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SITTING DAYS—2015

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- PERTH 585AM
- SYDNEY 630AM

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FORTY-FOURTH PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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

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

Senate Party Leaders and Whips
Leader of the Liberal Party in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party in the Senate—Senator Hon. George Henry Brandis QC
Leader of The Nationals in the Senate—Senator Hon. Nigel Scullion
Deputy Leader of The Nationals in the Senate—Senator Hon. Fiona Nash
Leader of the Opposition in the Senate—Senator Hon. Penny Wong
Deputy Leader of the Opposition in the Senate—Senator Hon. Stephen Conroy
Leader of the Australian Greens—Senator Richard Di Natale
Co-deputy Leaders of the Australian Greens in the Senate—Senator Scott Ludlam and
Senator Larissa Joy Waters
Chief Government Whip—Senator David Christopher Bushby
Deputy Government Whips—Senators David Julian Fawcett and Anne Sowerby Ruston
The Nationals Whip—Senator Barry James O’Sullivan
Chief Opposition Whip—Senator Anne McEwen
Deputy Opposition Whips—Senators Catryna Louise Bilyk and Anne Elizabeth Urquhart
Australian Greens Whip—Senator Rachel Siewert

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

<table>
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<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
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<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
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<td>Back, Christopher John</td>
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Pursuant to section 42 of the Commonwealth Electoral Act 1918, the terms of service of the following senators representing the Australian Capital Territory and the Northern Territory expire at the close of the day immediately before the polling day for the next general election of members of the House of Representatives.

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(1) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice R. Carr), pursuant to section 15 of the Constitution.
(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice J Faulkner), pursuant to section 15 of the Constitution.
(3) Chosen by the Australian Capital Territory Legislative Assembly to fill a casual vacancy (vice K. Lundy), pursuant to section 15 of the Constitution.
(4) Chosen by the Parliament of Queensland to fill a casual vacancy (vice B. Mason), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**

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

Heads of Parliamentary Departments

Clerk of the Senate—R Laing
Clerk of the House of Representatives—D Elder
Acting Secretary, Department of Parliamentary Services—D Heriot
Parliamentary Budget Officer—P Bowen
<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
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<tr>
<td>Prime Minister</td>
<td>Hon. Tony Abbott MP</td>
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<tr>
<td>Minister for Indigenous Affairs</td>
<td>Senator the Hon. Nigel Scullion</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister for the Public Service</td>
<td>Senator the Hon. Eric Abetz</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister on Counter-Terrorism</td>
<td>Hon Michael Keenan MP</td>
</tr>
<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>Hon. Charles Porter MP</td>
</tr>
<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>Hon. Alan Tudge MP</td>
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<tr>
<td>Minister for Infrastructure and Regional Development</td>
<td>Hon. Warren Truss MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
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<tr>
<td>Assistant Minister for Infrastructure and Regional</td>
<td>Hon. Jamie Briggs MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>Hon. Julie Bishop MP</td>
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<tr>
<td>Minister for Trade and Investment</td>
<td>Hon. Andrew Robb AO MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Foreign Affairs</td>
<td>Hon. Steven Ciobo MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for Trade and</td>
<td>Hon. Steven Ciobo MP</td>
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<tr>
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<tr>
<td>Minister for Employment</td>
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<td>Hon. Luke Hartsuyker MP</td>
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<tr>
<td>Attorney-General</td>
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<tr>
<td>Minister for the Arts</td>
<td>Senator the Hon. George Brandis QC</td>
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<tr>
<td>(Vice-President of the Executive Council)</td>
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<td>(Deputy Leader of the Government in the Senate)</td>
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<td>Hon. Michael Keenan MP</td>
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<td>Senator the Hon Concetta Fierravanti-Wells</td>
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<tr>
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<td>Hon. Joe Hockey MP</td>
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<tr>
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<td>Hon. Bruce Billson MP</td>
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<td>Assistant Treasurer</td>
<td>Hon. Joshua Frydenberg MP</td>
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<tr>
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<td>Senator the Hon. Marise Payne</td>
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<td>Hon. Kevin Andrews MP</td>
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<tr>
<td>Minister Assisting the Prime Minister for the Centenary of ANZAC</td>
<td>Senator the Hon. Michael Ronaldson</td>
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<td>Hon. Malcolm Turnbull MP</td>
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<tr>
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<td>Hon. Peter Dutton MP</td>
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<tr>
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<tr>
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<td>Hon. Greg Hunt MP</td>
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<tr>
<td>Parliamentary Secretary to the Minister for the Environment</td>
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Tuesday, 18 August 2015

The PRESIDENT (Senator the Hon. Stephen Parry) took the chair at 12:30, read prayers and made an acknowledgement of country.

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

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

COMMITTEES
Community Affairs References Committee
Select Committee on Health
Select Committee on the Regional Processing Centre in Nauru
Joint Standing Committee on Treaties
Meeting
The Clerk: Proposals to meet have been lodged as follows:
Community Affairs References Committee—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 19 August 2015, from 9.35 am, for the committee's inquiry into out of home care.
Select Committee on Health—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today, from 1.30 pm.
Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru—public meeting during the sitting of the Senate on Thursday, 20 August 2015, from 3.30 pm.
Joint Standing Committee on Treaties—private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 19 August 2015, from 9.30 am.

The PRESIDENT (12:32): Does any senator wish to have the question put on any of those motions? There being none, we will now proceed.

BILLS
Australian Radiation Protection and Nuclear Safety Amendment Bill 2015
Second Reading
Debate resumed on the motion:
That this bill be now read a second time.

Senator McLUCAS (Queensland) (12:32): The health and safety of Australians is the top priority when Labor considers changes to nuclear and radiation safety. Labor takes radiation and nuclear safety very seriously. The bill that we are dealing with today, the Australian Radiation Protection and Nuclear Safety Amendment Bill 2015, is an amendment bill which strengthens the powers of ARPANSA, the Australian Radiation Protection and Nuclear Safety Agency, which is responsible for managing radiation and nuclear safety in our country. Largely, this bill follows a review by the Australian National Audit Office that was conducted
in 2013-14 and, in part, also captures some of the recommendations made by the IAEA, the International Atomic Energy Agency, when they conducted their periodic reviews of our regulator. There are a number of changes to the licensing arrangements administered by ARPANSA, which have the effect of improving safety and efficiency and closing a number of loopholes that have been identified by the ANAO and also pick up some of the recommendations from the IAEA.

I note the recent submissions received by the Senate Community Affairs Legislation Committee on the bill. There were five submitters to the bill and Labor thanks those organisations and individuals who contributed to the Senate community affairs inquiry process. I particularly want to thank the expert contributors to that process. In particular, Labor wants to acknowledge the contributions of ANSTO, the Australian Nuclear Science and Technology Organisation, the CSIRO and the supervising scientists in the Department of the Environment. Similarly, the contributions from the Department of Health were very welcome. They have always been professional and constructive when it comes to this issue. Labor also wants to put on record our thanks to Minister Nash and her office for the briefings that were provided to our shadow minister and his team.

I will discuss some, but not all, of the elements of the bill. It is a very technical bill which improves the safety of regulation in our country. I want to discuss the observation that there was general support from all of the witnesses for all of the amendments. Some concerns were raised outside the scope of the bill and outside the recommendations that have been picked up by the bill but, overall, there was general support for the bill. Engineers Australia pointed to a new safety standard that has been issued by the IAEA, and pointed out that reviews conducted by the IAEA's integrated regulatory review team of ARPANSA's activities have identified the need for strengthening the ARPANS Act. Engineers Australia said that the bill would provide:

- greater clarity regarding application of the legislation to contractors
- adoption of a risk-based approach
- requirement for a licence holder to provide information
- power to issue improvement licences
- power to issue time limited licences
- power to regulate activities on legacy sites

The amendments go to clarifying the definition of a nuclear installation from nuclear waste to radioactive waste. This change is regarded as more appropriate and technically correct. The IAEA does not provide a definition of nuclear waste as all waste is captured under the definition of radioactive waste. The committee also heard evidence that there were different definitions in state and territory legislation, but it is not within the scope of this bill to deal with that. Frankly, that is a matter for states and territories to deal with.

The committee also made some commentary about ARPANSA's powers during an emergency. ANSTO discussed proposed section 41, which outlines the powers of the CEO of ARPANSA to give written directions to controlled persons. The bill reaffirms the internationally accepted principle of operator responsibility for safety, and clearly sets out that the powers of the ARPANSA CEO would only be used in the most exceptional of circumstances. ANSTO also noted that the principle of operator responsibility for safety
reflects international best practice, as developed under the auspices of the IAEA, as well as being reflected in international nuclear safety treaties to which Australia is a party.

Mr Jack Dillich from ARPANSA highlighted in the inquiry that 'the proposed powers were intended to equip the regulator to address rare unforeseen circumstances’. To paraphrase, he said that this is something that would happen infrequently, if at all, but he thought it was important that those powers should be available.

