:58): by leave—I move:
That the time for the presentation of the report of the Environment and Communications Legislation Committee on Australia Post be extended to 27 August 2014.

Question agreed to.
BUSINESS

Leave of Absence

Senator KROGER (Victoria—Chief Government Whip) (11:58): by leave—I move:
That leave of absence be granted to Senator Sinodinos for today, for personal reasons.
Question agreed to.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Reporting Date

Senator WHISH-WILSON (Tasmania) (11:59): I move:
That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on illegal fishing be extended to 28 August 2014.
Question agreed to.

Foreign Affairs, Defence and Trade References Committee

Reference

Senator XENOPHON (South Australia) (12:00): I move:
That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 28 August 2014:

With reference to the committee's earlier report into the review of allegations of sexual and other abuse in Defence, the accessibility and adequacy of current mechanisms and processes to provide support to victims of sexual and other abuse in Defence, taking into account:

(a) the Defence Abuse Response Taskforce (DART) process to date;
(b) Defence's response to the DLA Piper Review and the work of DART;
(c) successive governments' responses to the DLA Piper Review and the work of DART;
(d) the desirability of releasing a true reflection of volume two of the DLA Piper report in a redacted form or by way of a summary; and
(e) any related matters.
Question agreed to.

REGULATIONS AND DETERMINATIONS

Migration Regulations 1994

Disallowance

Senator HANSON-YOUNG (South Australia) (12:01): I move:
That the amendments to the Migration Regulations 1994 made by the Migration Amendment (Unauthorised Maritime Arrival) Regulation 2013, as contained in Select Legislative Instrument 2013 No. 280 and made under the Migration Act 1958, be disallowed
Question agreed to.

Senator HANSON-YOUNG (South Australia) (12:01): Mr President, I seek leave to make a one-minute statement.

The PRESIDENT: Leave is granted for one minute.
Senator HANSON-YOUNG: This disallowance motion, which I am pleased to say has passed the Senate today, is really important. This was obviously a regulation to reintroduce temporary protection visas into the Senate through this parliament, effectively through the back door. The reason I say that is that this place debated this issue at length and resolved the issue back in December. But despite the government taking on board the will of the parliament and the will of the Senate—and they waited till everybody went on Christmas holidays—they reintroduced the regulation, despite the fact that there is a convention in this place that regulations that have been disallowed will not be reintroduced in this place within a six-month period. I think it was quite an arrogant move by this government to reintroduce regulations that had been dealt with. Temporary protection visas are cruel. They are ineffective—(Time expired)

Senator MOORE (Queensland) (12:02): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator MOORE: The opposition's position on TPVs is well known and longstanding. We did not support them in government and we do not support them now in opposition. We do not believe this regulation was done in good faith in terms of the processes outlined by Senator Hanson-Young. And we continue to be strongly opposed to this position.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:03): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: I think it is appropriate to acknowledge in this matter the coalition government's success in breaking the people-smuggling trade that Labor and the Greens fostered for more than five years. In 2007 when the Howard government left office there were just four people in detention who had arrived illegally by boat and none were children. The following year, Labor unwound the coalition's proven measures, abolishing the Pacific Solution, including temporary protection visas. The consequences were disastrous. As we well know, more than 50,000 people arrived illegally by boat, including more than 8,000 children, costing the taxpayer more than $11 billion in budget blow-outs. More than 1,100 people tragically perished at sea and thousands of people were denied a resettlement opportunity because these places had already been taken by those who had arrived illegally. The coalition's policies have proven to be successful. Those on the other side of the chamber should finally recognise that. (Time expired)

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Reference

Senator McEWEN (South Australia—Opposition Whip in the Senate) (12:04): At the request of Senator Wong, I move:

(1) That the proposed Korea-Australia Free Trade Agreement be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report, with particular reference to the impact of the agreement on Australia's economy and trade, investment, social, cultural and environmental policies.
(2) That in conducting the inquiry the committee shall:
   (a) review the agreement to ensure it is in Australia's national interest, and
   (b) have regard to the report of the Joint Standing Committee on Treaties on the proposed agreement.

(3) That the committee report within one month of the tabling of the report of the Joint Standing Committee on Treaties on the proposed agreement.
Question agreed to.

BUSINESS

Days and Hours of Meeting

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:05): I move:

That the hours of meeting for Tuesday, 13 May 2014 be from 12.30 pm to 6.30 pm and 8 pm to adjournment, and for Thursday, 15 May 2014 be from 9.30 am to 6 pm and 8 pm to adjournment, and that:

(a) the routine of business from 8 pm on Tuesday, 13 May 2014 shall be:
   (i) Budget statement and documents 2014-15, and
   (ii) adjournment; and

(b) the routine of business from 8 pm on Thursday, 15 May 2014 shall be:
   (i) Budget statement and documents—party leaders and independent senators to make responses to the statement and documents for not more than 30 minutes each, and
   (ii) adjournment.
Question agreed to.

BILLS

Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014

First Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:06): At the request of Senator Johnston, I move:

That the following bill be introduced: A Bill for an Act to amend legislation relating to defence, and for related purposes.
Question agreed to.

Senator FIFIELD: I present the bill and move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.

Bill read a first time.

Second Reading

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:06): I present the explanatory memorandum 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—

The Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014 gives effect to the recommendations of the Hawke Review of the Woomera Prohibited Area. The review was established in response to increasing demand for access to the Woomera Prohibited Area by the resources sector and the challenge this posed to Defence activity.

The Hawke Review consulted extensively to obtain the views of individuals and groups that had an interest in the future use of the Woomera Prohibited Area. The final review report was provided to the then Government on 4 February 2011 and made a number of recommendations aimed at improving the co-existence of the various parties that had an interest in the Woomera Prohibited Area. The focus of the recommendations was to improve the management of the Woomera Prohibited Area in a way that would meet Defence's testing requirements while creating conditions to make it commercially viable for other sectors, particularly resources, to invest in operations in the Woomera Prohibited Area.

The Woomera Prohibited Area is Australia's most important military testing range. It is used for the testing of war materiel under the control of the Royal Australian Air Force. It covers almost 124,000 square kilometres in South Australia, approximately 450 kilometres north north-west of Adelaide. It is the largest land range in the world, with a centre line of over 600 kilometres, and is comparable in size to England.

At the same time, the Woomera Prohibited Area overlaps a major part of South Australia's potential for significant minerals and energy resources, including 30 percent of the Gawler Craton, one of the world's major mineral domains, and the Arckaringa, Officer and Eromanga Basins for hydrocarbons and coal. Olympic Dam is adjacent to the Woomera Prohibited Area and is part of the same geological formations. In fact, the minerals that are known to be found in the area include copper, gold and iron ore. There is high potential for oil, gas and uranium to also be found in the area.

The South Australian Government has assessed that over the next decade about $35 billion worth of iron ore, gold and other minerals resources are potentially exploitable from within the Woomera Prohibited Area.

The Hawke Review considered how to use the Woomera Prohibited Area in a way that ensured that both its full national security and economic potential was realised. The Review proposed a system to maximise the co-existence between defence and non-defence users of the area.

The Review recommended that Defence remain the primary user of the area, but acknowledged that exploitation of the Woomera Prohibited Area's considerable minerals resources would bring significant economic benefit to South Australia in particular and Australia in general.

And this Bill will assist doing just that. There are four mines currently operating within the Woomera Prohibited Area and the Government looks forward to additional mining operations commencing in the near future. Furthermore, the Government believes the certainty and clarity of the exclusion periods will assist new operators to appropriately plan around Defence activities.

The Review proposed that the Woomera Prohibited Area be opened up for resources exploration to the maximum extent possible, but within the confines of its primary use for defence purposes. This will allow companies to take advantage of the resources potential in the Woomera Prohibited Area while ensuring its future viability as the most important test and evaluation range that supports the Australian Defence Force.

The Bill implements existing administrative procedures for non-Defence users to access the Woomera Prohibited Area in legislation. This regulatory change provides non-Defence users with long-term certainty around their ability to access the Woomera Prohibited Area and the conditions attached to that access. It also represents an estimated saving of around $690,000 in administrative costs for
individual applicants in the resources sector to access the Woomera Prohibited Area over the next 10 years.

So, as well as providing certainty, this Bill is cutting red tape—consistent with this Government's drive to rid business of unnecessary impediments to expand, to invest and to employ Australians.

The Bill establishes a framework that provides all non-Defence users within the Woomera Prohibited Area a greater level of certainty over Defence activity in the Area and greater certainty over access arrangements.

It allows users to make commercial decisions with some assurance as to when they will be required to leave the Area because of Defence activity.

The framework maintains the primacy of the Woomera Prohibited Area as a national security and defence asset and sets up a co-existence scheme that allows access by non-defence users subject to conditions that protect the safety of all users in the Woomera Prohibited Area and ensure the appropriate national security protections for an area used to test defence capability.

Existing users of the Woomera Prohibited Area, including Indigenous groups, pastoralists, the Tarcoola-Darwin railway owners and operator and existing mining operations, will continue to access and operate under their current arrangements. The co-existence scheme established by the Bill will apply to new users of the Woomera Prohibited Area only.

This means that for non-Defence users, the permit system will allow access to the Woomera Prohibited Area on a conditional basis (existing users will continue to gain access under their current permissions). The permit conditions put limits on permit holders' access to allow Defence to conduct its testing activities in a manner that is safe and secure.

In order to obtain a permit, individuals must complete a permit application form in order to undertake the activity for which they require access to the Woomera Prohibited Area. The Woomera Prohibited Area Coordination Office will process the form and issue a permit within the timeframes set out in the draft Woomera Prohibited Area Rules. Local staff of the Woomera Test Range may also be able to approve some permits for purposes including Emergency access. There are different types of permits—resources exploration and production, opal mining, research, environmental, and other (including tourism activities). Once the Rules are finalised, the forms will be accessible on the Coordination Office website. The forms are likely to be very similar to the forms currently used for access during the transition period.

While the Bill provides the overarching framework for the legislative scheme, the detail of the proposed regime is to be included in the Woomera Prohibited Area Rules, to be agreed by the Minister for Defence and the Minister for Industry.

The Woomera Prohibited Area Advisory Board has been established to oversee the Woomera Prohibited Area access system and foster relationships among the Woomera Prohibited Area stakeholder groups.

The current Advisory Board has an independent Chair, Stephen Loosley, and Deputy Chair, the Hon Paul Holloway. Its ex-officio members are senior representatives from the Australian Government Departments of Defence, Industry and Finance, and the South Australian Department for Manufacturing, Innovation, Trade, Resources and Energy, and Defence SA.

The Board was established to ensure:

- that the balance between economic interests and national security is maintained;
- the effectiveness of the access system in safeguarding Defence activities; and
- Indigenous and environmental interests are properly accounted for.

The Woomera Prohibited Area Advisory Board meets on a regular basis to undertake these functions. The roles and functions of the Board are to monitor and recommend amendments to
coexistence policies and procedures; develop high-level relationships between Defence and the resources sector; resolve disputes between Defence and non-Defence users; report annually on the balance of interests in the WPA and conduct a review every seven years of the balance of interests in the WPA.

The Board will work with Defence in an endeavour to resolve all reasonable impediments to Defence authorising a permit and the Chair of the Advisory Board has the power to refer Defence access conditions to the Secretaries of Defence and Industry to seek their review by Defence where necessary.

In broad terms, the Bill:

- Authorises the Minister for Defence, with the agreement of the Minister for Industry, to make the Woomera Prohibited Area Rules prescribe certain matters, including defining the Woomera Prohibited Area, and the zones to be demarcated within that Area.
- Creates a permit system for access and use by future non-defence users of the Woomera Prohibited Area.
- Introduces offences and penalties for entering the Woomera Prohibited Area without permission and for failing to comply with a condition of a permit. An infringement notice scheme and demerit point system will apply to the offence for failing to comply with a permit condition. The details of these schemes will be included in the Rules.
- Provides for compensation for acquisition of property from a person otherwise than on just terms, although the Rules may limit the amounts of compensation payable by the Commonwealth.
- Provides that any declaration or action taken under regulation 35 of the Defence Force Regulations 1952 in relation to the Woomera Prohibited Area is taken to have always been valid.
- Provides that the Rules may limit the amounts of compensation payable by the Commonwealth for loss or damage in the Woomera Prohibited Area arising from a breach of common law or statutory duty of care in relation to the use of the area for the testing of war materiel.

This Bill takes previous attempts to deal with the various interests and stakeholders even further—and does so in a manner that is fair, transparent and predictable.

This Bill is an improvement on recent Woomera Bills for a number of reasons. For example, in October 2013, the South Australian Government raised concerns about potential unintended consequences of the legislation for their land management and economic objectives regarding pastoral leases in the Woomera Prohibited Area. In particular, it noted that the way the Bill was drafted would have the consequential effect that any new holder of an existing pastoral lease would be subject to the new legislation and Rules. This was especially relevant in the area designated as the 'Red Zone', in which the previous Bill stated no new permits will be granted.

Such an approach would have effectively precluded the sale or transfer of pastoral leases in the Red Zone, to the detriment of both economic activity and the important land management services provided by pastoralists (including maintenance of access roads, water infrastructure and fences, weed control, culling of feral animals, monitoring and fighting fires).

The Government determined that existing pastoral leases could be maintained under current arrangements as 'existing users', including in cases where a pastoral lease is acquired or extended.

The Northern Territory Government has raised concerns about the potential for long disruptions to the railway, and the impact of that for tourism and freight delivery to the Northern Territory. Current arrangements (under the Defence Force Regulations 1952) allow the Minister to suspend permission to access the railway and Stuart Highway for safety or security for the testing of war materiel—at any time and with no time limit specified. These arrangements have existed in their current form since 1989.

That said, today rail and road closures occur only for as long as is required to conduct the test and ensure safety or security. This will continue to be the case under the proposed new arrangements. For
example, a recent long range missile test required the suspension of rail traffic through the WPA for a period of three hours on three occasions over a 21 day period. This was done in close consultation with the rail operator and did not impact their schedule.

The Tarcoola-Darwin railway owners and operator had raised concerns about their status as 'existing users' of the Woomera Prohibited Area under the Defence Force Regulations 1952 and that the scope of their existing use includes the railway and all associated infrastructure.

The status of the owner and operators of the Tarcoola-Darwin railway as existing users of the Woomera Prohibited Area has been clarified in this Bill in section 72TB.

Continuing positive engagement with the rail owners and operators, including the development of a working level agreement, will minimise the effect that any testing activity may have on rail operations and schedules.

This version of the Bill includes a technical provision that provides that any declaration or action taken under regulation 35 of the Defence Force Regulations 1952 in relation to the Woomera Prohibited Area is taken to have always been valid.

This provision ensures that any declaration or past act taken under regulation 35 of the Defence Force Regulations 1952 in relation to the Woomera Prohibited Area is taken to have always been valid. This section is inserted to avoid any doubt on the past applicability of the Defence Force Regulations to Woomera Prohibited Area which may arise as a result of the establishment of the new access regime by the Bill.

In order to meet the constitutional requirements to provide just terms compensation, the provision provides that where the declaration or past act would be invalid because of an acquisition of property otherwise than on just terms; the Commonwealth is liable to pay reasonable compensation.

Certainly it has taken some time for this Bill to be forthcoming. Developing a policy approach across the Commonwealth and South Australian Governments to facilitate non-Defence access to the WPA is a complex task.

The Hawke Review of the Woomera Prohibited Area recognised that the passage of legislation can be a lengthy process and consequently identified transition arrangements to support the introduction of the coexistence model.

Adopting a phased approach to admitting new non-Defence users enabled Defence, in conjunction with the South Australian Government, to acquire the capabilities and build the expertise required to manage the complex access control arrangements of the Woomera Prohibited Area.

A moratorium on new users accessing the WPA was put in place from 3 May 2011 through to 5 October 2012, when the transitional phase commenced.

During the Moratorium phase, Defence established the joint WPA Coordination Office, and developed the protocols necessary to enable greater access by the resource and energy sectors. Defence consultation and negotiation with industry on the transitional deeds of access allowed for access during the transition phase, and provided the foundation for the future legislative model.

Following the end of the Moratorium in October 2012, implementation of the review's recommendations moved into the transition phase. During this time the Coordination Office progressed the development of draft legislation in support of the co-existence framework.

This important legislation:
• establishes a framework that provides non-Defence users within the Woomera Prohibited Area, in particular industry, with a level of certainty over Defence activity in the area;
• allows users to make commercial decisions with some assurance as to when they will be requested to leave the area because of Defence activity; and
• protects the safety of all users in the Woomera Prohibited Area and to ensure the appropriate national
security protections for an area used to test defence capability. I commend the Bill.

Ordered that further consideration of the second reading of this bill be adjourned to the first
sitting day of the next period of sittings, in accordance with standing order 111.

BUSINESS

Consideration of Legislation

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and
Assistant Minister for Social Services) (12:07): I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills,
allowing them to be considered during this period of sittings:
- Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014
- Marriage Amendment (Celebrant Administration and Fees) Bill 2014
- Marriage (Celebrant Registration Charge) Bill 2014.

Question agreed to.

BILLS

Live Animal Export (Slaughter) Prohibition Bill 2014

First Reading

Senator RHIANNON (New South Wales) (12:07): I move:

That the following bill be introduced: A Bill for an Act to amend the export Control Act 1982 to
prohibit the export of live animals for slaughter, and for related purposes.

Question agreed to.

Senator RHIANNON: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator RHIANNON: I present the explanatory memorandum and I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

LIVE ANIMAL EXPORT (SLAUGHTER) PROHIBITION BILL 2012

As the Greens spokesperson for Animal Welfare I am proud to re-introduce this Greens bill into the
Senate to put an immediate end to the horrific treatment of Australian livestock in overseas abattoirs.
The Greens are determined to keep campaigning until the cruel live export trade comes to an end. The
live export industry has failed to prevent the suffering and deaths of 2.5 million animals during
transportation over the past three decades and we have no confidence that it will succeed in preventing
animal cruelty under the government's new supply chain regime. That is why the Greens remain deeply
committed to a live export ban.
The Live Animal Export (Slaughter) Prohibition Bill amends the Export Control Act 1982 to prohibit the export of cattle, calves, sheep, lambs, goats or other prescribed animals for slaughter overseas. The ban will be in place immediately, with no delay and no continued cruelty. I pay tribute to my colleague Greens Senator Rachel Siewert, then Australian Greens spokesperson for animal welfare, for first introducing this bill in June 2011, in the weeks following the airing of the ABC Four Corners program about live animal exports, aptly titled 'A Bloody Business'. The footage exposing extraordinary cruelty was provided by Animals Australia investigators who visited 10 abattoirs in four Indonesian cities in March 2011. The RSPCA then conducted a full scientific assessment of the evidence from this investigation.

The program sparked a public outcry. The Greens were inundated with emails and phone calls from constituents all over Australia who were appalled and outraged by the footage of Australian cattle being subjected to cruel treatment. Australians were horrified to see eye gouging, kicking, tail twisting or breaking, as well as cattle experiencing an average of 11 cuts to the throat, whilst conscious, with one animal suffering 33 cuts to its throat. Senator Siewert responded swiftly by calling for the immediate suspension of export licences followed by a legislated ban on live exports. The minister was slower to respond, taking days to announce a ban on exports to 11 identified abattoirs, and then days later a further announcement of a suspension of all cattle exports to Indonesia. You can read Senator Siewert's assessment of the government's handling of the matter in her second reading speech.

Last year the Greens MP for Melbourne Adam Bandt introduced a similar Greens bill into the House of Representatives to immediately end live exports, and the independent MP Andrew Wilkie introduced a bill to phase out the trade in three years. In the days leading up to the vote, more than 20,000 Australians took to the streets to call on the government to ban live animal exports and around 350,000 people signed a petition calling for a ban. Yet only those two MPs supported the bills in the House of Representatives. The major parties remain out of step with public opinion and the outcry will not go away until the cruel and immoral live export trade is stopped.

Senator Siewert outlined the enormity of the live export trade in her speech to the private members bill she moved on this issue:

The sheer numbers of animals involved in this industry are astounding. Between 2008 – 2010 approximately 2,697,569 cattle were exported from Australia, in the same three years 10,751,169 sheep were exported and 254,798 goats. Sheep are exported from Fremantle, Portland and Port Adelaide to Kuwait, Jordan, Bahrain, Oman, United Arab Emirates, Qatar, Israel, Lebanon, Malaysia, Singapore and Brunei. Breeder cattle are exported from Darwin, Fremantle and Broome to Indonesia, Malaysia, Philippines, Jordan, Japan, Israel and Brunei. Goats are exported from Adelaide, Fremantle and Sydney to Malaysia, Singapore, Mauritius and Brunei.

The live export trade continues to cause unacceptable suffering for animals. Just this month there was another disaster on board a Brazilian-owned live export ship bound for Egypt, resulting in the death of up to 3,000 cattle. Animals Australia described the tragedy as one of the worst shipboard disasters the live export industry has seen in many years.

The current initiative of the Gillard government to better regulate the export supply chain is too little, too late. Auditing individual livestock sent overseas is not the correct response to ending this cruel trade.

We have already seen the new controlled supply chain regulatory framework break down in Indonesia. In February this year, fresh footage taken by courageous animal activists in Indonesia working with Animals Australia was aired on the ABC Lateline program, showing serious and systematic breaches of the government's new Export Supply Chain Assurance System at the Temur Petir and Cakung abattoirs in Jakarta. Viewers saw sickening practices including cattle being held in head restraints for longer than the allowable ten seconds and cattle being taunted before slaughter,
placing a big question mark over the government's new regulations which are supposed to protect Australian cattle.

Now that we have this regime it must be enforced properly. Both Meat and Livestock Australia and LiveCorp are motivated by the industry's economic performance rather than the welfare of animals. To maintain any public confidence in the system, the government needs to apply the full force of sanctions.

Since the live export trade with Indonesia resumed exporters have been taking enormous risks by allowing their animals to be slaughtered at 62 different abattoirs in Indonesia. They simply cannot be confident that it will be done properly. In the absence of a ban on live exports, the government should move immediately to reduce the number of abattoirs that Australia exports down to a more manageable number. Further, 12 of those 62 abattoirs do not practice pre-slaughter stunning. Livestock killed at abattoirs that do not use stunning suffer a cruel death. The government's failure to require all exported animals to be stunned before their throats are cut is another set back for animal welfare. The Greens want to see mandatory pre-slaughter stunning enforced in all Australian abattoirs.

In late January 2012 the government headed a trade delegation to the Middle East to examine the livestock trade. The fact that the delegation included no animal welfare experts and gave little prominence to animal cruelty raises concerns about the new supply chain regulations and underlines that the government is not giving priority to animal welfare issues. If the government was serious about making the live export trade more humane, they would have included animal welfare experts on the delegation. This is a symptom of the government's failure to accept the reality of the problem, and is the reason why the Greens believe that an end to animal cruelty can only be ensured with a ban on live exports.

In the United Kingdom the live export trade has also received strong public opposition. In the 1990s the veal crate farming system was banned on animal welfare grounds, but the UK continued to export 500,000 calves a year to continental veal crates, where a calf is kept in a solid-sided crate of wood that is so narrow the calf cannot even turn round from the age of two weeks old. The UK also exported 2 million sheep a year for slaughter abroad. Following a 1995 report by the EU Scientific Veterinary Committee that was highly critical of the veal crate system, and in response to strong public pressure, the EU banned the use of veal crates from 2007. Numbers of live animal exports from the UK have fallen dramatically since the mid 1990's, and though there continues to be a live export trade the public and animal welfare groups continue to oppose it. The banning of veal crates showed the British public that the power of public opinion can change government policy.

The live export trade, as well as being beset with animal welfare problems that cannot be resolved, is not in Australia's best economic interests.

A key claim of the live export industry is that any cessation of the live export trade will harm the domestic industry as processed meats cannot substitute for live sheep and cattle. The Department of Agriculture, Fisheries and Forestry website states that:

"There is evidence that if Australia were to withdraw from live exports, there would be no increased trade in Australian meats. When Australia's live export trade to Saudi Arabia was suspended, there was no significant increase in the meat trade during that period."

Yet this assertion does not appear to be supported by the facts. A ban on exporting live sheep to Saudi Arabia was in place between 1991 and 2000. In its 2009 report, ACIL Tasman stated that following the ban on Australian sheep to Saudi Arabia, imports of frozen sheep meat from Australia increased from 7,900 to 25,122 tonnes, an increase of 318 per cent. They concluded that during this time 100 percent of Australian live sheep exports to Saudi Arabia were replaced by chilled sheep meat. They also reported a 300 per cent rise in Australian sheep meat exports to Egypt between 2002/03 and 2005/06 when Australian live sheep exports were stopped. Market substitution has occurred when live exports have ceased.
Several independent economic reports conducted in recent years found that live exports are undermining Australia's meat processing industry. Live exports compete with and undermine Australia's beef exports. The live export trade to the Middle Eastern countries of Kuwait, Qatar and Bahrain, which make up 65 per cent of the market for Australian live sheep, is heavily subsidised by those governments. There is also trade protection in Indonesia to assist processors, feedlotters and livestock importers compete against imported Australian processed meats. Economic analysts engaged by Meat and Livestock Australia and LiveCorp have stated that exported meats and live animal exports compete in export markets. A 2011 Meat and Livestock Australia report states that 38% of Australian beef exported to Indonesia ends up defrosted and sold in Indonesian wet markets. A 2008 ABARE report accepted that refrigeration was widespread in the Middle East and did not inhibit a trade in processed meat.

Turning to home, The Australasian Meat Industry Employees Union argues that the Australian meat processing industry is a viable alternative to live exports, and that thousands of jobs would be created by increased domestic processing. They cite Australian Bureau of Statistics data that show the decline in the number of meat processing jobs in Australia, from between 40,000 to 48,000 workers in the 1970s to around 32,000 workers in 2009. There were 475 abattoirs in Australia at the end of the 1970s, dropping to 315 abattoirs by 1995/96. A ban on live animal exports would not only end the cruel suffering of animals, it would see abattoirs re-opened, especially in northern Australia, and create new jobs.

A 2010 report commissioned by Australia's leading meat processors - Teys Bros, Swift Australia and Nippon Meat Packers Australia - into the future of the Queensland Beef Industry and the impact of live cattle exports reached damming conclusions that live cattle exports are cannibalising Queensland's beef-processing industry and that they threaten to destroy $3.5 billion worth of assets, $5 billion in turnover and 36,000 jobs. The report also found that the increased live export of Queensland cattle to Indonesia meant lost processing opportunities in Queensland.

ACIL Tasman's 2009 review into the live sheep trade also found that phasing out live sheep exports would have long-term benefits for farmers and the economy through increased processing in Australia. Australia's major meat processors have confirmed that Australia has the capacity to process all cattle and sheep currently going to live exports. If this transition were to occur, the majority of the estimated 10,000 industry jobs would be maintained if animals were processed in Australia.

This Bill offers a win-win on the issue of live exports. A ban would end the cruelty and create tens of thousands of jobs particularly in regional Australia.

In November 2011 a Senate inquiry released its report on animal welfare standards in the live exports market. The Greens were very disappointed with its recommendations and issued a dissenting report calling for animal welfare standards to be strengthened and to be placed at the centre of any reform. What was apparent is that both Meat and Livestock Australia and LiveCorp had failed to adequately monitor or improve animal welfare practices in foreign markets to which Australian animals are shipped. Meat and Livestock Australia was receiving $5 per head of cattle exported to address animal welfare issues. What we saw on the ABC Four Corners program last year was the utter failure of the Mark I cattle restraint devices, which were commissioned by Meat and Livestock Australia and attracted a $1.2 million taxpayer subsidy, to prevent animal cruelty. We have seen again this year in footage obtained by Animals Australia that serious breaches of animal welfare standards persist in the supply chain.

Ultimately, the Australian Greens believe that there is no way to implement safeguards that can guarantee the humane transport and slaughter of animals in overseas markets. We do not accept that the implementation of a traceability system will adequately protect Australian animals from cruel treatment.

The refusal of the major parties to ban live animal exports has placed the onus on animal rights groups and the general public to keep the pressure on the government to make animal welfare the
priority of any action taken on the live export trade. I want to take this opportunity to pay tribute to the many groups and individuals that have campaigned for so long against the cruelty of live exports, long before it head the headlines last year, including Voiceless, Animals Australia, Animal Liberation and the RSPCA. I acknowledge the important work of the Barristers Animal Welfare Panel in offering their legal expertise to promote law reform in animal welfare, and I encourage anyone who cares about this issue to join the World Society for the Protection of Animals, or WSPA's humane chain at www.humanechain.org.au to speak out against live export cruelty. You can also follow the Greens campaign on my website. The success of this campaign will come from building on the widespread support it has already received.

The live exports business is a cruel, inhumane and immoral trade in living beings. It has brought tremendous shame on Australia. The majority of Australians want it shut down. To this end, the Greens call for an end to the live export trade and a move to grow our meat export trade. Such a move addresses our responsibility to end animal cruelty inherent in the live export trade and provides opportunities to create more local jobs, support communities and maintain economic viability for producers.

I commend this bill to the Senate.

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

Leave granted; debate adjourned.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Reportng Date

Senator McEWEN (South Australia—Opposition Whip in the Senate) (12:09): I move:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on public transport be extended to 4 December 2014.

Question agreed to.

School Funding Select Committee

Reporting Date

Senator McEWEN (South Australia—Opposition Whip in the Senate) (12:09): I move:

That the time for the presentation of the report of the Select Committee on School Funding be extended to 26 June 2014.

Question agreed to.

Abbott Government's Commission of Audit Select Committee

Appointment

Senator DI NATALE (Victoria) (12:09): I move:

That the resolution of appointment of the Select Committee into the Abbott Government's Commission of Audit be amended, as follows:

After subparagraph (3)(b), insert:

(c) a participating member shall be taken to be a member of a committee for the purpose of forming a quorum of the committee if three members of the committee are not present.

Question agreed to.
MOTIONS

Duke and Duchess of Cambridge

Senator SMITH (Western Australia) (12:10): I move:
That the Senate—
(a) notes:
   (i) the visit to Australia by their Royal Highnesses the Duke and Duchess of Cambridge from Wednesday, 16 April 2014, to Friday, 25 April 2014,
   (ii) That the Duke and Duchess of Cambridge will visit Sydney, the Blue Mountains, Brisbane, Uluru, Adelaide and Canberra, and
   (iii) that 2014 marks the 60th anniversary of the first visit to Australia by Her Majesty Queen Elizabeth II and that this visit included Canberra, Sydney and 10 towns in New South Wales, Hobart and six towns in Tasmania, Melbourne and 17 towns in Victoria, Adelaide and five towns in South Australia, Brisbane and six towns in Queensland, and Perth and six towns in Western Australia; and
(b) extends a warm welcome to Australia to their Royal Highnesses the Duke and Duchess of Cambridge on their first royal visit to Australia.

Senator MILNE (Tasmania—Leader of the Australian Greens) (12:10): I seek leave to amend the motion to include His Royal Highness Prince George of Cambridge in the first and last paragraphs since we are extending a warm welcome. The formal title, I think, is to include His Royal Highness Prince George of Cambridge.

Leave granted.

Senator Edwards: What's in the water?

The PRESIDENT: Order! I couldn't agree more, Senator Edwards. I don't normally take interjections. That is completely disorderly!

Senator MILNE: I move the motion as amended:
Subparagraph (a)(i), after “their Royal Highnesses the Duke and Duchess of Cambridge”, insert “and His Royal Highness Prince George of Cambridge”.

Paragraph (b), after “their Royal Highnesses the Duke and Duchess of Cambridge”, insert “and His Royal Highness Prince George of Cambridge”.

Question agreed to.

Barton Highway

Senator RHIANNON (New South Wales) (12:12): I move:
That the Senate—
(a) notes:
   (i) That the Barton Highway, connecting Canberra to Yass, is a single carriageway throughout New South Wales except for a 6 km section near the Yass Bypass, and up to 10 000 motorists and truck drivers travel the Barton Highway each day,
   (ii) in 2007 the Barton Highway was noted as the worst highway on the AusLink network in New South Wales, and in 2011 a New South Wales Government report found that the highway had a high accident rate, and
   (iii) in the lead-up to the 2007 election the Howard Government pledged $264 million for the duplication of the Barton Highway and the incoming Rudd Government agreed to also allocate this level of funding; and
(b) calls on the Federal Government to:
   (i) work with the New South Wales Government to reduce fatalities and casualties on the Barton Highway by extending the dual carriageway and by undertaking other required improvements to reduce car and truck crashes, and
   (ii) fund the upgrade of the Barton Highway under the National Projects Program in the coming May 2014 budget.
   Question agreed to.

Polio

Senator MOORE (Queensland) (12:12): I, and also on behalf of Senator Rhiannon, move:
   That the Senate—
   (a) notes that:
      (i) the World Health Organization (WHO) South-East Asia region has maintained its polio-free status for the past 3 years,
      (ii) on 27 March 2014 the South-East Asia Region will receive polio free certification, and
      (iii) with this certification the proportion of the world's people living polio free will increase from 52 per cent to nearly 80 per cent;
   (b) acknowledges that:
      (i) the partnership between the Indian Government, Rotary International, UNICEF [United Nations Children's Fund], WHO, the Gates Foundation and donor countries, including Australia, contributed to the result, and
      (ii) the WHO has estimated that with continued support from the global community the world can be free of polio by 2018; and
   (c) calls on the Australian Government to continue to contribute to the global polio eradication efforts through to 2018.
   Question agreed to.

Research Funding

Senator MILNE (Tasmania—Leader of the Australian Greens) (12:13): I move:
   That the Senate calls on the Government to:
   (a) respect research as fundamental to our country's health and prosperity;
   (b) maintain public funding for all areas of research in the May 2014 budget;
   (c) lift Australia's total spending on research and development over time to 3 per cent of gross domestic product, a target also set by the United States;
   (d) stop the 'brain drain' and back our researchers, scientists and educators by providing secure career pathways, more certain funding arrangements and the national infrastructure that equips people to make discoveries;
   (e) respect academic independence as well as the process of peer-review and expert recommendations; and
   (f) secure our future by ensuring that children get a better understanding of science and research at school.
   Question agreed to.
Draft Labour Market Growth Rate Projections

Order for the Production of Documents

Senator McEWEN (South Australia—Opposition Whip in the Senate) (12:13): At the request of Senator Carr, I move:

That the Senate—

(a) notes the failure of the Minister for Employment (Senator Abetz) to comply with the order of the Senate of 25 March 2014 for the production of documents relating to draft labour market growth rate projections;
(b) orders the Minister to comply with the order by 2 pm on Thursday, 27 March 2014 or make a claim of public interest immunity which is in accordance with those accepted by the Senate; and
(c) in the event that the Minister fails to meet the requirements of paragraph (b), a senator may immediately move, without notice, a motion in relation to the Minister's failure to either comply or provide an acceptable claim of public interest immunity.

Question agreed to.

BILLS

Private Health Insurance Amendment (GP Services) Bill 2014

First Reading

Senator DI NATALE (Victoria) (12:14): I move:

That the following bill be introduced: A Bill for an Act to amend the Private Health Insurance Act 2007, and for related purposes

Question agreed to.

Senator DI NATALE: I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator DI NATALE (Victoria) (12:15): I move:

That this bill be now read a second time.

I table an explanatory memorandum and seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

Australia is blessed with a world-class health system. Between our public and private hospitals and Medicare, we boast a system that is by world standards of high quality. It is also very efficient. Australia spends about 9.4% of GDP on health. This compares very well with OECD countries and is vastly more efficient than the United States, which spends over 17%.

More importantly our health system is highly equitable. Every Australian knows that if they get sick, they can go to a doctor. Thanks to high rates of bulk billing—82% at last count—most people who need to are able to see their GP free of charge. And if something more serious comes along, we have
excellent public hospitals that are guaranteed to worry more about your general health than your financial health.

In some countries, where user pays is the norm, healthcare is much more expensive. Those with insurance can get treatment, though it may mean a fight with their insurance company. Those who lack insurance live in fear of falling ill and when they do must either suffer without treatment or skirt bankruptcy.

The combination of equity, efficiency and quality that we enjoy is a feature of our health system. But these three aspects are related. Because we have a single universal insurer in Medicare, it puts a brake on prices and keeps costs down. All Australians pay into the system with their taxes and use it for their healthcare needs, so its universality means ownership by all Australians. This creates pressure on government to ensure that the quality is of an acceptable standard. Although we read horror stories about emergency departments in the newspapers, by and large Australians can trust in their hospitals to look after them well.

In contrast, a two-tier health system run by a multitude of private health insurance companies has none of these advantages. Competition by insurance companies adds the overhead of multiple layers of administration into every medical service or procedure. A complex and opaque network of contracts can mean escalating prices. It can be more complex for consumers who have to check which doctor or hospital they can visit, what is covered, and how much of it is covered.

And what becomes of the uninsured, those on the bottom tier?

The Greens are committed to keeping this question in the realm of the hypothetical here in Australia. However, we have seen some worrying signs that indicate that Medicare as we know it is under threat. Firstly, there has been a lot of debate about adding a co-payment for all Medicare services as a way of reducing demand for primary health care services and thus to save money. Deliberately placing a cost barrier between patients and their GPs undermines all that Medicare is built upon.

Secondly, and not unrelated to the first point, is the potential for private insurers to enter the primary care space in force. Already, Medibank Private are trialling a system where they pay GP clinics to offer enhanced services to their members such as guaranteed appointments and after hours care. While this runs clearly against the spirit of the Private Health Insurance Act it appears to be within the letter of the law.

There is an important role for private hospitals as part of our healthcare system. Private health insurance is a choice that those who can afford it are free to make. But there is nothing to be gained by throwing open the doors to competing private health funds in primary care. Competition does not always mean lower prices. GP visits will become more expensive for everyone and if doctor visits become more expensive so will private health insurance. We do not want to start health care costs on this upward spiral. This undermines the single, universal system we prize so dearly.

In order to prevent this, this Bill, the Private Health Insurance Amendment (GP Services) Bill 2014, amends the Act to clarify that commercial arrangements between private insurers and GPs that create a two-tiered system are not acceptable. The Bill specifies in clear language that insurers cannot pay GPs for treatment of their members, nor can they pay to get their members preferential access to treatment.

Despite rhetoric we are hearing from the Government, health spending in Australia is not out of control and visits to the doctor are not to be discouraged. Medicare is fair and it is affordable. The Greens want to preserve both of these aspects of our health system.

Senator DI NATALE: I seek leave to continue my remarks later.

Leave granted; debate adjourned.
COMMITTEES
Legal and Constitutional Affairs References Committee

Additional Information

Senator KROGER (Victoria—Chief Government Whip) (12:15): At the request of the Chair of the Legal and Constitutional Affairs References Committee, Senator Wright, I present additional information received by the Legal and Constitutional Affairs References Committee on its inquiry into a public interest immunity claim.

BILLS

Amending Acts 1901 to 1969 Repeal Bill 2014
Omnibus Repeal Day (Autumn 2014) Bill 2014
Statute Law Revision Bill (No. 1) 2014

First Reading

Bills received from the House of Representatives.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:16): 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 FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:17): I move:
That these bills be now read a second time.
I seek leave to have the second reading speeches incorporated in Hansard.
Leave granted.

The speeches read as follows—

AMENDING ACTS 1901 TO 1969 REPEAL BILL 2014

The main purpose of the Bill is to clean-up the statute books by removing over one thousand amending and repeal Acts.
The Bill repeals each Act mentioned in its Schedule.
These Acts are no longer required as the amendments and repeals that they provide for have already happened.
If any application, saving or transitional provision is included in one of those Acts, any ongoing operation of the provision will be preserved. The Acts do not contain any other substantive provisions that are not already spent.
Repealing these Acts is important because it will make the statute book simpler and quicker to use by reducing the time it takes to locate current regulations.
At present, the Acts proposed to be repealed in the Amending Acts Bill form part of the current law and it is not clear to everyone whether the Acts have force in and of themselves.

Repealing these Acts will remove any confusion about the status of these laws.

It will be easier for individuals, businesses and community organisations to find laws that impact them without needing to sift through redundant material, while people with a specific interest in the legislation can continue to access these Acts as they will remain publically available on ComLaw as historical records.

The earliest Act being repealed in this Bill is the Defence Act 1904. It made amendments that were themselves amended and overtaken multiple times since 1904. This is recorded in the legislative amendment history of the current Defence Act 1903. Indeed, so historic is the Defence Act 1904 that it references a State Division of the Naval Forces and not the Royal Australian Navy, which was formed in 1911.

There are numerous other items contained in schedule 1 of the Bill which were made in the decades shortly after the start of Federation but which are no longer necessary.

The Dried Fruits Export Charges Act 1927 is an example of an Act that is clearly out-dated but has remained on the statute book for a significant period of time. It set the charge on export of dried fruits in the now repealed principal Act of 1924 to one-eighth of a penny for each pound of dried fruits exported. It is now fully spent and redundant.

Other Acts being repealed amend principal Acts which have already been repealed. For instance, the Snowy Mountains Hydro-electric Power Acts from 1951, 1952, 1956 and 1958 amend parts of the principal Act from 1949. The 1949 Act was repealed over a decade ago by the Snowy Hydro Corporatisation Act 1997 when the Snowy Mountains Hydro-electric Authority was corporatised.

Amending Acts made after 1969 will be repealed on future repeal days. I commend this bill to the Senate.

THE OMNIBUS REPEAL DAY (AUTUMN 2014) BILL 2014

In April 1946, Sir Robert Menzies’ Liberal Party took out an advertisement in The Bulletin magazine - "we want fewer forms and more reforms" the headline screamed.

Alongside a picture of a husband and wife drowning in paperwork, the advertisement went on to say "I’m fenced in with permits, licences, returns, regulations from every Board, Division and Department under the sun. What I want is to control my own industry…”

It was a message that strongly resonated then, as it still does today.

In every facet of life, from aged care to agriculture, schools to small business and visas to veterans, we are facing an avalanche of regulation that is impeding investment and innovation and the creation of new jobs.

In under 6 years, the previous Labor Government introduced an additional 21,000 regulations, including the Carbon Tax with its 18 separate acts and 1,100 pages of legislation, and the Mining Tax with 11 separate acts and 525 pages of legislation.

This is despite Kevin Rudd’s 2007 claim that "the truth is business regulation is now right out of control. The quantity and complexity of business regulation today is eating away at the entrepreneurial spirit of Australian business”.

And Kevin Rudd’s Small Business Minister, Craig Emerson, who said "we are promising to take a giant pair of scissors to the red tape that is strangling small businesses." Unfortunately, Labor did anything but.

It is little wonder then, that given this poor performance by the Rudd and Gillard Governments, the World Economic Forum ranked Australia a pitiful 128 out of 148 countries surveyed for "burden of government regulation".
Or that the Australian Chamber of Commerce and Industry surveyed its members in 2013 and found that 73 per cent of businesses felt the compliance burden had increased in the past two years.

The Business Council of Australia too has documented the overwhelming compliance burden, highlighting one environmental approval process that took more than two years, cost millions of dollars, involved 4,000 meetings, required a 12,000-page report and when the approval came back, it had 1,500 conditions attached, 300 at the federal level, 1,200 at the state level, and 8,000 sub-conditions. How can we expect any company to go through that process?

Unfortunately today, too many of our business leaders share the sentiments of Jos de Bruin, CEO of the Master Grocers Association, who said "many of our members feel that they are in the business of compliance, and do a little bit of retailing on the side."

Comments such as these from an industry group representing firms employing more than 115,000 staff and contributing more than $14 billion each year to the economy are a call to action. And we need to respond.

It is against this backdrop that the Abbott Government is determined to turn back the tide of red and green tape and adopt a new approach.

Questions must be asked first before any new regulations are passed. What is their purpose? Their cost? Their impact on new entrants? And their effectiveness in managing risk? Only then, when it is absolutely necessary, with no sensible alternatives available, should we proceed to regulate.

We need a new concept of acceptable risk and we need to better understand the cumulative impact of regulation on business decision-making. After all, business is not sentimental and capital is mobile.

Politicians who support new regulation are, in the words of former Productivity Commission chairman Gary Banks, "often rewarded with public acclaim as tangible evidence that the government is 'doing something'". Just look at the previous Government's boast that it passed hundreds of pieces of legislation, as if that was an achievement in itself.

As Banks describes, these "uneven political pressures" are "the antithesis of good regulatory process". The incentives are simply all wrong. Their cumulative impact is to deter investment and innovation and stifle productivity.

As part of the Abbott Government's new approach, we are implementing a series of reforms which will hold both Ministers and the bureaucracy to greater account.

Cabinet submissions proposing legislative changes with a significant regulatory impact will no longer be exempted from the regulatory impact assessment processes.

Ministers have been tasked to establish designated units within their own departments to advise on deregulation priorities, while each minister is appointing an advisory committee with outside representation to provide advice on where regulation can be cut.

Senior members of the public service are having their remuneration directly linked to their performance in reducing red and green tape.

Two parliamentary sitting days have been set aside for repealing legislation each year, with the first Repeal Day occurring next Wednesday.

And we have committed to an annual target of reducing red tape by $1 billion.

All this is being overseen by the Prime Minister and his department, which has subsumed the Office of Deregulation and the Office of Best Practice Regulation into the Department of the Prime Minister and Cabinet from its previous location in the Department of Finance.

Regulators too are the subject of a new approach. The Government is releasing today a Productivity Commission report which provides a framework for auditing the performance of regulatory agencies.
The Commonwealth has 75 external and 68 internal regulators, each of which vary in size. When they do their job well, they effectively manage risk and advance the interests of stakeholders and the community at large. However, when their performance is sub-par, it can lead to substantial delays, increased costs and complexity, and what can politely be described as “mission creep”.

The perception today is that too many of our regulators are dominated by a culture of compliance and enforcement that stifles productivity. There is also a view that where regulators have the ability to cost-recover their fees from industry, it is industry that bears the impost of regulators’ risk-aversion.

The Abbott Government is implementing a series of measures to audit and ultimately strengthen the performance of regulators. In addition to the Productivity Commission’s report, which covers four key indicators - advice and guidance, licensing and approvals, monitoring and compliance, and enforcement – senior ministers in the Abbott Government with portfolio responsibility for one or more of the Commonwealth regulators are now sending letters of expectation to the relevant regulatory head.

These letters make clear that the strategic direction of the Government is to deregulate and lift the compliance burden on stakeholders. Where appropriate, Ministers call upon regulators to reduce any overlap between their functions and those of other regulators, and to undertake an audit of the cost to their stakeholders of regulatory compliance. Where it can be done, the Ministers are also requesting that regulators substitute mandatory reporting requirements with independent audits. The goal of these changes is to create a more practical, risk-based approach to enforcement.

Ahead of Repeal Day next Wednesday, today too is a historic moment for the Australian Parliament. Today the Government introduces legislation and tables documents to repeal more than 10,000 Acts and regulations - the largest ever single bulk repeal in the history of the Commonwealth. Red and green tape is being cut across nearly every portfolio, slashing the compliance bill for the business and the not-for-profit sectors by more than $700 million.

Significantly, the broader economic impact will be exponentially larger than this as jobs will be created and investments that may have otherwise been delayed or cancelled will now go ahead.

In just over 6 months in government, it is a good start, but there is a long way to go. We are determined to see a cultural shift in Australia’s approach to regulation.

Regulation must never be the default option for government, but only a means of last resort following genuine consultation with stakeholders.

The Abbott Government’s deregulation initiatives, many of which are being introduced today, align with three key themes.

First, removing duplication between different levels of government and between different agencies of government.

The Government has already announced one-stop-shops for environmental approvals to avoid overlap between state and federal regimes. Now one-stop-shops will be extended to offshore petroleum activities in Commonwealth waters, with NOPSEMA (the National Offshore Petroleum Safety and Environmental Management Authority) now empowered to make determinations required under the Environmental Protection and Biodiversity Act without the need to get approval from a second, separate Commonwealth regulator.

David Byers, CEO of the Australian Petroleum Production and Exploration Association, said this move is essential should Australia be able to “win extra market share” beyond the $200 billion already invested in local projects.

We are also removing the requirement for aged care building certification at the federal level, as this merely duplicates requirements at the state level. With an additional 74,000 aged care places needed over the next 10 years, we need less regulation not more if we are going to provide the incentive for the required investment.
In another significant change we are opening up the Comcare scheme to companies who operate in multiple states and want to self-insure. Instead of having to enter into separate workers’ compensation schemes in every state in which they operate, they can enter into a single scheme which is estimated to save industry over $30 million a year in compliance costs.

Second, is the need to streamline onerous and costly reporting requirements.

Labor’s Future of Financial Advice laws imposed a $700 million implementation cost on the financial services sector and needs to be paired back.

The Personal Property Securities Act which mandates that small and large hire firms register serial numbered goods with a Commonwealth authority is more onerous than regimes in place in comparable jurisdictions such as New Zealand and Canada.

Commonwealth grant and procurement guidelines also need to be amended to ensure greater use of template contracts and to increase the threshold for the Commonwealth to make payments with credit cards to assist the cash flow of small business.

The education sector also needs relief, with universities no longer having to submit capital asset management surveys, which provide unnecessary levels of detailed information on the use of their lecture theatres, laboratories, and academic offices.

And the not-for profit sector will also see savings, with the Brotherhood of St Laurence no longer having to report monthly, but instead quarterly, as it oversees the implementation of the Commonwealth’s Home Interaction Program for Parents and Youngsters (HIPPY) program, an important educational service assisting disadvantaged young families.

Third, the Abbott Government will take a common sense approach to regulation.

There is no need for companies to seek separate classifications, for 2D, 3D, DVD or Blu-ray versions of a film like Kung Fu Panda when one classification should suffice.

Job service providers should not be required to keep 336 file cabinets to hold paper copies of job applications when they could be otherwise stored electronically.

It does not make sense for more than 30,000 retailers selling prepaid sim cards to take a photocopy of the purchaser’s ID when similar details are again taken when the phone is activated.

So too for a potato farmer exporting to Korea, they should have the option to self-certify the origin of their produce and not go through the costly and time consuming process of paying for a certificate of origin.

These are just some of the many examples of over-regulation which we are seeking to correct with our initiatives announced in conjunction with Repeal Day.

The Omnibus Repeal Day (Autumn 2014) Bill 2014, which is before the House, is part of a package of repeal measures, together with a series of other important Bills including the Statute Law Revision Bill No 1 2014 and the Amending Acts 1901-1969 Repeal Bill 2014.

The Omnibus Bill makes a number of changes to:

- streamline reporting and information provision requirements for telecommunications providers under the Competition and Consumer Act 2010.
- remove Telstra’s standard marketing plan and policy statement requirements, now redundant under the Telecommunications (Consumer Protection and Service Standards) Act 1999.
- streamline the Australian Communication and Media Authority’s (AMCA) discretion to investigate complaints under the Media Authority Act 2005, Broadcasting Services Act 1992 (Broadcasting Act) and Interactive Gambling Act 2001.
• remove superseded standard form agreement provisions outlined in the Telecommunications Consumer Protection Code requiring carriers to maintain duplicate summaries for each product and service.

• grant the Australian Communication and Media Authority the power to exempt classes of licenses that do not have significant revenue from the requirement to provide audited accounts under the Broadcasting Act.

• remove redundant permit provisions regarding the operation of sea installations under the Sea Installations Act 1987.

• remove requirements to undertake water studies in the Murray-Darling Basin for mining activities which have been superseded by provisions in the Murray-Darling Basin Plan and the Environment Protection and Biodiversity Conversation Act 1999.

• repeal the Coordinator-General for Remote Indigenous Services Act 2009 following the decision announced in MYEFO and its function ceasing on 31 January 2014.

• remove the certification requirement under the Aged Care Act 1997 that replicates state, territory and local government building regulations for residential aged care facilities

• exempt low volume importers from the licensing requirements of the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989

This Omnibus Repeal Day Bill also proposes the repeal of 43 spent and redundant Acts, some of which have remained on the Commonwealth statute books despite fulfilling their purpose or being superseded, decades ago.

For example, the Approved Defence Projects Protection Act 1947 was enacted to provide for the protection of Approved Defence Projects by making it an offence to prevent, hinder or obstruct an approved defence project. This Act applies to the Woomera Prohibited Area and the Nurrungar Joint Defence Facility. Woomera has been protected under the Defence Force Regulation 1952 since 1976 and the Nurrungar facility was decommissioned in 1999.

Further, the Commonwealth and State Housing Agreement (Service Personnel) Act 1990 was established to transfer property between the Commonwealth and individual States following the creation of the Defence Housing Authority in 1988. The Act was fully spent after five years but remains on the Commonwealth statute book.

Four Acts from the Treasury portfolio remain on the statute book to implement increases to Australia's quota at the International Monetary Fund in 1965, 1970, 1983 and 1991. These payments have long been made and the arrangements are no longer required. Furthermore, the International Monetary Agreements Act 1947 was amended in 1991 to include standing arrangements to support any payment we are required to make to the IMF when quotas are changed.

By allowing these spent and redundant Acts to continue in force on the Commonwealth statute book, we are making it harder for businesses, individuals and community organisations to find out about the regulations that matter to them. Instead of being able to quickly and easily find and access the regulations they need to comply with, they have to sift through outdated, unnecessary regulations, to determine whether they still apply.

Through our commitment to dedicated parliamentary repeal days and bills like the Omnibus Repeal Day Bill, and the Amending Acts 1901 to 1969 Repeal Bill 2014 and Statute Law Review Bill (No. 1) 2014, this Government is taking decisive action to reduce this burden.

In conclusion, if Australia does not act now to tackle this avalanche of red and green tape, we will be unnecessarily raising the risk on Australia's $400+ billion investment pipeline, and, in the process, endangering tens of thousands of potential new jobs.
We must never forget in a competitive world, capital is mobile, and in the Asian Century, where the opportunities are so large, we not only need to seize every advantage but we need to eliminate every disadvantage.

This is why the deregulation agenda is so urgent and so important. We must act now, as the choice is ours.

Sir Robert Menzies, Australia's longest serving Prime Minister, was right when he said, more than 60 years ago, that what was needed was "less forms and more reforms". The Abbott Government has heeded these words and is now taking the lead.

Australian families, businesses and community organisations all stand to be the great beneficiaries. I commend this Bill to the Senate.

STATUTE LAW REVISION BILL (NO. 1) 2014

The Statute Law Revision Bill (No. 1) 2014 is the third bill in the Government's 2014 Autumn Repeal Day package.

The Bill cleans up the statute books by repairing minor errors in Commonwealth consolidated Acts, and repeals spent or redundant provisions and Acts.

While the Bill does not make substantive changes to the law, it serves two important functions. First, it clarifies the status of laws by repealing obsolete legislation and, secondly, it removes confusion by amending incorrect or out of date provisions.

The Bill reduces the regulatory burden by improving the accuracy and useability of Commonwealth legislation. As a result, the Bill will help to save individuals, businesses and community organisations time and money.

Schedules 1 and 2 of the Bill achieve two main ends:

- correcting minor technical errors in principal Acts, such as grammatical errors and errors in numbering, and
- correcting amending Acts which contain errors.

For example, sometimes legislation refers to other Acts incorrectly, or contains references to other parts of the same Act which are not accurate. By correcting these unclear legislative provisions, this Bill helps make the law easier to use.

Schedules 3, 4 and 5 of the Bill update language used in a range of legislation. These schedules make three sorts of changes:

- Firstly, they amend Acts to ensure that Commonwealth Ministers are consistently mentioned by reference to the administration of particular legislation, rather than by title. This ensures that the provisions can still be understood and operate properly when the titles of Ministers change.
- Secondly, they amend terminology to consistently reflect terms now used in the Acts Interpretation Act 1901 and in current drafting practice. The Acts Interpretation Act is a dictionary and manual that provides rules for reading and interpreting Commonwealth legislation.
- Thirdly, they correct various Commonwealth Acts to reflect the correct title of the Legislative Assembly of the Northern Territory under the Northern Territory (Self-Government) Act 1978.

By removing out-dated or unnecessary provisions and Acts, this Bill also makes Commonwealth legislation more efficient to use.

Schedules 6, 7, 8, 9 and 10 of the Bill repeal spent or redundant provisions and Acts.

For example, the Melbourne 2006 Commonwealth Games (Indicia and Images) Protection Act 2005 regulated the use of indicia and images associated with the Melbourne 2006 Commonwealth Games. The Act provided that it ceased to have effect on 30 June 2006, so it can now be repealed.
Other minor errors in Commonwealth consolidated Acts will be corrected on future repeal days. I commend this bill to the Senate.

Ordered that further consideration of the second reading of these bills be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

**Marriage (Celebrant Registration Charge) Bill 2014**

**Marriage Amendment (Celebrant Administration and Fees) Bill 2014**

**First Reading**

Bills received from the House of Representatives.

**Senator FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:18): 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 FIFIELD** (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:18): I move:

That these bills be now read a second time.

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

Leave granted.

*The speeches read as follows—*

**Marriage (Celebrant Registration Charge) Bill 2014**

The *Marriage (Celebrant Registration Charge) Bill 2014* provides legislative authority for the Government to charge Commonwealth-registered marriage celebrants an annual celebrant registration charge. The administrative arrangements for implementing the celebrant registration charge are provided for in the *Marriage Amendment (Celebrant Administration and Fees) Bill 2014*, which I will also introduce today.

Separate legislation for the celebrant registration charge is required under section 55 of the Constitution as the charge is a cost recovery levy.

The annual costs of administering the Commonwealth Marriage Celebrants Program will be fully cost recovered through the imposition of this charge. This will enable Government to improve services delivered to Commonwealth-registered marriage celebrants, while also better regulating those celebrants. These measures will in turn facilitate Commonwealth-registered marriage celebrants delivering professional, knowledgeable and legally correct services to marrying couples in Australia.

The Bill provides that the amount of the charge is to be determined by the Minister by legislative instrument and is not to exceed the statutory limit. The statutory limit for the financial year commencing 1 July 2014 is $600 and is to be indexed annually in line with the Consumer Price Index.

However, in line with the expected costs of administrating the Program, the charge for the 2014/2015 financial year will be considerably lower than the statutory limit, at $240. This charge will not generate revenue.

Costs are incurred by the Program in administrating newly appointed celebrants from the time they are registered until the next annual charge becomes due and payable on 1 July. Where a new celebrant
is registered after 1 July in any financial year, a Ministerial determination may provide that different amounts of the celebrant registration charge are payable in respect of that year. This is only fair as the celebrant will not be accessing the resources provided by the Marriage Celebrants Program until registration. It will also ensure that people registered close to 1 July in any given year are not disadvantaged by having to pay a full celebrant registration charge twice in a short period of time.

[Conclusion]

The imposition of a celebrant registration charge under the *Marriage Amendment (Celebrant Registration Charge) Bill* is consistent with the Australian Government Cost Recovery Guidelines and will result in enhanced services and support for marriage celebrants. This will assist marriage celebrants to continue to provide couples seeking to marry with professional and legally correct services on what is one of the most important days in the lives of marrying couples.

**MARRIAGE AMENDMENT (CELEBRANT ADMINISTRATION AND FEES) BILL 2014**

The *Marriage Amendment (Celebrant Administration and Fees) Bill 2014* amends the Marriage Act to introduce cost recovery for the regulation of the Marriage Celebrants Program, and makes minor amendments related to the administration of the Program. This Bill provides the administrative arrangements for the celebrant registration charge which will be implemented by the *Marriage (Celebrant Registration Charge) Bill 2014*, which I introduced earlier today.

Marriage celebrants are an essential feature of many modern weddings. In 1973, less than 2 per cent of couples were married in a civil ceremony. In 2012, ABS figures show that 71.9 per cent of marriages were performed by civil celebrants. The number of marriage celebrants has increased significantly in recent years from 3334 in September 2003 to over 10,400 Commonwealth-registered marriage celebrants administered by the Program in 2014.

A couple’s wedding day is one of the most special and enduring moments in their lives. It is, therefore, important that the person solemnising the marriage does so in accordance with relevant standards and legal obligations.

While the great majority of marriage celebrants perform this role to a very high standard, the quality of services provided by celebrants does vary. Their important role carries significant legal responsibilities and the community is entitled to expect that Commonwealth-registered marriage celebrants are suitably equipped to discharge their functions. Failure to do so properly can have devastating consequences for the couple being married.

The existing legislative regime governing marriage celebrants is robust, with statutory provisions to ensure their integrity and professionalism. However, the Program has had limited resources to effectively utilise the legislative provisions available to properly regulate the industry. For example, to respond in a timely way to concerns raised about the non-compliance of celebrants with their legislative obligations or Code of Practice. Nor has the department been in a position to provide to marriage celebrants the services it would like to support them to meet their obligations.

The implementation of cost recovery will improve the education and training services delivered to Commonwealth-registered marriage celebrants, while better regulating those celebrants. It will also enable improved scrutiny of aspiring marriage celebrants before they are registered. These measures will in turn facilitate Commonwealth-registered marriage celebrants delivering professional, knowledgeable and legally correct services to marrying couples in Australia.

It is proposed that the following fees and charges will apply to the Program:

- a $600 registration application fee for aspiring marriage celebrants seeking registration,
- a $240 annual celebrant registration charge imposed on all Commonwealth-registered marriage celebrants, and
a $30 application processing fee for seeking an exemption from the annual celebrant registration charge, the registration application fee, or annual ongoing professional development obligations.

Subject to passage of the Bill, these will commence from 1 July 2014.

Exemptions from the fees and charges will be available in certain circumstances, including for marriage celebrants in remote areas to ensure continued access to celebrancy services for those communities.

An extensive consultation process was undertaken by the Attorney-General's Department. The consultation process elicited significant feedback from marriage celebrants about the charging structure and inclusions, which was considered in the development of these reforms.

In addition to cost recovery, the Bill also includes administrative improvements to increase the efficiency and operation of the Program.

Marrying couples must provide their celebrant with evidence of date and place of birth as part of the process of completing their notice of intended marriage. An Australian passport will be included in the range of documentation that an authorised marriage celebrant may receive as evidence. This amendment reflects the reality that many Australian citizens hold an Australian passport, which may be more readily accessible than their birth certificate, in the lead up to an intended marriage.

The Bill will also remove the requirement to review a marriage celebrant's performance every five years. Instead of all celebrants having their performance reviewed, the focus of attention will be on celebrants about whom there are grounds for concern about their conduct or professional standards as a marriage celebrant. For the majority of celebrants, this will remove the burden of going through a mandatory review process.

The requirement for the majority of forms in the Marriage Act to be prescribed by the Regulations, or in a prescribed format, will also be removed. Instead, most of these forms, which are administrative in nature, will become forms approved by the Minister. This will remove the need to amend the Marriage Regulations every time a form needs to be updated or modernised. This will facilitate relevant and timely updates to these forms, while maintaining appropriate checks and balances for the available marriage forms.

The marriage certificate received by marrying couples will remain as a form prescribed in the Marriage Regulations.

In return for the fee, marriage celebrants can expect improved service and accessibility to the department through an online celebrant portal, a dedicated phone service, enhanced education and guidance materials and a quarterly newsletter. There will also be strengthened application, performance review and complaints handling mechanisms.

Conclusion

Through the introduction of cost recovery, the Marriage Celebrants Program will be placed on a more secure foundation into the future, ensuring that the high standards Australians rightly expect of Commonwealth-registered celebrants are properly monitored and enforced.

Debate adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.
COMMITTEES
Community Affairs References Committee
Report
Senator SIEWERT (Western Australia—Australian Greens Whip) (12:20): I present the interim report of the Community Affairs References Committee on speech pathology services, together with the Hansard record of proceedings and documents presented to the committee.

Senator SIEWERT: by leave—I move:
That the Senate adopt the recommendation contained in the interim report that the time for a presentation of the report of the Community Affairs References Committee on speech pathology services be extended to 26 June 2014.
Question agreed to.

NOTICES
Postponement
Senator MOORE (Queensland) (12:21): Mr Deputy President, I seek leave to move a motion that Business of the Senate order of the day No. 1, relating to the presentation of the report of the Education and Employment References Committee on the effectiveness of the national assessment program—literacy and numeracy, be postponed to a later hour.
Leave not granted.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (12:22): by leave—Mr Deputy President, within the last 20 minutes or so, a motion that I moved to deal with Nos. 2 and 4 was amended by the opposition and the Greens so that we dealt with Business of the Senate orders of the day 1 through to 7 in order. I am just wondering why a change to that is now being sought.

Senator McEWEN (South Australia—Opposition Whip in the Senate) (12:22): by leave—Mr Deputy President, if I can explain: there is no intention by the opposition to upset the order of the debate. It has come to my attention at the last minute that the Education and Employment References Committee has only just met to finalise and agree the report, but the report is now able to be tabled and spoken to.

The DEPUTY PRESIDENT: I am just going to take advice from the Clerk. My understanding is that we have already got a process in motion and—


The DEPUTY PRESIDENT: Thank you. We did not actually get there. Leave was not granted. We will go with the order of the Senate—Nos 1 to 7. We will commence with No.1. As I highlighted this morning, amending things on the run is not a good thing.

COMMITTEES
Education and Employment References Committee
Report
Senator LINES (Western Australia) (12:23): Pursuant to order, I present the Education and Employment References Committee report titled Effectiveness of the National Assessment
Ordered that the report be printed.

Senator LINES: by leave—I move:

That the Senate take note of the report.

The NAPLAN report has been a long time coming to the Senate, and it is with some pleasure that I table the report today and have it available for the public to see the committee's assessment of the submissions presented to it. The committee received a number of submissions from academics, teachers and schools. As you would appreciate, Mr Deputy President, the lead-up to the introduction of this annual test was a little contentious in Australia. Before the test commenced in May 2008, states and territories in Australia were conducting tests in literacy and numeracy. Initially, the committee looked at how we might make comparisons with those tests conducted across the states and territories but, as I am sure the Senate can appreciate, it was an impossible task. The tests were too different to really be able to provide any objective analysis of the state of student outcomes across the country.

In 2008, the NAPLAN test was introduced. NAPLAN is administered across the country in both primary and secondary schools to students in years 3, 5, 7 and 9 and tests across four core areas of reading, writing, language and numeracy. The test results are made available some four months later. The submissions received by the committee went into great detail about the test. It is obvious that the test is of great interest to parents, schools and universities, particularly those that have education as part of their fraternity. Many issues were raised with the committee, including the view that students were nervous before the test and that that could somehow impact on the results. We also had a number of submissions saying that teachers were really moving away from a broad commitment to school learning and were teaching towards the test. There were also those who thought that NAPLAN was a very good diagnostic tool. It is fair to say that the committee saw a great depth and breadth of interest from everyone concerned with education—and we should be concerned about education.

It is critically important for us in the parliament and for everyone concerned with schooling to make sure that the investment we make in schools is the best that it can possibly be and that we ensure student outcomes are as good as we can get them. It is important to remind ourselves of the educational goals of NAPLAN, which are to ensure that Australian schooling promotes equity and excellence and that all the young Australians become successful learners, confident and creative individuals and active and informed citizens. They are two very good and very important goals. Certainly the committee was of the view that, generally speaking, NAPLAN was working and that it was a good tool.

Further, it was felt by some that there was too much of a gap between the time the test was administered and when the test results were made available. If we are measuring the performance of our students then those results should be available quickly so that appropriate diagnostic tools and measurements can be put in place. Then we do not merely note the NAPLAN test but use the outcomes of the test more constructively to enable good teaching to occur. Across geographic areas where there are a number of schools, whether in local communities or large regional towns, we could do a lot more in terms of school performance by asking those schools that are performing well in tests what are they doing that enables their students to perform better in tests as opposed to a school three or four streets away. That is the
second stage of NAPLAN: how do we use the results of NAPLAN to hone in on school performance? NAPLAN has now been around since 2008. I am pleased to say that today's report is supported by all senators involved in that report. That we are able to say, despite our differences, that we all believe it is an important diagnostic tool, augurs well for the ongoing success of NAPLAN. Certainly, the results need to be available much more quickly, and now that NAPLAN has moved to an online test there is no reason we cannot get those results back to schools as soon as possible.

The next stage for us is to ask: how do we take those tests and use them to improve student performance? How do we look at what is happening in a particular area or across the state or across states—which NAPLAN already does—compare like for like? Where we have really good pedagogy and good test results, then how do we share them? Education should not be occurring in a competitive environment. We want all students to succeed at school regardless of their background or where they live. The results of NAPLAN should be used to dig into why some students in some schools perform better at NAPLAN than others. How do we then bring everyone along with us—how we use those results to improve all students' performance.

Parents can measure where their child is performing against a national average and we can look at how a local school is performing against schools in similar areas and in similar circumstances. For me the next step needs to be: how do we take excellence and make sure it is shared right across the community? The other thing the committee has been at pains to stress was that NAPLAN in and of itself cannot improve student performance. It measures student performance, but actual improvement in student performance rests with quality teaching, quality teacher training and good pedagogical leadership in the school—where good principals are willing to look beyond their own school gate at the school that perhaps did better than them down the road in, say, in the area of literacy and investigate why that happened and what they can to make sure in the next round of NAPLAN they are doing as well as the other school.

The committee believes that at the micro level, the school level, but those results can be most effective and that is certainly where parents want NAPLAN to be effective and where the community wants to see those NAPLAN results analysed at school level and developed much more fully. There is no point in doing national testings if the results come back to schools and sit on the shelf collecting dust. That is not what we want to see. It is about improving school performance. I commend the report. (Time expired)

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (12:35): I rise on behalf of the coalition to support the report and recommendations of the effectiveness of the national assessment program literacy and numeracy. Knowing that my Senate colleagues, Senator Wright and Senator McKenzie, do want to contribute, I will confine my remarks. The first thing to say is that the coalition supports the report and its recommendations. All of us on the committee particularly support shortening the interval between when the NAPLAN test is taken and when the results come back. Of course, with new technologies we believe these capacities exist with online testing. One of the things I do want to emphasise, however, is that, whilst in government, we will work closely with the states and the territories, the Catholic sector and the independent schools, to make sure that the technologies and the equipment are in place so that if and when we move to an online testing platform then we do not add to students' anxiety because the computers are breaking
down or because they do not have access to them in the first place or because they do not have the capacity to use them. That is one of the recommendations I endorse.

The second point feeds on from that: there are special problems for students with disabilities or students from a non-English-speaking background. We would be urging ACARA that the nature of the testing, the questions being asked, are those that students from a non-English-speaking background or those who may be new to this country have some understanding of the actual question being asked and that they are not left at the starting gates simply because they do not understand the background or the nature of the question. If we do want, as Senator Lines says, this to become a diagnostic tool that is of some use to a teacher then there is not much point of doing the test in March or April and getting the results in October. But in the meantime, of course, it prompts the question, 'Should the results be available to that student's teacher in the next year?' because the information may still be relevant to that teacher in grasping some understanding.

What the government does not support is the notion of league tables—inevitably the media, the newspapers in particular, love to get hold of the information that comes from the My School website and start producing league tables. We cannot stop that happening and we do not intend to stop it happening. I think the message that needs to go out there is that this is not the basis upon which decisions are going to be made relating to either funding or resourcing. What is necessary is to use the results themselves, and the feedback from principals, to allow principals of schools to have far more autonomy in their decision making, while particularly including the parents, the teachers and the school community.

We do not want a circumstance in which pupils are pressured in going into this NAPLAN testing for fear that, if they do it badly in some way, their school is going to be disadvantaged—and we have seen evidence of that. Neither do we want a circumstance in which teachers teach to the test, out of fear placed upon them by the bureaucracy or administration that, if somehow or other there is a poor performance by pupils, the school is going to be disadvantaged. That has encouraged some, indeed, to leave the students at home.

I propose to conclude my remarks there to allow time for my colleagues to make a contribution. I will simply say that we certainly endorse the report and its recommendations.

The ACTING DEPUTY PRESIDENT (Senator Whish-Wilson): Senator Wright, you have the call, but I would just remind you: the debate will be interrupted at 12.45 and there will not be a continuation.

Senator WRIGHT (South Australia) (12:38): Thank you, Mr Acting Deputy President. I am very pleased to take note of the report of the Senate Education and Employment References Committee's inquiry into the effectiveness of the NAPLAN program. I moved to establish this inquiry because of the growing parental concern I was hearing about the impact of NAPLAN testing and the My School website on students. After six years of the NAPLAN scheme, I thought it was time to re-evaluate what was happening in schools and check that the tests were still putting student needs first.

What we uncovered was that it was not only having adverse consequences for some students—including things like anxiety and stress—but actually affecting teaching and learning practices as a whole. We heard evidence that teachers were spending more and more
time teaching to the test, and that the publication of the results on the My School site had created a very competitive environment.

Teachers, parents, schools, academics and education groups generally all came forward to have their say during this inquiry, and they said with a near unanimous voice: 'NAPLAN testing has drifted away from its original purposes, and it is time for change.' It is time to make sure that NAPLAN works for students, not the other way around. It has become a high-stakes test, but it should not be that way, and it does not have to be that way.

Although there was a lot of confusion in the evidence before the inquiry about the purposes of NAPLAN in the first place, one thing is very clear: NAPLAN was not designed to evaluate school success, so it should not be used to rank and compare schools. This competitive environment has also seen a commercial spin-off, so we have had everything from NAPLAN training books and teddy bears to specialised after-school tutoring sessions.

The evidence presented to the committee was clear: the data that comes out of the NAPLAN test should be used to help parents and teachers track how a student is going and to help them. But we have actually created a competitive spirit where schools are increasingly holding dedicated time teaching to the test, drawing time and resources away from other important curriculum areas. One survey found that 66 per cent of teachers believed the test damaged student wellbeing. And teachers are asking not to teach the NAPLAN year levels because of the extra burden and parental expectations. Schools should not feel like NAPLAN is a be all and end all test. It is simply a snapshot of how a student is tracking on a few areas of literacy and numeracy.

So, to combat this, the committee is recommending that the government do more to monitor the use of NAPLAN data to make sure it is helping kids, not creating a competitive environment with league tables. We are recommending that more is done to help students with a disability and from language backgrounds other than English to demonstrate their understanding. We are also recommending that the NAPLAN results get back to parents and schools much faster; at the moment there is a three-month turnaround, which drastically impairs NAPLAN's effectiveness as a diagnostic tool.

However, on the strength of the evidence presented to the committee, the Australian Greens do not believe that the committee's recommendations go far enough. If you read the report you will see that the committee's views are framed much more strongly than the recommendations that were able to be agreed to unanimously.

So, first, I note that it was the position of the coalition before the election that individual school-level data should not be published on the My School site, and the education minister has made similar statements since coming to government. On the evidence presented to the committee about the profound changes to teaching and learning as a result of the My School site, the Australian Greens would be very willing to work with the federal government to work out the best way to do this.

There is so much more I could say, but I am going to run out of time. I do want to thank the many, many parents, teachers and principals, academics and education groups who made submissions and to thank the committee for their excellent work. The Australian Greens have tabled additional comments, which we think strengthen for the better the recommendations of the general committee report.
Senator McKENZIE (Victoria—Nationals Whip in the Senate) (12:42): I, too, rise in the remaining two minutes to make some very brief comments on the report of the Senate Education and Employment References Committee inquiry into the effectiveness of the NAPLAN program. I support wholeheartedly the chair's comments around what actually makes a difference in the classroom, to teachers and to educational outcomes for students, and that is: quality teaching and a degree of autonomy and flexibility at the local level to have a look around and adopt practices that will actually support the learning and development of our young people.

Obviously, Senator Back, we support the use of NAPLAN. It has provided an incredible amount of data for both state and federal governments to put on the table when designing their education policy. What we will be looking at—and this was one of the recommendations that came out of our inquiry—is the need to get the data into the classroom a lot quicker, so that teachers can adapt their pedagogy appropriately to the students in their classroom. That is what the test was designed to do, and ensuring that that time frame is shortened is a positive measure—and we support that state education ministers have set 2016 as the date for them to start looking at that, and we look forward to that. So we are not going to rush in to ‘NAPLAN online’, if you like, as a potential mechanism for doing that. That could be quite an adaptive process for young people and teachers to assess their numeracy and literacy, but it is going to take time. We are going to work comprehensively with state government and Catholic and independent systems to ensure that we get it right, so that we can make good decisions.

I just want to briefly comment on the need for increased support for student teachers and teachers in analysing and interpreting the quantitative data that comes out of NAPLAN.