I now go to a question that was raised in the Bills Digest, which I commend to the chamber. There are two issues I want to go to. The first is the change to information-gathering powers. The Bills Digest states:

… Item 29 would create a new section 44A in the ARPANS Act, providing for new information-gathering powers for the purpose of monitoring compliance with Commonwealth radiation licences. … The provision allows the CEO of ARPANSA to require that a controlled person provide information or documents, answer questions or appear before the CEO of ARPANSA to provide information, answers or documents.

It also recognises that:

… a controlled person is excused from giving the required information if giving such information would:

- be self-incriminating or expose the individual to a penalty or
- contravene an obligation under an international agreement …

It is our view that these requirements for information to be provided do seem reasonable. The bill provides that self-incriminating information may not be gathered compulsorily. The common law would provide a protection against self-incrimination. But I think having it explicitly in the bill is of use.

Finally, I want to go to the issue of changes to duration and scope of Commonwealth radiation licences. The bill brings in an opportunity to time-limit radiation licences, which is new for this act. Previously, all licences were issued for an indefinite period of time, which is something I was unaware of, but do now understand. I want to point to an interesting comment made in the Bills Digest:

… the use of time-limited licences more generally could be desirable. … An extension of this is that radiation exposure should be kept to what is strictly necessary …

Always, the intention is to limit any exposure to radiation. So we should be aiming to keep radiation exposure to what is absolutely strictly necessary. It further states:

… a requirement for licences to be renewed could be a useful trigger for a periodic assessment of whether the continued existence of the radiation source is necessary.

That is a welcome amendment to the act.

In conclusion, Labor recognises that the bill makes a number of improvements to the current legislation. We support the bill as it does improve the regulatory framework for nuclear and radiation safety and protection in our country. We are pleased to continue to work with the government in a cooperative way when reasonable legislative changes, such as this, are put forward.

**Senator LUDLAM** (Western Australia—Co-Deputy Leader of the Australian Greens) (12:42): The Greens will also be supporting the Australian Radiation Protection and Nuclear Safety Amendment Bill 2015, for very similar reasons to those identified by Senator...
McLucas. It is probably a bit of a rare thing for the Australian Greens to get up and announce that we are supporting a government bill involving regulation of nuclear technology. I just wanted to point that out.

Senator O'Sullivan: Are you serious? Take my temperature!

Senator LUDLAM: So much heckling. Don't make me change my mind!

Senator Nash: We appreciate it.

Senator LUDLAM: We are all appreciating each other today! I will put on the record a couple of comments and concerns about the narrowness of the drafting of the bill, but the fact is, as Senator McLucas has expressed, this does improve regulation of a sector that does have potential to cause enormous environmental and social harm and enormous harm to public health.

I guess it is worth acknowledging at the outset that the separation between the regulator and the regulated in this country has often been dangerously close. In instances I was following with whistleblowers at ANSTO's radioisotope facility in Sydney, we saw what extraordinarily, to my mind, amounted to regulatory capture, where whistleblowers who were trying to put on the public record the real dangers to workers' health were being attacked and eventually sacked or set aside. Under the previous government we saw some quite welcome reforms that moved the regulator more to an arm's length basis from those they were regulating. In my view this bill—not in a bit melodramatic way, but in small but important ways—continues the process of giving the regulator a freer hand at regulating this extraordinarily dangerous technology: through increasing transparency and accountability; through powers to require licence-holders to produce information; through powers to issue the improvement notices within a set time frame; and by being able to issue directions—again this goes to Senator McLucas's comments—about what happens in an emergency where the act or regulations are basically silent, where it may not be the case that ARPANSA has time to go through formal processes of issuing an instruction or direction but effectively needs to bring its expertise as a regulator to bear on an unforeseen potentially very risky or threatening event. I think those amendments are sensible. Noting ANSTO's reservations, nonetheless we are pleased to support those amendments here.

There is a very narrow definition in the bill, however, of prescribed legacy sites to which the act applies. I may take up a bit of time before we debate Senator Day's committee stage amendment to put a couple of questions to the minister and her advisers about the definition of 'prescribed legacy site' and what is in and what is out. I suspect that it is no surprise to the minister that I will be doing so. They were questions that I raised during the brief inquiry into which I teleconferenced a couple of weeks ago. I felt that I came out of the hearing without much more information than I went in with, so I am hoping that a bit of preparation and a bit of work has been done in the meantime—it would be great.

There are no specified outcomes for reducing contamination at legacy sites. So although we have a broader range of places and powers brought into ARPANSA's ambit there do not appear to be any benchmarks for, for example, dose thresholds at sites. Senator McLucas put quite correctly our ambition when it comes to ionising radiation exposure to human beings or to the wider environment. Our ambition is to minimise that exposure to the point where it is imperceptible, because the literature for so many years internationally has said that there is no
safe dose. You cop a risky dose—airline pilots and air crew get a dose of ionising radiation—when you are 10 kilometres above the surface of the earth. You get a dose of ionising radiation if you stay out exposed to the sun too often. Those kinds of doses are just from being a human being alive on the planet being exposed to stray cosmic rays from time to time. But there is no safe dose. So we need to do anything at all that we can to reduce the additional doses that are being effectively forced on people, without their consent, from industrial exposure not only in the workplace—where you presume the workforce are properly trained and are given an understanding of the risks of exposure to ionising radiation—but also downstream of uranium mines.

We need to minimise these non-consensual doses of harmful ionising materials. We need to minimise it down towards zero, because any additional exposure—the way it was put to me in the literature years ago when I first came across this technology and was trying to understand what is going on at a biochemical level is that it is like machine gun fire inside the nucleus of the cell. Maybe something important gets hit; maybe it does not. But once that cancer has started or once that other damage has been done to the DNA, particularly in children or to foetuses in utero, you cannot claw it back. There is no way you can heal somebody once that damage has been done, and it takes just one decay track through one cell to cause cancer. I guess that is the literal understanding of why there is no safe dose. Yes, we are exposed to ionising radiation just in the course of our normal lives, living on a planet that is mildly radioactive. But everything we can do to force those additional exposures back towards zero is important.

People living in the vicinity of uranium mines, either operating ones or closed mines in the Alligator Rivers region in the Northern Territory, for example, are extremely distressed to read credible research from a couple of years back that showed the incidence of cancer among Aboriginal people in host communities around the closed Alligator Rivers mines in the NT that were operated in the fifties and sixties was double that of background populations or other populations in the area. That is how serious it is. I will get to the wider consequences, as I guess is probably appropriate, when we come to debating Senator Day's amendments about how this is precisely the wrong time to be ripping the lid off and opening the door to wider expansion into nuclear technology. The evidence is out there—not because the Greens say so; the industry itself is starting to front up to the consequences of just how much trouble it is in overseas. But I will hold those comments off until we get to the committee stage.

I foreshadow, to give the minister's advisers a bit of time in case the material is not immediately at hand, that I will ask to get an inventory of which existing sites are included under the amending legislation we are discussing today and which are not. My understanding, which was not changed during the inquiry of a couple of weeks ago, was that the act would not cover, for example, contaminated sites around Maralinga or other areas of nuclear weapons testing, where Australian service personnel and Aboriginal people from central and north-western Australia were bombed, were exposed to ionising radiation and to fission products in fallout by an ally. I note—as I think is appropriate in this year when we are commemorating the sacrifice of veterans in conflicts into which we have sent them—that in Australia the atomic veterans are not eligible for a gold card, because they were bombed by an ally. If they had been exposed to radiation from imperial Japanese forces or from any of the other forces that we faced during the Second World War they would be automatically
eligible for a gold card. Because their exposure occurred from being bombed by nuclear weapons deployed by an ally—Australian uranium basically fired upon them in central Australia by the British government—they are not eligible. They are dying one by one; that cohort diminishes year by year. These are the sorts of risks that we are talking about. As far as I am aware—I would be delighted to be proven wrong—Maralinga and the other nuclear weapons test sites are not covered; they are not brought into the ambit of the regulator.

Port Pirie, Wild Dog, Radium Hill, Rum Jungle—radioactive contamination in this country goes back way further than most people think, certainly further than I thought. Early radium workings go back way before the development of a nuclear weapons or nuclear power industry. That, for me, is one of the reasons why it is important to remark when we see this kind of regulation coming through the Senate that nuclear accidents and nuclear contamination have a start time. Often you can pinpoint it, as they were able to pinpoint to within a few seconds the reactors at the Fukushima site on Japan's Pacific coast going into meltdown on 3 November 2011. These accidents and these contamination and exposure sites have a start date but they have no end date. There are still contamination legacy issues at Radium Hill, which was contaminated more than 100 years ago. There are still contamination issues at the—by today's standards relatively small—uranium workings in the Alligator Rivers region that were mined out, closed down and rehabilitated as far as the authorities of the day were concerned decades ago but are still leaching materials into the wider environment. Ionising radiation is invisible. It does not tell you that it is there. You cannot see it. Unless you are carrying a Geiger counter around with you, you do not know that it is there. That is why these sites are so dangerous. I am very keen to know whether any of those sites that I listed, the so-called orphan sites where state regulation is either completely absent or patently inadequate, are caught by this bill and whether they will be brought within this bill and what it would mean if they were. What are the obligations that arise?