I just wanted to make a brief comment on the Greens' additional comments around the creation of league tables and to reiterate the fact that the coalition does not support league tables. That is not what the tool was designed to do, nor should it be used for that. But we cannot stop media outlets, for instance, and other organisations using their numeracy skills with the data available to construct comparison data, nor would we want to.

Finally, I wanted to briefly touch on the fact that the department of the former Minister for Education in Tasmania, Greens Minister McKim, supported NAPLAN. (Time expired)

Debate interrupted.

BILLS

Marriage (Celebrant Registration Charge) Bill 2014

Marriage Amendment (Celebrant Administration and Fees) Bill 2014

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator SINGH (Tasmania) (12:45): I rise in support of the Marriage (Celebrant Registration Charge) Bill 2014 and the Marriage Amendment (Celebrant Administration and Fees) Bill 2014, because these are bills which reflect very much the implementation of the 2011-12 budget decision of the Gillard Labor government to introduce cost recovery for Commonwealth-registered marriage celebrants in Australia. A couple's wedding, we could all acknowledge, is one of the most important moments in their lives, and it is important that
Australians can expect that those tasked with solemnising marriages will discharge their responsibilities to a very high standard. This bill concerns civil celebrants, and it should be added that celebrants in particular are an essential feature of many modern weddings. Celebrants provide marrying couples with a meaningful alternative to a registry wedding.

The Marriage Celebrants Program was established under the Marriage Act in 1973 by the Whitlam Labor government. My parliamentary colleague in the other place, the shadow Attorney-General, remarked in the second reading debate on this issue that the program that the Whitlam government introduced was one of the many achievements of a reforming Labor Attorney-General, Lionel Murphy. Despite vociferous opposition to the idea of civil celebrants from conservative quarters, including from within his own party, Lionel Murphy exercised his powers as Attorney-General to appoint the first civil celebrant in July 1973. There you are, we have come a long way since then and since that remarkable reform that he commenced with. A recent account holds that, frustrated with opposition to the idea, Lionel Murphy returned to his office late one night, typed the first letter of appointment himself and posted it from a nearby postbox to Lois Darcy, a 25-year-old Queenslander. Darcy was a great success; and, in the following months, Lionel Murphy appointed many others to this role.

That just shows you the importance of this program. The number of celebrants has significantly increased as many people move away from the more traditional religious marriage ceremonies. Some recent statistics from the Australian Bureau of Statistics show that in 2011 some 71 per cent of marriages were formalised by a celebrant. That really shows you not only how much things have changed since that great reform of Lionel Murphy in 1973 but also how much Australia has changed and how modernised we have become when it comes to the institution of marriage and how so many Australians do opt for a civil celebrant in choosing how their marriage ceremony will be carried out. I am sure senators in this place have attended many such ceremonies with celebrants at hand to carry out their duties.

Following on from the long tradition of Labor’s support for celebrants, the Gillard Labor government developed these bills to ensure the ongoing integrity of the celebrant program and to make the administration of the program by the Attorney-General’s Department financially sustainable—a very important step that obviously needs to occur for the program to run efficiently and effectively. The government undertook an extensive consultation process and prepared stakeholders for the introduction of these changes. It is pleasing to see the Abbott government continuing to implement these great Labor reforms with this prudent addition to the regulatory framework. I think that is an important component of these bills, and that is what we are debating and discussing here today.

The primary focus of these bills is very much on cost recovery of the administration of the Commonwealth Marriage Celebrants Program, and I understand that that includes new fees and charges consistent with the government’s cost recovery guidelines. I think what is important—and it is something that is worth mentioning—is what those actual charges may end up being. I think celebrants certainly would like to know, in carrying out their work, what charges will be imposed on celebrants, to ensure that the charges are geared to cost recovery, because that really is the primary focus of this bill. It is about cost recovery, not about gouging. We would not want to see gouging occur. We want it to be focused, obviously, on the cost recovery of the administration of the Commonwealth. I think it is also critical that the program is adequately resourced to ensure that those high standards that Australians rightly
do expect of a Commonwealth-registered marriage celebrant are properly monitored and properly enforced. That is a very important component, I think, that needs to be recognised. We do expect a high standard when it comes to our marriage celebrants, and that needs to be monitored and enforced. Some few years have passed now, and there have been extensive celebrant community meetings conducted around the country by, I understand, the Attorney-General's Department. I know they happened whilst Labor was in office and I hope they have continued, as need be, in the last six months under the Abbott government. It is an important component of the model that celebrants are informed, that they are aware and that they are not taken by surprise so that, when this bill passes in this chamber, they will know what to expect coming forward.

We need to recognise that this cost-recovery model will enable the program to improve services delivered by a Commonwealth registered marriage celebrant. I think that is really what we all want. We want to ensure that services are improved in their delivery. Also, of course, we want to effectively regulate celebrants in Australia. This model does improve on the program and does improve on the history, which I outlined earlier,—which the shadow Attorney-General also outlined in his contribution—from its beginnings under Lionel Murphy in 1973. The cost recovery implementation will very much provide the program with resources to better scrutinise aspiring celebrants prior to registration. Of course we are thinking, currently, about our existing celebrants and our Commonwealth registered marriage celebrants, but we should also recognise that there could be Australians who may choose to become a celebrant as their future job career and they, too, need to know about this new process and the new resources to ensure that they are the right person for the job. We want to ensure that that kind of scrutiny goes on, because we want to continue to make sure that this program has very high standards of celebrants within it. These measures will, in turn, ensure that professional and legally correct services are delivered to marrying couples in Australia on that receiving end, which is what this is really all about: when marrying couples have professional and legally correct services delivered for their special day.

Of course there will be exemptions available from the fees and charges on grounds set by the regulations. I understand it is intended that exemptions will allow remote communities to access celebrancy services, which is a good thing, as well as cover those celebrants with serious illness, incapacity or absence from Australia that will affect their ability to solemnise marriages for a significant part of an exempted year. This bill establishes the infrastructure for the fees, including the eligibility for exemption provisions that I just touched on, and also on consequences for non-payment, and that infrastructure is important. The bill also provides legislative authority for the government to charge Commonwealth registered marriage celebrants an annual cost-recovery levy—the celebrant registration charge as it is known. The bill will allow the amount of the charge to be set by the minister up to a statutory limit of $600. The bill also allows for the indexation of the limit for financial years to reflect CPI.

As the implementation of a continuing history of Labor reform for the civil celebration of marriage, this bill is an important step to ensure that that reform history continues and ensures that the celebrant program continues in a robust, effective and highly professional manner. As I said at the outset, the institution of marriage celebrants in Australia is very much a proud Labor achievement established, as I mentioned, under the Whitlam Labor government. Today, civil celebrants officiate at almost 70 per cent of marriages in Australia. That is an incredible
number of marriages. I understand that that equates to around 120,000 marriages a year. That figure shows the popularity of weddings where people choose to have a marriage celebrant to conduct the service. People are very much exercising their freedom to choose a wedding ceremony that accords with their own personal values and with their own personal beliefs. That is a really important thing in a modern, free society like Australia where couples do have that choice and where they are exercising their freedom to choose. That statistic of 70 per cent of marriages in Australia being officiated by civil celebrants shows that people are continuing to exercise that choice.

I do support this program and I do think it is critical that the program is adequately resourced, so I hope that that is a consideration by this government. Those higher standards that Australians rightfully expect from Commonwealth registered marriage celebrants cannot be delivered unless there is proper resourcing of the Attorney-General's Department for the monitoring and enforcing of these regulations. I will stress this issue. We are coming up to the budget season. It is one thing to pass good legislation; it is another thing to adequately resource it to ensure that it can be implemented as best it can. That includes, of course, the monitoring and enforcing provisions that are contained within this bill.

The work done into this bill and all of its components—and the work that has gone on since the Gillard Labor government were looking at introducing it during the budget of 2011—has brought us to the point today where there is bipartisan support. I am most pleased that the Abbott government is continuing on with this bill. I support the work of marriage celebrants in Australia. I support the freedom of choice that Australian couples continue to have—to have a marriage celebrant to conduct their weddings.

Marriage is one of the most important moments in couples' lives. They expect that the celebrant that they choose is of the highest standard. That is what this bill helps to ensure will occur. With that I very much commend the bill to the Senate and look forward to it becoming law.

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (13:01): I thank senators for their contributions and commend the bills to the Senate.

Question agreed to.

Bills read a second time.

Third Reading

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

Senator RYAN (Victoria—Parliamentary Secretary to the Minister for Education) (13:02): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.
Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014
Second Reading

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

Senator FARRELL (South Australia) (13:03): I rise to support the Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014. This bill will allow for what is described as triple indexation of the DFRB and the DFRDB military superannuation pensions in the same way that we index age and service pensions.

Approximately 57,000 retired military personal aged 55 and over will receive a $160 million boost to their pensions from 1 July if this legislation passes this afternoon. As I indicated, it is with much pleasure that the opposition indicates that it is going to support the bill. We will continue to support improving the circumstances of our ex-servicemen and ex-servicewomen, just as we did in the lead-up to the 2013 federal election.

The Labor Party believes that one of the greatest responsibilities for a country is to be proud of its veterans and its ex-servicemen and ex-servicewomen, and to ensure that they are looked after in times of need. We are proud of our veterans and grateful that they have helped protect our nation and its interests. The Labor Party has a proud record of looking after veterans. In our last budget we committed a record $12.5 billion to veterans, including mental health programs and greater support for veterans and their families. We worked to make steady improvements to veterans' pensions and supports, even in the face of the enormous challenges posed to our budgetary situation by the global financial crisis.

Prior to the election, the Labor government announced the addition of the Pensioner and Beneficiary Living Cost Index—the PBLCI—indexation mechanism to the consumer price index for the DFRB and the DFRDB pensions, cutting in at the age of 65. This would have cost $34 million over four years, and would have increased unfunded liabilities by $1.1 billion. We were committed to looking for opportunities to make further improvements within the bounds of fiscal responsibility. We are therefore happy to support these measures.

It would certainly be helpful to this side of the chamber if the government could give some indication as to the funding of these changes. We remain concerned about the impact of the legislation on the Future Fund and unfunded liability. We would like some explanation from the minister—I am pleased he is here this afternoon—as to how the government intend to manage the issues associated with the Future Fund, and how that will develop in the years ahead.

While in government we estimated the coalition's indexation plans to cost $175 million over four years, and increase the unfunded liabilities by $6.2 billion. In Senate estimates, the government indicated the financial impact of the legislation: on the cash balance, $58.1 million; on the fiscal balance, $780.1 million over the 2013-14 budget forward estimates period; and the government's net worth would be reduced by around $4.4 billion over the same period.

We are seeking assurances on the potential for inequality with other types of military pensions. We will closely monitor the implementation of these changes to ensure that none of our veterans are worse off under these changes. While these pensions apply mainly to ex-
service men and women, it is important that the conditions of our current soldiers are not
undermined in order to pay for these changes. The government needs to explain how the
measures are going to be dealt with in terms of the Future Fund.

In supporting this legislation, it is appropriate to explain some of the achievements of
Labor in the area of veterans' affairs and particularly the role that the former minister, Mr
Snowdon, played in those achievements. In the 2013-14 budget, there was over $12.5 billion
in funding for the veteran community annually, including $6.8 billion in pensions and income
support, $5.6 billion in health services and $85 million for commemorative activities. This
includes an additional $26.4 million over four years to expand access to mental health
services for current and former members of the ADF and their families. We expanded
eligibility for treatment of certain mental health conditions on a non-liability basis and VVCS
counselling. Thanks to Labor, dedicated staff from the On Base Advisory Service of the
Department of Veterans' Affairs operate on more than 35 Defence bases around Australia to
provide advice and support on injury, physical and mental health and compensation issues as
part of the support to wounded, injured and ill.

In February 2013, a memorandum of understanding was signed between DVA and Defence
to facilitate closer cooperation in the support for current and former military personnel
veterans, including the transition process. Our Veterans' Pharmaceutical Reimbursement
scheme helps veterans with out-of-pocket expenses for medications for their war caused
conditions—$30 million over four years. Initial payments were made in the first quarter of
2013. Veterans, partners, war widows and widowers were given a further boost to their
payments from March 2013 for the clean energy supplement, a regular payment under the
Household Assistance Package.

We initiated and completed the review into our military compensation and rehabilitation
arrangements under the Military Rehabilitation and Compensation Act 2004 and the
government accepted 96 of the 108 recommendations. We implemented a number of changes
to ensure compensation and health care for our veterans and their families continues to meet
their needs—$17.4 million over four years. Legislation putting into effect recommendations
arising from the review were passed in the parliament on 27 June 2013. Obviously that date
was very close to the rising of the last parliament. More than $140 million in funding was
provided for the Anzac centenary, including $27 million for the upgrade of the First World
War galleries, which are magnificent, and I hope you have had a chance to see some of the
work that has been done there. There was $100,000 per federal electorate for the Anzac
Centenary Local Grants Program; $5 million for the Australian Memorial in Wellington, New
Zealand; and $10 million for the Australian Remembrance Trail in France and Belgium. Over
the weekend I had the privilege of catching up with the Belgium Buglers, who are in
Australia, and they are a very proud group indeed. There was the announcement of ballot
arrangements for Anzac Day 2015 at Gallipoli.

From September 2011, there is $500 per fortnight for the prisoner of war recognition
supplement—$20 million over four years. The Co-ordinated Veterans' Care Program—$152.7
million over four years—provides ongoing, planned and coordinated primary and community
care, led by a general practitioner, with a nurse coordinator, to eligible Gold Card holders who
have chronic conditions, complex care needs and are at risk of an unplanned hospitalisation.
In August 2011, the government instituted the Graves of Our Bravest program, which
provides for the ongoing maintenance of the graves of recipients of the Victoria Cross, the
Cross of Valour and the George Cross. The graves of these recipients are beautifully
maintained by the Office of Australian War Graves.

From 1 July 2011, the Commonwealth Superannuation Corporation became responsible for
the investment and management of public sector and military superannuation schemes. The
establishment of the CSC as the consolidated trustee helps to secure increased superannuation
benefits for thousands of military and civilian superannuants. In the 2011-12 budget,
additional funding of $8 million per annum was provided to the Australian War Memorial. I
commend people to see some of the tremendous ways in which that has improved the
Australian War Memorial. In the 2011-12 budget, $3.3 million was put towards a world-first
education centre in Washington DC honouring Vietnam veterans. In the 2010-11 budget, the
government provided $55 million over five years as part of its response to the
recommendations of the parliamentary inquiry into the concerns of F111 deseal-reseal
maintenance workers. The parliamentary inquiry report was tabled on 25 June 2009.

In the 2010-11 budget the government provided $24.2 million over five years to provide
Australian Defence Force British nuclear test participants with access to compensation under
the Veterans' Entitlements Act 1986. This measure recognised the unique nature of these tests
and the fact that service in these operations involved hazards beyond those of normal
peacetime duties. Submariners who participated in certain special operations have also had
the qualifying nature of their service recognised.

On 20 September 2009, as part of the government's Secure and Sustainable Pensions
commitment, a one-off increase of $65 per fortnight was made to the single rate of service
pension—available at the age of 60 to veterans with warlike or other qualifying service—and
the age pension. Smaller increases were given to couples, including the partner service
pension.

Since 2009, following the Dunt Review, Defence and DVA have undertaken significant
reform in the mental health and rehabilitation programs available to Defence members during
their service life and when they transition to civilian life. DVA provides $9.5 million and
Defence provides $83 million. Since 2008 the Department of Veterans' Affairs disability
compensation pensions have been indexed in the same way as income support payments. That
legislation was passed in September 2007.

In September 2009 an additional indexation factor, the pensioner and beneficiary living
cost index, was introduced for income support payments. In addition, the male total average
weekly earnings benchmark was increased from 25 per cent to 27.7 per cent at the single rate.
Disability pensions and income support pensions continue to be indexed in the same way.

Labor's other achievements in this area include:

- the establishment of an independent Defence Honours and Awards Tribunal in 2008, which
  has since reviewed the Long Tan gallantry citations and the eligibility criteria for the
  Australian Defence Medal and recognition of service with 4th Battalion RAR in Malaysia
  in 1966-67;
- a review of the unimplemented recommendations of the Clarke review;
- the establishment of criteria for memorials of national significance;
the conduct of a Vietnam veterans family study;
the automatic grant of war widows pension for widows of temporary, totally incapacitated and intermediate rate pensioners;
the establishment of a Special Claims Unit within the Department of Veterans' Affairs to improve transaction times, significantly reducing processing times for compensation claims;
the establishment of the Prime Ministerial Advisory Council on Ex-Service Matters;
a funding boost for ex-service organisations;
the declaration of Battle for Australia Day on the first Wednesday of September each year, Bombing of Darwin Day on 19 February—which I had the great privilege of attending this year—and Merchant Navy Day on 3 September; and
the implementation of the Post-Armistice Korean Service Review recommendations, including the issuing of the Australian General Service Medal (Korea) and the Returned from Active Service Badge to eligible ex-servicemen and women.

As you can see, Mr Acting Deputy President, Labor has achieved much in this area. I am very proud of our veterans and grateful they have helped to protect our nation and its interests. I am very pleased to indicate our support for the bill today.

Senator WRIGHT (South Australia) (13:19): As Greens spokesperson for veterans' affairs I am pleased to rise in support of this bill, the Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014, which sets out to index certain veterans' pensions more fairly. This legislation has been a long time coming. It relates to pensions under two closed schemes: the Defence Forces Retirement Benefits Scheme; and Defence Force Retirement and Death Benefits Scheme. This bill would bring the indexation method for these into line with the age pension and comparable benefits. These pensions take into account not only the consumer price index but also male total average weekly earnings and the pensioner and beneficiary living cost index.

It is important to note that only recipients aged 55 and over will be eligible for this change in indexation from 1 July 2014. The Australian Greens support this bill in accordance with our long-held policy position on this matter. We acknowledge the work of the many people in the veteran community who have campaigned tirelessly on this issue—and I can certainly bear witness to the effectiveness and assiduity of their campaigning. This includes the Defence Force Welfare Association, the Returned and Services League, the Alliance of Defence Service Organisations and the Vietnam Veterans' Federation. Three Senate inquiries in recent years have recommended this change in indexation. We note that the measure is costed at a significant $4.4 billion over the forward estimates and that the government has introduced the bill in order for it to take effect from 1 July 2014. As I said, it has been a long time coming, it has taken many inquiries and a lot of campaigning, and I am pleased to be supporting the bill today.

When it comes to supporting veterans the Greens believe that if we are prepared to make the significant decision to send people away to serve Australia in our name, often in situations that are hazardous and distressing, we have a full responsibility to accept the decision that we have made and to care for them properly when they return home. We must be responsive to
the needs of the veteran community and invest in robust solutions to meet the challenges they face when they return to Australia and when they leave the services, which can be a difficult time of transition for many veterans. Caring for veterans means ensuring they can access proper support, including mental health and wellbeing services, and ensuring their financial needs are appropriately supported.

When the Greens presented our fully costed election platform in relation to veterans' affairs last year, we devoted a number of elements to supporting veterans and the families who support them. The Greens recognise that veterans' families face unique challenges as a result of their loved one's service in the ADF but do not always receive the care and support they need. We know that carers play a crucial and often unrecognised role in the welfare and support of veterans who have been either physically or psychologically injured.

From 1 July 2014, this legislation will apply only to veterans aged 55 and above. I acknowledge that many in the community would have been hoping that the eligibility would be broader and not limited to those of that age. I understand this legislation will benefit approximately 45,000 veterans and that extending the changes to those aged under 55 would mean that another 160,000 veterans would enjoy fairer indexation. I acknowledge the work of those who have advocated for fair indexation for veterans, regardless of age, and invite the government to consider their arguments further.

The Australian Greens stand firm in the conviction that, if we are prepared to commit people to military service as a nation, we must then be prepared as a community to support them appropriately and properly upon their return. It is only fair, it is only just, it is only right. We have long advocated for the support of veterans and their families in the unique challenges they face. Fair indexation is an important step on this journey and I look forward to working with the government on all the issues that will make a difference to veterans—fair indexation, support services and others. I commend this bill to the Senate.

Senator FAWCETT (South Australia) (13:23): I will make only a few brief remarks about the Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014. I will leave the substantive remarks to my colleague Senator Ronaldson, who is the minister, but I cannot let this opportunity go past without acknowledging the people in the veterans community who have advocated on this issue for many years. Even when I was the member for Wakefield in the other place there were people who were regularly contacting me—often about TPI pensions and indexation but also about the DFRB and DFRDB.

I note upfront that I have an interest in this. When I turn 55, as a DFRDB recipient I will benefit from this. But my years of service in the military also give me an understanding of why people who are in the DFRDB scheme have strongly felt that lack of indexation has disadvantaged them—especially given what our expectations were when we first joined the Australian Defence Force. This legislation implements one of the government's top election commitments and one of our top commitments to the veteran and ex-service community.

I particularly thank the minister for his advocacy. Given the tight financial situation, it would have been very easy for the government to, yet again, disappoint the veteran community by saying that financial circumstances meant we could not do this. The minister has, however, managed to bring his colleagues in the cabinet with him to make sure the finances are available to follow through with this commitment, which is an important commitment to our ex-service community.
Importantly, not only will this change benefit the ex-service members themselves; the provisions will also apply to reversionary spouses who are aged over 55 on the date of indexation. The provisions will not apply retrospectively. The bill also exempts DFRB and DFRDB members from division 293 tax on the one-off capitalised value of the benefit improvement relating to past service as at 1 July this year. This will ensure that members with significant past service but modest superannuation pensions will not incur a taxation liability resulting from changes to the indexation.

I will leave my remarks there, but I want to acknowledge again the Returned and Services League, the Defence Force Welfare Association and the Alliance of Defence Service Organisations, as well as the many individuals who have contacted me and many other members of parliament over the years to bring about this fair indexation. I commend the bill to the Senate.

Senator LUNDY (Australian Capital Territory) (13:26): I wanted to associate myself with the acknowledgement of the work done by representatives of the veterans' community on this issue, in particular the DFWA and Mr Peter Thornton, who, for many years, has been a very articulate advocate on these issues.

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (13:26): I thank those who have spoken on the Defence Force Retirement Benefits Legislation Amendment (Fair Indexation) Bill 2014 and I particularly thank Senator Fawcett for his fantastic support. I acknowledge the presence of Alf Jaugietis from the DFWA in the gallery. I thank the DFWA for their great support. I intended coming here today to talk more about the bill, but I cannot let go past without comment the contributions from Senator Farrell and Senator Wright on behalf of their political parties. I also cannot go without saying some words about our good senator from Canberra Senator Lundy.

This is a great day for 57,000 military superannuants and their families. This is a great day that has been a long time coming. It is a great day that should have occurred a long time ago. In particular, it should have occurred on 16 June 2011 when, in this very chamber, the very same bill was put to many of those people who are in the chamber today. On that day, the Australian Labor Party and the Australian Greens let down a group of people who deserved better. The veteran community knows full well who was on the fair indexation ship when it set sail that day and who refused to climb on board. The veteran community knows full well those who are trying to run up that rope now to get on the ship of fairness. They will be judged appropriately.

Senator Lines interjecting—

Senator RONALDSON: I cannot believe the interjections from someone like Senator Lines. How dare you interject during a speech on fairness! How dare you interject when we are finally giving 57,000 families fairness! You sat there three years ago and voted against it. How dare you come in here now and talk about what you have done!

What you have done is let down a group of people who should have been supported by this chamber three years ago. What you have done is let down a group of people who have done no more and no less than serve this nation at the nation's request.
All they asked for was fair indexation; all you gave them three years ago was unfair indexation when you refused to support the very bill which is in the chamber today. There is no difference between the bill that is in the chamber today and the bill that was in the chamber three years ago when you voted it down. Please do not come in here and cry crocodile tears for those military superannuants. They are undeserving of that sort of contempt. If you had come in here and said one thing, I would have been prepared to accept it. If you had walked in here and said, 'We are sorry for what we did three years ago,' I would not be making the speech that I am making now and I would have said to you, 'Thank you, for acknowledging what you did three years ago and finally saying you let this group of men and women down.' But no, instead, you have come in here with the platitudes, but you have not come in here with the apologies.

I know I speak for the whole of the coalition when I say this, but I particularly speak on behalf of my colleagues Assistant Minister Stuart Robert and the Minister for Defence, Senator Johnston, and I very particularly speak on behalf of this nation's Prime Minister, because this nation's Prime Minister has helped us drive this. It is this nation's Prime Minister who personally took ownership of the fairness debate. I want to repeat the words of this country's Prime Minister—the then opposition leader—on 20 September 2011 at the RSL National Congress:

It has long been to me and my colleagues in the Coalition, verging on the scandalous that defence retirees do not enjoy the same indexation arrangements as other people who have retired. I have described 16 June 2011 as a day of great shame—a day that this chamber let down those 57,000 military superannuants and their families. It is with pride that I stand here today representing a government that has fought for the delivery of fairness, and it is to the eternal shame of those opposite that they did not have the dignity or the grace to come in here and say sorry.

I signed a clear commitment on behalf of the coalition with the Prime Minister, and that was our commitment to those military superannuants. As my colleagues know, that commitment now has the word 'delivered' on it. We have delivered on this promise. We have delivered on the Prime Minister's commitment. I say to this chamber that this is a great day for this country. This was an election commitment, along with the restoration of BEST funding and other commitments, that this government is proud to keep. We went to the last election saying we would not make commitments unless we were prepared to keep them. This was a firm commitment made to these families. It is a commitment and a promise that has been kept today on 27 March 2014.

Question agreed to.
Bill read a second time.

**Third Reading**

**The ACTING DEPUTY PRESIDENT (Senator Smith) (13:34):** 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 RONALDSON** (Victoria—Minister for Veterans’ Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (13:34): I move:

That this bill be now read a third time.
Question agreed to.
Bill read a third time.

COMMITTEES
Education and Employment References Committee
Report

Senator LINES (Western Australia) (13:36): Pursuant to order, I present the report of the Education and Employment References Committee on the Australian Building and Construction Commission, including the provisions of the Building and Construction Industry (Improving Productivity) Bill 2013 and any related bills, together with the Hansard record of proceedings and documents presented to the committee.
Ordered that the report be printed.

Senator LINES (Western Australia) (13:35): by leave—I move:
That the Senate take note of the report.

These ABCC bills have quite a history. As the Senate is aware, it is the second introduction by the government of such draconian laws to an industry and it has absolutely failed on both occasions to show due cause why we need such draconian legislation. Last year in December the legislative committee recommended that the bills re-establishing the ABCC be passed. However, the legislative committee did not have the benefit of a significant body of material that this committee, the references committee, has received in evidence through its three hearings, evidence that clearly undermines the case for the re-establishment of the ABCC.

In December last year the government and the supporters of these bills wanted the Senate to simply abandon its role to scrutinise, and simply pass the bills. The legislation committee was given a very short time in which to consider the bills, just 18 days to hear from submitters and produce a report. Indeed, submitters were rushed too, having a mere eight days to prepare submissions and gather evidence, and they were expected in that time to cover a wide range of complex matters. Then, there was only one public hearing, with just 3½ hours available to the committee to hear evidence from a very wide range of submitters who had very different points of view.

Since the tabling of the legislative committee report on 2 December 2013, the second report of the Parliamentary Joint Committee on Human Rights has been tabled and, shortly after the tabling of the legislative committee report, the Senate Standing Committee for the Scrutiny of Bills report was also tabled. Both of these reports have raised very, very serious concerns which go to the limitation, curtailment and, indeed, extinguishment of a wide range of the civil, human and political rights of people working in the building and construction industry, and both of those committees have written to the Minister for Education and Employment seeking detailed evidence to support the government's assertions that the interference with human rights contained in the bills is necessary, reasonable and proportional. However, the government has yet to provide responses to the concerns of either of these committees and the minister's submissions to this inquiry of the references committee did not provide sufficient details or quality to satisfy the high standard—and there should be a high standard—of proof required to establish that human rights should be interfered with in the manner in which it is intended in the ABCC bills.
Throughout the references committee inquiry we heard evidence from the department and the minister, the Master Builders Association and the Australian Industry Group. We had an academic paper from Professor Peetz. We heard from a range of unions, but in particular the Construction, Forestry, Mining and Energy Union gave evidence, as did the Maritime Union of Australia, and then we heard the evidence of the Australian Council of Trade Unions, the ACTU. That evidence, as the Senate can imagine, was quite different, quite polarising. But what I want to say here today is that the evidence of the minister and the department, the MBA and the AiG was really quite inflated and did not go to facts or evidence to support the reintroduction of such draconian legislation, legislation which goes to the very heart of people's human rights. Certainly the CFMEU, the MUA and the ACTU said time after time that their approach as trade unions and, indeed, the peak body of trade unions, had a zero tolerance towards any form of corruption and, whilst that was put on the record, the MBA, the AiG and the minister completely disregarded the views of the unions and the ACTU about their attitudes towards corruption or alleged corruption in the building and construction industry.

It seemed that the MBA, the AiG and the department relied on one single report, a report by a company known formerly as Econtech, and now known as Independent Economics, which is flawed factually. That has been acknowledged by a range of bodies but in particular it has been completely discredited by Professor Peetz in both the submission to the references committee but also in an academic peer-reviewed paper that Professor Peetz reviewed. It goes to the heart of two key areas. One of the issues that the government and the MBA on behalf of the government kept putting was the notion of productivity gain, claiming just a little over nine per cent productivity gain during the life of the ABCC. Despite the fact that Professor Peetz in a methodical academic way completely discredited the nine per cent claim, the facts did not alter the views of the minister.

The productivity gain starts off by comparing the domestic building industry with the multistorey CBD industry and it looks at a variety of building work that is done. One of the areas it looks at is the putting up of a wall. We know in our domestic building sector, particularly with housing, the architectural design of those houses does not change very much, that every second or third or fourth house is simply rearranged on the block or changed slightly—almost building by numbers. Yet, Econtech, or Independent Economics, took the building of a wall in the domestic situation and compared that to the building of a wall in a multistoreyed, uniquely architecturally designed building and came up with a cost. The cost was designed by simply phoning building companies, calling building companies who operate in a competitive environment, and asking them how much that cost. On the basis of that, they came up with this absolutely flawed and discredited number on productivity, and nobody who regards themselves as a rigorous academic agrees with that number for productivity.

The other area that we heard a lot about from the MBA and the government was this issue of lawlessness. In fact, they tried at one point to hold up a graph that supported and reported the number of lost days in the sector. In evidence, the CFMEU told us that in most of their enterprise bargaining a large majority of it is conducted without any authorised industrial stoppages, which are absolutely authorised under the current Fair Work Act. And what the government tried to do was take that lost days statistic, although it was not able to say which
were authorised days and which were not, and say somehow there was lawlessness in the building industry.

So the government has completely failed on every single test to give any credible factual evidence to support the reintroduction of harsh laws that go to the very heart of people's human rights. Indeed, the minister is on the record as saying it is going to combat this alleged lawlessness in the building industry, and yet it only ever goes to civil penalties despite it using coercive powers—coercive powers which community and human rights organisations have said are completely over the top in terms of what they seek to do. I am pleased to say that the majority report of the committee has rejected these bills out of hand, and the government should now simply remove them from the Senate.

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (13:46): I rise to totally reject the majority report of the Senate Education and Employment References Committee's inquiry into the Australian Building and Construction Commission bills. Once again, regrettably, the quality of the activities and the reports and the recommendations and the work of this chamber has been cheapened.

I regret, on behalf of coalition senators, that the Labor Party's decision, with support from the Greens, to refer this legislation for further review is an abuse of the process. It was only in December that the legislation committee reported on this very question. For those who wished to, they had the opportunity to present, to submit, to appear as witnesses and to put information before that committee—and they did so. Literally, only within weeks of the legislation committee reporting to the Senate on the outcome, which of course was that the ABCC legislation should proceed, we had the circumstance in which we had yet another series of hearings by the references committee going over exactly the same information.

I do want to record, in the few minutes available to me, the courtesy that the minister, Minister Abetz, showed to this references committee by appearing. I do not recall too many instances when Labor were in government that the minister of the day appeared before a committee and made themselves available. Minister Abetz, obviously along with his officers, did that.

Of course it is not necessary for me to read out the long litany of current reasons why we need the re-establishment of the ABCC. Just simply, if I may, Business SA submitted to the legislation committee that there was evidence that lawlessness identified by the Cole royal commission had returned in full force. The Master Builders, describing the 2011 Melbourne markets case, demonstrated that the courts had recognised—the courts had recognised!—deliberate flouting of the law by the CFMEU to obtain industrial advantage. Do I need to go on? In that case, the court imposed a $250,000 penalty.

On the day that this references committee met in Melbourne, only as we rose—there is a three-hour time difference between Perth and Melbourne—did we hear of the judgement in the federal court in Perth in which $684,000 in fines and compensation was awarded against the CFMEU; while the union's assistant state secretary, Mr Joseph McDonald, was himself fined $30,500 and banned from Brookfield Multiplex worksites until December 2016. I cannot for one moment imagine how my colleagues on the other side could come forward with the recommendation that there is no need for the re-establishment of the ABCC. I asked the CFMEU representative what was he willing to do, what evidence could he show of action...
by the union in condemning the use of force and abuse of process. Of course I got no answer at all. The MBA—the Master Builders Association—listed a number of examples.

Time does not permit me to spell out all the reasons why I believe this references inquiry really, with deep respect, ended up being worse than a farce. Coalition senators believe the Labor and the Greens senators must carefully consider their actions in the spirit of what this place is for—that is, for the opportunity for inquiries to be raised, for terms of reference to be struck, for submissions to be prepared and presented, for witnesses to appear, and of course for due process to take place. It has not taken place in this case. The coalition senators stand by the legislation committee and its recommendations. I thank you for the opportunity to comment.

Senator WRIGHT (South Australia) (13:50): The Senate Standing Education and Employment References Committee has not minced words in delivering its report into the government's approach to re-establishing the Australian Building and Construction Commission, or the ABCC as I will call it from now on.

There is a long history to this issue, and the committee's findings can be summarised around five key problems. Firstly, the government's proposal embodied in the Building and Construction Industry (Improving Productivity) Bill 2013 disproportionately compromises human rights when you consider its objectives. Secondly, the bill does not contain adequate protections to balance the extensive coercive powers that the ABCC would have. Thirdly, there is no evidence that the ABCC would enhance productivity. In fact, the few sources that the government uses to support this claim have been discredited to the extent that they cannot be relied upon. Fourthly, the ABCC would have no jurisdiction to investigate criminality in the building and construction industry, so the claim that criminality in these industries is a rationale is spurious. In fact, evidence from law enforcement agencies was that the fact there may be criminals involved in the industry does not make it unique. Finally, the committee also concluded that the findings of Cole's Royal Commission into the Building and Construction Industry—still cited by supporters of the ABCC proposal after more than a decade—do not warrant re-establishing the ABCC.

The Australian Greens are particularly concerned about the proposal's impact on human rights and its disregard for appropriate legal protections. Even from a general legal point of view the bill is troubling. The Law Council of Australia states it has numerous features which are contrary to the rule of law principles, traditional common-law rights and privileges. These relate to the burden of proof, the privilege against self-incrimination, the right to silence, freedom from retrospective laws and the delegation of law-making power to the executive. The New South Wales Council for Civil Liberties also highlighted the human rights implications and the extreme powers that the ABCC would have to compel workers to produce documents, attend hearings and answer questions under the penalty of imprisonment. The Law Council, in its submission to the inquiry, submitted that the Commonwealth government has committed to upholding traditional rights and freedoms and yet here we have proposed legislation that would transgress many of those. It would be inappropriate to pass this legislation without considering this bill's significant impact on those.

We do not need to speculate to understand how the ABCC would impact on the industry. In the scheme of things the ABCC has only recently been abolished, and one of the worst examples of the ABCC's excesses in its last incarnation is the story of Ark Tribe, a unionist
who hails from South Australia, my home state. In 2008 Ark Tribe, who is a rigger, discussed safety issues with his union colleagues on a construction site at Flinders University in Adelaide. As a consequence, the ABCC demanded he meet with them to discuss the legality of his actions. When he refused to give details of the meeting, the ABCC took him to court. In this landmark case, Ark Tribe was ultimately found not guilty after an 18-month legal fight, but it was a fight that took its toll on Ark, his family and supporters and had the potential to deter others who are committed to taking action in relation to workplace safety. That finding was a nail in the ABCC’s coffin, yet this government proposes to resurrect it.

I commend this report to the Senate. The Australian Greens believe that free, independent and democratic unions are an essential pillar of a civil society. Unions have a proud history of enhancing wages and conditions for their members. Their role in ensuring the best possible safety for workers, especially in high-risk industries, is crucial. The benefits unions have fought for and won over a long period of time flow on to all workers. As long-term advocates against the ABCC, the Australian Greens will continue to fight for workers’ rights to organise and work within a fair and equitable industrial relations system. The Greens will block this ABCC legislation and future attempts to legislate it.

Senator McKENZIE (Victoria—Nationals Whip in the Senate) (13:54): I feel like it is Groundhog Day.

Senator Lines interjecting—

Senator McKENZIE: Senator Lines, you were not in the 43rd Parliament. Issues around the building and construction industry and this side of the chamber’s desire to fix and address the lawlessness that is inherent in the industry, particularly in my home state of Victoria, are falling on deaf ears with the unity ticket opposite. The Greens and the ALP are fighting for the hearts and minds of the trade union movement, slugging it out in inquiry after inquiry, contribution after contribution. Who is going to end up with the support at the end of the day? It is quite a tussle.

Over on this side of the chamber I think it is quite clear whose side we are on. We are on the side of the honest workers, the honest trade unions, the honest employers, those that are interested in ridding the building and construction industry of corruption and intimidation. I can briefly go through a list of examples in my home state where the current system is not working. It is not working for honest workers and it is not working for employers either. Both the Greens and the Labor Party failed to recognise or admit in their contributions to this debate here today that the legislation seeks to deal with corrupt behaviour and that it does not matter who is doing it, it applies equally, whereas they are only focused on how it is going to affect their union mates. I think we really have to ask what protection racket is actually being run.

I think of Boral Cement being black-banned and the effect on their industry and their business. I look at the Grocon building site in central Melbourne, where police horses were punched and witnesses said police used capsicum spray on protesters. There had been no work at the Myer site since last week, a delay that has cost Grocon $371,000 a day. Similarly with the Werribee picket line and the city west water project: a $40 million project and no work. At the desalination plant in Victoria, with the stoppages there and the impact on the Victorian budget and household costs for water, we have an issue. And an article headed ‘Behind the Coles picket line, food may go off’, in The Age on 20 June 2012, said about 250 of
the Somerton National Distribution Centre's 467 permanent employees decided to go off the job while at least $32 million worth of food and alcohol stuck in the Somerton warehouse could go off, with the impact that has on that business's viability.

Senator Wright talks about free and democratic unions. I could not agree more with the role of unions in ensuring safe workplaces throughout our nation's history. But when the CFMEU and the AMWU were ordered by the Supreme Court not to picket, not to prevent free access to the site in a WA family business, they defied it and proceeded onto the site. So the courts can do what they like, but the sense of lawlessness inherent in the Australian union movement at present requires a tough cop on the beat, the Building and Construction Commissioner and draconian legislation, as Senator Lines likes to call it. That is exactly the type of legislation that is required to address the lawlessness inherent in the construction industry. We are interested in ensuring that honest workers and honest employers get to work in an industry where corruption does not abound.

The Labor Party and the Greens have joined together and abused Senate processes for the first time in 17 years by sending legislation to a committee which had been examined in the previous parliament. It had also been through a comprehensive consultation process through our own coalition policy development process, where the shadow minister at the time did consult with unions and employer organisations to come up with a comprehensive policy to address corruption within the building and construction industry and produce the bill. I know it is odd that we actually go through a consultation process to produce well-designed policy! You do not like to hear it, but maybe it is a methodology you should consider involving yourself in. Here we are, having had roughly 19 submitters in December and roughly 19 submitters today. It is just a delaying tactic, looking after your union mates.

Debate interrupted.

MINISTERIAL ARRANGEMENTS

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:00): by leave—I inform the Senate that Senator Johnston, the Minister for Defence, will be absent from the Senate today. He is attending the Indian Ocean Naval Symposium hosted by the Chief of Navy.

Opposition senators interjecting—

Senator ABETZ: And, yes, it is in Perth. For the purposes of question time I will be representing the Infrastructure and Regional Development portfolio and Senator Brandis will be representing the Minister for Defence.

QUESTIONS WITHOUT NOTICE

Racial Discrimination Act 1975

Senator SINGH (Tasmania) (14:00): My question is to the Attorney-General, Senator Brandis. I refer the Attorney-General to the comments by the President of the Human Rights Commission, Gillian Triggs, who describes his proposed changes to the Racial Discrimination Act as 'a contrivance', 'not wise' and 'an overreach'. Why did the Attorney-General tell the Senate on Tuesday that the Human Rights Commission had welcomed his proposed changes?
Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:01): Thank you very much indeed, Senator Singh. I once again acknowledge and thank you for your deep and close interest in this important topic. Senator Singh does not render the full text of the remarks I made to the Senate, because what I in fact said to the Senate was that the Human Rights Commission, speaking through the Human Rights Commissioner, had made certain observations. I did not say, as a matter of fact, that the president of the Human Rights Commission had said something; I said that the Human Rights Commissioner, Mr Wilson, had said something. I think the fact that there is a variety of views on this matter within the Human Rights Commission is itself relevant to the fact that we are having a debate in the community about where the line should be drawn between the two goals that I suspect everybody in this chamber subscribes to of on the one hand protecting freedom of speech and freedom of public discussion and on the other hand protecting racial minorities from vilification.

I accepted entirely, Senator Singh, that different people in good will may draw that line in different places. Professor Triggs, with whom I have discussed this matter on several occasions, has a particular view. The Human Rights Commissioner, Mr Wilson, has a different view. It is the government's view that the fact that there is a variety of opinions about how best to arrive at twin objectives which we all share is a good thing, not a bad thing. That is why the government has put out an exposure draft for consultation and feedback.

Senator SINGH (Tasmania) (14:03): Mr President, I ask a supplementary question. Can the Attorney-General confirm accounts from no less than three of his cabinet colleagues that he proposed more extreme changes to the government but got rolled? Is his fellow cabinet minister right to say, 'George has really drunk the right-wing Kool-Aid'?

Senator Conroy: It is a cunning plan … he is a genius.

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): Mr President, I cannot help but being flattered by Senator Conroy's interjections. I am afraid you are over-reading the situation somewhat. Senator Conroy, fond of you though I am—

The PRESIDENT: Senator Brandis, interjections are disorderly. You should ignore the interjections and address your comments to the chair.

Senator BRANDIS: Coming to Senator Singh's question, I think it is a matter of public record that the cabinet had a discussion about this matter on Monday. You would know, and you would not expect me to reveal cabinet discussions—

Senator Wong interjecting—

Senator BRANDIS: Senator Wong, you have been a member of cabinet, so surely you understand that one does not reveal cabinet discussions.

Senator Wong interjecting—

The PRESIDENT: Order! Order on my left!

Opposition senators interjecting—

Senator BRANDIS: I'm sorry, I'm trying to get to Senator Singh's question, Mr President.
The PRESIDENT: Order on my left! Senator Singh is entitled to an answer to the question and to hear the answer.

Senator BRANDIS: But cabinet decisions, Senator Singh, as you would be aware, are collective decisions. The decision to release this exposure draft was the collective decision of every cabinet minister.

Senator SINGH (Tasmania) (14:05): Mr President, I ask a further supplementary question. I refer to Premier Barry O'Farrell's injunction this morning that:

Bigotry should never be sanctioned …

Why does the Attorney-General still fail to recognise the profound harm caused by speech that offends, insults and humiliates on the basis of race?

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): I have seen Mr O'Farrell's comments this morning and I must say I thought Mr O'Farrell's comments were a very measured contribution to this debate. I agree with them. I particularly agree with what Mr O'Farrell said when he said:

Vilification on the grounds of race or religion is always wrong. There is no place for inciting hatreds within our Australian society.

Everybody on this side of the chamber and I am sure everybody on the other side of the chamber agrees with those sentiments. That is why, as part of our reforms to the Racial Discrimination Act, we intend to include for the very—

Opposition senators interjecting—

The PRESIDENT: Order! Senator Brandis, resume your seat. You are entitled to be heard in silence. Order on both sides!

Senator BRANDIS: That is why we intend, as part of our reforms to the Racial Discrimination Act, to include for the first time in Commonwealth law a prohibition on racial vilification and the incitement of racial hatred.

Workplace Relations

Senator BACK (Western Australia—Second Deputy Government Whip in the Senate) (14:07): My question is to the Minister representing the Minister for Industry, Senator Ronaldson. I refer the minister to a recent statement by the Hon. Martin Ferguson in Perth:

… the Maritime Union WA Branch is a rogue union … I think they are not only potentially going to kill jobs for their own members, children and grandchildren in the future the way they've conducted themselves.

I think it's about time the rest of the union movement fronted up to the fact that they are now killing jobs in manufacturing.

Can the minister inform the Senate how the actions of the MUA are threatening future investment and jobs in Western Australia's offshore oil and gas industry and what the government's response is to this issue?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:08): I thank Senator Back very much for his question and I thank him for his ongoing interest in the great state of Western Australia. The Australian oil and gas industry, of course, is one of our
economic powerhouses, and the industry's contribution is set to expand rapidly, because more than $200 billion worth of new projects are under construction now and that will generate more than 100,000 jobs. While it is successful already, the LNG sector has the potential—and I emphasise 'potential'—for a further $180 billion in investment over the next 20 years, creating up to 150,000 jobs.

I say 'potential' because everyone in this chamber knows that competition for global capital is fierce and we must be seen as an attractive destination for investment. We have to be hungry for future jobs and we have to be hungry for future growth. Regrettably, as Senator Back knows, the recent activities of the MUA are particularly short-sighted not only for their own members but for the people of Western Australia. Regrettably, they have been aided and abetted by Senator Pratt and her anti-jobs co-conspirator Senator Ludlam, who continue in this place to stop jobs growth in Western Australia.

I think that Mr Ferguson has belled the cat in relation to this whole issue. What Mr Ferguson has said is that we have to make some changes. The one, of course, who is out on a limb in relation to this matter is Mr Bill Shorten, the opposition leader. Why he will not back a sustainable future for this nation, for the people of Western Australia and for the people he ostensibly represents we simply do not know. We are going to work sensibly and methodically to provide a workplace relations system that encourages investment, growth, productivity and better pay. **(Time expired)**

**Senator BACK** (Western Australia—Second Deputy Government Whip in the Senate) (14:10): Mr President, I ask a supplementary question. I refer the minister to a recent decision of the Federal Court in Perth which awarded $684,000 in fines and compensation against the CFMEU, while the union's assistant state secretary, Mr McDonald, was fined $30,000 and banned from Brookfield Multiplex sites until December 2016. Will the minister outline what action the government is taking to ensure the resources and construction industries can invest in WA without fear of industrial disputation?

**Senator RONALDSON** (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:11): As Senator Back knows, this government is doing what it said it would do, and that is to restore the ABCC. We are going to do what we can to return the rule of law to the building industry and ensure that wrongdoers are held to account wherever they are or whoever they are. What we want to know is: where is Mr Bill Shorten in relation to this matter? Why are Mr Bill Shorten, the Australian Labor Party, Senator Pratt and Senator Ludlam standing behind an organisation, a union, that is just involving and engaging in outright thuggery? The big decision for those opposite is: are you prepared to sit back and let the people of Western Australia continue to suffer from your inaction in relation to this matter? Are you going to say to the people of Western Australia over the next two weeks, 'We are going to condone the behaviour of the CFMEU members; we are going to condone the sort of behaviour that led to those fines'? That behaviour has the potential to destroy— **(Time expired)**

**Senator BACK** (Western Australia—Second Deputy Government Whip in the Senate) (14:12): Mr President, I ask a further supplementary question. Is the minister aware of recent statements from the union movement itself that the government's royal commission into trade union governance and corruption will help clean up a movement that has been plagued by a
string of fraud scandals? Can the minister inform the Senate how industry, especially in Western Australia, will benefit from more transparent and accountable trade unions?

Senator RONALDSON (Victoria—Minister for Veterans’ Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:12): I again thank Senator Back most sincerely for that very important question. Isn’t it interesting that you have Martin Ferguson, a former darling of those opposite, who has made it quite clear that this royal commission must occur to ensure that we get the thugs out of the building industry? It is very interesting, isn't it, that the secretary of the nurses union, Mark Olson, has also said that this must go ahead. What we are saying to those opposite is: listen to what these sensible people are saying. Do not sit there and allow this industry to be destroyed by inaction and inactivity. Get in there, support our moves to get the ABCC back in, get your people back into work and get the people of Western Australia back into work, because all we are seeing at the moment is inactivity of a union based party, and your behaviour, as I have said before, is an absolute disgrace.

Aged Care

Senator POLLEY (Tasmania) (14:13): My question is to the Assistant Minister for Social Services, Senator Fifield. I refer the minister to the Prime Minister's pre-election promise of 'no cut to pensions'. I also refer the minister to the Prime Minister's refusal to rule out cuts to the age pension in question time yesterday. Will the minister now rule out any cuts to the age pension and services?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:14): The government has made it clear at every point that the age pension is not in scope for the work of Mr McClure, which I think all colleagues are well aware is taking place. The work of Mr McClure is intended to feed into ensuring that as many Australians as possible who are in a position to work, want to work and can work are supported to do so.

Senator POLLEY (Tasmania) (14:14): Mr President, I ask a supplementary question. I refer the minister to the $1.1 billion workplace supplement which supports low-paid aged-care workers. Will the minister guarantee this funding will be quarantined from the Abbott government's commission of cuts?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:15): The government will honour all of its election commitments.

Senator POLLEY (Tasmania) (14:15): Mr President, I ask a further supplementary question. Why is the government targeting older Australians and the low-paid workers who support them?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:15): We are not.

Medibank Private

Senator DI NATALE (Victoria) (14:15): My question is to the Minister for Finance, Senator Cormann. Senator, you have announced that Medibank Private, which has been in government hands since it was founded in 1976, will be sold off. At the same time, the government has been on the public record falsely claiming that health spending is
unsustainable. Rather than making it more expensive for Australians to see a doctor, will you instead commit to reinvesting every cent from the sale of Medibank Private into Australia's health system and rule out a $6 GP co-payment?

Senator CORMANN (Western Australia—Minister for Finance) (14:16): I thank Senator Di Natale for that question. He is quite right: the government announced yesterday that, after careful consideration of the scoping study into the sale of Medibank Private, we have decided to proceed, subject to market conditions, with that sale in 2014-15. What we will do with the capital released from that sale, as we have said for some time now, is reinvest it into productivity-enhancing infrastructure. The Treasurer, Mr Hockey, will have some more to say about that in the context of the budget.

Let me just make some more general observations, though. The reason the government is proceeding with this sale is very simple: there is no good public policy reason for the Commonwealth to own a private health fund. Medibank Private operates as a commercial business in a well-functioning, well-regulated, competitive market with 34 health funds. There is no market failure. There is no reason for the government to continue to own a health fund.

Beyond that, there have been some assertions made by Labor and others that somehow this will push up the cost of premiums. Let me say very clearly that it will not because, after any sale, Medibank will still have to compete with other health funds for their customers. They will still be subject to the regulation that is currently in place in relation to the setting of premiums. Furthermore, there have been some strange assertions from the shadow minister for finance suggesting that somehow a sale will reduce the variety of funds in the market and reduce competition. It will actually not do that. We currently have 34 funds. After we sell Medibank Private, we will still have 34 funds and we will have one fund that will be free from the shackles of government ownership which will be able to pursue opportunities—(Time expired)

Senator DI NATALE (Victoria) (14:18): Mr President, I ask a supplementary question. The government has suggested there is a bigger role for private health insurance in general practice. Medibank Private are now doing deals with some GP clinics to ensure that GPs offer preferential treatment to their members over other patients. Does the government support these deals between Medibank Private and GPs which have the benefit of inflating the share price but will cause premiums to skyrocket and leave uninsured people struggling to get an appointment with their GP?

Senator CORMANN (Western Australia—Minister for Finance) (14:18): I do not agree with Senator Di Natale's analysis of what is happening there. I will make a more fundamental point, though. The issue that Senator Di Natale is trying to address really points to the conflict that the government is in when we are both the regulator of the private health insurance market on one side and one of the largest market participants on the other. It will be much better for Medibank Private as a commercial business to be able to make these judgements commercially outside the government sector than as a government business enterprise. That is one of a number of reasons why we are progressing the sale, which I announced yesterday.

Senator DI NATALE (Victoria) (14:19): Mr President, I ask a further supplementary question. Minister, will you tell the Australian people which other public assets are now on
the auction block? Specifically, will you rule out the privatisation of Australia Post, HECS debt and the National Disability Insurance Scheme?

Senator CORMANN (Western Australia—Minister for Finance) (14:20): The government has a policy to sell Medibank Private. We have progressed that sale carefully and methodically. After the scoping study that went from November last year to the end of February this year, we carefully considered the findings of that scoping study. There is no policy to sell any other Commonwealth owned assets at this point in time. If at any point in time that should change, we will make the relevant announcement at that time.

Asylum Seekers

Senator SMITH (Western Australia) (14:20): My question is to the Attorney-General, Senator Brandis, representing the Assistant Minister for Immigration and Border Protection. Can the minister advise the Senate how many people-smuggling ventures have successfully made it to Australia in 2014? How does this compare to previous years?

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 thank Senator Dean Smith for that question. Senator Dean Smith is a Western Australian Liberal senator. There is no greater body of men and women in this chamber than the Western Australian Liberal senators. I am happy to update Senator Dean Smith on the success of the government's promise to stop the boats. I can tell Senator Smith and honourable senators that it is now 98 days since the last successful people-smuggling venture arrived in Australia. During the equivalent 98 days a year ago in 2012-13, there were 60 boats and 3,414 people who arrived under the former Labor government. So, in the course of a year, with the change of government, we have gone from 60 boats to zero. If there isn't an unlawful arrival in the next 48 hours, Saturday will mark the 100th day during which there will have been no unlawful arrivals.

Senator Cormann: And they said it couldn't be done!

Senator BRANDIS: It is possible to do it, Senator Cormann. The Labor Party did say it couldn't be done, and in fact Senator Dastyari in a recent speech said that the Labor Party over the past few years have 'tossed and turned on these issues'. The way in which to implement and prosecute a difficult policy is not to toss and turn over the issues as Senator Dastyari says the Labor government did but to adopt the right policies and to implement them with a will that the former Labor government never showed. And, as a result, more than 1,000 innocent people lost their lives and Australia's borders were made insecure. They are secure now.

Senator SMITH (Western Australia) (14:23): Mr President, I ask a supplementary question: can the minister inform the Senate of the government's efforts to implement its promise endorsed by the Australian people at the last election to deny permanent visas for people who arrived in Australia illegally by boat and any challenges that may have arisen to the government fulfilling that promise?

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): This is a government that keeps its promises and, when we are unable to deliver on our promises, there is only ever one reason for it and that is because we are stopped from doing so in this chamber by the Australian Labor Party.
As Western Australians head for the polls on Saturday week, they will once again have a chance to cast their vote on whether they approve of the Liberal Party's strong border protection policies. At the last election we told people that, if elected, we would implement policies that would break the people smugglers' business model and restore integrity to our borders, and that is what we have done—unlike those opposite, who refuse to learn the lessons of history. We will not be deterred in our resolve to continue on to deliver on our promise to secure Australia's borders and implement the policies we announced.

Senator SMITH (Western Australia) (14:25): Mr President, I ask a further supplementary question: can the minister inform the Senate of attempts in the parliament to frustrate the government's border protection policies that have ensured not a single successful people-smuggling venture has arrived in Australia for 98 days?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:25): Undoubtedly, in the last 98 days, our policies have succeeded, but we have been trying to implement these policies with one arm tied behind our backs, thanks to the Labor Party and their allies, the Greens. They continue to refuse to support the government's mandate to deny permanent visas to people who come illegally by boat to this country—an important element of the suite of policies that we took to the 2013 election.

The Labor Party have learnt nothing from six years of cost, chaos and tragedy that occurred while this portfolio was under their watch. Those opposite still seem to think that it is a good idea to honour the people smugglers' promise and give people who have come to this country illegally by boat a permanent visa. We have been nothing but consistent in our approach to this problem, given the Labor party's 11 failed approaches to border protection.

Veterans' Affairs

Senator FARRELL (South Australia) (14:26): My question is to the Minister for Veterans' Affairs, Senator Ronaldson. I refer the minister to his media release of 5 March when he announced a three-week consultation on the future of Veterans' Access Network shopfront services in Victoria and New South Wales, which ended yesterday. Can the minister advise the Senate which shopfront offices and services are top of his hit list for closure?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:26): I would like to welcome the question from Senator Farrell, because I think it is now some 120 days since he has asked me a question. It is a good day; I am very pleased to get the question.

I thought, quite frankly, when Senator Farrell got to his feet that he actually might be rising to congratulate the government on delivering on its DFRB/DFRDB indexation promise, which was delivered today.

Senator Farrell: Mr President, on a point of order on relevance: we are talking about the potential closure of Veteran's Access Networks, not pensions.

The PRESIDENT: I draw the minister's attention to the question. You have got one minute 29 seconds remaining. Minister.

Senator RONALDSON: Thank you, Mr President, I was just getting to the question but I thought it might be of interest to the house that this promise has been met.
Senator RONALDSON: Thank you very much. Can I just make it quite clear: this government is committed to a stand-alone department of veterans’ affairs, but what Senator Farrell clearly does not understand, which is not surprising because he represents a party that did not even have a veterans’ affairs policy before the last election. That is—

Senator Moore: Mr President, a follow-up point of order on relevance: the minister has now had more than half of his time, and we have yet to get to the particular question about the shopfront offices and services.

The PRESIDENT: At the one-minute-29 mark, I drew the minister's attention to the question. I do so again at the 58-second mark. Minister.

Senator RONALDSON: Thank you very much, Mr President. As I was saying, more and more veterans and their families are choosing the telephone or the internet to deal with the DVA. Senator Farrell should be aware of that and, indeed, visits to our shopfronts are down 28 per cent, since 2009. The nature of this department is changing, because we have a new cohort of veterans—some 72,500 veterans—who have served overseas in the last 20 years. We are indeed reviewing the— (Time expired)

Senator FARRELL (South Australia) (14:29): Mr President, I ask a supplementary question. Given the minister's response to that last question, is the minister aware that older veterans in regional communities are concerned that their local offices will close down and be replaced by internet services? Why is the government proceeding with a policy that will make it more difficult for older veterans and war widows to access important services?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:30): With the greatest respect, the last time Senator Farrell was in regional South Australia he turned left instead of right! I can tell you now that someone who actually does live in regional Australia fully understands what their needs are. But what Senator Farrell has got to understand is that access to these shopfronts is down 28 per cent since 2009. What I have clearly done is say to the department, 'Have a look and see whether these shopfronts are being properly accessed, see whether these shopfronts are being properly utilised and see whether the veterans themselves want some other access to this department.'

That is what we are doing and that is what we will continue to do. If you, Senator Farrell, and the Australian Labor Party want to deny those new veterans the opportunity to have access via the internet, the telephone and other means, then that is entirely your business. What I as minister am saying to you is that I want to make sure that this department is moving with our clients and making sure that we are delivering those services appropriately. (Time expired)

Senator FARRELL (South Australia) (14:31): Mr President, I ask a further supplementary question. I refer to the government's attempt to cut support to children of veterans, including orphans. Isn't the veteran community right to be worried that their support officers and services will be the next on the chopping block?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:31): We have the tail end of this appalling scare campaign from the Australian Labor Party directed against
people, who, quite frankly, deserve better. What I make absolutely clear in response to this question—and Senator Farrell knows it, but he will not admit it—is that the two schemes, the VCES and the MRCAETS, are not being changed at all. Nothing has been removed from them. There are no changes at all.

This is a grubby little scare campaign from the Australian Labor Party, run by their leader in the other place. He should be ashamed of himself. You know full well that none of this has been changed at all. I will just go through, in the 24 seconds left open to me, what these young men and women can get, because you clearly do not understand it. Under these schemes, eligible secondary students, aged between 16 and 25, who are still living at home receive fortnightly non-means-tested payments of between $230.70 and $277 per fortnight. Those living independently receive up to $421.40. (Time expired)

**Public Service**

**Senator BERNARDI** (South Australia) (14:32): My question is to the Minister Assisting the Prime Minister for the Public Service, Senator Abetz. Can the minister update the Senate on the government's approach to wage negotiations for the Public Service, to be released tomorrow?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:33): Thank you, Senator Bernardi, for the question. Bargaining for the new Public Service enterprise agreements will commence shortly. These new enterprise agreements will cover approximately 165,000 public servants in 114 agencies under a new bargaining framework, to be released tomorrow. This framework is designed to deliver a fair and reasonable outcome in an environment where the nation has been left its worst financial mess ever.

As a result of the $123 billion worth of prospective Labor deficits and $667 billion worth of gross Labor debt, there will be minimal capacity for wage increases. Public Service wages need to be affordable, sustainable and within community expectations. Taxpayers should receive the benefits of significant productivity gains and get value for money for any wage increase. Recently, I addressed the CPSU Governing Council. I invited them to be mindful that unsustainable wage rises will cost other public servants their jobs and that it would be particularly beneficial for both the Commonwealth and unions to manage expectations.

The very next day to when the devastating state of the nation's finances left by Labor were unveiled, the CPSU advised that they were lodging a 12 per cent claim. That is clearly unsustainable and out of touch with community expectations. I remind them of former Labor Treasurer Frank Crean's dictum:

… one man's pay rise is another man's job.

The CPSU's 12 per cent wage claim potentially jeopardises over another 10,000 Public Service jobs. I invite the CPSU to keep those facts in mind. (Time expired)

**Senator BERNARDI** (South Australia) (14:35): Mr President, I ask a supplementary question. Is the minister aware of suggestions that the government should fully supplement agencies for Public Service wage increases? Further, can the minister advise the Senate why the government cannot just give extra funding to Public Service agencies to pay for the 12 per cent pay rise being sought by the CPSU?
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:35): I thank Senator Bernardi for his continued interest in this matter. The additional cost of the 12 per cent wage rise would be around $1,500 million over three years. Two weeks ago, the CPSU's national secretary, Ms Flood, spoke to a parliamentary committee about the desirability of the CPSU's 12 per cent wage claim being fully supplemented—that is, money simply given to agencies. She acknowledged, however, that successive governments of all persuasions—both Liberal and Labor—have chosen not to do this.

This would mean that the extra $1.5 billion worth of wage increases would simply go on the national credit card. From our point of view, we simply cannot keep borrowing from overseas to pay for public sector wage rises and all without any appreciable productivity offsets.

Senator BERNARDI (South Australia) (14:36): Mr President, I ask a further supplementary question. I thank the minister and I ask if he has any message for public servants about the forthcoming bargaining process.

Opposition senators interjecting—

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

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:37): The coalition recognises that public servants have families, they have mortgages and they have bills. The government is already having to manage a reduction of 14,500 Public Service jobs as a result of the former Labor government's largely secret cuts. Each one of those 14,500 is a human being, probably a family breadwinner. Labor's administrative and financial mismanagement shattered the APS morale and imposed ever-increasing efficiency dividends on the Public Service, now resulting in minimal capacity for wage increases. In the bargaining process, the coalition government is working methodically to turn this around again, to ensure that we do have a sustainable Public Service, free from the fear of constant contraction and chaos.

Migration

Senator MADIGAN (Victoria) (14:38): My question is to the Minister representing the Assistant Minister for Immigration and Border Protection, Senator Brandis. In recent months there has been much discussion about the rorting of our 457 visa program, and among them are concerns that 457 visa holders are filling vacancies which otherwise could have been filled by Australians and that many of these people have been exploited by unscrupulous employers. Can the minister outline how many Fair Work claims were made by 457 visa holders in the last financial year and how many claims were upheld?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:39): Thank you, Senator Madigan, for that question and thank you for the courtesy of giving me some advance notice of it. I do not accept, Senator Madigan, your implied assertion that 457 visa programs have been rorted. Indeed, the former minister, Mr O'Connor's claim that there had been in excess of 10,000 cases of abuse of 457 visas had, by his own subsequent admission, no basis in fact.
The government is fully committed to ensuring that the subclass 457 program acts as a supplement to and not a substitute for Australian workers. We have been clear that this government fully supports the principle that Australian workers take priority. What the government does not support, however, is needless and inefficient red tape, which is hampering productivity, adding costs to business and hampering growth and jobs. An effectively managed temporary labour migration program will not threaten Australian jobs; rather, it will secure the future of business and grow employment opportunities to enable businesses to employ more Australians. An effectively managed 457 program is essential in supporting employers in industries and regions experiencing skill shortages. It is essential in restoring growth in the economy and it is essential in lifting our productivity.

Honourable senators interjecting—

**The PRESIDENT:** Order! Senator Brandis, there is a discussion going on in the front here, which is making your answer inaudible.

**Senator BRANDIS:** Thank you, Mr President. Senator Madigan, coming directly to the numbers you seek, I am told that the number of Fair Work claims made by 457 visa holders in the 2012-13 financial year were as follows: 259 complaints were completed by the Fair Work Ombudsman relating to 457 visas holders and, of those 259 complaints, 33 per cent were sustained.

**Senator MADIGAN** (Victoria) (14:41): Mr President, I ask a supplementary question. Given that over 2,000 domestic students graduate as accountants here in Australia, can the minister outline how many people were employed as accountants on the 457 visa last year?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:41): Yes, Senator Madigan, I can. I can tell you that, as at 31 December 2013, there were 1,647 subclass 457 primary visa holders in Australia whose nominated occupation was 'accountant'. There were 1,452 primary subclass 457 grants in the occupation of accountant in the calendar year 2013.

**Senator MADIGAN** (Victoria) (14:41): Mr President, I ask a further supplementary question. Given the fact that the 457 visa program is clearly a dog's breakfast, what future plans will the minister adopt to ensure less workplace abuse by employers of 457 visa holders and more employment opportunities in professions where 457 visa holders are not really required?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:42): Once again, I have to dispute the premise of the honourable senator's question. The 457 program is an efficient and effective contributor to the nation's productivity and is essential in supporting Australian employers where they cannot find a suitably skilled Australian worker to do the job. Far from being a dog's breakfast, it is simply not appropriate to claim that, because of the actions of a very small proportion of employers who are doing the wrong thing, the entire program is broken. What this government has done, rather than simply pluck numbers from the air and demonise foreign workers like previous Labor immigration ministers did, is commission an independent review of the 457 visa program to ensure that it is well positioned...
to support employers and industry and to optimise productivity growth in the Australian economy.

Mental Health

Senator LINES (Western Australia) (14:43): My question is to the Minister representing the Minister for Health, Senator Nash. I refer the minister to the Prime Minister's pre-election promise that 'No cuts to health means no cuts to mental health'. Given the burden of mental illness in rural and remote Australia, particularly Western Australia, can the minister guarantee that there will be no cuts to front-line services and coordinated care?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:44): I thank the senator for her question. The government has been very clear that we will honour all our election commitments. We have said that consistently and we have been very clear in doing so. This government recognises the importance of mental health; indeed, that is why we have set up the Mental Health Commission.

It is vitally important for this nation that we get the economy back under control. We will repair the budget but we will do so in ways that are entirely consistent with our election commitments. Compared to those opposite, Mr President, this side of the chamber will govern responsibly and ensure that we deliver a budget that this nation needs to get it back on track. It might have escaped—

Senator Moore: Mr President, my point of order is on relevance. The minister has gone through half her time. The question related to guarantees about cuts to mental health frontline services and coordinated care.

The PRESIDENT: Order! I believe the minister is addressing the question, and the minister still has one minute and three seconds to answer the question.

Senator NASH: The government's vision is for a sustainable health system that delivers quality health outcomes for all Australians and that includes mental health. The Leader of the Opposition in the Senate might not like the answer that I am giving but I am being very clear in laying out what this government will deliver and, when it comes to mental health, we will be delivering to people across the nation. It seems to have escaped those on the other side that every taxpayer dollar spent is a dollar that taxpayers have earned.

Honourable senators interjecting—

The PRESIDENT: Order! On my left and on my right.

Senator Moore: Mr President, again my point of order is on direct relevance. My point of order relates to the specific question asked of the minister, which is about cuts to frontline services and coordinated care in mental health.

The PRESIDENT: I cannot ask the minister to answer the question in a particular way or tell the minister how to answer the question. The minister still has 23 seconds remaining to address the question. There is no point of order.

Senator NASH: In fact, it is this government and not the previous government that is going to deliver frontline services. It is this health minister that has focused very clearly on the delivery of frontline services and that includes the delivery of mental health.
Senator LINES (Western Australia) (14:47): Mr President, I ask a supplementary question. I refer to the Partners in Recovery program which provides coordinated clinical support to people with severely disabling persistent mental illness, including in regional areas. I also refer to her answer last Thursday where she refused to rule out any cuts to funding this important service. Given the minister has now had a week to read her briefing pack, will she now rule out any cuts to Partners in Recovery in order to provide certainty to the individuals and their families who rely on the program?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:48): I can reiterate for the chamber that this government is absolutely committed to the delivery of mental health services right across the nation. Those of us on this side of the chamber know that it is this government that will do that. The Partners in Recovery program will be assessed in the context of both the national mental health commission and the review of mental health programs, as well as the review of Medicare Locals. We make no apology for delivering good policy outcomes for this nation. We are going to do that in a sensible, methodical and measured way. We are going to make sure—unlike the previous government—that when it comes to health we make informed decisions and that goes to the delivery of mental health services across the nation. (Time expired)

Senator LINES (Western Australia) (14:49): Mr President, I ask a further supplementary question. Let's see how we go with this one. Why won't the government release the Commission of Audit until after the Western Australian Senate election? What cuts to rural and regional mental health services is the government hiding?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (14:49): There seems to be some repetition in the questions coming from those opposite, but I thank the Senator for her question. The government has been very clear about the process of the Commission of Audit. The interim report has been received. We are yet to receive the final report, and that will be considered in due course. Those senators opposite would realise, if they had been listening to previous answers from this side, that consideration of reports provided to government—

Senator Cameron interjecting—

The PRESIDENT: Order, Senator Cameron.

Senator NASH: Consideration of reports provided to government has occurred not only in this government but also in the previous one. I refer to the report of the Henry tax review which the Leader of the Opposition in the Senate said took six months—(Time expired)

Early Childhood Education

Senator EGGLESTON (Western Australia) (14:51): My question is to the Minister representing the Assistant Minister for Education, Senator Payne. Can the minister advise the Senate what the government's reaction is to the Auditor-General's decision to examine the former government's Early Years Quality Fund?

Senator PAYNE (New South Wales—Minister for Human Services) (14:51): I particularly welcome this question from Senator Eggleston. The government itself also absolutely welcomes the Auditor-General's decision to go ahead with an examination of the Early Years Quality Fund, the EYQF, because another independent report that will really
show the absolute disgrace that the EYQF was will be very beneficial for the Australian people. It was a $300 million fund to supplement the wages of long day care workers for two years. But what might not be immediately apparent to everybody is that the way Labor designed the EYQF was that only 15 per cent of childcare staff in Australia would be eligible—15 per cent. So, in Western Australia—

Senator Sterle: When were you last there?

Senator PAYNE: where there are 1,348 childcare centres across the entire state, only 26 long day care centres were in line to receive the EYQF.

Senator Sterle interjecting—

Senator Lines interjecting—

The PRESIDENT: Order! Just one minute, Senator Payne; you are entitled to be heard in silence. Senator Sterle, Senator Lines: if you wish to debate the issue, the time is after three o'clock.

Senator PAYNE: Let me just say that again: there are 1,348 childcare centres in the entire state, and only 26 in line to receive EYQF funding. It has every hallmark of every Labor initiative—poorly planned; poorly executed. So, after we came to government, PricewaterhouseCoopers undertook an independent review of the EYQF. They found that it was never going to achieve its objectives. Quite simply, it was a tool for United Voice. Now, there is a surprise—a tool for the trade union movement! There were claims of inappropriate behaviour by United Voice, including things like staff in centres being told by union reps that unless they joined the union they would not get EYQF funding, and they would be letting down everyone else at their centre—that is the way they work in the childcare sector. The Auditor-General has extensive and appropriate powers. He can access documents and information which were not available to the PwC review, and I look forward to the tabling of that report in the spring session. (Time expired)

Senator EGGLESTON (Western Australia) (14:54): Mr President, I ask a supplementary question. Can the minister explain to the Senate why it is important that taxpayers' dollars be spent wisely in child care to ensure maximum benefit to the families, childcare workers and childcare providers, particularly in my home state of Western Australia?

Senator PAYNE (New South Wales—Minister for Human Services) (14:55): I thank Senator Eggleston—

Senator Sterle: When were you last there?

Senator PAYNE: Be careful what you wish for, Senator Sterle! It is obvious to everybody that across the sector there is very broad support for the nationwide standards of excellence and improved recognition for the crucial role the sector plays in developing our youngest Australians. But you cannot take on reform like the National Quality Framework, the NQF, and not back it up. You have to have solid and complementary policies. You have to recognise the issues that are facing the industry today, and you have to take it to where it needs to be tomorrow.

When you misspend government funds, like those opposite were so expert at doing, it means that parents and childcare centres have to come up with the difference. Surprise, surprise, that drives up costs for families. In fact, under the previous government, the chamber
might be interested to know that across the country childcare fees went up by 50 per cent during Labor's six years in office. For some people, that was around $70 a week. That put child care out of reach of very many young families. It impacts on our productivity. *(Time expired)*

**Senator EGGLESTON** (Western Australia) (14:56): Mr President, I ask a further supplementary question. Can the minister advise the Senate of the coalition government's plans for an alternative professional development fund to benefit all long day care educators rather than just a few?

**Senator PAYNE** (New South Wales—Minister for Human Services) (14:56): I can assist Senator Eggleston with that inquiry. We are going to have a fair professional development program that will assist all long day care educators, not just the ones chosen by the trade union movement. It will be the single biggest investment in professional development for long day care educators in this country. It is going to target known workforce shortages—for example, early childhood teachers and long day care educators working in rural and remote areas—and it is particularly important for a state with the vastness of Western Australia in this case. It is about giving childcare educators the additional skills that they need to meet the National Quality Framework requirements—something that Labor's EYQF absolutely, comprehensively failed to deliver. In addition to supporting staff with the education costs themselves, it is also about helping the childcare operators with their costs when they have to, for example, backfill staff who are away on training days or sitting exams. *(Time expired)*

**Australian Honours**

**Senator DASTYARI** (New South Wales) (14:57): My question is to the Minister representing the Prime Minister, Senator Abetz. Was the Minister representing the Prime Minister and Leader of the Government in the Senate consulted on the decisions to reinstate knights and dames in the Australian honours system, or did he find out, like everyone else, when the Prime Minister announced it?

*Honourable senators interjecting—*

**The PRESIDENT:** When the chamber settles down, we will give the call to Senator Abetz. The Minister representing the Prime Minister, Senator Abetz.

**Senator Abetz:** Mr President, a question of such moment clearly requires the assistance of Her Majesty's Vice-President of her Executive Council, and I call on Senator Brandis to answer the question.

*Honourable senators interjecting—*

**The PRESIDENT:** Order! On my left! Senator Wong is on her feet. Senator Conroy, I am waiting to give the call to Senator Wong. Senator Macdonald, Senator Cormann, and Senator Fifield, these interjections are not helping with the conduct of question time. They are disorderly.

**Senator Wong:** Mr President, on a point of order. I can appreciate the Leader of the Government in the Senate not wanting to answer this question, but the question was whether or not Minister Abetz was consulted by the Prime Minister. The question was: was the Minister representing the Prime Minister and the Leader of the Government in the Senate consulted on the decision to reinstate knights and dames in the Australian honours system? I
would suggest to you, Mr President, it is not a question that can be referred to another minister.

The PRESIDENT: I am allowing the question to go to Senator Brandis.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:00): I can inform Senator Dastyari that I was consulted. I am assuming that I was consulted in my capacity as the Vice President—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Brandis has heard the question and Senator Brandis needs to address the question. You have one minute 24 remaining.