One of the questions I put during the brief committee hearing was: why are there no cost implications in this bill? If we are going to see a higher level of accountability and a higher level of rehabilitation for these orphan contaminated sites, surely that is going to cost money. Protecting people who are cleaning up the radioactive aftertaste of these sorts of operations does cost money. It is an unavoidable consequence which is often not factored in—it is almost never factored in—at any point in the nuclear fuel chain. I was a bit curious and maybe even a bit perplexed to see that there were no cost implications with this bill, because that to me would imply that nothing is in fact going to change on the ground. Again, Minister—through you, Mr President—if I am wrong about that I would be very happy to stand corrected.

We are also interested to know about the definition of a 'prescribed legacy site', and I will go into this again a little bit in the committee stage, unless the minister wants to address these comments in her closing remarks. It is not entirely clear to me what such a site is. Is it mining, a processing facility, a research facility? In some parts of the amending legislation it is clear which sites are included. Based on their management by Commonwealth entity, the institutional jurisdiction defines whether a site is caught or not. That is reasonably clear. But what about some of these other orphan sites where ownership is not entirely clear. In the end we chose not to bring forward amendment at the committee stage to try to bring all the sites within ARPANSA's ambit as a regulator. It may in fact be a wiser course to lift the standard
of state and territory regulation and to create that consistency around the country where it is lacking at the moment.

I will confine my comments to the clauses as they are outlined in the bill. I think Senator Day has actually done us a bit of a favour in bringing his amendment forward. The Greens certainly will not be supporting it, but it is a good opportunity to look at the consequences of what would happen if the chamber did support that amendment. In the meantime, I gather that this amending legislation have been in the works for a long time and that a lot of work has gone on behind the scenes to bring it forward. I acknowledge the government and those public servants who brought this amending legislation forward and commend it to the chamber.

** Senator LEYONHJELM (New South Wales) (12:55): ** In case anyone needs reminding, the 1980s are over. This is significant in many ways. It means you can throw away your Walkman, your Duran Duran cassettes and your VCR. Women can give their shoulder pads and leg warmers to the Salvos, and video game enthusiasts can try something other than Space Invaders.

It also means that we can discard our outdated antinuclear views. These views have always had little to do with the facts about peaceful nuclear technologies and a lot to do with the preoccupations of people who chose the wrong side of history in the Cold War. Some of these people still inhabit this chamber from time to time. They are still fighting the Cold War, rather like those Japanese soldiers found in the Philippines in 1974 who were unaware that World War II had ended.

The Australian Radiation Protection and Nuclear Safety Amendment Bill 2015 provides a rare opportunity to turn the tide against decades of antinuclear hysteria. It is a long time since anything pro nuclear passed through the parliament. If we want to we can also take the first step towards cutting Australia's carbon dioxide emissions in half. This is the kind of result we would achieve if nuclear power flourished in this country. Those who claim climate change is an emergency but nuclear power is not the answer are the real deniers of science. It is like saying there is a fire but refusing to call the fire brigade. Nuclear is the only realistic option for replacing fossil fuels for baseload power on a large scale. Hydro might be an option in other countries, but that requires big rivers and big dams. Nuclear power has also been proven to be safe. The Fukushima disaster taught us that even when outdated reactors in earthquake zones are hit by tsunamis nobody dies.

Those who say nuclear energy would take too long, is too expensive and is a technology that is on the way out are easily disproved on all counts. France built a nuclear capacity equal to Australia's needs in 20 years. It is competitive and has no accidents. France's per capita emissions are 60 per cent lower than Australia's. If it is true that nuclear power is not and never will be economically viable, the Greens have nothing to worry about. I am not arguing that taxpayers' money should be thrown at nuclear power. The best path to cheaper electricity, the return of Australia's competitive advantage in energy production and a retention of manufacturing is to stop throwing taxpayers' money at any power generation. Our 1980s thinking means we risk being left behind. We are now the only G20 country not using nuclear energy. It is true that many reactors around the world are closing, but many more are opening. Over 60 reactors are under construction right now, and China plans another 200 by 2050. There are 400 nuclear reactors in the world, and within 10 years there will be over 500.
If any country in the world should embrace nuclear power it is Australia. We have nearly half the world's reserves of uranium, a government capable of responsibly regulating the industry over the long term, a land mass with few earthquakes or other risks plus vast, remote locations in which we could safely store nuclear waste, not that modern nuclear reactors produce a lot of waste to store anyway. Small modular reactors could be built to power regional towns and mining sites with little or no risk or waste legacy. South Australia, in particular, is in a position to take a leading role in nuclear technology that could turn around the fortunes of the entire state. Instead, we have banned both the processing of uranium into nuclear fuel and nuclear power plants. It is akin to Saudi Arabia banning oil refineries and cars.

This bill is a small step in the right direction. I would like to see it take a bigger step. If you can agree that the 1980s have ended, you will support Senator Day's amendment to the Australian Radiation Protection and Nuclear Safety Amendment Bill 2015. This bill, even if it is amended, will not mean that people can build nuclear reactors any time soon, as there are other legal hurdles, but it will be the first step towards taking the blinkers off and demonstrating that superstition can no longer be a major plank of our energy policy.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (13:00): I am very pleased today to have the opportunity to sum up the second reading debate on the Australian Radiation Protection and Nuclear Safety Amendment Bill 2015. As we have discussed, this bill amends the Australian Radiation Protection and Nuclear Safety Act 1998 to ensure that Australia's regulation of radiation activities remains international best practice. I thank senators for their contribution to this bill, and I note the support from the Australian Labor Party, and thank Senator McLucas for her comments, and also those of the Australian Greens through Senator Ludlam.

Radiation protection and nuclear safety are constantly evolving. International approaches and industry practice have evolved since 1998 when the act was first introduced, and Australia needs to remain at the forefront of these changes. Australia is fortunate to have a strong regulator in the Australian Radiation Protection and Nuclear Safety Agency, or ARPANSA as it is more commonly known. The regulatory scheme continues to provide Australians with appropriate protections; however, as science and technology changes, the legislation and regulation needs to remain contemporary. To this end, this bill increases capacity for improved risk management and provides ARPANSA with greater powers to monitor compliance.

The amendments also support the CEO of ARPANSA to better respond in the unlikely event of an emergency. The bill enables the CEO to issue directions to licence holders to minimise any risk to people and the environment in unforeseen circumstances. All action taken by ARPANSA in response to noncompliance or to emergencies will continue to be reported quarterly and annually to the parliament. This will also be published on the ARPANSA website. This ensures that there is absolute accountability and transparency about the radiation activities being undertaken by Commonwealth agencies and about the actions taken by the regulator. Consistent with this government's commitments, the changes do not have any financial impact, nor do they increase any compliance burden for individuals, business or community organisations. The amendments simply update and improve the legislation.
I thank Senators for their contributions to debate on this bill and note the questions foreshadowed by Senator Ludlam to be dealt with in the committee stage, and I thank the Senate Community Affairs Legislation Committee for their consideration of this legislation. I would also like to thank ARPANSA and the Department of Health for their work on preparing this legislation.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (13:03): As a formality, I foreshadowed a couple of issues on the way through, principally about definitions of a prescribed legacy site—whether any of the facilities, former weapons test sites or former mines that I listed in my second reading contribution will be caught in the bill. I thank Senator Day for the courtesy. I will get a couple of questions out of the way and then we will move to the amendment. Does the minister have anything else she would like to advise us about?

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (13:04): In response to your questions earlier regarding those particular sites, obviously it is only the Commonwealth sites that come under the ARPANS Act. Clearly, the controlled person, as defined in the act as the Commonwealth entity or the Commonwealth contractor, must be in place for it to come under the Commonwealth.

My understanding is that the Alligator Rivers site and the Little Forest Legacy Site come under the Commonwealth's purview. Maralinga, that you also referred to, does indeed come under the Commonwealth power—or it did, because my advice is that that site has been remediated. Those that come under state and territory responsibility do not fall under the ARPANS Act. They are the ones that you referred to—Rum Jungle, Radium Hill and Port Pirie.

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (13:05): I guess there were two surprises in the minister's comments there, one being that she believes Maralinga has been rehabilitated. I am sorry to break your heart, Minister Nash—Maralinga is still a mess. There are parts of that site that are heavily laced with plutonium from a botched effort to rehabilitate that site some time ago. Maralinga is not a safe place for people to go. Admittedly, it is a huge land area and much of it is, but there are areas in there that are still heavily contaminated and, I believe, that goes for some of the other test sites as well.

The Alligator Rivers Region that I referred to refers to a number of smallish—by today's standards—uranium mine sites that were worked out in the fifties and sixties. It will be a pleasant surprise if you can confirm that those sites are to be considered as part of the ambit of this bill, because that was not my understanding. Maybe the minister would like to clarify. If you misspoke that would be a shame, but if those are a couple of sites that are brought a little bit closer to better regulation then that would be a welcome development.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (13:06): I am happy to take some further consideration on
notice, but my advice is that Maralinga was remediated and handed back in 2012. Those other issues I am happy to take further advice on and come back to on notice.