Senator BRANDIS: This might be an historic moment. I do not know that the Vice President of the Executive Council has ever been asked a question in question time before, but I might say, Senator Dastyari, that, yes, I was consulted, I imagine—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Brandis is endeavouring to answer the question and you are not giving him the opportunity, on my left.

An honourable senator: Only a mother can tell them apart!

The PRESIDENT: Order! On my left.

An honourable senator: I never said a word!

The PRESIDENT: I did not say you did.

Senator BRANDIS: I was consulted. I supported the decision very warmly. I agree with the Prime Minister's view that it adds a grace note to our national life, and may I say how delighted I am that the first recipient of the restored orders of knights and dames of the Order of Australia is Dame Quentin Bryce, whom it has been my pleasure to know for 39 years.

Honourable senators: Hear! Hear!

Senator DASTYARI (New South Wales) (15:02): Mr President, I ask a supplementary question. I understand that I am addressing Sir Brandis of 18C.

The PRESIDENT: Order! You need to address people by their correct title in this place.

Senator DASTYARI: Is the minister aware that the former Prime Minister John Howard has described the reinstatement of knights and dames as 'somewhat anachronistic', that Senator Boyce has eloquently said: 'Those sorts of titles don't fit in Australia, to me, they never did,' that Premier Barnett from Western Australia said that the move is 'out of context with modern Australia,' and that his cabinet colleague Mr Turnbull has described it as 'a slap in the face'. Are Mr Howard, Senator Boyce, Premier Barnett and Mr Turnbull wrong?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:03): I am aware that there is a variety of views about this in the Liberal Party, and it is one of the glories of the Liberal Party and the National Party that we are not afraid of a variety of views. I am also aware that the shadow Attorney-General, Mr Mark Dreyfus, carries the title Queen's Counsel, that the former Labor Attorney-General, former senator Gareth Evans, carries the
title Queen's Counsel, and that, when both of those gentlemen were given the opportunity to change their post-nominal title to Senior Counsel, they both declined to do so.

Honourable senators interjecting—

The PRESIDENT: Senator Brandis, resume your seat. Order! I know people are a little bit excited on both sides, but it is disorderly to call across the chamber. Senator Brandis is entitled to be heard in silence.

Senator BRANDIS: While there is a joyous diversity of opinion among the Cavaliers on this side of the chamber, there is nothing but sneering hypocrisy from Mr Mark Dreyfus QC and the Roundheads on that side of the chamber.

Honourable senators interjecting—

The PRESIDENT: When there is silence, Senator Dastyari, I will give you the call—not before. When there is silence on both sides we will proceed—on my left and on my right.

Senator DASTYARI (New South Wales) (15:05): Mr President, I ask a further supplementary question. I refer to Barnaby Joyce's statement yesterday:

If we decide that frogs are more important and we're going to be a nation of frogs, then let's just step aside and let the frogs run the joint. We could knight them.

In the same week as backtracking on FOFA reforms and backing the right to bigotry, has this government now completely descended into farce?

Honourable senators interjecting—

The PRESIDENT: When there is silence on both sides—Senator Brandis, just resume your seat. I remind honourable senators on both sides that Senator Brandis has the call.

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (15:06): Mr President, I enjoy Senator Dastyari's sense of humour and I enjoy my colleague Mr Barnaby Joyce's metaphor, although I must confess sometimes I find them a little impenetrable. I was not aware of Senator Joyce's reference to frogs, although there is of course that famous nursery rhyme of the princess and the frog. Perhaps that is what Mr Joyce was referring to. But there is an element of farce about this week and it is the position of Mr Mark Dreyfus, because Mr Mark Dreyfus is the only person in this parliament who holds a royal title, Queen's Counsel, which he could renounce but chooses not to while condemning the Australian government for reinstating an Australian order of chivalry.

Senator Abetz: Mr President, it is with great disappointment that I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator SINGH (Tasmania) (15:08): I move:

That the Senate take note of answers given by ministers to questions without notice asked by Opposition senators today.

Earlier this week the Attorney-General shocked the Australian public by stepping in to defend the rights of bigots. He backed the defence not only with statements made to the media but with a proposal to bring the full force of the law to bear on minorities and vulnerable groups
in the community who might infringe on the rights of bigots. What we have heard since are rumbles not only from his own backbenchers—the member for Hasluck, the member for Reid, and even Senator Seselja—but, today, from Premier Barry O'Farrell who also criticised the federal Attorney-General's comment that people have the right to be bigoted and declared that vilification on the grounds of race or religion is 'always wrong'. One of the most senior members in the Liberal Party in this country, Premier Barry O'Farrell, has declared that there should be limits when it comes to free speech. Premier O'Farrell recognises that free speech should not be at any cost. He said today:

In commendably seeking to protect freedom of speech, we must not lower our defences against the evil of racial and religious intolerance.

He said further:

Bigotry should never be sanctioned, whether intentionally or unintentionally. Vilification on the grounds of race or religion is always wrong. There's no place for inciting hatred within our Australia society.

That shows you how much Senator Brandis is out of touch not only within the Australian community but within his own Liberal Party on this issue of changing race hate laws in this country. I call on Premier Barry O'Farrell to go further and to lobby the Prime Minister. Tell the Prime Minister how out of touch Senator Brandis is, how out of touch these proposed new racial vilification laws are. I call on Premier O'Farrell to lobby the Prime Minister to have these laws scrapped. Words are good, and his words have been good today, but what we need now are actions. Actions are what we want from Premier O'Farrell. At least Premier O'Farrell has had the good sense to see that this is actually killing the Liberal Party. This is destroying the Liberal Party. The extremism that Senator Brandis has embarked upon and that Tony Abbott has encouraged is breaking the Liberal Party apart as well as posing a greater threat, of course, to the broader Australian community.

We have now been made aware that Senator Brandis's own cabinet colleagues have leaked information against him because they are so shocked by the lengths to which he will go to appease Andrew Bolt. The one thing we do know about these racial vilification changes put forward by Senator Brandis is that they are not being put in place for the greater good. They are being put in place to appease one man, to appease one journalist. That is no way to govern for all people in this nation.

To declare that the rights of bigots are more important than the rights of minorities, minorities who suffer extreme race hate speech on a daily basis in this country, is wrong. It is unfortunate, but we do have racism in this country. That is why we have free speech, but it is not at any cost. We have good laws in this country that have worked for 20 years and have provided protections to minorities and to ethnic groups. That is why Senator Brandis has not had one ethnic group, not one community group, come out in support of these laws. He has had not one of the 150, who signed their names to a letter last year, come out in support of his proposed changes.

Now, we have one of the highest Liberal Party members in this country saying that Senator Brandis has got it wrong. I thank Premier Barry O'Farrell for coming out, for putting it right and for saying that these laws are wrong. I call on Premier O'Farrell to lobby the Prime Minister and to tell him that Senator Brandis should scrap these proposed changes.
Senator MASON (Queensland—Parliamentary Secretary to the Minister for Foreign Affairs) (15:13): I welcome the release of the exposure draft of the repeal of section 18C of the Racial Discrimination Act by the Attorney-General. All week we have had this howling chorus of political correctness from this morally vain party sitting opposite me—all week without stop.

I am not a good lawyer, and do not claim to be, but I do know this: there is no right at all not to be offended. I am offended by many things in this place—in fact I am offended all the time—but I do not want to ban or criminalise those things. I am offended by the fact that the party opposite, the opposition, spent the money of our children and of our grandchildren. It was morally culpable. They did it and I am offended by it, but I do not want to ban it. I loathe the fact that they have actually brought in a debt that has become systemic, that recurrent expenditure now is well and truly over government receipts. They did that and it is morally reprehensible. They are stealing money from the next generation, and that is morally reprehensible, but I do not want to ban it.

There is also no right not to have one's feelings hurt. You know, Deputy President, that I am very sensitive! I do not like to have my feelings hurt. But there is no right not to have them hurt. The Left's first instinct is always to ban things. They do not believe in a free market economy. That also do not believe in the free market of ideas.

We do, even if we do not like some of those ideas. Do you know why?—because we believe it is better to ventilate, argue and debate than to attempt to subdue and hide. That has always been the Liberal way. If you do not believe me let me quote the Indigenous leader Dr Sue Gordon on the front page of The Australian, today. I am sure you read it, Deputy President. The article said:

Dr Gordon said the repression of free speech was damaging to race relations and she agreed with Attorney-General George Brandis that people had the right to be bigots. "I think sometimes there is too much emotion in this topic and people need to just look at it calmly," she said.

"I agree with what Brandis said. People do have a right in this country, you can't suppress everything."

That is the point that Dr Gordon was making. That is the point that the Attorney-General has been making all week. It is better to ventilate, argue and debate than to repress. It might be tough and uncomfortable. Democracy and pluralism is tough and uncomfortable, by nature.

There is a lot of political correctness going around at the moment. You may notice that it is fine to question the motives of Senator Brandis, the Attorney-General—a middle aged white man. You are always allowed to question his motives, but you are definitely not able to question the motives of anyone who identifies as an Australian Aboriginal or Indigenous person. That you cannot do. That is the mark of political correctness from those opposite.

Mr Dillon, who also identifies as being Aboriginal, was also quoted in that article on the front page of The Australian. The article went on:

"Political correctness, with regard to people who identify as Aboriginal Australians, has reached the ridiculous stage where one can be accused of being racist simply by questioning the motives of some people who identify as being Aboriginal," Mr Dillon says.
To question the motives of someone who is Indigenous or of a certain ethnicity is somehow outrageous and bigoted! It cannot be done, but it is okay to question or suborn the motives of someone who is white, middle-aged, male and happens to be the Attorney-General.

We have heard all week that somehow there is a lack of propriety or good faith on behalf of the Attorney-General. That is what is outrageous about this debate—it has become personal rather than a matter of principle. So let us hope that between now and when the parliament resumes in a few weeks time calmness and rational debate takes over. There is one certainty, and it is this: the coalition will never reject, or even compromise, the idea of freedom of speech, except in very few cases. We will not change. Questioning motives is not the way to go about this debate. (Time expired)

Senator POLLEY (Tasmania) (15:18): It is quite interesting that my colleague from the other side talks about being offended by contributions from this side of the chamber. Today, I was offended, as would be every older Australian in this country. What a shocking, shameful performance by the minister responsible here for aged care. He could not even fulfil his time allocation to answer a question and talk about what his government plans for older Australians.

We on this side of the chamber know what they have planned. They will not deliver the $1.1 billion to support those working in aged-care facilities. The question is: will that money go into general revenue or will they put that straight to providers of aged care? We know that this government—the Abbott government—puts no value at all on older Australians or on having an aged-care minister.

I can understand why the government do not have a minister for aged care. When Abbott was part of the Howard government, when they were last in government, they did nothing for aged care. They would not take the necessary steps to ensure, after 11½ years, that we had this country on a solid footing with respect to aged care. They did not show the respect that older Australians—those who have committed and contributed to this country over a long period of time—deserve.

Do not be mistaken—when it comes to who is the best friend of older Australians and those on the aged-care pension, people in the community know that it is the Labor government. We were the ones who delivered for the aged-care community in this country. Let's look at what not having an aged-care minister is going to mean. It will probably ensure that we do not go back to kerosene baths, but it will also mean that we have no-one in the ministry or cabinet fighting for older Australians. That is what it means. We, on this side of the chamber, know the issues that are confronting the aged-care sector in this country. We know that the average aged-care worker is about five years away from retirement.

I took the opportunity to walk in the shoes of an aged-care worker. I can tell you that the people who work in that sector deserve to be remunerated to a standard—

Senator Abetz: But only if they are members of United Voice.

Senator POLLEY: You can say that, but what have you done? You are a minister. You know very well the issues that we are facing in Tasmania in the aged-care sector. What I am saying is that—

Senator Abetz interjecting—

The DEPUTY PRESIDENT: Order on my right!
Senator POLLEY: Have you taken the opportunity to go and talk to those who work in the aged-care sector? I very much doubt anyone on that side of the chamber has. We want to see what the policy is. Are we just waiting for the Commission of Audit so that they can announce the cuts and advise us that that $1.1 billion that was set aside for the workers in the sector will go into general revenue—or will it go to the providers?

The opposition want to see those workers supported, but we also want to see that older Australians are looked after. The minister representing the minister responsible for aged care had plenty of time to outline what he has planned. Where is the future? We know that on 1 July changes will come into effect. When Mark Butler was the minister for aged care under our government, he developed a policy in consultation with the sector to ensure that older Australians had better services and were looked after. We put a plan in place to look after those in the aged-care sector. But what do we hear today? Nothing.

We had a senator on the other side just talking about being offended. Every Australian should be ashamed of having a government that refuses to outline what it has planned and what its policies are going forward. When Tony Abbott was going to the election, he said: 'There will be no cuts to health, no cuts to education and no cuts to pensions,' but that was never put in writing, so we know we cannot take Tony Abbott's word—(Time expired)

Senator BERNARDI (South Australia) (15:23): Mr Deputy President, thank you for putting a stop to that ceaseless babble from Senator Polley. It was an extraordinary reinvention of six years of the worst government that we have seen in the history of this country. For some reason, Senator Polley is masquerading as the saviour of people in aged-care facilities when her government disgracefully racked up hundreds of billions of dollars worth of debt and destroyed virtually any opportunity to build this country and build upon the good management that was the legacy of the Howard administration.

It is an extraordinary burden of hypocrisy that they bear when they have to stand up and ask whether money is going back into general revenue. May I remind you and the Australian people that there is some $300 billion worth of debt that needs to be repaid and priorities have to be made. Unlike those on the opposition benches, our priorities are not going to be specifically targeted. Ten per cent of childcare workers decided to sign up to one of the unions that have been terribly, horribly and grotesquely mismanaged. May I remind honourable senators opposite that those the Health Services Union represents—some of the lowest paid workers in the country—were ripped off and had their money stolen from them to use on prostitutes, porn movies and other filth and depravity.

Senator Polley: Mr Deputy President, I rise on a point of order. I ask you to call the senator to order so that he makes his comments relevant to the taking note issue, which aged care, and does not try to get back down into the gutter.

The DEPUTY PRESIDENT: Senator Polley, there is no point of order. The question before the chair is that we take note of all opposition questions.

Senator BERNARDI: I am very surprised that Senator Polley—a person, I believe, of great integrity normally—is now defending Craig Thomson and his misuse of credit cards on hookers, pornos, flights for his wife and things like that. I think that is quite grubby and it is beneath you, Senator Polley. What we are talking about here is appropriate use of taxpayers' money, whether that takes place in the union movement, where you have low-paid workers
who should expect more from their leaders, or in this place. The taxpayers of Australia believe they should be getting a fair go and their money should be put to good use.

The fact is that $300 billion, or thereabouts, of debt was racked up on obscure programs, like pink batts, which of course cost a billion dollars to redo and, tragically, four people died as a result of incompetent and poor administration from those on the other side. Do we remember the cheques for $900 that were sent out at random? There were $10 billion worth of cheques to people, including dead people and people overseas. I remember Senator Polley justifying that it was okay to give it to people to put into the poker machines, because what they do with their money is their business. In principle, I agree with you, Senator Polley, but this is $10 billion worth of taxpayers' money that was randomly distributed to dead people and people overseas, as well as to people in this country. So do not give me and those on this side of the chamber a lecture about how we are applying taxpayers' money, because we are trying to redress the damage done by six years of the poorest administration in the history of this country.

I know that a whole bunch of eager frontbenchers on the other side have moved down. They spent six years on the backbench defending these abhorrent programs and saying, 'It's okay. This is the Labor way,' and now they are on the front bench and they need to defend their legacy, but their legacy is horrible and will have implications for this country for perhaps decades to come, because for every bad year of government it takes four years of good government to redress it. To pay off $300 billion of debt will take decades. We are doing it for our children. Sacrifices will have to be made, but those sacrifices will not be made at the expense of those who have served our nation, which is why we have already enhanced the pension benefits for serving military personnel. It will not be at the expense of the aged and the infirm. It will not be at the expense of those suffering from disability. It will have to be a sacrifice made by those who are working today—people like us in this place; people who are committed to building a better future for their country and to ensuring that we can look after those who are unable to look after themselves.

I contrast that with the actions of those on the other side. When in government, they do not look after anyone except themselves and their union mates. We have seen union slush funds, we have seen grubby deals done, we have seen people employed without any interviews—Mr Mike Kaiser—and we have seen billions of dollars squandered without so much as a business plan. It is rank hypocrisy to hear a lecture about the management of taxpayer resources from those on the other side. They should be ashamed of their performance.

Senator FARRELL (South Australia) (15:28): I rise to take note of answers given by Senator Ronaldson—or, more precisely, non-answers given by Senator Ronaldson. I asked Senator Ronaldson a very simple question that related to his portfolio of Veterans' Affairs. That question was: given that he had set up a consultation period with respect to Veterans' Access Network, which offices is he proposing to close? It was a very simple question. You could not make it much more simple than that.

Senator Abetz: We would expect nothing more from you.

Senator FARRELL: Senator Abetz, I do like to reduce things to simple propositions, and it was a very simple proposition that I put to Senator Ronaldson. I asked him which of the Veterans Access Network offices he was planning to close. He said he had set up a so-called consultation process and had identified a number of places which potentially would be subject
to closure: Bairnsdale, Morwell, Ballarat, Franklin, all in Victoria, and Wollongong and Gosford in New South Wales. This was a very simple question and it could easily have been answered. But the person occupying the chair at question time had to twice refer Senator Ronaldson to the question; and, despite that, we did not get an answer. Senator Ronaldson talked about lots of other things but not about the question I asked. The question I asked was a very simple one: what are you intending to do with these offices?

I think we are entitled to draw certain conclusions from Senator Ronaldson's refusal to answer the question, including that he does intend to close one or more of these offices. Why would you do that? These are services that we provide to our veterans. It is often the older veterans and sometimes the war widows who access these services. Senator Ronaldson's idea is that you force these people onto the internet. These people may not want to use the internet to access information. They might like to have a face-to-face conversation with somebody so that they can put their questions to them and get a straight answer. It is a little bit like Senator Ronaldson: he could not give us a straight answer to his question. But there are lots of veterans and war widows out there who would like a straight answer.

I think there is a pattern of behaviour here. The opposition has totally supported the government's move today to introduce fair indexation for particular superannuants. But we have asked the question: how is the government going to pay for it? I think we are starting to see the answer. I can see on my side that Senator McEwen and Senator Brown are nodding. I think we are starting to get the answer as to how this government is going to pay for those benefits. Senator Ronaldson was very critical of the Labor Party for not initially supporting his bill in 2011. But who was the most vocal advocate against it? It was former Senator Minchin, from South Australia. He totally opposed the payment of the money.

Labor has supported this, and the Greens have supported it, but how are the government going to pay for it? I think we are starting to see the answer to that question. They are going to pay for it by closing offices of the Veterans Access Network. They are going to pay for it by taking money out of the pockets of war veterans. And from where else are they going to find the money to pay for it? This will be a $6.2 billion debt going into the future. I think we are starting to find out exactly how the government are going to claw back that money. They are going to claw it back from orphans, they are going to claw it back from— (Time expired)

Question agreed to.

Medibank Private

Senator DI NATALE (Victoria) (15:34): I move:

That the Senate take note of the answer given by the Minister for Finance (Senator Cormann) to a question without notice asked by Senator Di Natale today relating to the proposed sale of Medibank Private.

The sale of Medibank Private comes straight out of the Tory Party handbook: create a sense of crisis, create a sense that the economy is going to rack and ruin, that we are drowning in debt and deficit, and then use that confected emergency to flog off public assets. It is a pretty standard tactic. What usually happens is that the big end of town gets windfall profits and ordinary consumers are much worse off—and that is what we have got here with the sale of Medibank Private. The idea that the sale is necessary because of the state of the economy is laughable. If you travel overseas and talk to someone from Europe, the United States or
almost any other developed economy anywhere else in the world, they will mock you and laugh at you if you suggest that the Australian economy is going to the dogs. Unemployment is stable, inflation is stable and debt levels are well under control. We are being told that health care is unsustainable, that it is out of control, that we need to move to a user pays model and means test access to health services. That is a convenient argument. I understand the contributions made by Senator Mason and Senator Bernardi—who, it appears, in recent days has been released from witness protection and is again making a contribution to the parliament.

I have been privileged to chair the Commission of Audit committee, which has heard from a range of voices from across the spectrum—economists, community groups, welfare groups and others. What we have learnt is that spending is very stable, that our Commonwealth sector is very efficient, that Commonwealth spending has remained at roughly the same level for decades and that, far from being shackled by high taxation, Australia is one of the lowest taxing regions in the OECD and our level of taxation at the moment is much lower than it was under the Howard government. All the broad indicators are reasonable. Of course there are some challenges but this is an overheated argument in order to achieve the desired outcome, which is of course to flog off public assets and ensure we get deep cuts to public services.

Let us put some facts on the table. We have a very efficient health system. Spending on health care is about nine per cent of GDP. In comparison, countries such as the US spend almost double what we do. Yet we are being told we need to introduce a $6 co-payment to make it more difficult for ordinary people to see a doctor. I say this to Senator Cormann: if you are indeed going to proceed with the sale of Medibank Private, make a commitment to the Australian people that you will put every cent from the proceeds of that sale into health care.

Protect a person's right to see their doctor. Do not put a cost barrier in front of them. Rule out immediately the proposal for a $6 co-payment. Build up Medicare; do not tear it down. You have been given an opportunity—you are able to proceed with the sale of Medibank Private. If you are going to do that, it is important that our health system remains one of the fairest and most efficient anywhere in the world, so rule out the situation where private insurers cover GP services and we see preferential access for people with private health insurance while those without private health insurance get second-class treatment.

The last thing we want to do in this country is follow the US model of health care in which the biggest cause of individual bankruptcy is not being able to pay your medical bills. We have a very efficient, very fair system of health care in this country. Let us protect it. Let us build up Medicare and not tear it down.

The DEPUTY PRESIDENT: Senator Di Natale, you made an unfortunate reference to Senator Bernardi and a witness protection program. I think it would be well if you withdrew that.

Senator Di Natale: I am happy to withdraw.

Question agreed to.
The document read as follows—

**Australian Government response to the Joint Standing Committee on Treaties' report: Report 128**

Inquiry into the Treaties Ratification Bill 2012

March 2014

**Recommendation 1:** That prior to commencing negotiations for a new agreement, the Government table in Parliament a document setting out its priorities and objectives including the anticipated costs and benefits of the agreement.

The Government does not accept this recommendation.

The powers to negotiate and enter into treaties are executive powers within section 61 of the Australian Constitution. Accordingly, formal responsibility for treaty making and negotiation lies with the Executive. The Government nevertheless considers that the Parliament has a significant role in scrutinising treaties prior to binding treaty action being taken and in passing legislation to give effect to them where necessary. The Joint Standing Committee on Treaties (JSCOT) plays an important part in fulfilling Parliament's role in this respect. The Government remains of the view that its capacity to effectively pursue the national interest while allowing for appropriate public consultation is best met by current parliamentary and consultation processes.

The Government currently provides information about treaties under consideration or negotiation in a variety of ways. The nature and extent of public consultation is determined by the scope and importance of the proposed treaty and can include statements to the Parliament, press releases, information published on agency websites, calls for public submissions and face-to-face consultations with industry and civil society representatives. The purpose of such consultations is to inform the public about the Government's priorities and objectives and to afford an opportunity for comment. In addition, regular consultations are conducted with the States and Territories through the Standing Committee on Treaties.

Notwithstanding its commitment to stakeholder consultation, the Government is constrained in what it can disclose about prospective and ongoing treaty negotiations. Making detailed information about Australia's negotiating position publicly available prior to the commencement of negotiations would limit Australia's room for manoeuvre in the negotiations. Adopting the Committee's recommendation could circumscribe the capacity of Australia's negotiators to secure the best possible outcomes for Australia in the treaty negotiations.

Any statement of negotiating priorities and objectives made at the outset of treaty negotiations would be of limited value in assessing the eventual treaty outcomes. Negotiating priorities commonly develop over the course of negotiations, and eventual treaty outcomes reflect compromises acceptable to all Parties. While negotiators operate within defined parameters, it is generally not possible to predict accurately the full range of commitments which will be incorporated into the final agreement until negotiations are concluded. Similarly, any advance assessment of costs and benefits would necessarily be based on a range of assumptions which may or may not prove correct. The Government considers the
current practice of tabling treaties after they are concluded enables the Parliament to make a more meaningful assessment of their impact on the national interest, based on the actual rights and obligations they contain.

Treaties do not become legally binding on Australia until the Government formally undertakes to perform the obligations set out in the treaty by taking binding treaty action (ratification, acceptance, approval or other formal mechanism provided for in the treaty). Until binding treaty action is taken, Australia is only obliged to refrain from acts which would defeat the object and purpose of the treaty. Other than in exceptional circumstances, the Government does not take binding treaty action, or introduce legislation to give legal effect to treaty provisions in Australia, until after JSCOT has reviewed and reported on the treaty and its advice has been advice taken into account. Existing treaty tabling arrangements therefore afford ample opportunity for the Parliament to express its views on treaties well before a final decision is made on whether they become binding on Australia.

The Government notes Recommendation 1 does not state how the Parliament would conduct an assessment of proposed treaty negotiations. If it is intended that JSCOT enquire into and report on proposed treaty negotiations prior to their commencement, this could delay the start of negotiations and further impinge on the Government's negotiating flexibility. The Government further notes the recommendation does not make any allowance for urgent or sensitive treaties. Finally, adding another step to the treaty process would have resource implications for the responsible agencies, which the Government does not consider to be justified.

Recommendation 2: That the Treaties Ratification Bill 2012 not be passed by the House of Representatives or the Senate.

The Government notes that this is a decision for the Parliament.

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1 Vienna Convention on the Law of Treaties (Vienna, 23 May 1969), Article 18

**DOCUMENTS**

**Education Funding**

**Tabling**

The DEPUTY PRESIDENT (15:40): I present a response from the Minister for Education, Mr Pyne, to a resolution of the Senate of 11 December 2013 concerning schools funding.

**Great Barrier Reef Marine Park Authority**

**Order for the Production of Documents**

Senator COLBECK (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (15:40): I table a document relating to the order for the production of documents concerning the Great Barrier Reef Marine Park Authority.

Senator WATERS (Queensland) (15:40): by leave—I move:

That the Senate take note of the document.

This morning I received a response from Minister Cormann as the Minister representing Minister Hunt in this matter. Sadly, rather than complying with the order for production of documents, the minister has sought to defer a response. We have another month to wait to find out what Minister Hunt did or did not know about the Great Barrier Reef Marine Park Authority's concern for the future of the Great Barrier Reef, in particular their concern about
the Abbot Point coal terminal expansion and the damage that the dredging and offshore
dumping of sludge would cause to the reef.

If the minister did not know that there were serious concerns held by the marine park
authority about the environmental effects of this dredging and dumping, that would enable the
minister to now reconsider his decisions on whether that coal terminal should be expanded
and whether that dredging and dumping should occur. We ask Minister Hunt to familiarise
himself with that material, if he had not previously been informed of it, and to now use that as
justification under the EPBC Act to revisit his approval decision.

If the minister had, in fact, been informed of the marine park authority's internal concerns
about the Abbot Point proposal but approved it anyway, I would then contend that the
minister is not fit to be the Minister for the Environment. So we are very interested, as is the
community, to find out whether or not the minister did know of this concern that the freedom
of information documents have revealed. But it seems we will be forced to wait for a month
until we can answer that question.

I note that the reason given for this delay is the community court cases now afoot which are
challenging the decisions of the minister and the marine park to approve the offshore
dumping. I note particularly that the minister says not only that there is sub judice immunity—because it is before the courts—but that other legal immunities may arise where
disclosure of the documents would be potentially prejudicial to legal proceedings. This is very
interesting. I cannot wait to see these documents if they are indeed prejudicial to court
proceedings that are underway. Clearly there must be some potentially very damning
information contained within them.

So all community members, and indeed the 63,000 people who rely on the reef being
healthy for their livelihoods, will await these documents and await information on what
Minister Hunt knew of the scientific concerns about the Abbot Point coal terminal expansion.
It seems we have to wait this extra month, but we look forward to learning whether the
minister ignored the science or was, in fact, not told of the science—and therefore now has
the chance to reconsider his decision to allow the creation of the world's biggest coal port
within the World Heritage area that is the Great Barrier Reef.

Senator IAN MACDONALD (Queensland) (15:44): I have come late to this debate,
unfortunately; I was not aware it was on. As someone who has lived all of their life in a town
adjacent to the Great Barrier Reef, I get very concerned at the scaremongering, particularly by
the Australian Greens political party, about the reef. I am told
all the time by the Greens political party that the reef is being destroyed and that that is bad for jobs in the tourism
industry. But, as I suggested to the Marine Conservation Society yesterday, it is scare
campaigns such as you get from the Greens political party that is really costing jobs and
impacting on tourism to the Great Barrier Reef.

I have great confidence in the Great Barrier Reef Marine Park Authority. I think they do a
fabulous job. I was the fisheries minister when the last Liberal-National Party government
introduced green zones into the Great Barrier Reef Marine Park. It was a decision that was
courageous but difficult for our government and particularly for the fishing industry. The
fishing industry was impacted on by that decision but eventually understood—without
perhaps in all cases accepting it—that this was an important initiative. It showed the concern
that the Liberal and National parties and the government at the time under the prime
ministership of John Howard had for the Great Barrier Reef. In fact, our support for the Great Barrier Reef goes back many decades. It was a Liberal government that introduced the Great Barrier Reef Marine Park Authority. It was under Liberal governments back in the early days—I think, from memory, in the McMahon era—when the first steps were taken to protect our environment, particularly the Great Barrier Reef.

So I get concerned when there is this sort of campaign. It is a campaign mounted by the Greens political party effectively to shut down coalmining, bauxite mining and the aluminium industry in my state of Queensland. They will use any means to try to achieve that end. As a representative of the state of Queensland, I am very well aware of the jobs and workers that are involved in those industries. I would, at times, appreciate more support on this from the Labor Party, the party that is supposed to be looking after the interests of unions—although we have had examples in the last year or so of how little some members of the Labor Party care about the interests of members of their unions. For instance, Craig Thomson is one who springs to mind. But it would be good if at times the Labor Party more broadly sought to help those whose jobs rely upon industries that we currently have in Queensland.

As I mentioned, we on our side—and Mr Hunt has made this very clear—do not believe in development at all cost. In fact, in respect of the Abbott Point example that was mentioned by the previous speaker, Mr Hunt has imposed a significant number of very stringent conditions. I am confident that the work the Great Barrier Reef Marine Park Authority has done has indicated that this can go ahead without damage to the reef. I have been told for years that it is climate change which is destroying the Great Barrier Reef, but it seems that the cause for this alleged destruction of the Great Barrier Reef varies depending on which argument the Greens political party are putting up at a particular time in a political cycle. It used to be that it was climate change that was causing the so-called destruction of the Great Barrier Reef, which I deny. Then when the Greens wanted to attack the farming industry in Queensland, they said it was the run-off and sediments from cane farmers in particular and the beef cattle producers that were causing the problems to the reef. Then, when it suited them, it was this dredging of a very small area of Abbot Point that was going to be the cause of the destruction of the Great Barrier Reef.

You read in some of the material from the Greens political party about how spoil is being dumped on the Great Barrier Reef, yet anyone who understands the Great Barrier Reef will know that there is a big area between the coastline and the actual reef. The dumping is not on the reef. It is in the marine park, but it is not on the Great Barrier Reef. When the Greens say we are dumping spoil on the Great Barrier Reef, people who do not follow these things closely will think of loads of soil and sand being dumped actually on coral reefs. That, as Senator Waters well knows, is not what is proposed. But, as I say, it does not matter to the Greens what the lie is as long as they can justify the end, of shutting down industries in Queensland.

The same thing happened with the forestry industry in Tasmania. I am delighted that we at last have a government in Tasmania that is prepared to stand up to the lies of the Greens political party and their allies when it comes to the forestry industry. The most sustainable forest industry in the world created so many jobs for CFMEU and AWU members. But, thanks to the Greens influence on the Labor Party, these forests have all but been shut down
today. I am delighted that Mr Hodgman has made it clear that he was elected on that promise and that he is going to abide by the promise that he made. Good luck to him.

To get back to the point, there has been a reason given why these documents are not being produced. I do not know why the Greens and the Labor Party are insisting on the immediate production of these documents when, as has been said, it could have an impact on court proceedings. My reason for entering into this debate is to say to people around the world that of course the Barrier Reef will change. Of course any natural asset will change, but it is a magnificent place. It is a magnificent place to go diving. It is a magnificent place to have a holiday, and it is not being destroyed as is alleged.

I guarantee to any would-be visitor from Australia or any part of the world that, if they come to the Great Barrier Reef off the coast of Queensland, they will have a fantastic time. They will see some magnificent coral reefs. They will be looked after by people involved in the industry who are caring, who know their job, who are proud of the work they do. It is an experience not to be missed.

If there are any senators who have not been to the Great Barrier Reef, I urge them to visit. If they do it during a Senate sitting, I will not even criticise them for doing that. It is an experience that people should be in awe of, able to experience and publicise to the world that the Great Barrier Reef is there. It will always be there. It is a great asset we have and it is doing pretty well.

The DEPUTY PRESIDENT: Thank you, Senator Macdonald. I don't think I can endorse your comments of senators being absent from the chamber to visit the reef.

Question agreed to.

COMMITTEES

Environment and Communications References Committee

Corrigenda to Report

Senator STERLE (Western Australia) (15:53): On behalf of the Chair of the Environment and Communications References Committee, Senator Thorp, I present a corrigenda to the report of the Environment and Communications References Committee on the Direct Action Plan.

Ordered that the document be printed.

Education and Employment References Committee

Report

Senator LINES (Western Australia) (15:54): Pursuant to order, I present the report of the Education and Employment References Committee on the provisions of the Fair Work (Registered Organisations) Amendment Bill 2013 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator LINES: by leave—I move:

That the report be adopted.

Further to that, I would like to make some comments as the chair of the references committee. I have to say that the government really has no friends with this bill—no friends at all. We
heard from a range of submitters from both business organisations and trade unions and we heard from very reputable and highly regarded business organisations such as the Australian Industry Group, the Motor Vehicle Traders' Association, the South Australian Wine Industry, to name a few.

We heard from the Australian Council of Trade Unions, the ACTU. We heard from the Maritime Union of Australia. We heard from the Queensland Nurses Association. We heard from the United Services Union and a range of other unions. All of those groups, surprising as it may seem, are absolutely on a unity ticket about how unnecessary this registered organisations bill is.

I want to put on the record: it is not because those registered organisations, be they businesses or trade unions, do not want to be accountable and transparent; they clearly do. They absolutely want to be transparent and accountable. They believe under the amendments that Labor brought in in the last government that they are already now being much more accountable and being held to a much higher standard.

Most of the submitters said that those regulations are still working their way through the system and indeed have not been fully tested, have not been fully implemented, but all of them commented that the amount of paperwork, the red tape, that we hear from the government has increased substantially. They do not walk away from the fact they need to be open and accountable with members' money, whether it is a business member or a trade union. They do not walk away from that at all, but they see the requirements that this government, through Prime Minister Abbott and Minister Abetz, wants to put on them to be much too onerous. As I said, we heard that from every single submitter. The government has no friends, and here we have business and trade unions on an absolute unity ticket in their wholehearted rejection of this bill. The committee could not have reported any other way than to reject the bill in our recommendation.

If we look at the terms of reference of the references committee, we looked at the potential impact of the amendments. I would refer senators in this chamber who are interested to have a look at the submission of the Australian Industry Group. They have really put a lot of effort into it; it is a very good submission. It goes through all of the issues and explains in very simple terms the onerous nature of the proposed bill—and indeed the Australian Council of Trade Unions likewise. Both of those organisations produced very substantial arguments as to why this new registered organisations bill is completely unnecessary.

Another area we were to look at as a reference committee was the potential of the amendments to impede the ability of employees of registered organisations to carry out their duties. What we heard from the AiG and from trade unions is that their committees of management are largely made up of volunteers—volunteers who give their time in a voluntary capacity, obviously, to serve as executive and ordinary members of registered organisations. It is fair to say that they will get a small stipend that covers off perhaps their meal money and mileage, if they are using their car or travel allowance, but they are not paid officials. All of the organisations reported that the majority of their committees of management were voluntary organisations. One of the things the government was quick to point out in the new bill and what came out in evidence is that this bill treats registered organisations like shareholders. All of the registered organisations which gave evidence to us really took issue with that. We know that corporations return profits to shareholders. That is
what they do. There is an obligation for those corporations to return as big a profit as they can to shareholders. That is clearly not the role of registered organisations; it is not their role at all. They have constitutions and they have objects, which set out very clearly what they are seeking to do. None of them have objects which are about making profits and returning them to corporations. It is a completely different set of businesses and trade unions, and it just seems to be lost on the government. Indeed, the department led in evidence that one of the intentions of the bill was, in fact, to seek to regulate registered organisations in the same way that corporations are registered. Yet their outcomes and what they are set up to achieve are poles apart. They could not be any further apart.

We heard from the South Australian Wine Industry Association that they did not think there was any rationale at all for making changes and introducing a new bill covering registered organisations. I quote from the South Australian Wine Industry Association, which acknowledge:

… that review and reform of the law governing registered organisations is both necessary and justified from time to time …

As I said in my opening remarks, there was not a submitter we heard evidence from who did not state the importance of being open, transparent and accountable. The South Australian Wine Industry Association went on to say:

However the unlawful conduct of some officers within one registered organisation does not justify imposing excessive compliance and disproportionate monetary penalties on all registered organisations in a manner contemplated by some of the provisions in—

this amending bill—

the Fair Work (Registered Organisations) Amendment Bill 2013.

So here we have the South Australian Wine Industry Association saying that the penalties and the response in this bill are over the top. Just because one organisation does not do the right thing—clearly they did not; there is no resiling from that—that is not a signal for government to then hammer down on all other registered organisations.

All of the submitters made comments around the increased penalties. Again, the Ai Group, the ACTU, the MUA and the South Australian Wine Industry Association all criticised the proposed increased penalties. What they were at pains to point out is that that will limit our volunteers' ability to put themselves forward as an officer. They become aware of the potential penalties if some mistake is made. So all of those organisations will say, 'We will be less rich because we simply will not have the encouragement of our members to come on board to take on executive positions.'

That is clearly an outcome of this bill; it will restrict volunteers. I am sure that is the last thing that any of us in this chamber want to see happen, but it is clearly the view of all of the submitters. They said that those increased penalties will really make volunteers think, 'Is this really where I want to put my time?' Again, we look at the difference between a voluntary organisation and a shareholder organisation. The Australian Industry Group, in particular, said:

If the proposed criminal penalties and proposed massive financial penalties for breaches of duties are included in the RO Act—

that is, the registered organisations act—
this would operate as a major disincentive to existing voluntary officers of registered organisations continuing in their roles …

Again, that is from the Australian Industry Group. There is a breach of human rights in the proposed bill and it has been looked at by the Parliamentary Joint Committee on Human Rights. They have written to the minister. I am not aware as to whether they have got a response at this point, but there are concerns about that.

As I said in my opening remarks, the committee had no other option than to side with all of our submitters and reject the Fair Work (Registered Organisations) Amendment Bill 2013 out of hand.

Senator IAN MACDONALD (Queensland) (16:05): This report and inquiry by the Education and Employment References Committee show the high farce that this Senate chamber has turned into. It is the practice of the Senate that, when bills are brought into this chamber, they are referred to a committee of the Senate to look at. That is what happened in this case. The bill was referred to the appropriate committee, which is the Education and Employment Legislation Committee. That committee looked into the report, it looked into the bill and it recommended that the bill be passed.

That is the procedure. But because the Greens and the Labor Party control the numbers in the Senate, the Greens and the Labor Party realised that the legislation committee would look at it thoroughly, would come to a balanced and unbiased decision on the legislation and would accept the need for unions to be honest and to use their members' money honestly.

But the Labor Party and the Greens did not want to attack the groups that sponsor all of the Labor senators in this place. So they referred the same bill to another committee of the Senate, on which the Labor Party and the Greens have a majority. They did this so that they could bring in a report saying that this bill should not be passed. That is my first objection.

The second inquiry was a complete waste of the Senate's time and resources because it was an inquiry into exactly the same subject that another committee of the Senate had already spent time and money appropriately looking into. If we go to the substantive issue—what this is all about—it is saying to the union movement: 'You should have the same standards of accountability to your members, to the people who contribute money to you, as public companies have.' Who could possibly argue with that? I just heard a spurious argument that I am still trying to understand: public companies use the money of shareholders, contributors, to make a profit so that makes them different to a group of people who contribute money to a union that is supposed to be looking after their affairs but may not be doing so. If it is good enough for shareholders' money to be looked after by having certain standards, certain procedures and certain requirements in place for the honest operation of those public companies, why does it not apply to the unions?

Senator Gallacher: It does.

Senator IAN MACDONALD: I am told it does. So how come the Health Services Union is in the mess that it is in? It is almost bankrupt because a couple of its leaders were fiddling the books and using the money contributed to the union by some of the lowest paid workers in Australia. This money was being criminally misspent.

Senator Gallacher interjecting—
Senator IAN MACDONALD: I hear a Labor member saying, 'Yes, well, we don't agree with HSU either.' Thanks for coming on board, but it is a bit late. Remember how you all defended Mr Thomson and the way he acted as a representative of the Health Services Union? Remember every time you objected to any proper inquiry into it? Remember that? You cannot forget that.

This is not just about the Health Services Union. Senators will be aware that the Fair Work Commission has recently launched proceedings against the Musicians Union of Australia and that it currently has inquiries or investigations into the Australian Rail Tram and Bus Industry Union; the Australian Salaried Medical Officers Federation; the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia; the Flight Attendants Association of Australia; the Textile Clothing and Footwear Union of Australia; the Australian Nursing Federation; and the Australian Childcare Centres Association. So it is not confined to the Health Services Union. You cannot tell me that what Mr Williamson, the former president of the Australian Labor Party, and Mr Craig Thomson did to the HSU is a one-off event. You cannot tell me that in the whole union movement, across the spectrum, that is a one-off event. Clearly, there has been no accountability in the union movement.

Senator Gallacher: Rubbish!

Senator IAN MACDONALD: I am told that this is rubbish. What happened with the HSU? If it were not for a whistleblower, those people would still be there ripping off members. There are other inquiries being held by the Fair Work Commission. If it is good enough for public companies—and it is good enough for public companies—why wouldn't you do this for the unions? Me thinks all those opposite—and I do not mean this pejoratively—are here because of the union movement's assistance with voting numbers and campaign funds. If that is the way they want to run it, that is fine—but there must be accountability. Just because these people put you here does not mean to say that you can give them a green card to use the money on prostitutes, porn videos or whatever, as happened in the HSU case.

I am not saying that this has happened in the other union cases under investigation—but they are under investigation. Why shouldn't they be under investigation if there is any suggestion of corruption, foul play or dishonest use of members' money? Why wouldn't you want that looked into? I certainly do not for a moment suggest that any of my colleagues opposite, of whom most were officers in various unions, did anything improper in their day; I am not saying that for a moment. But why wouldn't you support this bill, which could prove that, which could take away any suggestion that there is impropriety? I agree with you that it is appropriate for public companies; it is essential for public companies—but why is it not essential for another group who are using other people's money? We know from recent events that in least one case this has not happened.

As I say, you cannot convince me that that was a one-off incident. In fact, coming from the state of Queensland and knowing of the long and colourful history of the AWU—

Senator Sterle: Joh, Russ Hinze—

Senator IAN MACDONALD: Well, include them in it. I am on your side in relation to the two gentlemen you mention. But the AWU in Queensland has, let me say, a very colourful
history, and you cannot tell me that it has been squeaky clean. I think Mr Howes supports greater accountability for the union movement—and well he should. I think any decent unionist would say: 'We've got nothing to hide, so have whatever inquiries you like, have what rules and regulations you like. We don't care. We would like the opportunity of being able to say "We've been investigated and we've been found to be clean".' This is why I find it just incredible that the Labor Party and their mates in the Greens have again had a Senate committee trawl over evidence and deliberations that have already been made into this very same bill by another Senate committee.

**Senator Edwards** (South Australia) (16:14): I also rise to speak about the report of the Education and Employment References Committee on the provisions of the Fair Work (Registered Organisations) Amendment Bill 2013. I do so as a proxy for Senator Back, who participated in this inquiry, who is tied up chairing another committee right now. In his conversations with me throughout this inquiry, he felt quite aggrieved that we had actually been drawn into this, because, as we have just been told by Senator Macdonald, this is just a frolic on the part of the Labor and Greens alliance on the other side. They are just hanging on to that last little bit of their power in here until 30 June. They exercised that, and I do not know—I have no idea—how much this inquiry cost.

An inquiry was conducted and the report tabled in December last year by the legislation committee. It made recommendations, and quite rightly so. This was an opportunity for the Labor Party to reform themselves and say to the Australian people, after the thumping that they got on 7 September last year, 'Yes, we understand that you reject what we are and what we stand for.' The Australian people said, 'We don't want any organisations to be corrupt or corruptible.' These are the recommendations—

_An opposition senator interjecting—_

**Senator Edwards:** I would be very careful, Senator. This bill on registered organisations is about empowering people with the ability to ensure that their organisations remain free of corruption the like of which we saw with the HSU. If I had my way, I would not allow anybody with a criminal conviction to serve on any of these registered organisations. Let us—

**Senator Gallacher:** Madam Acting Deputy President, I raise a point of order. I ask that Senator Edwards return to the matter at hand. That statement about criminal convictions is already contained in other legislation. You cannot serve on a registered organisation with certain criminal convictions.

**The Acting Deputy President (Senator Ruston):** Senator Gallacher, that is a debating point.

**Senator Edwards:** Yes. Anyway, you are probably a bit sensitive to that, Senator Gallacher, because of the CFMEU. There are a lot of allegations about what goes on there. In fact, recently, this week—

**Senator Polley:** Madam Acting Deputy President, I raise a point of order. Can I just ask you to draw the good senator's attention to the fact that his comments should be made through the chair, not targeting individual senators with his comments.

**The Acting Deputy President:** There is no point of order. I will decide when I direct them.
Senator EDWARDS: Madam Acting Deputy President, I am sure that Senator Gallacher has brought that up because he is a bit sensitive. As I say, there are many allegations. In Western Australia, there are many allegations against the CFMEU about how they control workplace sites and how they conduct their financial affairs and, indeed, the issues that we have seen.

This is an attempt by the coalition to tidy up what has been corrupted by others. Contained in the dissenting report, which I have from Senator Back, there are references to the former—

Senator Sterle: You are struggling. This is just—

Senator EDWARDS: I will read it for the benefit of Senator Sterle. I will reacquaint him with—

Senator Stephens: On a point of order, Madam Acting Deputy President: there are several reports that we are trying to get tabled today, and this is just obfuscation. I would ask that you ask Senator Edwards to finalise his remarks so that the rest of us can get on with our work.

Senator Birmingham: On the point of order, Madam Acting Deputy President: the only time wasting that is taking place in this place is these spurious and consistent points of order coming from those opposite. This is the third or fourth in a matter of minutes. If they had let Senator Edwards get on with his remarks, he would have just about finished by now.

Senator Polley: Madam Acting Deputy President, in relation to the points of order that have been taken—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: One moment, Senator Polley. The interjections are disorderly. Senator Polley is entitled to be able to put her point of order in silence. Thank you.

Senator Polley: The point of order that I raised was a justifiable point of order under the standing orders that all comments are to be made through the chair. I did not query or question your decision over that, but I do want to make it quite clear that the point of order that I made was within the standing orders.

The ACTING DEPUTY PRESIDENT: Senator Polley, the point of order before the chair is not your point of order; it is the point of order of Senator Stephens. There is no point of order.

Senator EDWARDS: Thank you, Madam Acting Deputy President. I will make my point, if Senator Sterle would like to listen. The coalition senators firmly agreed in the report with the Australian Workers Union national secretary—until, I think, Wednesday; I am not sure whether he is standing down immediately—who recently said in relation to union corruption: … if we ignore any pocket of dishonesty, it will grow like a cancer.

Why won't you take heed of your wonder boy? He is the one that you have looked to over the years for inspiration. He has actually led a number of leadership coups from outside this place. It is a pity that opposition senators, in your petulant desire to prosecute old arguments, from all I can gather, were unable to add any new arguments to the legislation.

Senator Sterle interjecting—

The ACTING DEPUTY PRESIDENT (Senator Ruston): Senator Edwards, continue with your remarks.
Senator EDWARDS: Further, the Fair Work Commission has recently launched proceedings against the Musicians Union of Australia and has inquiries or investigations into: the Australian Rail, Tram & Bus Industry Union; the Australian Salaried Medical Officers Federation; the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia; the Flight Attendants’ Association of Australia; the Textile Clothing & Footwear Union of Australia; the Australian nursing federation; and the Australian Childcare Centres Association. But I hear, ‘No, everything’s fine; everything’s dandy.’ The majority recommendation of the report is that they ignore the bill and do not pass the bill. But, despite all of that, you want to reject this bill.

This is a bill about sanitising what should have been sanitised a long time ago on your watch. Quite frankly, if you over there want to reinvent yourselves—as Bill Shorten, the Leader of the Opposition, has gone out in the last 24 hours and indicated that he wants to do—then this would be a very good place to start.

The ACTING DEPUTY PRESIDENT: Order! Senator Edwards, your time has expired.

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

Leave granted; debate adjourned.

The ACTING DEPUTY PRESIDENT: I understand that it would suit the convenience of the chamber to allow consideration of committee reports to continue beyond 4.30. Is leave granted for that course of action?

Leave granted.

Foreign Affairs, Defence and Trade References Committee

Report

Senator DASTYARI (New South Wales) (16:24): Pursuant to order, I present the report of the Foreign Affairs, Defence and Trade References Committee inquiry into Operation Sovereign Borders, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator DASTYARI: by leave—I move:

That the Senate take note of the report.

We are here to briefly discuss the report—and I will try not to take all of my 10 minutes because I know there is a fair bit that we want to get through—of the public inquiry that was held on Friday, 21 March, into Operation Sovereign Borders, and in particular the transgressions that occurred when Australian vessels entered Indonesian waters.

To begin with, I want to thank the other senators who participated in the committee—particularly Senator Fawcett and the Greens senators, as well as the Labor senators—for their participation in the process. I also thank the Customs and Border Protection staff and the Australian Defence personnel—those broadly involved with Operation Sovereign Borders who very willingly made themselves available and tried to do the best of their ability to answer questions and play a positive role in the inquiry. I think that the work of Defence and other personnel, as well as staff of Customs and the Public Service, should be acknowledged and recognised in what is a very difficult policy area. But I believe that they have been put in a very unenviable position and one that they did not ask to be put in.
What we are discussing here, and what the report is trying to get to the heart of, should be a very simple matter: why did it occur and how can we make sure it does not occur again? Why did these incursions happen? How did they happen? How did they happen more than once? Why was this a repeated pattern of behaviour? And, given the unprecedented lack of transparency, how can we be confident in the assurances that we are being given by the government and others that it will not happen again?

Frankly, what is disappointing and what being involved in this inquiry demonstrated was that the total secrecy with which this policy area has been shrouded has made what should be quite easy questions for us to answer unnecessarily difficult to answer. We, as a Senate committee, under some pretence of—and, I believe, misuse of—the public immunity rules, could not get answers to very simple questions such as: 'Do the vessels that are being used at the moment by Customs contain GPS equipment?' This is about basic GPS equipment—equipment that all of us have on our mobile phones and our watches and every other device, and in all our motor vehicles. The fact that basic questions cannot be answered makes the task very difficult. So we are looking at this big policy area, and we are looking at what has been an unprecedented action—us breaching the territorial waters of another nation—and, as the Australian Senate, because of this cloud of secrecy, we cannot even get basic information on how Navy and Customs equipment is being used.

So that is the first big question, and I think there is a big question here about secrecy and the lack of information that has been provided. Again, I do not hold the public servants and the Defence personnel responsible for that. I think they have been put in a very unenviable position, where they are carrying out instructions that have been determined by the government at a policy level. I think it is a fundamental policy failure in this area of Sovereign Borders, built around this idea of secrecy. Without transparency, you are not going to have a decent, open system. That is the first issue.

The second issue is around the whole notion of diplomatic relations. There is no hiding the fact that what happened in these breaches of territorial waters had a direct impact on the Australia-Indonesia relationship and a very detrimental impact. We were given advice by all those present that, understandably—just as we would treat any kind of incursion on our borders by the Indonesian government as such—it has strained an already strained relationship between Australia and Indonesia.

The big question was: what has been the impact of these incursions on our diplomatic relations with Indonesia? The express concern was the lack of transparency that we found in trying to get to the bottom of what actually happened, how it happened and the impact that these events had on our relationship with Indonesia. You cannot help but come to the conclusion that the potential to damage our relationships with our friends and allies comes out of these activities. But, at the same time, as an Australian Senate we were unable to get to the bottom of events.

Finally, the big question is one of precedent: is this going to happen again? We were given answer after answer by those involved in Sovereign Borders—be it at the customs level, at Defence level or at a department level—indicating that it will not occur again. But there is a complete lack of transparency in everything that is occurring in this policy area. One of the recommendations—and I think the lesson from all this—is that this is what happens when transparency is lacking at a policy level. The decision that has been made at a government
level to not shine a light on this—to hide away—has had a direct impact on these actions. As the Australian public should rightly be able to ask themselves, it is one thing to be given assurances from government that it is not going to happen again—be that at every level—and I believe those assurances are given in good faith. But without transparency to know what is happening, without information being provided, without shining a light on this as a policy area, I do not believe the Australian public can be confident. That is a really big issue, and I think that is the fundamental issue that came out of this inquiry.

I just want to reiterate my thanks to the other senators who participated in the process. Those who read the report will see that there were different views that were expressed, and they expressed larger policy views. But, fundamentally, if there were one message I wanted to leave it is this whole idea of transparency: the greater the openness, the greater the transparency in this policy area, the better it will be for the Australian public.

Senator FAWCETT (South Australia) (16:32): I too rise to take note of this report and to highlight that the coalition members did not support the majority view in a number of regards. There are two areas to this. One point is the issue that a lot of the concepts that were discussed were military or operational in nature, and it is difficult for people without a background in that area to understand. The other point is that it was a very political exercise.

I will come to the first point. There were two issues that were discussed in some hours of questioning during the inquiry where members of the Labor Party and the Greens who were represented there clearly struggled to understand two basic concepts around the operation. One was of military command and control. There seemed to be this thought that a superior command would need to authorise a vessel or an aircraft and would need to know exactly where it was at every point in time in order for them to have appropriate command and control. The witnesses attempted to explain the concept of an area of operation, whereby command and responsibility for navigation is delegated to the aircraft's or the vessel's captain, and they are approved—they are authorised—to operate anywhere within that area of operations or AO. Yet, question after question came out from people wanting to know why the superior headquarters had lost control, lost command or lost visibility of the vessel. There was clearly an inability of people to grasp that concept, and that led to some wrong assumptions that came out in the report.

Similarly—and Senator Dastyari just mentioned the concept of GPSs—very early in the discussion some of the senators put questions to the witnesses around things like GPSs and then, when the witnesses said that there was not a continuous data stream from the vessel back to a higher headquarters, they made the assumption that perhaps a GPS had been turned off and therefore the ship was lost and did not know where it was. Again, there was a long period of questioning over a lack of understanding around the technical detail that, for very good technical or operational reasons, vessels will not always have a continuous data stream providing real-time or near real-time updates to superior headquarters. Those kinds of issues (a) wasted a lot of time in the questioning and (b) have led to some of the comments where senators from the Labor Party and the Greens feel as though things were obscured from them when, in actual fact, the witnesses were providing the information. Those opposite just did not actually understand.

The second point is that it was a very political exercise. Reading through the draft that was given to us and now the final report, what we see is that the Labor and Greens senators have
deliberately avoided some of the balance that was provided in evidence. There were two experts there on the law of the sea who provided a range of views. In some areas they did not agree with each other, and in some they did. The majority report only highlighted those areas where they agreed and where it could be seen as being critical of the government's policy. What they did not highlight was, for example, the evidence by Professor Rothwell, who said:

Consistent with the LOSC, Australia is entitled to “take the necessary steps in the territorial sea to prevent passage that is not innocent” (Article 25 (1), LOSC). This could extend to ordering the delinquent ship to remove itself from the territorial sea, or physically removing the ship by taking control of it. A similar right exists in the case of the contiguous zone, where Australia can rely upon its capacity to “prevent infringement” of its immigration laws within the territorial sea...

In his conclusion he talks about the fact that Australia has a very firm legal basis, under the law of the sea, to interdict asylum seeker vessels within the Australian territorial sea contiguous zone or EEZ. This report, unfortunately, is the latest example of the political exercises that are being run by the opposition that do not actually add value to understand the issue at hand. The coalition senators have, therefore, submitted a dissenting report on this report of the Foreign Affairs Defence and Trade References Committee. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade References Committee
Report

Senator STEPHENS (New South Wales) (16:36): On behalf of the Chair of the Foreign Affair, Defence and Trade References Committee, I present the report of the Foreign Affairs, Defence and Trade References Committee on overseas aid, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator STEPHENS: by leave—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Rural and Regional Affairs and Transport References Committee
Report

Senator STERLE (Western Australia) (16:37): I present the report of the Rural and Regional Affairs and Transport References Committee on Qantas jobs, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator STERLE: by leave—I move:

That the Senate take note of the report.

We have seen a fair bit of unhealthy activity within our aviation industry in Australia in the last few months. I want to allude to some alarming figures. On 27 February of this year Qantas Airways Limited announced an underlying loss of no less than $252 million before tax and a statutory loss after tax of $235 million for the six months ending 31 December 2013.
You would have to be living under a rock not to know that lately there is absolute turmoil within Qantas Airways, and I think I am free to say that.

We saw an extreme situation a couple of years ago, when I was at the Qantas AGM in Sydney, when the board, the CEO and the chairman all awarded themselves significant pay rises on the Friday afternoon, and then about 27 hours later the CEO came out, with the endorsement of the chairman, with a notification that he would ground our national carrier 48 hours later because of the threat of Qantas pilots wearing red ties. It was absolute union turmoil, and how dare the Transport Workers Union have two 20-minute stoppages, or something like that. Since then the cost to the nation cannot be measured by that irresponsible activity from Mr Joyce, ably supported by Mr Leigh Clifford, the chairman, and by all the board members, who in my humble opinion were absolutely guilty of that same crime upon our nation.

To think that people, who were heading for funerals, weddings and significant events around the country, were grounded with absolutely no forewarning. To think that people in the United States were leaving LAX, were pushed out—and this was reported by the pilots—off the air bridge and all of a sudden were returned with no notification, unloaded off the plane and told, 'Sorry, you're not going back to Australia. We don't know how long this is going to last.' Anyway, we have had Mr Alan Joyce from Qantas Airways storm-trooping the hallways of this fantastic building, snivelling up to members of the opposition and wanting all the help from the government to pull him out of the mire because of some absolutely disgraceful business decisions taken by him and the board.

Time does not permit me to go into how I really feel. The committee had a hearing, which was held in Sydney, and had representation from a number of people. Mr Joyce from Qantas Airways and Mr Gareth Evans, the CFO from Qantas Airways were there. There was representation from Miss Linda White, Assistant National Secretary of the Australian Services Union, whose members are absolutely panicking because they do not know if their jobs are going. We also had Mr Tony Sheldon from the TWU as well as others. What I have to absolutely focus on is that Qantas's answer to the mire they have put this company in, to drive the shares through the floor, to put absolute fear into the hearts of the workers, was to announce the loss of 5,000 Australian jobs. But, wait, there is more. When I asked Mr Joyce at the hearing, 'Could you guarantee that there would be no more jobs lost, Mr Joyce, Australian jobs, to offshore, or overseas, or to making full-time employees part-time?' he could give me no guarantee. He could give the committee absolutely no guarantee.

Madam Acting Deputy President Boyce, time is against me. I want to thank the submitters, I want to thank the senators who were with me on that day of the hearing and who ably supported our inquiry. I also want to thank those who appeared before us. I want to take this opportunity to thank the Secretary of the Rural and Regional Affairs and Transport Committee, Mr Tim Watling, ably backed up by his crew and their fantastic work. I will have a lot more to say on this. I will have a lot more to say on Qantas. I will have a lot more to say about my thoughts on the management of Qantas Airways over the last five or seven years.

Senator EDWARDS (South Australia) (16:43): Twenty-two years ago the Qantas Sale Act came into effect. In 1995, three years later, the first airline ticket was sold via the internet. In 1997-98 was the Asian financial crisis. In 1998 Qantas co-founded the Oneworld Alliance. In 1999 we saw the first web based passenger check in and online boarding passes. In the
2000s was the rise of Emirates. In 2001 was the September 11 terrorist attacks. The domestic competitor to Qantas, Ansett, collapsed two days after the terrorist attacks in New York. In 2003 was the establishment of Jetstar. In 2004 there was Jetstar Asia. In 2006 Qantas was subject to a failed bid from a consortium of Airline Partners Australia. In 2006 was avian flu. In 2007 was the impact of the high Australian dollar resulting in cheaper international airfares. In 2008-10 there was the recession, the GFC, which was blamed for all of our woes. In 2008 all the prices rise above $1.45.

My point is that 22 years ago was before the internet. That year, 1992, was not long after this building was opened. The whole point is that was this inquiry of the Rural and Regional Affairs and Transport References Committee was a circus. It was staged to provide a forum for the unions to have a crack at the individuals that run the Qantas company.

In 1992, under Labor, Mr Keating privatised Qantas. But back then he could not get the agreement of his keepers—those who are still trying to flex their muscles here in 2014 by sending the opposition in to try and represent the unionised interests. They have put this together. Qantas operates in an outdated environment.

Yesterday I heard, in chatter, that Virgin operates a service now double the size of Ansett for 30 per cent less operating costs than Ansett did in its final years. That is because has not been made moribund by union agreements. I have heard that the pilots' agreement with Qantas is 500 pages long and the agreement with Virgin is 50 pages. The Qantas agreement is not sustainable.

I am concerned about the 27,000 jobs that remain at Qantas. I am concerned about keeping those. The people on the other side of the chamber talk about the 5,000 jobs that have been lost. That is tragic. That is not what we want to see. But we do not want to see the demise of an airline because it cannot modernise. The government should not have any say in how that business runs itself. We made that decision in 1992 when we privatised Qantas. It is not our company. I urge all senators in this place to get behind this bill so that this company can flourish with out the impediment of politicians playing around with it for their own gain.

Senator GALLACHER (South Australia) (16:47): I just want to address two of the recommendations of the report. One is that the government should provide a debt guarantee, but the first recommendation is:

The committee recommends that paragraphs 7(1)(aa) and 7(1)(b) of the Qantas Sale Act 1992 be repealed while leaving the remainder of Part 3 of the Qantas Sale Act 1992 intact …

So there were two very simple recommendations that came out of this references committee. Quite contrary to the scurrilous allegations of the intent of this committee's deliberations.

In the short time I have I want to say why we should have a debt guarantee. We should have a debt guarantee because of the size of the contribution our airlines make—both in numerical employment terms and in dollars—to the Australian economy. Some figures that were put before this inquiry—Senator Edwards would know about this if he had bothered to read it—show that this sector contributes about 6.1 per cent of GDP: $75.6 billion. That is on 2011 figures.

There are 149,000 jobs directly supported by the aviation sector and 97,000 jobs indirectly supported by the aviation supply chain. There are 65,000 jobs supported by the spending of the employees of the aviation sector and its supply chain. In addition, there are nearly half a
million people connected with this sector in the tourism industry. So it is a big chunk of our economy. The ACTU put it very succinctly: we are an island; we can't drive to another country. Qantas carry 50 million passengers a year. Virgin carry 28 million passengers a year. That is nearly 80 million passengers travelling on an airline. This government must make sure that its citizens can travel freely, with ease, at a respectable price and safely. Qantas and Virgin allow that to happen, but Qantas has come to the government on repeated occasions crying about foreign investment for foreign airlines.

Let's have a think about the last time that a foreign airline invested in Australian airlines—I am talking generically. It was Air New Zealand investing in Ansett. Air New Zealand dropped into Ansett and, on a particular day—Thursday, 30 September 2001—the owner of Ansett airlines announced the write-off of Ansett's book to the value of a dollar. And up to 15,000 people lost their jobs.

That is why this government should look at a debt guarantee. Lo and behold, what happened two days after Ansett collapsed, when there was a dire situation and the citizens of the country could not travel freely? Two days after the Ansett failure the Minister for Workplace Relations, the Hon. Tony Abbott announced a proposal for a levy of $10 on each air ticket purchased in Australia.

My point is simply that the government cannot walk away from this and say that it is just private sector business. The citizens of this country need to be able to travel freely and safely. In the event of that corporate collapse this Howard government minister, the Hon. Tony Abbott, intervened and whacked on a levy for three years—simply to redress the situation that occurred as a result of failing to act.

The Hon. John Anderson, when approached by Qantas, picked a winner. He backed Qantas and Ansett fell over. It is always the government's responsibility to make sure that we can move around this country freely, safely and efficiently. It was always this government's responsibility to make sure that we maximise employment opportunities for ordinary Australians. This is a vital sector. A debt guarantee would do one very good thing for Qantas; it would back them up and give them a better credit rating. It would allow them to become more competitive on their international routes, where they are operating 1963 technology. They need 787s, and they need them now, but they have deferred that order.

It would bring them back into play. That would allow our airline to be what it is colloquially known as—an Australian airline: Qantas. We would have our people looking at new aircraft instead of old 747s. We would be travelling on new planes. The passenger numbers and profitability would pick up.

My argument is that, if you are not proactive, you will have to be reactive. When 27 million passengers are travelling on Jetstar and 23 million passengers are travelling on Qantas, when the age of Jetstar aircraft is, on average, 5.2 years and the age of Qantas aircraft is 9.8 years, I think the case is well made. I do not support the current management of Qantas, but I support the survival of a great Australian icon which has pulled this country out of problems since World War II. There have been ample situations where Qantas has simply done the right thing. Qantas evacuated people from Darwin—700 people on a 747—people from Fiji and people from bushfires. This airline always comes to the fore.
We need nothing more to remind us than the tragedy that is unfolding with Malaysia Airlines. People of a nation look to their airline, they want it to be supported by their government and run properly, and a debt guarantee would be a dab good idea.

Senator IAN MACDONALD (Queensland) (16:53): I have one minute and 30 seconds, and Senator Xenophon also wants to speak on this. Unfortunately, the arrangement was not kept. I simply say this: Qantas needs to be able to run its own business in an appropriate way, in the same way as its competitor Virgin. They do not want a debt guarantee, they do not want another thing that—

Senator Sterle: They did in November and December.

Senator IAN MACDONALD: Well, they do not want it now. If the Labor Party are concerned about the finances of Qantas, one way they can fix it is by getting rid of the $120 million carbon tax that is imposed. We want safe airlines in Australia. We believe that the way Virgin operates is safe. You would think from reading some of the union submissions that the old white Australia policy is back: Australian workers good, Asian workers bad when it comes to servicing aircraft. I reject that completely.

We need to get out of the hair of these international companies. To think that any politician—Labor, Greens or even us—should be there to try to tell respected, intelligent and competent businesspeople how to run their airlines is an absolute farce. We should be doing what Qantas are asking for: putting them on an equal footing with Virgin.

I want to seek leave to continue my remarks. I apologise to Senator Xenophon. He has an interest in this and will not get an opportunity to speak. As the last speaker, I seek leave to continue my remarks.

Leave granted; debate adjourned

MOTIONS

Commonwealth Procurement Policy

Senator MADIGAN (Victoria) (16:55): I, and also on behalf of Senator Xenophon, move:

That the Senate calls on the Government to alter Commonwealth procurement policy in order to require all government departments to only use Australian made products where possible, and, in particular, paper products.

I am pleased to speak on this important topic today. It has been more than two years since I took my seat in this place. As a tradesman, a boilermaker and a blacksmith, it is fair to say that I look at things differently to most others here. I believe my background gives me empathy and common ground with our manufacturing sector—a sector which I believe has been ignored by this place for far too long.

It should be with a sense of pride that all parliamentarians and all Australians view this building. This is one place that should be showcasing the very best Australia has to offer. It would not even cross the minds of Australians that the national symbol on top of the Australian parliament in the nation's capital was made anywhere but in this country. However, the Department of Parliamentary Services, acting under Commonwealth procurement guidelines, cannot even guarantee our flag on top of this building would be made in Australia. It is not just unfortunate that our coat of arms is emblazoned on coffee cups, plates and
glasses that are made in China, the UAE or elsewhere; it is a real slap in the face of our manufacturers in this country who have the skills and knowhow to make these items here.

As many of you may know, Senator Xenophon and I took steps to ensure that at least some Australian-made products were represented in the parliament. We took it upon ourselves to purchase a 120-place setting—750 pieces of Australian-made crockery to stock the Members' Guests Dining Room. Two Victorian manufacturers made the plates and delivered them to my office here at Parliament House, and there the boxes sat. It was only after intense media pressure that the Department of Parliamentary Services accepted our gift. Since the boxes of plates were moved from my office to the office of DPS, they have disappeared, I fear into a bureaucratic black hole—the rabbit Warren of unaccountability. They have not been seen in the dining room to date, so where are they?

Australian government procurement goes far beyond cups, plates and bowls in the dining room. The Commonwealth is a huge consumer of products. Everything from tissues to office chairs and copy paper in offices through to uniforms, food and fighter jets for our defence personnel is an opportunity for Australian manufacturers to supply a need. Since taking my seat, I have had the opportunity to meet with a multitude of manufacturers across my home state of Victoria and across the country. I know Australian manufacturers are amongst the best in the world. They have to be to have survived in a country that has not supported them. I have met workers from everywhere: from Gold Acers in Ballarat to Flip Screen in Wagga Wagga, Rossi Boots in Adelaide, Baum Cycles in Geelong, Brobo Waldown in Dandenong, Parken Drills in Clayton in Victoria and Molnar Hoists in Adelaide. All these firms and their workers have one message for the government: they just want a fair go.

On 14 November 2013, Senator Xenophon and I referred a motion relating to Commonwealth procurement to the Finance and Public Administration References Committee for report. In my speech today, I would like to concentrate on a line from that motion: ‘the economic, social and environmental benefits of utilising Australian goods and services.’ Over the Christmas break almost 50 submissions were received. Many of the submissions highlighted the need for our government to consider not just the bottom-line dollar value but the real benefits of buying Australian made.

The submissions confirm what I have said all along. No imported manufactured goods can compare when you consider the economic, social and environmental benefits of buying Australian made. It is not rocket science. Australian manufacturers are the custodians of all that makes this country great. Australian manufacturers are an integral part of Australia. They contribute to their families and their friends who make up the Australian community, they care for the environment in which they live and they care about the economy which they support and which supports them.

I can talk in broad brush strokes about the benefits of supporting our country, but let me give you an example of one product, the people who make it and how buying from our manufacturers supports our country. That product is paper. In the Australian Forest Products Association submission to the inquiry, they gave us the statistics on paper. Annually, the Australian government purchases approximately 6½ thousand tonnes of copy paper, uses an estimated 50,000 to 60,000 tonnes of paper for external printing of publications, pamphlets, forms, brochures and envelopes and purchases around $100 million worth of tissue paper. Buying paper made in Australia means we are supporting not only companies that pay tax and
employ Australians but also a product that complies with Australian standards. Supporting
our own companies means that social, environmental and economic benefits stay in our
country.

The Australian Forest Products Association made the case better than I could ever do in
their submission to the Commonwealth procurement inquiry. They said:
... Australian Paper is the largest private employer in Victoria's Latrobe Valley, and contributes more
than $750 million annually to Australia's GDP and supports over 5,900 flow-on full time jobs. The
construction of Australia's only de-inked recycled paper plant at the Australian Paper Maryvale mill is
also supporting 950 direct and indirect jobs during construction and around 250 new jobs ongoing, as
well as contributing $160 million in value to the economy. This project will produce 50,000 tonnes of
recycled pulp each year, diverting up to 85,000 tonnes of wastepaper that would otherwise end up in
landfill.

That is socially, economically and environmentally responsible. With good news like that,
you would think it would be hard to find anyone who does not value the industry for all the
good work it does. However, you only have to look as far as our own government
departments to see how short-sighted our government is being.

When AFPA consulted the Australian government procurement coordinator, they
discovered that, of the 84 copy paper products sourced under the whole-of-government
stationery and office supply arrangements, only 45 per cent of the products were sourced from
Australia. Let me put that in different words: less than half of government paper products
come from Australia. Forty-five per cent comes from Australia, 36 per cent comes from
Europe and 19 per cent of our paper products come from Asia. If the company Australia
Paper can so vitally support workers in the Latrobe Valley when they are competing with
other Australian paper mills for less than half of the total federal government pie, imagine the
social, economic and environmental benefits the country could be experiencing if 60, 80 or
100 per cent of government paper products were purchased in Australia.

During the public hearing held on 21 March Mr Ross Hampton, chief executive officer of
AFPA, said:

Firstly, it is important to acknowledge the economic, social and environmental benefits of utilising
Australian paper products. The Australian paper industry directly employs 15,000 people in both outer
metropolitan and, importantly, regional areas and supports a further 22,000 indirect jobs. A sales
turnover for the sector averages around $9.6 billion per year and the wood and paper products industry
collectively represents about five per cent of the total manufacturing value added in this country.

The Australian government annually purchases up to 6½ thousand tonnes of copy paper, and by
some estimates—this is important—a further 50,000 to 60,000 tonnes of paper is used for external
printing and that sort of thing. Purchasing decisions therefore by the Australian government
consequently have a direct impact on national, economic and social benefits.

Let me repeat that last line:
Purchasing decisions therefore by the Australian government consequently have a direct impact on
national, economic and social benefits.

Our manufacturers and our industries recognise the positive flow-on effects of buying
Australian made. These effects include greater employment, more tax paid to the government
and better environmental outcomes. Australian manufacturers deserve a government that puts
the interests of our country first. It is dangerous to view procurement through the narrow lens of value for money alone.

Our procurement policy needs to take into account the social, economic and environmental effects of buying in Australia from Australian companies that manufacture in Australia. If we save a few dollars bringing in paper from Asia and use that paper to print welfare cheques for people in the Latrobe Valley, how is that value for money? If we save a few dollars by importing the Australian flag for the top of this building while watching our own flag makers go out of business, how is this value for money? If we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing the Australian flag for the top of this building while watching our own flag makers go out of business, how is this value for money? If we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money? And if we save a few dollars by importing crockery from China for Parliament House, putting our own crockery makers into the dole queue, how is that value for money?

I will finish my speech today by reminding everyone in the chamber exactly why we are here. We politicians are elected to represent the people of this country. Politicians are elected to represent the interests of the people who elect them. We are not elected by the people of other countries, nor are we elected by foreign corporations. Thank you.

Senator COLLINS (Tasmania—Parliamentary Secretary to the Minister for Agriculture) (17:08): I rise to make my contribution to the motion of Senator Madigan and Senator Xenophon in respect of procurement in Australia. Noting that time is short for this debate, I will keep my remarks to a time limit so that others do have the opportunity to contribute to the debate. It is an important debate and, at the outset, I acknowledge the passion that Senator Madigan and Senator Xenophon have for Australian manufacturing and Australian businesses. It is important.

We in this government also have a responsibility in respect of procurement to get value for money. Value for money does not necessarily mean the lowest price and there are a range of inputs in our procurement policy, which is available to the community on the Department of Finance website. It does consider a range of things. But every dollar we spend more on products that we do not need to spend on particular items or products is more money we have to raise from Australian taxpayers. We are not spending government money; this is taxpayers' money we are spending and taxpayers' money we are dealing with.

The best way government can assist Australian industry and business is to ensure that the economic fundamentals are strong, that we do not overburden industry with unnecessary tax and unnecessary red tape, that we do make sure that they are competitive in what is a global market. Australia is a trading nation and, I must say, Australian industry and Australian business does not just rely on the Australian market. That is a really important point to consider. To trade out, we need to be prepared to trade back in. If we want to send product overseas and into those broader markets—and that should be our aim—then we need to be prepared to accept product coming back the other way. To be competitive in that global market and on that global stage, we need to ensure that the economic fundamentals in this country are right.