Senator LUDLAM (Western Australia—Co-Deputy Leader of the Australian Greens) (13:06): At the risk of undermining the collegial spirit in which this debate has been entered into, I put those questions to departmental staff and ARPANSA a fortnight ago during the committee hearings. I put them to you 15 minutes ago during the second reading contribution. I find it really odd that you would not have an answer one way or another, because I have been asking this question for a while. I am not sure why your advisers would need more time for that.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (13:07): Without really being able to explore this any further, other than in the context we already have over previous times, Senator Ludlam, we have given the indication to you in answers to questions on notice and through that process. My advice is, as I have given to you. You clearly have a different view about those things. I am happy to take it on notice, again, but reiterate the advice that has been given to you through that process in the chamber and in response to those questions on notice.

Senator DAY (South Australia) (13:08): On behalf of the Family First Party I move amendment (1), circulated in my name:

(1) Schedule 1, page 3 (before line 4), before item 1, insert:

1A Section 10
Repeal the section.

My home state of South Australia—I like starting a speech with 'My home state of South Australia'; it just gets me off on the right foot—amongst other things, is blessed with significant uranium deposits. On a per capita basis we have, perhaps, the most in the world.

Let me mention a former state Labor MP, the late Mr Norm Foster. He was one of the first members in the other place for the electorate of Sturt. He then became a member of the South Australian Legislative Council. In 1982 Norm Foster crossed the floor in the state parliament to get uranium mining underway at Olympic Dam, in South Australia. In expressing his conscience in support of that state, Norm Foster resigned from the Labor Party, to perhaps avoid being expelled for going against party policy. Thankfully, history and the Labor Party were kinder to him in later years and he is now hailed as a hero in South Australia. It just goes to show, though, that sometimes groupthink has to be taken head-on, no matter what the cost. When this legislation was created in 1998, a provision was inserted by the Greens, to automatically ban certain types of nuclear activity and installations.

Senator Ludlam interjecting—

Senator DAY: I thank Senator Ludlam for his interjection; he still holds to that view 20 years later. I want to highlight that this is not the end of the debate, if the amendment is defeated. It is not even the beginning of the end. I accept that the government was perhaps housekeeping in this particular legislative area and then along I came, opportunistically, with an amendment about nuclear installations. And when you come from South Australia you take every opportunity that you can. I get that. I also want colleagues to get that, when it comes to a nuclear future for South Australia—and my South Australian colleague Senator Edwards and indeed a number of other coalition senators have offered encouraging words to me in
support of this amendment—I and others from South Australia and no doubt other senators from other states support that, and breaking down the barriers to get on with the nuclear fuel cycle and industry for South Australia.

A royal commission into the nuclear fuel cycle has been instituted in South Australia and, to its great credit, state Labor got this underway. My party, the Family First Party, has welcomed and supported that. I note that it has been reported that the South Australian government's Attorney-General's Department is already preparing tenders for consultants to bid for the work in preparing business cases for the very things that are described and banned outright in section 10 of the act. This move is designed to clear and improve the business case for South Australia participating more broadly in the nuclear fuel cycle.

I want to also make it clear that a nuclear spent fuel facility is already permissible at law, although the Greens also tried to stop that in 1998. We need and already have low-level facilities, but these are presently licensed by the authority.

I also want to talk about nuclear submarines. I want to emphasise, again, that I support nuclear-powered submarines, not nuclear-armed submarines. Some of our major allies have nuclear-powered submarines, not least of which are the UK and the United States. The generation of submarines currently under the competitive evaluation process will of course be conventional submarines. But I hope that the next generation after that will be nuclear, because there is no doubt that these provide the tactical superiority and particular range that a large and relatively remote nation such as Australia needs. Informed opinion tells us that Australia's defence needs are for 12 submarines, six conventional and six nuclear powered.

Having a nuclear fuel cycle and nuclear industry will greatly improve the prospects of us establishing a nuclear submarine industry and, indeed, developing local talent. We could work, for example, in partnership with, say, the United Kingdom or the United States and progress towards having our own nuclear industry, supporting nuclear-powered submarines.

With respect to international comparisons, let me just outline for the benefit of senators where Australia presently sits in comparison with its major trading partners when it comes to the types of facilities described in section 10 of the act. Thirty-three nations have nuclear power and 19 of those nations have nuclear fuel fabrication. Eleven nations have nuclear enrichment plants. There are seven nations with reprocessing facilities. Australia is one of just four out the 20 G20 nations that does not have nuclear power. Eighteen of the 34 OECD nations have nuclear power, and Australia of course is not one of them. So nuclear energy and its fuel cycle is not an international pariah as some might suggest; in fact, far from it.

I want to move on to consider small, modular reactors, which Senator Leyonhjelm mentioned a short time ago. I have learnt a little bit about this aspect of nuclear energy. Let me tell you about small modular reactors, SMRs for short. In brief, they are small, economically efficient, reliable nuclear energy sources—

**Senator Ludlam:** They don't exist.

**Senator DAY:** They do exist—

**Senator Ludlam:** Nobody has built one.

**Senator DAY:** They are assembled in-house and then shipped to the desired locations. They are often destined for remote locations as they require few staff and have fewer containment issues. They employ inherent—
Senator Ludlam: Where are they operating?
Senator DAY: I will get to that, Senator Ludlam—
Senator Ludlam: I’ll stop.
Senator DAY: If you don’t mind. We have talked about courteous—

The TEMPORARY CHAIRMAN (Senator Gallacher): Senator Day, address your questions through the chair. And those on my left, order.

Senator DAY: Senator Ludlam is very close to me here. It is irritating me in my ear as I go along through this, Mr Chair.

There is no need for long transmission powerlines with these small modular reactors in remote locations, and South Australia of course has abundant remote locations. There is a smaller power output relative to the larger power plants, and the initial construction costs are much lower by comparison. SMRs produce between 10 and 300 megawatts, compared to 1,000 megawatts for a typically large reactor. SMRs have load-following designs so that when electricity demands are low they produce a lower amount of electricity. They are fast reactors and are designed to have higher fuel burn-up rates, reducing the amount of spent fuel produced. And, importantly, they use low enriched uranium, which is non-weapons-grade uranium. This makes the fuel less desirable for weapons production, supporting nonproliferation.

Let me talk about the knowledge economy in South Australia. We are hearing much these days about improving our international competitiveness and giving our own young people reason to stay in Australia, in South Australia in particular. It is a worthwhile debate to have, and that mentality was a driving force behind the Medical Research Future Fund debate, with scientists writing to us, urging us, that our best and brightest were going overseas to pursue research opportunities.

I ask my colleagues today in this debate: where will the next Albert Einstein come from? Will they be Australian? Where will the next Ernest Rutherford come from? He was a New Zealander. South Australia has produced a Howard Florey. Will we one day develop the equivalent of a hadron collider in South Australia?

I have somewhat of a background in science and I have to say it is very discouraging when you have a law saying that some science is completely off-limits, even though you have other nations in the world delivering significant benefits to their citizens.

Will we one day celebrate a huge leap forward in scientific technology? Lockheed Martin are saying they are close to doing that with nuclear fusion. Will that involve a former Australian citizen who went to Britain, somewhere friendlier, to do nuclear science? What a shame that would be. We embrace nuclear medicine and its benefits to our health, and we ought to be embracing the nuclear fuel cycle also.

I moved this amendment because it is simply illogical to have a law saying that you simply will not entertain certain technologies. By all means, if you want to impose strict licence conditions so be it; do so. We know that regulation rules out a host of other things already because it makes it uneconomic to proceed, yet it is regulatory extremism to statutorily ban certain things from ever being considered. The 1998 provision was not opposed by the major parties because they were not looking this far into the future. My amendment is designed to
get the parliament to reconsider the future, and to vote in favour of the future, by supporting this amendment.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (13:19): In responding to the amendment, I firstly would like to commend Senator Day for seizing the opportunity to encourage debate around this issue.

While the government welcomes a discussion around the broader opportunities that exist for a nuclear industry in Australia, it has been clear that any move to expand the nuclear industry in Australia would require bipartisan and broad community support. I can inform the senator that the government believes all energy options, including nuclear, should be part of any community discussion about Australia's future energy mix. The energy white paper 2015 states:

The Australian Government will consider the outcomes of the South Australian Royal Commission into its future involvement in the nuclear fuel cycle including the mining, enrichment, energy and storage phases for the peaceful use of nuclear energy.

And I note the royal commission is due to report its findings in May 2016 and also note that South Australia is indeed Senator Day's home state.

The Australian government is also committed to monitoring international developments on nuclear energy and will continue to work with the states and territories on improving the regulation of nuclear industries. Improvements include responding to technical developments and the streamlining and removal of any unnecessary regulation. The Department of Industry and Science is reviewing options in this regard, and repealing section 10 would be premature in light of these existing processes and policy settings.

While consideration of lifting prohibitions may be relevant when setting the policy direction for Australia's energy future, such considerations should be made at the right time. In the case of the Australian Radiation Protection and Nuclear Safety Amendment Bill 2015 before us, it is intended to update the legal framework governing the safety of existing facilities and the protection of workers, the public and the environment.