Doing things like reducing red and green tape, which this government is doing, is important. Doing things like removing the carbon tax is absolutely vital. If you look at the...
paper industry, where 30 per cent of the cost of a piece of paper is energy, the impact of the carbon tax on the paper manufacturing sector is quite significant. It is one of the sectors of the economy that was most significantly impacted. When you look at the performance of the previous government, which basically saw a complete decay of the paper industry in this country, you can see the impact of their policy. You can see the fact that, despite the rhetoric that was delivered, the impact of Labor Party policy over the last six years has been very, very detrimental to the paper industry in particular.

I know the concerns of the paper industry, because I have seen the demise of two paper manufacturing plants in my home state, one in Burnie and one in Devonport. And while that process was going on, the previous administration completely and utterly did it. When Australian Paper made the announcement in 2009 that they were going to review the operations of the two plants in Tasmania, the then minister and the local member decided that they would get the local mayors and industry in to talk to them.

The minister at the time would not come to Tasmania; industry had to go to him in Melbourne. So on 6 March the five local mayors met in Melbourne. On that day and following that meeting, the minister—Minister Carr in fact at the time—announced that there would be an Industry Strategy Group established with the minister stating that the final report would be completed in June of that year, and that the strategy group would run in parallel with the company review, which was intended to be completed by the end of June.

The unfortunate thing is that the review was not even completed by December of that year and the company had already made the decision to close. So the information that was supposed to come out of the government's process was not available to the company. It is a clear demonstration that the policies of the Labor Party during the last election, including procurement policy, have not assisted industry despite taxpayers' funds being invested in the plant that Senator Madigan talked about in Tasmania for the development of the recycling plant—which is due to open very soon. I am sure that the people at the Maryvale mill are looking forward to that advancement and the company are as well.

The ICT regulations put in place by the previous government almost specify that business out of procurement. It really is very, very difficult and unfortunate that the economy has been left in such a mess by the previous government. The paper industry in particular has suffered very badly. And what did make it worse was the combination of the Labor Party and the Greens—the Greens who have done everything they can to destroy the forest industry in Australia with continued protest, continued campaigns. The work of the Labor Party in conjunction with the Greens, particularly during the last three years, has been quite devastating for the forest industry. And given that the forest industry is the base that provides the resource for the paper industry in Australia, that is very, very difficult.

But it is important that we receive value for money for Australian taxpayers out of Australian government procurement. As I said earlier, we are a trading nation and we need to ensure that trade is facilitated. If business is going to survive in the global market, it needs to be able to compete and work in the global market. So getting the fundamentals right, removing unnecessary tax and regulation, is a very, very important part. As Bill Clinton said when he was seeking the presidency, 'It's the economy, stupid.' We need to ensure that our business and our industry are capable of competing in the global market. We are operating in a global economy now. We cannot step off—
Senator Farrell: Why did you let Holden collapse? Why did you let Toyota leave?

Senator COLBECK: Senator, if you were listening to what I was just talking about, we need to be exporting, we need to be operating in a global economy and we need to be able to compete. I am happy to take your interjection, Senator Farrell, because what your government did not do was encourage industry to compete in the global market. They did not set a strategy where they looked out rather than looking in. And that is what we need to encourage our industry to do, because that is what is going to allow them to grow. If they want to just rely on the Australian market, that is going to limit their capacity. We need to be putting the economic fundamentals in place so that our businesses can compete in both the Australian and the international markets. And there are huge opportunities for us to do that.

If you look at the food industry and what has happened to it in recent years—and I know Senator Xenophon and Senator Madigan are vitally interested in that sector—there is the opportunity for it to look out of Australia. There is the opportunity for it to look out at the emerging markets in our region, where the quality of our product is recognised, the safety of our product is recognised and there is a market at a premium price for us as well. So we need to be working with our industries on a strategy that provides them with a competitive base in the Australian market, but which also provides them with a competitive base in the international market. That is the opportunity for these industries to grow. It is not by trying to confine themselves to the Australian market; it is not by the Australian government buying from just one place, because we also have trade obligations that we must meet.

We have done deals to say that we will be an open trading economy, but what that means is that we need to get the fundamentals right for our industries so that they can play and complete. And that goes right across the economy. Senator Madigan sat with me on the Senate select committee into the food processing sector. We looked right across that industry. The issues are all the same: we need the industrial relations settings right, we need the taxation settings right, we need the education settings right to provide skills for employed people and we need the innovation sector to be working as part of that process too.

Yes, government should, where it can, in accordance with its procurement guidelines and getting value for money for taxpayers, buy Australian product, but we need to ensure that it is done on fair and reasonable terms because that is what our industries and our businesses expect when they export overseas. So it is a two-way street. I understand the passion that both senators have in bringing this motion to the chamber, and I respect that passion for their local manufacturing industries and businesses. I know that senators across the chamber support their local businesses where they can. I always buy Australian paper for my office; it is a value decision I have made. It is important that we all continue to do that too. I will cut my comments short so that other senators can make a contribution to the debate.

Senator LUNDY (Australian Capital Territory) (17:19): The Labor Party has a strong and proud record of supporting Australian businesses, and this has extended to the supporting of Australian businesses, in particular small- to medium-enterprises, through procurement policy. This support has been reflected through the genuine initiatives that Labor governments have established to support Australian business. For example, in 2013 the Labor government acknowledged certain barriers faced by Australian suppliers and established the requirement for Australian industry participation plans. The AIP plans require bidders for major tenders exceeding $20 million to develop plans that set out how they will offer opportunities for
capable Australian suppliers of goods and services. This approach sought to assist Australian industry to gain a foothold in major projects and tenders by encouraging industry to innovate, develop competitive capability and take advantage of investment opportunities.

The Australian industry participation plans also acknowledge that in many cases the supply chains involving very large corporations often were preset, and therefore served as a systemic barrier for Australian businesses seeking work in that particular sector. It was a very tangible response to an entrenched problem, and on the larger scale reflected a lot of the barriers that small businesses face in other areas of procurement.

The Australian industry participation plans in that regard are supported by the supplier advocates program. This was also established by the Labor government and was a direct response to the issue of systemic barriers facing small Australian companies seeking to compete in a very competitive procurement environment. Supplier advocates play a strategic role and provide leadership to improve the capability of Australian industry and suppliers to win project work—not just in government procurement contracts but also in large private sector contracts. Work of the supplier advocates could include coordinating opportunities for companies to showcase their capabilities and products to government, and promoting supply chain activity.

I am most familiar with the information and communications technology supplier advocate. For many years, particularly during the previous coalition government under Prime Minister Howard, there were a series of moves early in the period of that government—and, yes, we are talking some 16 to 18 years ago now—that undid the systems that were in place to promote SME involvement in ICT government contracts. Looking at the role of the IT Supplier Advocate now, the very fine work of Mr Don Easter, who has performed the role admirably, there have been a number of challenges to take on—in particular, mitigating the risk that is perceived to be associated with engaging an SME in the ICT space. Indeed, risk management and helping small businesses understand risk management in the context of tendering for government contracts has been a key part of his work.

Another area that presented a systemic blockage for companies was in the scope and scale of the tender documentation. In many cases, particularly for new entrants to the government procurement market, the scope and scale of the tender documents again went well beyond the work required. The effect was that companies tendering for work had to have a far broader capability than was required to respond to a particular tender that may in some cases be quite narrow. This had the effect of ensuring that all the work was funneled towards the companies that were already in that marketplace. Many Australian companies, particularly in the ICT sector, who were new and innovative, doing things in a very different way and challenging the standard practices perhaps with some very economic solutions, often found it very difficult to compete as their tenders were not able to be
compared on the basis of apples with apples. Because they did not fulfil the scope and scale preconditions, they found themselves excluded from the process.

Many of these challenges require constant attention and many require the education of both the small businesses themselves but, equally, the departments and agencies seeking to procure innovative ICT solutions. I should add here that these issues are not peculiar to ICT. The characteristics and the nature of these challenges extend in one way or the other, or in one characteristic or another, to many of our small business sectors seeking to get that elusive government work.

Before I go on to other issues relating specifically to procurement I think it is worthwhile underscoring why procurement is so important to many Australian companies. Australian companies see a government contract as an export credential. Indeed, because the Australian government is seen as a high-standard procurer, that means that an Australian company having a contract with the Australian government is seen as an enormously important credential when that company is seeking work internationally. So for many years now I have talked about government contracts as being an export credential for many of our small businesses. Often the first question an ICT company is asked overseas is: do you have any of your own government's contracts? If the answer is yes then that establishes that company in a good position. But if the answer is no then the question that is always asked is: why isn't your own government trusting the goods and services that you are supplying? In this way the importance of fair and equitable access to the Australian government procurement market is elevated if we are serious about supporting our small businesses in being able to operate and participate in the international marketplace—but I digress.

The Labor government also acted in the interests of emerging business by making exemptions to mandatory requirements of the Commonwealth Procurement Guidelines to allow direct sourcing from small to medium enterprises that are either Indigenous owned or that primarily exist to provide the services to people with a disability. The Labor government announced during the election campaign that we would move to ensure all Commonwealth government fleets were 100 per cent Australian owned. This strong and proud record of supporting Australian businesses while in government plays out in the latest statistics provided by the Department of Finance for 2012-13, which show that over 82 per cent or $32 billion out of over $39 billion in Australian government contracts for goods and services were Australian sourced or delivered.

I would now like to speak about the Commonwealth procurement policy itself. The Australian government Procurement Framework operates on a non-discriminatory basis and, as we have already heard, has achieving value for money as the core rule. Indeed, all potential suppliers are supposed to be treated equitably and not discriminated against due to size, ownership or location. The procurement policy aims to strike a sensible balance between non-discriminatory procurement principles and strong support for Australian businesses to supply goods and services to government.

The issue of Australian made goods and services and government procurement is, as we have also heard from Senator Madigan, the subject of a reference currently being heard by the Senate Finance and Public Administration References Committee, which is due to report on 30 June 2014. I am very proud to chair that committee and I would like to reflect a little on a
couple of the submissions that have been presented to that committee, as it is of relevance to
the motion we have before us.

The paper industry is a significant industry and my colleagues have rightly included
reference directly to it in the motion we are discussing today, given the significance to
government procurement and that industry. As a brief aside, I note that, according to evidence
presented to the Senate references inquiry, the Australian government annually purchases up
to 6½ thousand tonnes, or $13 million worth of copy paper. Additionally, by some estimates,
there is a further 50,000 to 60,000 tonnes, or $117 million worth, of paper used by
government agencies in external printing and publications. The evidence also suggests that,
by the best estimates, the Australian government uses approximately $100 million worth of
tissue paper per annum.

It is from this lens of the paper industry where we perhaps see the clear interaction of
government procurement policy per se with other elements of government policy. I would like
to evoke two in particular: the ICT Sustainability Plan and the National Waste Policy. The
procurement rules refer to issues of environmental sustainability and other non-financial
considerations in relation to the concept of 'value for money'. The National Waste Policy, for
example, aims to avoid the generation of waste; reduce the amount of waste for disposal;
manage waste as a resource; and ensure that waste disposal, recovery and reuse is undertaken
in an environmentally sound manner. The ICT Sustainability Plan, for example, mandates a
minimum of 50 per cent recycled copy paper for
Financial Management Act
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And:

The local landfill benefits of Australian made recycled paper will deliver enhanced environmental
benefits for Australia over imported recycled papers which also have a much larger transport footprint
based on shipping from their country of origin.

On the basis of these complementary policies requiring procurement decisions to be framed
around inherent environmental and other non-financial considerations, the committee heard
from Australian Paper that, in their view, the policies and frameworks in place that could
automatically promote the use of Australian made goods and services, particularly paper, in
government agencies specifically could be achieved if the:

Commonwealth Government more broadly assess and enforce recognition of the economic, social
and environmental values of all aspects of the Government's paper and printing services procurement
decisions ...

The issue in their view was one of implementation. The Australian Forests Products
Association further noted:

… there is a lack of robust risk assessment tools and due diligence for the adequate consideration of
sustainability issues.

This point of lack of transparency in procurement was also acknowledged in evidence
provided to the committee by the Australian National Audit Office. It is clear that guidelines
are required to help guide all officials who are making procurement decisions and an
enforcement role is needed to make sure the policies in place are applied appropriately. We

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heard evidence presented that there are limits to procurement in relation to international obligations from free-trade agreements, including in particular the Australia-United States Free Trade Agreement. These agreements include obligations for the government to open our procurement market to international suppliers and that international procurement markets are open to Australian suppliers. These obligations also limit the ability to preference local suppliers in procurement.

So we operate in a framework informed by international constraints. However, we do have a framework that still has resulted in significant support for Australian businesses in Commonwealth procurement. So we have a framework that we know functions well. The significance of the complaint being put forward by Australian Paper, in my mind at least, is in part that these associated policies—that is, the National Waste Policy and the ICT Sustainability Plan, are not complied with equal or appropriate weight in informing the decisions guided by the procurement rules. It is these issues which inform our ongoing consideration in our very important inquiry into Commonwealth procurement procedures.

Senator XENOPHON (South Australia) (17:35): I welcome the opportunity to speak on the seemingly complex and vexed issue of the Australian government's procurement process and how it serves—or rather, does not serve—the Australian people. I say 'seemingly complex and vexed' because it shouldn't be that hard to do the right thing by Australian manufacturers and Australian jobs. This is why I have been so pleased to work with Senator Madigan on this inquiry. We have co-sponsored this motion and I pay tribute to Senator Madigan for the work that he has done in initiating this.

Senator Madigan and I helped to set up an inquiry into the process because we are concerned that the procurement processes do not serve the interests of the Australian people—surely the first and foremost task of any government. In my home state of South Australia the Hon. John Darley MLC, a member of the legislative council, re-elected with my full backing and endorsement at the recent South Australian election, has also worked on issues of procurement. Recently we worked on issues with respect to office supplies procurement, where the South Australian government, I think, made some fundamental mistakes that discriminated against local suppliers.

Some might recall our repeated attempts to have the Parliament House dining room supplied with fine Australian-made crockery. Senator Madigan and I even sourced an extensive set made here in Australia at our own expense. The crockery succeeded in making the news but unfortunately has yet to see the inside of the Members' Guests Dining Room. In fact, as Senator Madigan said, the status and whereabouts of the crockery set are unknown. The parliament took it but is not using it. What a waste.

The Senate Finance and Public Administration References Committee inquiry has heard a range of views so far, and I have been impressed by the level of engagement with the issue, especially from Australian industry and union representatives. Submissions have also been received from several Commonwealth departments, as well as academic lawyers concerned that Australia should not break its free trade agreements by 'discriminating' against foreign suppliers. I will say more on that later.

Commonwealth procurement policy intersects with our relations with free trade partners, our region and our status in the World Trade Organization, but it also has a massive impact on the Australian economy and almost all local industries. It is hard to find a sector of the local

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economy that is not impacted by Commonwealth procurement. Australian government procurement is estimated at $41 billion a year. It is 10 per cent of the Commonwealth budget and accounts for 2.5 per cent of the national economy. As one witness at the inquiry said, 'Australian government procurement is equivalent in turnover to Australia's entire hotel and restaurant sector.' So we are not talking about a sideshow here; for many sectors and industries in Australia it is the main show in town.

Yet Australia has a reputation internationally of taking a narrow view of its options in relation to procurement. A narrow and short-term view of so-called best value for money and a black-letter interpretation of our free trade obligations have come to dominate the thinking of this government and the previous government. Unfortunately, the word is spreading. A few years ago I had a conversation with Michael O'Connor, the national secretary of the CFMEU, in relation to issues of dumping, and he recounted to me a comment passed by a Scandinavian at a timber industry forum in Scandinavia a few years back. No sooner had Mr O'Connor introduced himself and said he was from Australia than the Scandinavian official laughed and said, 'You're from Australia? You are the free trade Taliban,' because Australia takes a fundamentalist, literalist and purist approach to free trade that no other country in the world does. We are being mugs. It marks us out as extremists, naive at best and at worst ideologues without the spark to know our best interests.

I believe it is the role of senators and political leaders in general to determine what our policy should be in the future. We cannot bury our heads in the sand and mutter the tired old slogans of the past. As has been written, the past is another country. We must be concerned about Australia's future and how Australia's manufacturers and producers can prosper while fitting into the world economy. There can be no place for ideology or fixed dogma on an issue that directly affects the livelihoods of so many. There is serious work to do both within the inquiry and outside it, informing a debate about how the Commonwealth can lead the way.

Senator Madigan has strong and, in my view, well-considered opinions on this, and I share them. His links to the people of Victoria's manufacturing base are strong. He was onto something last week in the inquiry which resonated with me very much when he picked up on the issue of Commonwealth procurement and the so-called ban on 'discrimination' against foreign suppliers. Senator Madigan said:

The government procurement policy says they are not allowed to discriminate against a foreign product in procurement. Other countries might use the term 'discernment' as to what they purchase. So in our case here in Australia the word 'discriminate' replaces 'being discerning' in how we practise procurement.

This surely is a call for a return to a wider application of national interest in procurement and a wider definition of value for money—one that takes into consideration the longer term and wider benefits as well as the true cost of engaging foreign suppliers.

In terms of value for money, let us put this in perspective. If we buy some drill bits from another country which might be 40 or 50 per cent cheaper but only last a tenth as long as Australian-made drill bits—and Senator Madigan, as a practising blacksmith, has a lot of experience in these sorts of issues, and I believe him—then where is the value for money? It is a superficial approach in terms of durability. We need to look very closely at what so-called value for money means in the context of Commonwealth procurement policies. We need to
make sure that, if we are buying something that is seemingly cheaper, it does not mean that it will last for a fraction of the time of an Australian-made product.

A straight price comparison between an Australian product and one from overseas does not tell the full story—not by a long shot. The value to Australia of sourcing native goods starts with the initial purchase and then keeps on going. It includes security of employment, higher standards of manufacturing, confidence that minimum environmental, social and employment conditions have been met, and the multiplier effect of government money fanning out throughout the Australian economy. By comparison, $1 spent on a foreign-source product appears to leave the country immediately.

This is critical stuff. Why? Because in my home state of South Australia we have seen the demise of General Motors Holden, a great tragedy for our state. That will mean thousands of jobs are potentially on the line in the whole supply base—the automotive component manufacturers, who are really state of the art and cutting edge. If they are to have any chance of surviving in the longer term, we need to lead by example in Commonwealth procurement policy so that they can have a fighting chance of expanding their markets or developing new markets.

The inquiry heard that the standards by which overseas products were made—be they employment conditions, product standards or environmental safeguards—were generally not checked or even checkable by our government. The inquiry heard detailed evidence from paper manufacturers and their industry representatives, as well as paper consumers from government departments. We are not talking about a few reams of copy paper here. The Australian government uses about 600,000 tonnes of paper a year across more than 20 Commonwealth departments and agencies. Only two departments, Defence and Human Services, sourced Australian paper, we heard. Admittedly, due to the size of these departments, Australian paper makes up 57 per cent of the total, but the question has to be asked: why doesn't it make up 100 per cent of the total?

It appears from evidence to the inquiry that when purchasing paper made in Indonesia, Germany or Austria—which we do—there is no way of checking the supplier's pledge that it is made from 50 per cent recycled sources and does not use, for instance, rainforest timber. The Australian Tax Office purchases paper from Indonesia stamped '50 per cent recycled'. One would hope the label is true, because Indonesia is fast running out of its old growth rainforests. And that has something to do with orangutan habitats, palm oil and other related issues. I could go on about that, but I am already banned from Malaysia and I do not necessarily want to be banned from Indonesia anytime soon.

Australia's Forest Products Association is rightly frustrated. Its CEO, Ross Hampton, told the inquiry:

As far as our departments are asked to look, that is the point. They have a list and they click on a box that says that it is 50 per cent recycled, they tick it and they move on and then they are into lowest price.

He went on to say:

It goes to the heart of what we are talking about, because no-one does look further than the label at the moment. That is what happening. You get the label and it says '50 per cent recycled—tick'.

But who can blame the government for taking overseas labels at face value? It clearly could not afford to send investigators to all corners of the world to verify the claims made by
foreign manufacturers in order to win supply contracts. Nor could it; that would be insane. So we are left with the so-called relative sanity of taking environmental and other labels at face value.

We heard at the inquiry just last Friday that you can just buy a rubber stamp for $10 and stamp the product as certified, or environmentally friendly or whatever standards it is supposed to meet. We, in another country, have no way of checking that. We need to insist on having almost an onus of proof on overseas suppliers that they are complying. There must be a more rigorous standard rather than us having to go and check whether they comply. We are told, though, that to do this could be discriminatory—and discrimination would breach Commonwealth procurement policy as well as our various free trade deals. To use Senator Madigan's words, we are not being discerning—and we need to be discerning. Applied across the width and breadth of our $4 billion procurement program, this view hobbles our national interest. We do not hear the rest of the world complaining much, do we? In short, we are being taken for mugs.

A similar point can be made about furniture manufacturing standards and the various environmental and employment standards met by local companies. In my home state of South Australia, Molnar Hoists, in Adelaide, ticks off on all the categories—safety; reliability; spare parts; social, economic and environmental factors; and a better resale value. So why do they have to compete on such an unlevel playing field? This issue has much in common with Australia's poor record on dumped imports. The much-vaunted 'level playing field' does not exist for many Australian manufacturers and producers, given the difficulty of lodging an action against dumping and the stance taken by the Commonwealth on matters of international trade. There have been improvements, and I acknowledge the work that was done by the former government in relation to that. They needed to go much further, but I am grateful for some of those changes. I urge the government to take the changes even further and give that support to small and medium sized manufacturers.

The case involving South Australian tissue paper producer Kimberly-Clark and dumped goods from China and Indonesia is telling. The case led me to introduce a private senator's bill—the Customs Amendment (Anti-dumping) Bill in 2010. In the case of Kimberly-Clark the government imposed dumping duties on Chinese and Indonesian tissue products in 2008 after investigations found that Chinese products were being sold at two to 25 per cent below the cost in its domestic market, while Indonesian toilet paper was found to have been dumped at 33 to 45 per cent below value. But this decision was overruled in 2009 following a review by the Trade Measures Branch of Australian Customs, which determined that there was 'no material injury' to Australian manufacturing as a result of these dumped imports. Many saw that as a bizarre decision that was not in the national interest, that was not fair, and that did not even stick to the letter or spirit of the WTO.

I believe that we need to reform our antidumping laws, which in turn will impact on our Commonwealth procurement policies. The Kimberly-Clark case highlights my ongoing concerns about an absence of fair treatment from the Commonwealth towards Australian manufacturers. Of course, I balance my call for a reframing of Commonwealth procurement with some caution. I support the Australian Industry Group's sensible submission to the inquiry that the Commonwealth must continue to adhere to established principles of best
practice in procurement. But that must include a reasonable and robust consideration of what best value for money is.

I agree with Ai Group's view that best practice, far from being a buzz word for management boffins, can be a guide for a government seeking savings for its budget. It says:

No areas or agencies of government should be off limits to the application of best practice principles such as efficiency, effectiveness, transparency and equity in government expenditure.

But the key point on procurement is how wide to frame the value proposition for the nation. The Ai Group makes the point as good as anyone:

Government should take a long-term and holistic approach when applying these principles to individual costs and expenditure items. The emphasis should be on value for money over the whole life of a product or service and should take into account factors such as risk, reliability and future maintenance costs.

The Ai Group said the major barriers and distortions for local suppliers to the Commonwealth were:

An undue emphasis on upfront costs rather than whole-of-life costs in government procurement. This emphasis resulted in the purchase of lower quality goods and services and neglected the costs involved in maintenance and through-life support, which were key advantages that local suppliers were able to offer.

If this process gets us anywhere, I would like to see the Commonwealth assess and quantify the wider, long-term and indirect benefits to Australia of engaging local suppliers. The Ai Group puts it in these terms:

Government spending measures should be assessed holistically so that any spill-over benefits that are not easy to quantify are taken into account.

We should be quantifying these benefits so that we can target and achieve them through Commonwealth procurement. The Ai Group's concerns must be listened to. It represents 60,000 businesses in manufacturing, engineering, construction, automotive, food, transport and many other sectors. The businesses which it represents employ more than one million Australians. This is about the national interest of Australia andustralians.

The ALP's Australian Jobs Bill last year addressed procurement concerns, but I believe the thresholds were set too high. An August 2012 report from the Prime Minister's Taskforce on Manufacturing estimated that 950,000 people were employed in the manufacturing sector and that it contributes eight per cent of our gross domestic product directly. That does not include the significant amount that it contributes indirectly through flow-on effects to other businesses. The report also stated that over 100,000 jobs had disappeared from the manufacturing sector over the previous four years. That means that 100,000 families around the nation were affected by this plunge in employment in our manufacturing sector. We have to stop being mugs. Other countries are laughing at us for being such purists about free trade. We can go further by reframing Commonwealth procurement.

I will finish by highlighting a very important example of Commonwealth procurement that would be transformed by a better application of the national interest test—shipbuilding for the Department of Defence. Right now, the Commonwealth is weighing up what additional warships it will ask local industry to construct in coming years—if any. Defence has indicated it will need to acquire 80 ships for the Navy in coming years. The estimated cost of these is about $100 billion. The so-called 'valley of death' awaits many thousands of shipbuilding
It's better to have a defence industry and not need one, than need one and not have one.

Dr Skladzien articulated well a range of concerns about defence procurement and I would urge honourable senators to look at his remarks and his evidence.

It is a stark picture, but it is not a stretch to see the same peaks and troughs, the same boom-and-bust pattern, stretching across the economic and social fabric of the nation—driven by short-sighted procurement policy. The Commonwealth's procurement regime could reasonably be called a latter day, free-trade-inspired cargo cult. It is not serving Australians and more and more of us are waking up to it.

The United States and Europe woke up long ago. The United States is the greatest free trade country in history, yet can find a way to act in the best economic interests of its people. Just look at the tough and controversial negotiations it is having with Australia on the Trans-Pacific Partnership free trade agreement. It is fair to say that the US and Europe operate on a completely different level than Australia does in relation to local suppliers and industries. We must be less credulous of the rest of the world, who are clear eyed about their own national interests, yet remain aware of the benefits of free trade over time.

Commonwealth procurement should not be couched in terms of discrimination nor driven by a desire to be whiter than the driven snow on free trade. We cannot afford to be so naive. Rather, we should be framing decisions about Commonwealth procurement more realistically and more fully, recognising the true benefits of a sustained, competitive and responsive local supplier base. In the end, it is about us no longer being taken for mugs.

Senator McKENZIE (Victoria—Nationals Whip in the Senate) (17:55): I only have a limited amount of time available to me, but I do recognise that government procurement is an attractive option as a solution to shoring up local manufacturers. I understand that. Australian manufacturers would love to have something like the Buy American Act, just as Australian farmers would like our own version of the American farm bill. But we know that the role of government is both to protect the taxpayer dollar and to support local business by decreasing regulation, encouraging competition and allowing capital to flow.

I do not want to pre-empt the Senate Finance and Public Administration References Committee inquiry that is currently underway, but one of the issues that was raised with the committee was the proposition of value for money and how we define it. Like trying to come to terms with the vague concept of national interest, it is difficult to define. But it does need to include a whole-of-life examination of the benefits of the product being bought.

Senator Lundy, in her contribution, commented on the issue of how best to support SMEs and the role of direct sourcing policies in doing so. The inquiry heard evidence that the ANAO has issues with how some of our departments and agencies are using the direct sourcing policy and applying the notion of value for money. The ANAO's concern is that departments and agencies are not looking at their purchases in a holistic manner but going straight for the lowest cost supplier. I think the inquiry is going to flesh out that issue further.

It is an important inquiry in the context of a manufacturing sector which is facing serious challenges to its viability and sustainability, especially in a world that is becoming more and
more protectionist. A recent British announcement about procurement is a case in point. They are going to be encouraging British schools to buy local products. I support local products and produce being sold in our schools and indeed our hospitals, but if that British announcement is any example, this is not just an issue that Australia is looking at but one being looked at by countries right around the world.

We are being forced to look at the processes and standards that we apply to goods produced on Australian soil—and those that we apply to goods that are imported. From the submissions to the inquiry, one of the strongest themes has been about making the tender process fairer for Australian companies. The submission from Australian Paper, located in beautiful Gippsland in my home state of Victoria, made a good point that the environmental laws under which Australian companies operate are onerous. I know that the member for Gippsland, Darren Chester, has tabled a petition with over 4,000 signatures to that effect in the other place. Exposing Australian businesses to international competition should be encouraged. It keeps us nimble and flexible. For the immediately foreseeable future, those are exactly the characteristics required to be successful. Australian companies can and do compete on price alone, but we should be doing everything we can to make that easier.

The submission from the Council of Textile and Fashion Industries made quite an impact on me. Local companies have to sign up with Ethical Clothing Australia before they can tender for a government contract. Their overseas competitors, however, do not. So our local companies are effectively being unfairly discriminated against as a result of our procurement processes and policy. Thanks to the coalition's repeal day yesterday, that unnecessary and unfair regulation has been removed. I will be writing to the parliamentary secretary, Josh Frydenberg, to congratulate him on that effort.

The Australian government is committed to supporting our local defence industry. In this regard, Defence expect to spend $5.4 billion on equipment acquisition and support in Australia this financial year. This equates to around 60 per cent of DMO's military equipment acquisition and support expenditure this year. I have a lot more to say about the international arena and what other countries are doing to support their local manufacturing industries and service industries, but I will save that for another time.

Debate interrupted.

COMMITTEES

Membership

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (18:00): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Environment and Communications Legislation Committee—

Appointed—

Substitute member: Senator Whish-Wilson to replace Senator Waters for the committee’s inquiry into the National Broadband Network Companies Amendment (Tasmania) Bill 2014

Participating member: Senator Waters
Foreign Affairs, Defence and Trade Legislation Committee—
  Appointed—
  Substitute member: Senator Wright to replace Senator Whish-Wilson for the committee’s inquiry into the Defence Legislation Amendment (Woomera Prohibited Area) Bill 2014
  Participating member: Senator Whish-Wilson
Legal and Constitutional Affairs Legislation Committee—
  Appointed—
  Substitute member: Senator Hanson-Young to replace Senator Wright for the committee’s inquiry into the Migration Legislation Amendment Bill (No. 1) 2014
  Participating member: Senator Wright
Public Works—Joint Statutory Committee—
  Discharged—Senator Ruston.
Question agreed to.

BILLS
Clean Energy Finance Corporation (Abolition) Bill 2013 [No. 2]
First Reading
Bill received from the House of Representatives.
Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (18:01): 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 RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (18:01): 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—
This Bill, repealing the Clean Energy Finance Corporation Act 2012, delivers on our election commitment to abolish the $10 billion Clean Energy Finance Corporation.

The CEFC was established on 3 August 2012 and was given a wide remit to lend taxpayers' borrowed money. The CEFC extended the reach of the carbon tax by creating a $10 billion fund to invest in renewable energy technologies and energy efficiency projects.

From the outset, the concept of the CEFC overlapped with the 20 per cent renewable energy target. By itself, this target encourages investment in renewable energy. The target does not need to be accompanied by $10 billion of borrowed taxpayers' money going into the CEFC to encourage investment.

______________________________________________________________
CHAMBER
This Bill also transfers the CEFC's existing assets and liabilities to the Treasury. The Commonwealth will ensure both an orderly transition of the CEFC's investments to the Commonwealth and minimal disruption to the clean energy market so business can continue as usual.

We will of course honour all payments that are necessary as part of meeting our contractual obligations to committed investments. These obligations will be met from the CEFC's existing funding, which will be transferred to a new CEFC transitional special account.

This account will also cover the Treasury's management costs in administering the CEFC's investments. Any other liabilities relating to the CEFC will also be covered by funds from the special account.

Future monies that were due to be appropriated to the CEFC annually until 2017 will be returned to consolidated revenue. This Bill also provides for excess funding to be returned to consolidated revenue at any stage if it is no longer needed for managing the CEFC's assets and liabilities.

With this Bill the Government is delivering on its commitment to abolish the CEFC.

Debate adjourned.

COMMITTEES

National Broadband Network Select Committee

Report

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (18:02): by leave—I failed yesterday to seek leave to continue my remarks on the NBN committee report, which means it has been discharged from the Notice Paper. I ask that it be restored to the Notice Paper. I move:

That consideration of the interim report of the Select Committee on the National Broadband Network tabled on 26 March 2014 (see entry no. 32, 26 March 2014) be listed on the Notice Paper as an order of the day.

Question agreed to.

DOCUMENTS

Consideration

The following orders of the day relating to government documents were considered:


Wet Tropics Management Authority—Report for 2012-13, including State of the Wet Tropics report. Motion of Senator Macdonald to take note of document called on. Debate adjourned till Thursday at general business, Senator Bushby in continuation.


Workplace Gender Equality Agency (formerly Equal Opportunity for Women in the Workplace Agency)—Report for 2012-13. Motion of Senator Moore to take note of document called on. On the motion of Senator Bushby debate was adjourned till Thursday at general business.


Mid-year economic and fiscal outlook—2013-14—Statement by the Treasurer (Mr Hockey) and the Minister for Finance (Senator Cormann). Motion of Senator Ludwig to take note of document called on. On the motion of Senator Bushby debate was adjourned till Thursday at general business.

Productivity Commission—Report No. 65—Mineral and energy resource exploration, dated 27 September 2013. Motion of Senator Gallacher to take note of document called on. On the motion of Senator Boyce debate was adjourned till Thursday at general business.

Defence Abuse Response Taskforce—Fifth interim report to the Attorney-General and Minister for Defence, dated March 2014. Motion of Senator Brown to take note of document called on. On the motion of Senator Boyce debate was adjourned till Thursday at general business.

COMMITTEES
Community Affairs References Committee
Report

Debate resumed on the motion:
That the Senate take note of the report.

Senator BOYCE (Queensland) (18:06): I did not have the chance to say as much as I would have liked when this report was tabled yesterday. It is an extremely important report. I made the point yesterday that in many ways the situation for aged people, especially those with dementia and those displaying behavioural and psychiatric symptoms of dementia, reminds me of the institutionalised and insensitive way that people with disabilities were treated a number of years ago.

We heard evidence during the inquiry that the way that institutions, aged-care facilities, were established was in fact often part of the reason that people developed challenging behaviours and that large areas where people were congregated together in noisy places was not the way to deal with people with dementia. Someone referred to the noise being like oil on water for people suffering from dementia.

One of the very good visits that the committee made during this inquiry was to the Perc Walkley Dementia Learning Centre in Melbourne. We have in fact amongst our recommendations suggested that every state and territory should have a similar learning centre so that professionals, other stakeholders and families can experience what it might be like for people who have dementia. A number of the senators on the committee went through the experience.

It is possible within the set-up at the Perc Walkley centre to begin to get some idea of what it is like for people with dementia—how when your perception goes, big swirly patterns on floors can look like obstacles that you actually need to step over or walk around; how the stripe in the middle of a bath mat may look like a great cavernous hole in the floor; how when you are confused and your perception is not as good as it could be, every door can look the same, so quite simple things like putting signs on doors can assist people; how a bright, white bathroom may make it impossible for someone with dementia to know where the toilet is exactly, so something as simple as a black seat on a white toilet might assist someone who could currently be seen as suffering from incontinence.
There are a lot of simple things that can be done in design areas and it would be very useful, I think, for anyone contemplating building, refurbishing or renovating an aged-care facility to visit the Perc Walkley centre. It also would be very useful for families to have that opportunity to experience what it must be like for their loved ones. Clearly, for someone who cares for someone with dementia, particularly someone beginning to develop the behavioural or psychiatric symptoms, it can be terribly frustrating and terribly difficult. If you can perhaps have some sense of where that challenging behaviour is coming from, then the problems can be partly dealt with.

It reminds me, as I said, very much of areas in the disability sector where people will often misbehave—or appear to be misbehaving—simply because their needs are not being met. No-one is paying attention to them. No-one is understanding what they want. This might be because they are not able to tell people what their needs are. They may be in physical pain and not able to pass that on. However, if the same thing is being done to you over and over, when you have in your view expressed for it not to happen, then of course any one of us is going to get very angry and use whatever tools we have to demonstrate to others that we do not want that to happen. If it continues to happen, we will get angry. Understanding that can be very valuable for families and carers.

I briefly mentioned yesterday the problems that currently exist with the respite care that is available for people being cared for in the community who have dementia or are beginning to display symptoms of psychiatric and behavioural problems. Currently, the main respite that is available is a two-week holiday. Again, I am reminded of the disability sector where two weeks away with unfamiliar people in unfamiliar surroundings doing unfamiliar things is the least restful thing that can happen for the person who has dementia. It often means that when that person comes back home to the carer, who is supposed to have had a break, a rest and be refreshed, the behaviours of the person with dementia are far worse than they were before they went.

We took evidence that said that people with dementia are often better during the day than at night. It would be useful to many carers to have respite care during the day but for the person to come home at night. They would be in familiar surroundings at night so that they would not be challenged by the problems of an unfamiliar environment with unfamiliar people.

Another area I want to talk about briefly is the use of restraints. It was good to see that yesterday Alzheimer's Australia also brought out a report on the use of restraints and psychotropic medications in people with dementia. Clearly, if you have people whose behaviour is such that it is likely to cause them harm or others harm, you have to deal with that. The way we are dealing with that right now is certainly not best practice in any way. In the majority of cases, people are treated with psychotropic medications when often this should not need to happen, if the behaviours are understood, if the environment is changed—and we saw examples during our hearings of best practice where there was virtually no-one using medication.

Senator McKenzie got quite excited yesterday when we mentioned a facility in Warracknabeal in Victoria, because it is one of the towns that she knows very well in her area. The Yarriambiack Lodge is a fantastic centre where they have got rid of the staffroom. They got rid of the large-screen TV and bought a small 1960s box and had a TV fitted into it. Everyone in the place, except the staff, thought that was a fantastic idea. It is very rarely
It was a very good inquiry. We worked collaboratively together very well and there was no difficulty at all coming to a set of recommendations that we all felt extremely comfortable with. Could I also take this opportunity to thank the secretariat for the excellent work they did in the preparation of the report and in organising the hearings et cetera.