Consideration of section 10 of the act was outside the scope of the review of the Australian Radiation Protection and Nuclear Safety Act 1998. The review of the ARPANS Act was undertaken to improve the operation of the legislation and to update the regulatory scheme to better reflect international best practice.

The bill provides ARPANSA with a range of tools in order to best manage radiation risks and to monitor and enforce compliance with the legislation by existing Commonwealth entities. Repealing section 10 of the ARPANS Act in isolation would not result in a situation whereby the prohibited nuclear installations could then be constructed or operated in Australia. The ARPANS Act only applies to Commonwealth entities. Other legislation at both state and federal levels would need to be repealed and amended to enable the prohibited nuclear installations identified in section 10 to be constructed and operated in Australia. I note again that such an action would be premature in light of processes underway to consider options and opportunities in relation to the future of the Australian nuclear industry. As such, the government does not support the amendment but we look forward to further discussion of this issue.
**Senator McLUCAS** (Queensland) (13:22): Labor does not support any amendment that would repeal section 10 of the Australian Radiation Protection and Nuclear Safety Act. Section 10 of the ARPANS Act provides that nothing in the legislation is taken to authorise the construction or operation of a list of nuclear installations—a nuclear fuel fabrication plant, a nuclear power plant, an enrichment plant and a reprocessing facility. These issues were canvassed at the Senate inquiry and the committee's view was that:

A change of this significance is broader than the committee's inquiry into the provisions of the bill and deserves separate consideration.

Senator Day, I join with the minister in congratulating you for using this opportunity to have a debate but I say to you that this is not the place, in the Senate, on a regulatory bill to be having a debate which could result in completely change Australia's energy policy. This bill goes to the regulatory framework for the regulation of radiation sources in our country. I do not think this is the place to have that debate. We note that the inquiry is being undertaken by the South Australian government and the issues you are trying to canvass will, I am sure, be considered there. We do not support your amendment, which, as I said, would fundamentally change Australia's energy policy.

**Senator LUDLAM** (Western Australia—Co-Deputy Leader of the Australian Greens) (13:24): I also join with my colleagues in thanking Senator Day for bringing this bill forward, despite the admonishment just then from Senator McLucas about this not being the time or the place. The Greens also have, from time to time, introduced amendments which would radically change the course of a particular piece of legislation. Today is as good a day as any. I am not going to support the amendment and I will explain as clearly as I can why not.

Let us start with South Australia. I think where Senator Day and I would be in firm agreement is that the South Australian economy is in deep trouble. Between the closure of advanced manufacturing for cars, the extraordinary uncertainty faced by naval shipbuilders in South Australia at the moment and, ironically enough, the uncertainty provoked by BHP's intentions on the Roxby Downs expansion you have three of the larger employers or potential employers in the state of South Australia potentially hitting the wall at the same time. I recognise, as do my South Australian colleagues, that that puts the state in a very serious predicament, one I would hope in here would be above politics.

It is without much pleasure that I would remind Senator Day and others that it was only a week or so ago that 380 employees of BHP lost their jobs. I think part of that is as a consequence of the company's decision a couple of years ago to not proceed with the expansion of the Roxby Downs open cut. Senator Day is quite right when he points out that Australia hosts a very large fraction of the world's uranium reserves but the Olympic Dam operation or the Roxby Downs site has a surprisingly large proportion of that uranium infantry at that one single site. The problem we have, which BHP discovered, is that yes, that deposit is huge, but it is very low grade and is a long way underground.

BHP's initial modelling showed that they were going to need to run the largest haul packs in the world 24/7, around the clock, for four years just to remove the overburdened before they could reach the top of the ore body, an excavation which would ultimately become the largest on the planet. For four years those diesel powered monsters would go down and down into the pit just to remove the overburdened and to put it into a temporary mountain to one side of the pitch before starting to mine marketable ore. Once we had the numbers on the size
of the open cut, what it would look like, how much it would cost to access that ore body and how much radioactive waste would have been piled on the surface in 50, 60 or 70 years of the mine's life, we would be leaving, in effect, more than a cubic kilometre of very finely powdered, pulverised, carcinogenic radioactive waste on the surface. Neither the South Australian government nor the Commonwealth environmental regulators were proposing that that radioactive material should be put back in the hole at the end of mining.

I think one of the reasons that BHP ultimately decided not to proceed with the expansion—you could also argue that Roxby is a copper-gold venture which has uranium as a by-product—one of the things that killed that expansion was the very low world uranium price which had fallen from the extraordinary spike in 2007 to the point where they simply could not make the numbers add up. Now even a couple of years after that decision has been made we are still seeing companies having to let people go.

So yes, there is a lot of uranium but it may be too low grade and too deep to bring to the surface at this time. That is before you bring in the issues that have plagued that site for many years—the destruction of Aboriginal country and sacred sites, in particular the draining of the mound springs, the extraordinary consumption of water in processing operations not just for uranium but for copper, gold and other material coming out of that underground site and the fact that this is the feedstock for the global nuclear fuel chain.

Senator Day used the term 'nuclear fuel cycle'. While this probably sounds pedantic, I do not use that phrase. There is no cycle. There is no closed loop. It has never existed. It has been a dream since the 1950s that you could feed the waste products of the nuclear fuel cycle, as they were calling it then, in the form of plutonium, back into the front end at so-called breeder reactors and nobody, not even the best engineers and technologists in the world, in Russia, in Japan and in North America have ever figured out how to make it work.

You were listing before, Senator Day, the countries that operate reprocessing plants, and I am presuming you would include Japan in that list. They are not reprocessing there at the moment. It is so formidably difficult to close the loop on the 'nuclear fuel cycle' that we should not dignify it with that term. It is a one-way process for creating very low-grade uranium ores into various categories of intractable radioactive carcinogenic waste, including here in this country.

So no expansion at Roxby—and, if you are looking to one of the world's largest uranium mines to provide those jobs and that economic stability at a time of great instability in other sectors, it is the last place that you would want to look. What about if we head north to a much higher grade deposit and look to Kakadu? The Ranger uranium mine is presently on its knees. The company has just abandoned proposals to go underground and are looking at a kind of the reverse process to what they are looking at at Roxby. According to Rio Tinto, they will not be going underground at Ranger. So, effectively, you have a mine that is on its knees. They now have to have a very serious look at cleaning up 30 years of radioactive messes inside a World Heritage area, and it is not at all clear from company statements whether they have the financial resources to do that. Coming back to central South Australia, the Beverley uranium mine is looking radically uneconomic. They have been shedding people as well. The Honeymoon mine, which was opened with such fanfare a couple of years ago, is uneconomic as well.
It is not simply due to the low uranium price, but that is of course a key factor. Why is the world uranium price so low? Partly it is because of the indestructible optimism of advocates. We heard before from Senator Leyonhjelm—who put it about as well as I think I have heard it put in recent times—about that glowing, radiating enthusiasm for an industry that simply derides any opposition as emotional or irrational and says, ‘We can finally kick the 1980s to one side.’ I think it was very interesting, Senator Leyonhjelm, that that was your baseline, because the 1980s was this curious collision of the hangover of Three Mile Island, where the asset of a nuclear utility that had been running perfectly was converted from an asset into a multibillion dollar liability over a period of about 20 minutes, and the point where regulators were trying to decide whether or not to evacuate a million people from the site around the stricken reactor at Three Mile Island. Eventually they got that site back under control again and no human being will ever set foot inside that reactor building again.

The markets, Wall Street in particular, had already decided that the industry was simply going to be uneconomic. The writing was on the wall before 1979, except that you had this huge construction build in the pipeline from the sixties and the seventies. So the 1980s is a very interesting period to start looking at this industry, because you still had the tail end of that extraordinary construction boom of the 1970s and reactors coming on line. It was a time of enormous optimism in the industry until 1986, when engineers at the Chernobyl plant in the Ukraine lost control of the reactor during a very, very poorly calibrated test and blew the side out of the building. Again, hundreds of thousands of people were evacuated from that site. At this time the writing was very seriously on the wall.

When I go to look for the facts, not for the stuff that I guess I was indirectly accused of by both of the previous speakers—around irrationality or, ‘It’s just emotional’ or ‘You’re not looking at the facts’—I get my facts, which are available to everybody to evaluate, from The world nuclear industry: status report 2015. I think it has been in publication for six or seven years now, and it is an extraordinarily valuable resource. They do not bring an agenda—they would not describe themselves, I would hope, as either pro- or antinuclear—but they do put a lot of very important global data into the public domain and they update it once a year. That is why I could not help myself and I was a bit undisciplined during Senator Day’s comments when he was putting onto the public record stuff that the evidence simply does not support. So let us go through this in a bit of detail.

One of the reasons that the world uranium price is so low is that inventories are piling up around the world. You had between 40 and 50 reactors in Japan offline—the entire country’s nuclear fleet offline—after 3/11 and nuclear inventories simply building up around the world. The reason that they have not started up again is that, firstly, the Japanese public are aware that 160,000 radiation refugees had to be pulled out of that area and most of them will never be able to go home. I do not know how many people have visited that site, but I have. I got within 10 kilometres of the reactor into an area that had recently been opened up again. It was though the tsunami had only just happened yesterday. It was a haunting experience. There are 150,000 radiation refugees still unable to go home—nor is it likely that they will ever be able to. The Japanese public trusted the industry and were told that such a thing could never happen. So there has been a staggering betrayal of trust.

Another thing is that, yes, it had an impact on Japanese coal and gas imports, but the Japanese public realised for the first time in the postwar era that they did not need what they
call the atomic mafia. The lights stayed on and the Japanese economy stayed intact. Yes, their energy imports went up, and instead of importing uranium from places like Australia, they are importing gas from places like Australia, but the lights stayed on. So there were two fundamental betrayals of trust: the industry was not needed and the industry was not safe. That has permanently changed the character of Japanese politics. Apart from, I think, one unit that went online within the last fortnight or so, the other reason that those reactors have not started up in Japan is that local authorities—prefectural and district level authorities—have a very important say in whether or not those plants get back up. So, if we are looking to Japan as a customer country for Australian uranium, we would need to look somewhere else.

France was mentioned as the country with the highest density of installation of nuclear power stations in the world. It might have been Senator Leyonhjelm—though I do not want to misquote him—who said that there had been no accidents. The record of accidents in the French nuclear industry—which I will not go into in detail now—stands for itself. But here is the thing: the French authorities are backing out of the industry. Japan was once held up as the exemplar of the nuclear economy. Pro-nuclear advocates do not talk about Japan so much anymore, but they do talk about France. But AREVA are now technically bankrupt. They were downgraded to junk standard by Standard and Poor’s, and the share value plunged to a new historic low on 9 July, with a value loss of 90 per cent since 2007.

AREVA is the state-owned entity that basically does everything in relation to atomic energy, all the way through the fuel chain from mining to waste—parking and waiting and seeing. AREVA is effectively bankrupt, and the French policy now is basically around getting from 70 per cent back to less than 50 per cent nuclear. They realise that that extraordinary reliance on ageing and extremely inflexible and risky reactors in France is a dead end for their energy policy and they are looking to diversify. Where are they looking? They are not looking to fossil; they are looking to clean energy, to renewable energy. And that is what is happening elsewhere.

I refer again to the The world nuclear industry: status report. The industry is stuffed, colleagues. The global nuclear industry is on its knees; it is on its way out. It would be something of a tragedy, I would think, for well-meaning senators in here looking for economic diversification, looking for energy security, to look to this dead end that has never, ever lived up to its promises. Nuclear plant construction starts plunged from 15 in 2010 to three in 2014. I will quote one paragraph from that same report:

The 391 operating reactors … are 47 fewer than the 2002 peak of 438 …

So peak nuclear was 2002—that is getting to be a while ago now. It has all been in decline since then. There are 47 fewer reactors operating now than there were then. That is a reasonably large number. The report goes on:

… the total installed capacity peaked in 2010 at 368 gigawatts before declining by 8 percent to 337 gigawatts …

So now we have basically rewound the industry by about 20 years in terms of installed capacity. Further:

Annual nuclear electricity generation reached 2,410 terawatt hours in 2014—a 2.2 percent increase over the previous year, but 9.4 percent below … peak …
My question to Senator Day is whether he would like a copy of this document. I do welcome this debate because the nuclear debate has been happening in Australia for decades and there are important reasons why the pro-nuclear side keeps losing and one of them, I would suspect, is simply overlooking the underlying fundamentals of a market that is broken and has delivered only risk, despite promising such extraordinary benefits.

Senator LEYONHJELM (New South Wales) (13:39): The Australian Radiation Protection and Nuclear Safety Act is the legislation that makes it illegal to authorise a nuclear power station, fuel enrichment or a fabrication facility or a reprocessing facility. Senator Day’s amendment would repeal section 10 of the ARPNS Act and thus make it possible, not necessarily probable, for the regulator to authorise a nuclear power station, fuel enrichment or a fabrication facility or a reprocessing facility. In submissions to the Senate inquiry, both the Australian Nuclear Association and Engineers Australia suggested such an amendment. Senators Nash and McLucas have both said now is not the time for such an amendment. Senator Ludlam suggested there is never a good time for an amendment like this. I would argue that now is as good a time as any to start peeling back the Australia’s absurd attitude to a nuclear industry. Senator Day’s amendment would make a useful start and I signal my support for it.

Senator DAY (South Australia) (13:40): In summing up, I thank my colleagues for their contributions on my amendment. I would particularly like to thank my colleague Senator Leyonhjelm for his support. In response to Senator McLucas suggesting that my amendment would fundamentally change energy policy, I was not suggesting that but rather just removing a ban on even considering these things at the first hurdle. Whether my amendment represented a fundamental change in energy policy, I thank Senator McLucas for her compliment.

In response to Senator Ludlam’s comments, he makes my point exactly. He says that there is no nuclear fuel cycle. What have the last hundred years of brilliant discoveries and inventions been all about? We used to burn off gas from oil refineries and now it is recycled. Methane used to leak out of rubbish dumps and now it is harnessed and used for fuel. And there are all the medical breakthroughs. I think Senator Ludlam’s short-sighted approach, saying, ‘We can't allow it because we haven't done anything yet,’ is my whole point. The whole point is where might the next big medical or scientific come from? If we keep on blindly with a ‘Ludlam-ite’ approach—excuse the pun, Senator Ludlam—it will get us nowhere.

It would appear that I do not have the numbers for this to succeed today. I accept that. This amendment has come at relatively late notice. I do thank senators for their contribution. It has triggered an interesting discussion. I will read Senator Ludlam’s discussion paper on this because it really is very, very important for my home state of South Australia. Nonetheless, I have moved my amendment on sheet 7764.

Question negatived.
Bill agreed to.
Bill reported without amendments; report adopted.
Third Reading

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate and Assistant Minister for Health) (13:44): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

COMMITTEES
Legal and Constitutional Affairs Legislation Committee

Report

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (13:45): On behalf of the Chair of the Legal and Constitutional Affairs Legislation Committee, I present the report on the Australian Small Business and Family Enterprise Ombudsman Bill 2015 and a related bill, together with the documents presented to the committee.

Ordered that the report be printed.

BILLS

Australian Small Business and Family Enterprise Ombudsman Bill 2015

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator JACINTA COLLINS (Victoria) (13:45): I rise to speak on the cognate bills—the Australian Small Business and Family Enterprise Ombudsman Bill 2015 and the Australian Small Business and Family Enterprise Ombudsman (Consequential and Transitional Provisions) Bill 2015. Labor supports the passage of these bills, but not without emphasising our concerns and the concerns of stakeholders who recently submitted to the Senate Legal and Constitutional Affairs Legislation Committee inquiry—the report of which, fortunately, was just tabled.

These concerns are specifically in reference to the use of the title 'ombudsman' for this role, its defined powers and its degree of independence. Questions were raised in the inquiry as to the appropriateness of the use of the term ombudsman in this context. If these concerns remain unaddressed they have the capacity to undermine the widely-accepted and well-established functions and powers of the role of the ombudsman in Australia. Consequently, this may well lead to a loss of confidence in or under-utilisation of the role of the small business ombudsman by small-business people requiring assistance. While the Senate legislation committee report recommends that these bills be passed without substantive change, it also notes the need for regular review of the legislation to examine and monitor issues raised by stakeholders. Labor outlined four major concerns to the committee in our additional comments. I will address these separately, but I will now make a few comments regarding the history and the role of the ombudsman.
Labor believes the independence and impartiality of the role of an ombudsman is important to guaranteeing the trust of Australians in this role. The office of the Commonwealth Ombudsman exists to safeguard the community in its dealings with government agencies and to ensure that administrative action by Australian government agencies is fair and accountable. The establishment of the office of the Commonwealth Ombudsman was first moved under the Whitlam Labor government and enabled by legislation in 1976, commencing operation on 1 July 1977. The Commonwealth Ombudsman can investigate complaints about the actions and decisions of Australian government agencies to see if they are wrong, unjust, unlawful, discriminatory or just plain unfair.

The office of the Australian Small Business Commissioner, or the ASBC, was established by the Gillard Labor government in 2013. The principal functions of the ASBC are: to provide information and assistance to small businesses, including referral to dispute resolution processes; to represent small business interests and concerns to the Australian government; and to work with industry and the government to promote a consistent and coordinated approach to small business matters. These cognate bills would establish the office of the ASBC and replace the role of the new Australian Small Business and Family Enterprise Ombudsman—the ASBFE Ombudsman, which I will simply refer to as the small business ombudsman.

This bill, with the establishment of the office of the small business ombudsman, cannot fulfil the functions of an independent and impartial umpire and will, therefore, compromise the safeguard role that a traditional ombudsman plays on behalf of all Australians. The advocacy and dispute resolution functions of the small business ombudsman that are at the heart of this bill are inconsistent with an accepted set of criteria considered necessary to be described as an ombudsman.

Labor senators note the strong opposition expressed by numerous expert groups and peak organisations in the six submissions that expressed a view about the use of the term ombudsman in the title. The Commonwealth Ombudsman identified concerns with the suitability of the title of ombudsman for this role, and the Australian and New Zealand Ombudsman Association noted that the office proposed is not an ombudsman, and should not be called one. The Commonwealth Ombudsman expressed strong concerns that use of the term ombudsman in this context is misleading and has the potential to damage the ombudsman brand that has been developed by ombudsman offices throughout Australia over the last 40 years.