The report recognises that, when it comes to the treatment and management of people living with dementia, we do need to do better. With our ageing population and the increasing numbers of people living with dementia, we must be sure that the care provided is the best it can be. Those living with dementia, the young and particularly the old, are amongst the most vulnerable people in our communities. We must therefore do all we can in this place to be a voice for their needs and an advocate for their rights.

The inquiry into the care and management of Australians living with dementia recognised that dementia is not a natural part of ageing. It recognised that dementia is a significant and growing element in Australia. We have more than 320,000 Australians currently living with dementia. However, every single day the illness touches many, many more. The report identified that 60 per cent of people living with dementia are women. The Department of Health and Ageing report of 2013 estimated that:

... nearly 1.5 million Australians are affected by dementia including the families and carers of people living with dementia.

The numbers therefore speak for themselves. The treatment and management of people with dementia is an issue that is too big for our nation to ignore. The estimations are particularly troubling when projections suggest that the number of Australians living with dementia will increase to 400,000 by 2020 and to almost 900,000 by 2050. Whilst age is often the biggest risk factor for dementia, there are currently an estimated 24,000 people living with dementia who are under the age of 60.

I am pleased that the inquiry placed a core focus upon assessing the needs of younger people living with the behavioural and psychiatric symptoms of dementia, who are often
overlooked in political debate. It is vital that we remember and think of dementia as not just a condition which affects older people. The care needs of younger people are different and the service and care provided needs to reflect this.

In response, the report recommended an expansion to the Younger Onset Dementia Key Worker Program to provide support for all who live with dementia. The report also recommended that the funding for the Younger Onset Dementia Key Worker Program be increased and that the revised level of funding be sufficient enough to ensure that the planned review of the expanded trial has sufficient data to accurately assess the program.

Of particular importance to many people living with dementia in my home state of Tasmania is the recommendation in the report to explore options for the provision of respite in rural and remote areas. The unique symptoms of dementia and the current circumstances surrounding the limited options for appropriate care available in Australia means that family members and carers are burdened by additional strains. Dementia, after all, is more accurately thought of as an umbrella term for ‘a syndrome which is associated with more than 100 different conditions which are characterised by the impairment of brain functions’.

I am pleased to speak on the tabling of this report, as it signals a first step towards identifying some of the greater issues that we in this place must recognise if we are to provide effective, appropriate and comprehensive reform for people living with dementia.

There are many significant and challenging issues for younger and older Australians living with dementia. That is why I not only welcomed but also considered it absolutely vital that the terms of reference for this inquiry examined: the scope and adequacy of the different models of community, residential and acute care for Australians living with dementia and BPSD; the scope for improving the provision of care and management of Australians living with dementia and BPSD, such as access to appropriate respite care; and, significantly, as Senator Boyce referred to, the reduction in the use of both physical and chemical restraints on people living with dementia.

In particular, how we respond to the unwarranted and inhumane use of chemical restraints on people living with dementia is an aspect of dementia care which does require our urgent attention. Too often people with dementia are prescribed antipsychotic drugs as a first response, too often these drugs are used to chemically restrain those who experience the behavioural and psychological symptoms of dementia and too often the results are deadly or irreversible.

Whether restraints are physical such as chairs with barriers over the lap or chemical restraints such as lethal combined doses of mirtazapine and morphine, restraints rarely work to assist with the behaviour of people living with dementia. In fact, restraints can actually increase the likelihood of an incident of physical harm occurring, and if people are restrained in an immobile position for too long they can suffer from constipation, as well as pressure sores. Putting the physical impact aside, restraints also have the capacity to induce and become the cause of psychological harm as people with dementia may suffer increased levels of depression, fear and frustration. The symptoms of dementia can often be prevented and managed without the need to medically induce restraint in people. I must also note that the majority of these antipsychotic drugs are in no way intended to be used for the treatment of dementia, and people with dementia are at much higher risk of experiencing dangerous side effects.
Dementia reform makes social sense and economic sense. We have listened carefully to the stakeholders involved in the discussion, and I would like to thank the many people, particularly those in my home state of Tasmania, who contacted my office and made submissions to the inquiry. The recommendations reflect a key focus of the report, which was to assess both the Commonwealth and the state government services currently provided to those who suffer from dementia. They address the adequacy of care for people with dementia in a variety of settings, including the home, the community and acute care.

Mr Deputy President, I am aware of the time so I will prune my remarks a little, but I did want to put on the record the committee's appreciation of the evidence given to us by people from Tasmania, including Dr John Tooth. I commend to the Senate the excellent pioneering work done by Dr Tooth over 20 years ago. His work has become world renowned. In fact, he is considered an expert in this area in the United States and Japan. He was a state finalist for the Australian of the Year in 2007. He has been a pioneer for dementia care reform, advocating for a kind and humane response to treating people with dementia. He emphasises the importance of 'dementia specific' architectural design in order to create simple structures with a home-like interior. He has lectured in Japan, Canada, the United States and the United Kingdom. One way in which we can work on the model championed by Dr John Tooth is to make sure that we are educating staff to be skilled and caring. We must ensure that there are higher numbers of staff per person, and we must make a greater commitment to training and investment.

It is great to see, as you would know, Mr Deputy President, that the University of Tasmania is offering a free nine-week online course titled Understanding Dementia. It draws on the expertise of neuroscientists, clinicians and dementia care professionals. Not only is this course free; it is also offered to anyone who wishes to register for it. I understand that it is one of those rare courses where not only is there a great deal of interest when it comes to registering and starting the course but there is also an extremely high rate of completion.

At this point, I will curtail my remarks to say that, as nearly 1.5 million Australians are affected by dementia, including the families and carers of people living with dementia, please let this report be a call to action because we can and need to do better.

Question agreed to.

Rural and Regional Affairs and Transport References Committee

Government Response to Report

Debate resumed on the motion:

Senator FAWCETT (South Australia) (18:25): I rise to continue my remarks on the government response to the Senate Rural and Regional Affairs and Transport References Committee report into aviation accident investigations. I would like to make a few general comments first and then go to some of the specific recommendations or responses to recommendations from that investigation.

The first thing I would like to say is that this response has taken too long. Given the significant safety issues at hand, this response has taken too long. I recognise that, between the publishing of the report and this response, we have had a change of government since the election. We have now had a number of inquiries, including things like the Aviation Safety
Regulation Review, which was instigated by the current government. So it is not as though there has been no action. But, given that response and given the response that the department indicated that it had prepared for the previous government, the chance that it had to respond before the election and the time from the election until now, its response has taken too long. I think we need to learn from that. Where there is, in particular, a bipartisan committee report that deals with important safety issues, there needs to be a quicker response from both sides of politics to address those.

The response from the government is caveated by a statement that this is the government's initial response and that it is awaiting the outcome of two reviews that are currently underway—one being the Aviation Safety Regulation Review, which I mentioned previously, and the other being an independent peer review established by the Australian Transport Safety Bureau in August 2013. They have asked their equivalent body in Canada to do a peer review. I would like to make some comments about those two activities before I move on to the specific recommendations.

First is the Aviation Regulation Review, being led by Mr David Forsyth. I have been incredibly encouraged by the meetings that I have had with both Mr Forsyth and the other members of that panel—international members from North America and the UK. I have been very encouraged by the openness and willingness of a broad spectrum of Australia's aviation community to engage with that review and by some of the thinking and ideas that have been put forward. I am very much looking forward to seeing that review tabled.

I do express some concern about the peer review by ATSB. I have no concerns with the Canadians. I am sure they will do a very good and thorough job. My concern goes to the issue of oversight when concerns have been raised, in this case by a bipartisan committee report of the Senate, and an agency undertakes to do its own review, sets its own terms of reference and there does not appear to be a check and balance on what those terms of reference include or, more importantly, exclude. The fact is that the Canadians when they were here did not engage with a broad range of stakeholders in the aviation community nor indeed with members of the committee who instigated this report. I have some concerns. I will clearly give them the benefit of the doubt out at this stage and see what is delivered by that review. I do place on record that I do think the process could have incorporated measures to make sure there were checks and balances and that it was far more transparent so that both this Senate and the aviation community could have far more confidence that appropriate measures were being taken and that the issues that were raised in this report were being addressed by the review.

To come to some of the recommendations, the government has supported either in principle or outright the majority of the recommendations, which I am grateful for, but there are some I would like to comment on. Recommendation 7 went to the issue of the qualifications of the chief commissioner and the recommendation that he or she should have an aviation accident background, in terms of the skill sets and experience. That has not been supported on the basis that the ATSB is a multimodal agency and deals with sea, land, rail, etcetera, as well as aviation. The fact remains, though, that there are only two sectors in the world, I believe, that understand complex system safety to world's best practice standard, and they are the aviation sector and the oil and gas sector. To be honest, I would not mind from which of those sectors you brought someone in, but those skill sets need to be there, because neither the maritime sector nor the land sector has developed accident investigation to the
same level of complexity and professionalism that the aviation and the oil and gas sectors have. To say that it is a multimodal facility and that we should not get a leader of that organisation with the best possible world's best practice is to do a disservice to those other modes of transport, as well as critically undermining what that agency provides to the aviation sector. I would be quite happy to remove the word 'aviation' and replace it with 'appropriately complex systems safety skill sets'. I do not mind if they come from the oil and gas sector, but the chief commissioner should have that background to lead that agency.

With respect to recommendation 10, I understand that the words there and the sentiment that the agency is the one charged with deciding whether to reopen the case. My concern is that advice has been provided to the government which is the same advice that was provided to the committee—that there was no new evidence which would justify the reopening of the case. ATSB, in their own evidence provided to the committee, indicated that their process for investigating an accident looks at the broader organisational and oversight factors as well as the individual actions. In fact, if you look at the diagram in the report, individual actions are only one small part of what they should be looking at. Yet the report predominantly focuses on the actions of the pilot, who, as I have said in this place before, clearly made errors of judgement on that night but the report dispenses with three-quarters of the subject matter that ATSB's own processes said they should be looking at. It dispenses with it in one sentence that said that everything was good—the regulator was overseeing the company and they were in accordance with the regulations and standards. Yet, in black and white we have the Chambers report, which very clearly showed that the regulator knew at the time the report was done that they had people who were not appropriately trained, they did not have appropriate resources, oversight was not being properly conducted and, had it been so some of the risk factors that were identified after the accident, they would have been picked up and could have been addressed. System safety tells us that those are the things that will help to prevent the errors of an individual leading to a catastrophic accident. I am disappointed to see that response.

Recommendation 12 goes to a new category for EMS and air ambulance operations. I recognise that CASA has issued a notice of proposed rule-making back in August 2013. My discussions with industry indicate that they have some concerns in making those operations transport category. What that will do to their flexibility of operations, I am not sure—I have to confess that I have not spoken to them in recent weeks or months. I am pleased to see some action is being taken, but I do believe it is important that the review that David Forsyth is doing informs the way that these processes are to developed into the future. The response from the government indicated that they thought that industry should not have a leading role in that; they thought there was a conflict of interest. But I would point out that, when he was the head of CASA, Mr Byron in fact welcomed industry's involvement and made the point that they were probably the most current-subject-matter experts and that CASA should only move away from industry's case if there were a very strong safety case to do so.

I also make the point that there are opportunities for the industry to be involved in the auditing of aviation operations as we see with things like the BARS organisation, an Australian initiative which has now gone worldwide where third party industry players play a key role in auditing. There is no reason that could not be part of a regulatory system. So I welcome the fact that the government has responded; I believe that both governments could have been more timely, given the issues involved. I am looking forward to delivering Mr
Forsyth's report and working with government to make sure our aviation sector is both safe and sustainable. I seek leave to continue my remarks.

Leave granted; debate adjourned.

**COMMITTEES**

**Consideration**

The following order of the day relating to committee reports and government responses was considered:

Environment and Communications References Committee—Report—Direct Action: Paying polluters to halt global warming? Motion of the chair of the committee (Senator Thorp) to take note of report called on. On the motion of Senator McEwen the debate was adjourned till the next day of sitting.

**AUDITOR-GENERAL’S REPORTS**

**Consideration**

The following order of the day relating to reports of the Auditor-General was considered:

Auditor-General—Audit report no. 22 of 2013-14—Performance audit—Air Warfare Destroyer Program: Department of Defence; Defence Materiel Organisation. Motion of Senator McEwen to take note of document agreed to.

**BUSINESS**

**Days and Hours of Meeting**

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Foreign Affairs) (18:36): I move:

That the Senate at its rising adjourn until Tuesday, 13 May 2014 at 12:30pm or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President and that the time of meeting so determined shall be notified to each senator.

Question agreed to.

**Leave of Absence**

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Foreign Affairs) (18:37): I move:

That leave of absence be granted to every member of the Senate from the end of the sitting today to the day on which the Senate next meets.

Question agreed to.

**ADJOURNMENT**

The DEPUTY PRESIDENT (18:37): Order! I propose the question:

That the Senate do now adjourn.

**Harmony Day**

Senator FIERRAVANTI-WELLS (New South Wales—Parliamentary Secretary to the Minister for Social Services) (18:37): It is my honour to rise to provide a summary to the Senate on Harmony Day 2014, which we celebrated around the nation last week on 21 March. The theme for Harmony Day is: 'Everyone belongs'. Harmony Day was an initiative of the coalition government in 1999, so I am pleased that it has become a significant day of the year.
when Australians are encouraged to celebrate the cultural diversity of our country and that 14 years later more than 55,000 Harmony Day events have now been held.

21 March is also the United Nations International Day for the Elimination of Racial Discrimination. Harmony Day encourages people to participate in their community, to respect different cultures and religions and to foster a sense of belonging for everyone. And so we should. We are one of the most culturally diverse countries in the world. Our diversity is unique and, in the government’s view, it is one of Australia’s greatest strengths.

Without doubt, migrants have helped shape the Australia we enjoy today. Through hard work and a commitment to Australia, our migrants have helped make Australia one of the most prosperous and socially cohesive nations on earth.

As the daughter of migrants myself and now Parliamentary Secretary to the Minister for Social Services with special responsibility for multicultural affairs and settlement services, I was especially honoured to have the principal carriage of the Harmony Day celebrations. Can I record my thanks and acknowledgement for the support that I received from the Hon. Kevin Andrews, Minister for Social Services, and his office and department.

My message in the lead-up to Harmony Day was to get involved by joining in or registering your Harmony Day event by going to www.harmony.gov.au or to Harmony Day on Facebook, Twitter and Instagram to join the conversation—‘Everyone belongs’. I am pleased to say that a record number of people responded. First there was the record number of events staged around the country. No less than 6,632 events were registered, a 35 per cent increase on the 4,905 events registered in 2013. The events staged were in childcare centres, schools, community groups, churches, businesses, and federal, state and local government agencies across Australia. Morning teas, fairs, concerts, school assemblies, sporting events and national costume days were among the different events staged to showcase cultures, traditions and backgrounds. On behalf of the government, I hosted a harmonious and multicultural morning tea for my parliamentary colleagues—the samosas and cannoli were a hit. I thank our Prime Minister, who made time to attend.

As I said, there were record events held this year—evidence of a growing awareness and involvement by the Australian community, with orange, the colour for Harmony Day, in abundance. A highlight was that, for the first time, all states and territories had a landmark bathed in orange, including Old Parliament House in Canberra, Melbourne’s Federation Square, Government House in Darwin, and, close to my electorate office, Wollongong’s Breakwater Lighthouse. The display of orange also translated to the Harmony Day ribbons and show of orange clothing.

We also engaged on social media and encouraged those on Facebook, Twitter and Instagram to engage in the conversation about Harmony Day. Again, there were more participants this year. Not only was the Harmony Day Stories app downloaded over 6,780 times—a 400 per cent increase on last year—but there were more than 750,000 impressions on Facebook. Our Harmony Day video was downloaded almost 9½ thousand times.

Food is very important in breaking down barriers where there are differences, and this year proved no exception. So I want to congratulate the Scanlon Foundation's initiative, A Taste of Harmony. It was great to join Guy Grossi for afternoon tea at Grossi Fiorentino in Melbourne as we talked about the culture of the table—la cultura della tavola. A Taste of Harmony was
promoted as a free and delicious way to celebrate workplaces' cultural diversity in the week of 17 to 23 March, where Australians were invited to organise their workmates to bring a plate of food to share.

Involvement in sport as a player or spectator also has the ability to unite people of all ages, cultures and religions. To celebrate this year’s Harmony Day, the Australian government announced a $180,000 sponsorship of the 2014 Harmony Game Schools Pack, in partnership with SBS and Football Federation Australia. This will be a resource for primary school teachers to teach young people about the value of cultural diversity to Australian society, and it will go to every primary school in Australia. This initiative uses young people's passion for sport and teaches respect in the classroom and on the football field. Children are offered the opportunity to learn and understand how all Australians from diverse backgrounds equally belong to this nation and make it a better place.

I also extend my appreciation to the Australian Parliament Sports Club for their support with the series of events under the banner 'Sport in support of Harmony Day' between 16 and 27 March when the pollies took on the press and others in a range of sports. I particularly want to thank those who came from around Australia to play in support of our Harmony Games, including Lisa Alexander, Diamonds coach; Anne Sargeant, former Australian netball captain; Australia Post AFL Multicultural Ambassadors Patrick Karnezis and David Rodan; former Socceroo captain Craig Foster; as well as Young Australian of the Year and Paralympian eight-time gold-medal champion Jacqueline Freney. I am pleased to report the overall result was respectable for the pollies. A special thanks goes to our Parliament House sports guru, Andy Turnbull.

I would also like to acknowledge and thank the various sporting codes in Australia for their Harmony Day efforts. I was delighted to enjoy Harmony Day with over 45,000 others at the AFL Harmony Day match between North Melbourne Kangaroos and the Essendon Bombers in Melbourne last Friday night. Last Saturday morning I addressed the NRL's Harmony Day Festival in Penrith before attending the Sunday match between the NSW Swifts and the Queensland Firebirds, as part of Netball Australia's celebrations.

Young people in particular have an important role to play in promoting diversity and eliminating racism and discrimination. During Harmony Week we also welcomed to Parliament House six young players who have been selected to represent Australia at the Football for Hope Festival to be held in Rio during the final two weeks of the FIFA World Cup 2014. These young Australians were selected from the cohort of participants at Football United programs across western and south-western Sydney. They mirror the diversity of our great country, and a number have come to Australia under our humanitarian program. Dr Bunde-Birouste, founder and CEO of Football United, and their blue, indestructible football were welcome guests at our Parliament House Harmony Day morning tea.

The morning tea was also enhanced by the selection of posters from the annual competition organised by the B’nai B’rith Alfred Dreyfus Anti-Defamation Unit. Through their artwork, secondary students from New South Wales and ACT expressed their understanding of religious and cultural differences and their importance in a harmonious society. On display were the two national winners of the 2013 competition. I recall speaking at Harmony Day 2006 at the Sydney Town Hall and celebrating the works of young people then. I would like to particularly acknowledge the work of Ernie Friedlander OAM, Chairman of Moving
Forward Together, part of B’nai B’rith. His contribution to the ongoing fight against racism and discrimination makes him a truly outstanding Australian.

In reviewing the Harmony Day activities of so many Australians, we can take quiet pride in our ability to unite in different ways and celebrate the rich tapestry of our nation, whether in food, sport or simply gathering together. However, it is important that we harness the spirit and enthusiasm of Harmony Day every day of the year. Where we see racial vilification, we must take a stand. Harmony Day reinforces the importance of inclusiveness for all Australians and respect for cultural and religious diversity. The many initiatives around the country in support of Harmony Day are further important steps to counter racial vilification. It is about community participation and inclusiveness. But, above all, it is about respect for each other.

Our country is a great country, but it is only as great as our people. We have come so far, and together we can go so much further. For now I simply want to applaud all those Australians who played a role in making this year's Harmony Day a day where we truly came together in so many ways to celebrate Australia's cultural diversity in the spirit of everyone belonging.

**Regional Development Australia Fund**

**Senator LUDWIG** (Queensland) (18:47): This evening I rise to speak on the state of regional funding from this government. As I have informed the Senate on previous occasions, I do regularly travel across regional Queensland, and I want to report to the Senate this evening on the growing choke hold on regional council budgets. The choke hold on regional council budgets has been driven by an ideological obsession with cutting funding to the bone by this government. Regional councils across Queensland have been left in the lurch, waiting to hear whether or not important funding will be provided or stripped away by this government. The budget to be handed down in May is a serious test for this government. It will show Australia, and particularly regional Australia, what choices the government has made, and it will send the clearest message about the priorities this government has made.

To date, I am afraid to say, the sorts of choices the government is making have seemed apparent, and they are not choices in favour of local and regional councils. The Regional Development Australia Fund, or RDAF, was one of the vehicles delivering key funding to local councils to undertake community services and programs. Labor in office funded rounds of this important funding. The grants supported local jobs, created local opportunities and helped local economies. For regional councils these grants were vitally important. The Labor government budgeted and funded five rounds of the RDAF grants. Round 5 included $150 million in grants that were announced and awarded to local councils.

But, since coming into government, the Liberal and National parties have effectively pulled the rug out from underneath local councils and stripped away the round 5 funding. Over 70 individual grants to local councils in Queensland have been cut by this government. Over $1.3 million has been torn away from Western Downs Regional Council, whose mayor, Ray Brown, I have met with in Chinchilla a couple of weeks ago. Another $1 million will no longer be given to the Maranoa Council for community infrastructure projects because of this government. I met with Mayor Robert Loughlan a fortnight ago, and I understand the financial pressures that local councils in regional Australia are under.
It is not simply the cutting of the RDAF grants that hurts local and regional councils; it is the message that is sent to regional Australia and the communities that live in those regional areas by this government. It sends a very clear message that the Abbott government does not care about local councils or about local services, jobs or opportunities in those regions. The choke hold on regional council budgets, especially in Queensland, comes from the cloud of uncertainty over any future federal government support. From the Torres Strait to the Gold Coast and out to Boulia, councils are suffering at the hands of this Abbott government. Government needs to be involved in a dialogue with local government and councils, not in closing the shutters. The councils know that $150 million worth of funding has already been stalled, cut, put on hold—however you want to describe it. It certainly is not flowing to those communities for those programs and community projects that they so dearly want. What councils will do next and how they will meet those expectations in those regional communities is really left in limbo by this government. It means councils cannot properly plan. They cannot prepare their own budgets for these needed priorities that their communities deserve and want. They do not know what interest the federal government is going to have in their local communities.

What we do not want is a return to regional rorts. This government, when in the Howard era—if I can call it that more broadly—made some very bad and unhelpful decisions for local communities. Council projects around Queensland to date have been put on ice as a consequence of this government's actions. Supporting local councils is about supporting regional communities. RDAF and other financial support for local councils creates jobs and grows our regional economies. What this government cannot understand is the simple maxim that you cannot cut your way to growth.

RDAF has funded projects like a new mentoring facility next to the Toowoomba Flexi School to help at risk young people to complete senior schooling using intensive case management. It has supported disability access to the Gympie Music Muster site, a swimming pool for the Central Highlands Regional Council and upgrades to the Northern Peninsula Airport refuelling services to allow a 24/7 access for private and commercial operators. It converted unused sheds into tourist hubs for the Somerset council. Labor invested RDAF funding for Lifeline counselling services for the Maleny Community Centre and for the Magnetic Island walkways. All of these projects had clear economic and social values and benefits. They are all projects that the Liberal or National Party doormats would not have funded if they were in office at that time. This government talked the talk in opposition, but in government it has been found sorely lacking.

I wish to take also the opportunity to bring to the attention of the Senate one of the best examples of the government's lack of action despite tough words in opposition. The Toowoomba Second Range Crossing represents one of the biggest fiddles to regional Australia. Put aside your personal opinions about the merits of the project for a moment. What is without question is the tricky way in which the government has used its announcements in this area. In fact my recollection is that Minister Macfarlane announced a range crossing three times, I think, during his first term and we still have not seen Minister Macfarlane take it any further. But then, I guess, he has never won a battle in cabinet either.

Joining with the Queensland government recently the Liberal and National federal government is leaving Toowoomba short changed on this project. Let us look at the figures.
In response to question on notice No. 98 from the November Senate estimates the project was confirmed to have been estimated to cost about $1.66 billion. In a media release on 31 January 2014 the Queensland Treasurer Mr Tim Nicholls said that he welcomed the Commonwealth government's $1.3 billion investment in the project. A generous contribution, I thought. Sadly, for the people of Queensland this figure is nowhere to be found in any Australian government document, website, press release or answer. In fact, if we return to question on notice No. 98, we find that the Australian government is only investing $700 million in the project, which means on the government's own numbers that they are about $600 million short of what the Queensland Treasurer is flashing around and $900 million short of perhaps the total cost of the project.

The government is currently looking for private contributions to the project, which it is entitled to do if it can find that sort of money as a private contribution, but to purport wild variation in costings as being a project that 'will happen', I think, is unacceptable and, to be frank, they are trying to treat Australians like mugs on this one. I asked the department a simple question, 'Has the full amount that is required been allocated for the Toowoomba Range Crossing or been budgeted in the forward estimates to the project?' The answer tabled by this government was 'no'. It speaks volumes, really, about this government.

Local governments are arguably the hardest working level of government—especially when compared to this particular federal government, I should add. They are close to the coalface. Every day they directly deliver services to their constituents, and they do a good job helping communities, helping the environment and managing their budgets. During natural disasters they are the first to arrive and the last to leave. They roll out the community and social fabric that holds towns together. Local governments deserve our strongest support, and they do not need a tricky government, they do not need a government with cruel cuts as served up by this Abbott government.

When you look at the range of projects that are on hold you have Regional Development Australia Funding Round 5 for significant amounts of money such as: Aurukun, $198,479; Balonne, $341,134; Barcaldine, $483,385. Where is this money from this government to support those community projects?

**Industrial Relations**

*Senator McKenzie* (Victoria—Nationals Whip in the Senate) (18:57): Over the past month Boral Chief Executive Mike Kane has brought to public attention the orchestrated and costly secondary boycott campaign waged against it by the Victorian branch of the Construction, Forestry, Mining and Energy Union. The continued thuggery by the CFMEU prompted an excellent question from Senator Boswell yesterday during Senate question time, which brings me to discuss the issue this evening. According to Mr Kane, since the middle of 2012:

... our trucks have been stopped, our workers have been intimidated, some of our drivers harassed and threatened and many of our clients have had a 'friendly visit' from union officials warning them, essentially, not to do business with us.

All this is for just one reason, Boral has consistently and rightly refused to yield to CFMEU demands to stop doing business with the Grocon group. Mr Kane has exposed the systemic bullying, harassment, victimisation, 'physical and financial threats', intimidation, coercion,
unlawfulness, thuggery and the total breakdown of the rule of law in the construction sector, all of which is costing Boral between $10 million and $12 million a year.

Boral is a collateral target in a war not of its own making. But it does not stop there. Now, not only is Boral, as a third party, being caught up in the CFMEU's war against but Grocon, but Boral's clients are being intimidated into terminating their commercial relationship with the company. As Mr Kane observes, 'For some reason the union gets a pass on this type of behaviour, but if a company did it they would be prosecuted.' When it comes to industrial thuggery and violence the CFMEU is a repeat offender. Since 2010, the Victorian branch of the CFMEU and its officials have been fined at least $4,399,550 for various breaches of industrial laws, not to mention contempt of court. I am sure those fines have been paid out of the hard-earned dues of workers.

The secretary of the Victorian branch, John Setka, is on the record as saying:
Our union has given us a mandate, they want us to remain a militant union.
He said:
… sometimes we have to push the boundaries a little.
He went on:
It's not the first time or the last time a union is found guilty of contempt.
The CFMEU's blatant disregard of the rule of law or the administration of justice is breathtaking. Senators for Victoria would clearly remember the Myer Emporium dispute in August and September 2012, where the CFMEU engaged in a disgraceful public display of industrial thuggery and violence on Lonsdale Street in Melbourne.

While securing innocent Grocon employees on the Myer Emporium site, the police were set upon by hundreds of CFMEU members, who openly defied a Supreme Court injunction and reportedly punched police horses. It is alleged that Mr Setka also assaulted a Grocon manager by driving his car at him at a building site in Footscray. It is no wonder that Mr Kane has labelled the CFMEU cowards and bullies. Despite Boral obtaining three separate Supreme Court injunctions against the CFMEU's unlawful conduct the union continues to flagrantly defy the authority of the court. It continues to engage in an unlawful, systematic secondary boycott of Boral and its clients.

The three injunctions have now progressed to contempt hearings against the CFMEU. In light of the public and well-documented actions of the CFMEU it came as a surprise to me that the chairman of the Australian Competition and Consumer Commission, Mr Rod Simms, confirmed that he had looked into the Boral case but that there was insufficient evidence to prosecute. According to Mr Sims:
I don’t think there is any deficiency in the law, there is just an issue in gathering evidence to get these things to courts.

With 15 supporting affidavits, three separate injunctions and ongoing contempt proceedings before the Supreme Court of Victoria I seriously struggle to understand what issue Mr Sims has identified in gathering sufficient evidence. The evidence of the CFMEU secondary boycott is freely available to anyone who might choose to look. I understand that two meetings of shop stewards were allegedly held in Melbourne, where instructions were given to engage in the secondary boycott against Boral and its clients. The evidence of the effect of the boycott is available from any customer that the ACCC might care to ask. After all, if the
evidence was sufficient for the Supreme Court of Victoria to find that there was a prima facie case to justify the granting of three injunctions, why is it insufficient for the ACCC to at least commence an investigation into the matter? I note that the ACCC web site states:

… we will take action where this … stops conduct that is anti-competitive or harmful to consumers …

So I would invite Mr Sims to explain the following. In what respect is the evidence relating to the Boral case insufficient? What specific issues in gathering evidence justify not commencing proceedings against the CFMEU? How is the secondary boycott campaign waged by the CFMEU against Boral and its clients not—in the ACCC’s own words—anticompetitive or harmful to customers?

Mr Sims has reportedly said that the investigation of these types of allegations—presumably, allegations of secondary boycotts—is 'a priority for the ACCC'. Senators will have to forgive me for being slightly skeptical. According to its quarterly activity reports, the last time the ACCC commenced and concluded secondary boycott proceedings was in August 2006—almost eight years ago. I note that in that case Justice Finn dismissed the ACCC application.

It seems that Mr Sims is entirely correct. Investigating allegations of secondary boycotts is a priority for the ACCC—it is an incredibly low priority. Mr Kane should be commended for his courage in exposing and standing up to the industrial thuggery of the CFMEU. I would urge all law enforcement agencies and regulatory bodies, including the ACCC, to take strong action against secondary boycotts and other breaches of our law.

Queensland: Rural Debt

Senator O’SULLIVAN (Queensland) (19:02): This speech will be the first in a series of speeches I intend to make over the next medium term regarding the grim forecast facing the people in the rural parts of my state. Generations of communities across the northern half of Queensland who have made contributions towards building the wealth of our nation are currently suffering every day from an aggregation of unprecedented circumstances.

Family farms are desperately seeking water and feed to tend stressed and starving stock, whilst at the same time family-owned small businesses are shutting their doors, their enterprises no longer viable. There is a sense of hopelessness and depression for many across this once-productive region. Seriously adding to their woes is the fact that there is seemingly no detailed plan to gather the information that is required to understand the depth and the breadth of their circumstances, particularly with respect to their industry's debt profile, which in turn could assist in the formulation of pragmatic public policy.

It is my view that immediate action must be taken to understand the full extent of the problem of rural debt in Queensland, and, for that matter, under separate cover, rural debt in the rest of Australia. I am using this opportunity in the Senate chamber today—the first since my maiden speech—to call for a survey into the state of rural debt across my state of Queensland.

Accordingly, I urge the Australian Bureau of Agriculture and Resource Economics and Sciences and the QRAA to engage with the Australian banking sector to undertake this work. The Queensland government’s Rural Adjustment Authority has traditionally conducted a survey of rural debt in Queensland at two-year intervals since 2000. However, it has been confirmed to my office that QRAA did not undertake its survey in 2013, because the major
borders declined to be involved in a state-specific survey—in this case, relating to Queensland. In fairness, the banks had indicated at that time that they would be prepared to consider cooperating with a national survey initiative. However, if the data to determine the debt profile of beef producers in the northern part of Australia was buried in a national survey, then I respectfully submit that its usefulness to develop policy or make decisions to assist or save stakeholder participants in northern Australia would be lost.

The Australian Bankers Association's policy director Stephen Carroll is on the public record saying, as recently as last month, that there is no crisis in rural debt loads in this country. This organisation claims that rural businesses are in no worse shape than other businesses. Such a statement ignores the alarming trend revealed in the most recent QRAA Rural Debt Survey in 2011 and other empirical evidence published from various sources on this subject. Alarming, the 2011 QRAA survey results found debts are growing faster than revenue for many Queensland farmers, with beef industry borrowers who are considered as non-viable increasing from less than one per cent to 6.9 per cent of the total pool in just two years. The survey found the level of rural debt for the beef industry had increased by 17.2 per cent between the 2009 and 2011 surveys to a total of $9.18 billion. These increases occurred when there was evidence published by ABARES that gross farm incomes were declining. Some figures have been presented that show that, as a percentage of gross receipted income, the pro rata impact of debt for many producers has risen from 10 to 20 per cent—a massive increase of 100 per cent.

The equation of more debt and less revenue is simply not sustainable for our beef industry. In fact, it is not sustainable for any industry, but particularly those who had their ability to sell their goods taken away from them without notice. According to Queensland farm industry group AgForce, these current impacts have occurred as the result of the decision to suspend live exports, the condition of ongoing drought and the periodic interventions, and, for some, floods and fire. This real underlying debt position is expected to have deteriorated since 2011 whilst the potential for significant industry debt reduction in the short-term is likely to be limited. However, the issue for some is not that they do not know what the problem is; it is that they do not know what they do not know.

Given our focus on signing free trade agreements with our Asian neighbours, our ambition to collaborate a white paper policy platform to develop Northern Australia and the expansion of our live export trade means we must face up to and take action on this issue. If we are to truly capitalise on the increasing demand for food and fibre in this 'Asian century', we must thoroughly investigate the true economic state of our rural sector so that we can ensure there is a productive, stable and profitable agriculture and primary production industry.

Given the facts, it is simply irresponsible for the banks to dismiss the concept of a rural debt crisis and even more irresponsible for them not to test their position. Their posture on this question simply nets off some of the good work that banks are doing in the space of distressed lending. It is imperative at this time that the banks and the banks' clients accurately see the circumstances the same, because, whether they like it or not, their fortunes are irrevocably linked.

I understand that the New South Wales government had planned to conduct its first ever rural debt survey in 2012 but also had difficulties in convincing the banks to partner with them in that initiative. I also understand that some rural lobby groups are contemplating
launching their own debt survey among their members and cattle producers across North Queensland are discussing plans to raise money to fund that task. Similarly, at the Global Food Forum in Sydney yesterday, Queensland agriculture minister, John McVeigh, importantly declared that Australian farmers needed a 'fair dinkum' national rural debt survey. Dr McVeigh is probably the most qualified agriculture minister in the country—a minister who is overseeing the most unprecedented and prolonged drought circumstances for his producing constituency in over 100 years. When he speaks, we would all do well to listen.

Enough is enough. These people are sick and tired of hearing us talk. They are sick and tired of hearing Queen Street, Pitt Street and Collins Street tell them that they do not have a problem. Drought and poor government decisions are not just an economic disaster for our farmers; it attacks the very social fabric of our rural and regional communities and undermines the viability of almost every business in my remote and rural Queensland. Whilst there are countless people in agriculture who are on their knees because of these circumstances, there are also many producers across Northern Australia who are face down. These are proud men and women who do not want us to tell them that things are white when in reality they are black.

I say to the banks that these people want you to know that they will swap their debt problem for your debt problem. These people just want the truth, because they know that the truth will guide their government and their banks to implement policies that will guide us out of the quagmire of debt. Through me, this is their call for help.

**Senate adjourned at 19:12**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

**Aged Care Act 1997**—


**Australian Prudential Regulation Authority Act 1998**—Australian Prudential Regulation Authority (confidentiality) determination No. 4 of 2014 [F2014L00346].


**Defence Act 1903**—Section 58B—International campaign allowance—amendment—Defence Determination 2014/15.

Financial Sector (Collection of Data) Act 2001—

Financial Sector (Collection of Data) (reporting standard) determination No. 5 of 2014 – SRS 320.0 – Statement of Financial Position [F2014L00351].


Financial Sector (Collection of Data) (reporting standard) determination No. 7 of 2014 – SRS 520.0 – Responsible Persons Information [F2014L00343].

Financial Sector (Collection of Data) (reporting standard) determination No. 8 of 2014 – SRS 530.1 – Investments and Investment Flows [F2014L00345].

Financial Sector (Collection of Data) (reporting standard) determination No. 9 of 2014 – SRS 533.0 – Asset Allocation [F2014L00348].

Financial Sector (Collection of Data) (reporting standard) determination No. 10 of 2014 – SRS 702.0 – Investment Performance [F2014L00353].

Higher Education Support Act 2003—

Amendment No. 1 to the Commonwealth Grant Scheme Guidelines 2012 [F2013L02078]—Revised explanatory statement.


National Health Act 1953—


National Health (Price and Special Patient Contribution) Amendment Determination 2014 (No. 2)—PB 18 of 2014 [F2014L00356].


Telecommunications Act 1997—


Carrier Licence Conditions (Optus Networks Pty Ltd) Instrument of Revocation 2014 [F2014L00340].

Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 2014) [F2014L00331].


Veterans’ Entitlements Act 1986—
Amendment Statements of Principles concerning alcohol use disorder—
   No. 29 of 2014 [F2014L00335].
   No. 30 of 2014 [F2014L00336].
Amendment Statements of Principles concerning substance use disorder—
   No. 31 of 2014 [F2014L00334].
   No. 32 of 2014 [F2014L00337].

Tabling
The Parliamentary Secretary to the Minister for Agriculture (Senator Colbeck) tabled the following document:

Letter to the President of the Senate from the Minister for Finance (Senator Cormann) responding to the order of the Senate of 18 March 2014, dated 27 March 2014.