As noted in the main report, both Restaurant and Catering Australia and the Small Business Commissioner of Western Australia expressed concern that the title may actually prevent small businesses and family enterprises from approaching the new office. The Energy and Water Ombudsman New South Wales urged the committee to consider the name and replace it with a more accurate one.

Labor senators are concerned that the new small business ombudsman is described in the explanatory memorandum as a 'departmental official' who will receive corporate and staffing support from the department. One of the generally accepted core functions of an ombudsman is for the ombudsman to be able to independently and impartially investigate the actions of government agencies. This may prove difficult with the administrative arrangements and organisation of the small business ombudsman described in the bill as being structured within
a departmental agency of government. Under clause 20 of the bill the minister may give written directions to the ombudsman, and the ombudsman must comply with these directions.

The activities of the Commonwealth Ombudsman's office are governed by a number of Commonwealth laws, principally the Ombudsman Act 1976. The Commonwealth Ombudsman's office delivers an annual report which provides details of the numbers and types of complaints dealt with and the ways in which they are resolved. The Commonwealth Ombudsman must provide the minister with an annual report under section 46 of the Public Governance, Performance and Accountability Act 2013.

Labor senators are concerned that this bill requires the small business ombudsman to provide quarterly reports to the minister on the research and inquiries undertaken. Our principal concern goes to the lack of an effective arms-length separation of the powers between the small business ombudsman and the minister's office. The bill describes arrangements that could reasonably be described as a close working relationship with the minister's office and one that is not far removed from ongoing oversight by or influence of the minister. This is rightly reflected in the views expressed by some of the stakeholders in the inquiry. The office of the New South Wales Small Business Commissioner, for example, queries whether the level of direction able to be given to the ombudsman from the minister aligns with the references in the explanatory memorandum to the objective of impartiality. If the ombudsman is truly going to be able to make credible inquiries into the concerns of small businesses and family enterprises arising out of the legislation, policies and practices, the ombudsman needs to have the certainty that the minister will not alter any findings or recommendations made by the ombudsman.

In its current form, the provisions of the bill diminish the ombudsman's independence from the government of the day and risk limiting the ombudsman's ability to be non-partisan. Business Enterprise Centres Australia expressed the view that it would be preferable for the ombudsman to report directly to the parliament rather than to the minister. Labor senators consider the operation of the existing Commonwealth Ombudsman, particularly in relation to the government of the day, to be a more appropriate association and one that should be considered as the model to be applied to the role of the small business ombudsman. Failure to address this fundamental issue will result in a lowering of expectations by the community and the potential for the diminution over time of the respect and high regard Australians have for the role of ombudsmen.

Labor senators note the views of those expressing concerns regarding the advocacy function to be performed by the small business ombudsman. These concerns go to the combined role of advocacy on behalf of a group or individual and the role of an independent and impartial investigator as an ombudsman. Labor does not consider the advocacy functions set out for the small business ombudsman as being the primary role or function of an ombudsman. Rather it is Labor's view that these functions could be provided by the existing Australian Small Business Commissioner. This would allow for a clear separation of the two roles and maintain the independence and impartiality of the new small business ombudsman.

In the Treasury's consultations on the exposure draft legislation for the small business ombudsman, the Australian and New Zealand Ombudsman Association, the Financial Ombudsman Service of Australia and the Association of Dispute Resolvers—LEADR and
IAMA—all noted the advocacy function as being of considerable concern and inconsistent with the role of an independent ombudsman.

The Shopping Centre Council of Australia submitted that the use of the term 'ombudsman' in the title was misleading and should be changed to 'commissioner'. A similar view was expressed by the Telecommunications Industry Ombudsman. The Australian and New Zealand Ombudsman Association submitted to the Treasury and to the committee that it is clear that the role of the Small Business and Family Enterprise Agency is as an advocate, in both reality and perception. As such, it does not meet the independence criterion. They support the aims of the proposal to assist small business and family enterprise but strongly submit that it should be called something other than an ombudsman.

The minister has even acknowledged that the ombudsman who advocates a position regarding a particular issue would not be perceived as impartial in dealing with disputes relating to that issue. However, the minister maintains that the small business ombudsman or the ombudsman's staff will not conduct any dispute resolution processes but rather refer matters to outsourced alternative dispute resolution providers and that is this separation between dispute resolution and advocacy ensures the independence of the role.

Labor senators note the view expressed by the minister but consider nevertheless that the arrangements prescribed in the bill are inappropriate for an office being establish with the title of 'ombudsman' and fear that this will lead to confusion among small business owners, resulting in the underutilisation of the service.

Labor senators consider that the ombudsman must be truly independent if he or she is to have the confidence of the community. The small business ombudsman bill includes a dispute resolution function but the bill designates this role to a secondary function with an emphasis on the ombudsman primarily being a concierge for complaints. Dispute resolution services are allocated to a panel of dispute resolution providers, and any role the ombudsman plays in the resolution of disputes is only minor.

Regarding those able to provide dispute resolution services, the Mediator Standards Board noted in its submission to the consultations on the exposure draft of the legislation the need for those mediators that can perform dispute resolution services to be accredited under the National Mediator Accreditation System. Clause 72(1) of the bill provides that the ombudsman may publish a list of persons who have the qualifications or experience to conduct alternative dispute resolution processes to resolve disputes in relation to relevant actions. Clause 72(2) of the bill provides that the minister may, by legislative instrument, prescribe the qualifications or experience required for persons to be included on the list. Labor senators support the concerns of the Mediator Standards Board and urge the government to prescribe that those able to conduct alternative dispute resolution services are required to be accredited under the National Mediator Accreditation System.

The Abbott government has unfairly raised the expectations of the small business sector in election commitments and statements since the Minister for Small Business announced the new small business ombudsman that would be able to effectively deal with and resolve small business issues. Labor senators are not convinced that the new role of the small business ombudsman has the statutory independence of an ombudsman and consider that the role prescribed in this bill is not comparable to an ombudsman. The new role of the small business ombudsman is not consistent with the accepted definition of an ombudsman and would lead to
confusion and unmet expectation from those seeking an independent and impartial umpire to investigate matters they seek to pursue in a fair and impartial way.

Labor senators support the views expressed by stakeholders in the report that the title 'ombudsman' should be reconsidered by the government. The dual roles of advocate and ombudsman are not consistent with the accepted definition of an ombudsman; nor is the regularity of the reporting requirements of the small business ombudsman and the powers of the minister to direct the ombudsman. While Labor supports the Senate passing these bills, Labor senators are mindful that Australian small business operators may underutilise the new office of the small business ombudsman as a result of these issues as prescribed in the bill.

Debate interrupted.

**QUESTIONS WITHOUT NOTICE**

*Royal Commission into Trade Union Governance and Corruption*

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:00): My question is to the Attorney-General, Senator Brandis. I refer to the Attorney-General's confirmation yesterday that his office had been 'aware some months earlier' of Commissioner Heydon's intention to speak at a New South Wales Liberal Party event: the Sir Garfield Barwick lecture. Why did the Attorney-General's office take no action when they became aware Commissioner Heydon was addressing a Liberal Party function?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:00): Let us remind ourselves what I said. I have got the *Hansard* with me, so I will remind you what I said. I said, when you asked me a like question, I became aware on Thursday morning. I instituted an inquiry. My office had become aware some months earlier and apologised on my behalf because I had already, at the time that my office received the date claimer notice, accepted another event which was in the diary. That is the position.

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:01): Mr President, I ask a supplementary question. The Attorney-General did not answer, so I re-ask why his office took no action when they became aware Commissioner Heydon was addressing a Liberal Party function. Can the Attorney-General also explain to the Senate why yesterday he said he was 'concerned' about the commissioner delivering the Barwick lecture?

**Senator BRANDIS** (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:02): Senator Wong, can I give you some advice? If you are going to paraphrase, paraphrase accurately, because you have not done so. First of all, in relation to the first part of the question, I did not say my office became aware that the New South Wales Liberal Party was promoting the function. Can the Attorney-General also explain to the Senate why yesterday he said he was 'concerned' about the commissioner delivering the Barwick lecture?

**Senator WONG** (South Australia—Leader of the Opposition in the Senate) (14:02): Mr President, I ask a further supplementary question. Can the Attorney-General explain how it is possible for the commissioner to overlook multiple emails titled 'Liberal Party of Australia
New South Wales division lawyers' branch,' or referring to former Prime Minister Howard, or referring to the Attorney-General, or referring to New South Wales state donation compliance?

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): Again, if you are going to put these propositions it is best to get your facts right. You use the word multiple. I suppose three is a multiple. Three emails in the space of 18 months—

Opposition senators: Four.

Senator BRANDIS: I have seen three. Three in the space of 18 months does not strike me as being a huge flurry of emails. Secondly, I might say that the only reference to the New South Wales Liberal Party professionals' branch in all bar one of those is in the subject line of the email. It is not for me to speculate upon what Mr Heydon—

Senator Kim Carr: It is a good place to hide it.

Senator BRANDIS: Senator Carr, you do not hide the subject line of an email. The infantilism of your interjection knows no bounds. In any event, Mr Heydon explained this matter to the royal commission yesterday, and I accept what he says.

Vietnam Veterans Day

Senator BACK (Western Australia) (14:04): My question is to the Minister for Veterans' Affairs, Senator Ronaldson. As we mark Vietnam Veterans Day, acknowledging the 49th anniversary of the Battle of Long Tan, can the minister inform the Senate about the government's plan to mark next year's 50th anniversary commemorations from the Vietnam War?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:04): I thank Senator Back and, before I get to the substance of his question, I acknowledge we have in here today a number of members of the Australian Defence Force. On behalf of the chamber we thank you for your service.

Today, of course, is a very special day for this nation. It is Vietnam Veterans Day. It actually this year also marks the 50th anniversary of the arrival of our first combat troops in Vietnam, 1RAR. This is an opportunity for this nation to honour the service and sacrifice of those who fought in the Vietnam War and to honour those 521 Australians who died in the Vietnam War and an opportunity for this chamber, the parliament and the nation to honour the families of those service men and women. Some 60,000 Australian men and women—predominately men—served in the Vietnam War. Today at Anzac Parade it was a great honour for me to join the Governor-General, the Prime Minister and the Leader of the Opposition in a commemoration run by the ACT branch.

It is fair to say that the way this nation treated a number of those men on their return from Vietnam was a disgrace and something that we should all always reflect on with a degree of shame, because they were after all serving this nation at the nation's request.

In the time left for the primary question, I am pleased to announce today that we also, through DVA, have a new online Vietnam War roll of honour image gallery. That features a number of those 521 men from families—(Time expired).
Mr President, I ask a supplementary question. I thank the Minister for his answer and ask if the minister can inform the Senate how the government is educating younger Australians about the Vietnam War, especially the service and sacrifice of those Australians who fought?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:07): I am very pleased that today I am also launching an essay-writing program titled 'Honouring our Vietnam veterans'. That will be available around Australia, in each electorate, for young people who will be in years 10 and 11 next year. This can be an essay, a multimedia presentation or a creative presentation based on research of two individuals or two units, including their role in and contribution to the war and the importance of honouring their service and sacrifice. The winners from each electorate will be in Canberra next year between 17 and 19 August so they can again participate in the commemoration of the 50th anniversary of the Battle of Long Tan.

Just before I finish, can I again remind the chamber that we will be bringing those men back from Terendak—a 50-year wrong that has now been righted. (Time expired)

Senator BACK (Western Australia) (14:08): Mr President, I ask a further supplementary question. I ask if the minister can advise the Senate how the government will support community-based commemorations for the 50th anniversary of the Battle of Long Tan and the wider Vietnam conflict in 2016?

Senator RONALDSON (Victoria—Minister for Veterans' Affairs, Minister Assisting the Prime Minister for the Centenary of ANZAC and Special Minister of State) (14:08): Again, thank you to Senator Back. I am also announcing today that we will have a dedicated grants program, consistent with our election commitment, which will enable Vietnam veterans and the wider community to participate in the commemoration of the 50th anniversary of the Battle of Long Tan and indeed the wider Vietnam conflict. This comes on the back of the very successful Anzac Centenary Local Grants Program. It opens on 14 September. It closes on 15 October. It will enable members of the ex-service community, the Vietnam veterans community and the general community to apply for projects of between $4,000 and $20,000 which will assist in the commemoration. I will just finish on this note. Today is a very special day for this nation. Next year, particularly, this date will be a very, very special day for this nation as well.

DISTINGUISHED VISITORS

The PRESIDENT (14:09): Thank you, Minister. Quite appropriately, after your questions and answers, I acknowledge in the President's gallery a delegation from Vietnam led by Mr Nguyen Kim Khoa. I welcome them, in particular, to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Royal Commission into Trade Union Governance and Corruption

Senator MOORE (Queensland) (14:09): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General confirm that Commissioner Heydon first accepted the
invitation to speak at the Liberal Party event the Sir Garfield Barwick lecture in April 2014 while holding his position as royal commissioner?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:10): I have seen an email exchange which suggests that, but the email exchange—and you did not say this in your question, Senator Moore—indicates that the lecture was to be the 2015 lecture. At the time that invitation was made and accepted, the royal commission was to report by 31 December 2014. So the lecture was to be many months after Mr Heydon at the time expected no longer to be occupied with the royal commission.

Senator MOORE (Queensland) (14:11): Mr President, I ask a supplementary question. Thank you, Attorney. Can the Attorney-General further confirm that Commissioner Heydon reconfirmed his attendance to speak at this Liberal Party event in April this year, despite his term as royal commissioner being extended, as you have said, until December 2015?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:11): I have seen an email exchange to that effect, yes. Lest you think there is anything unusual about that, let me read you some words from the inaugural Neville Wran lecture—this is the inaugural Neville Wran lecture, established by the Australian Labor Party:

Yet unlike the British, from whom we otherwise derived so many conventions of political and civic life, Australians tend to observe a highly partisan view of their politicians, even after they have left politics. This is an infantile disorder. We need to grow out of it and acknowledge warmly those who have contributed to our public life.

That lecture, the inaugural Neville Wran lecture, was delivered on 13 November 2008 by the Hon. Michael Kirby, while a sitting High Court judge. Dyson Heydon gives the Garfield Barwick lecture, promoted by the Lawyers Branch of the Liberal Party. Michael Kirby gives the Neville Wran lecture, promoted by the Australian Labor Party. I do not think there is anything wrong with either. (Time expired)

Senator MOORE (Queensland) (14:12): Mr President, I ask a further supplementary question. Thank you, Attorney, for that answer. Can you now advise how last week's statement that the commissioner would be unable to give the Barwick address ‘if there is any possibility that the event could be described as a Liberal Party event’ is consistent with an email to the commissioner in April last year that advises the lecture is organised by Lawyers Branch, which is formally part of the Liberal Party?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:13): Senator Moore, I do not know if you were watching the royal commission yesterday, but the royal commissioner explained that very clearly, and I accept his explanation entirely.

National Disability Insurance Scheme

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:14): My question is to the Assistant Minister for Social Services, Senator Fifield. Today we saw reports in the media that there may be opposition within the government's Expenditure Review Committee to continuing to roll out the NDIS in its current form and in fact some pressure to slow down the rollout. Is the government planning to slow down the NDIS rollout? Where does the
minister stand on this particular issue? And where is the pressure to slow down the rollout coming from, if that is correct?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:14): Thank you, Senator Siewert, for your question. Let me make absolutely clear that this government is not looking for ways to slow down the rollout of the NDIS. We are looking for ways to deliver the NDIS to make sure that it is the best that it can be. To put beyond any doubt the intention and determination of this government to roll out the NDIS in full, colleagues need look no further than the budget papers themselves, which see the full appropriation for the NDIS laid out over the forward estimates.

Negotiations for the full rollout of the NDIS are currently underway between me and various jurisdictions. I should make clear, however, that your home state of Western Australia, Senator Siewert, currently has a trial run by the NDIS agency and also a trial run by the Western Australian government, and there will be a comparative assessment of that. Western Australia at the moment is using that information to determine how it might proceed. The ACT, as the first jurisdiction-wide trial, is in effect already on the path to full transition.

I am working very hard, negotiating with the other six jurisdictions to roll out the NDIS beyond the existing seven trial sites, but it is important to make clear that this is a collective venture between the Commonwealth and the states and territories. This is not something where the Commonwealth can unilaterally declare, 'We now have an end to negotiations.' Negotiations end, obviously, when both parties agree, and I am working very hard on that front. Any suggestions, as there were, that I am looking to slow down negotiations with New South Wales, for instance, are completely wrong.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:16): Mr President, I thank the minister for his answer and ask a supplementary question: does that mean that the Expenditure Review Committee is not considering any slowdown to the rollout of the NDIS or in fact any changes to the nature of the NDIS?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:17): This government is not looking for reasons or ways to slow down the rollout of the NDIS. We are working with our partners in jurisdictions on plans to roll out the NDIS in full. That is—

The PRESIDENT: Pause the clock. Senator Siewert, a point of order?

Senator Siewert: I specifically asked about the Expenditure Review Committee, and I would ask the minister to address that specific question, please.

The PRESIDENT: Senator Siewert, I would have interpreted the answer as being that the Expenditure Review Committee is a part of government. The minister did answer that the government was not going to slow down the rollout of the NDIS. I call the minister. He is in order.

Senator FIFIELD: Thank you. Obviously, it would be inappropriate for me to comment directly on any discussions in cabinet or the Expenditure Review Committee of cabinet, but I took it that it would be self-evident that the ERC is a constituent part of government.

Let me again say that the government is not looking for ways and means of slowing down the negotiations or discussions or rollout of the NDIS. What we want to do is to make sure
that the NDIS is the very best that it can be. That is what I am working on, and that is what my state and territory counterparts are working on.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:18): Mr President, I ask a further supplementary question. I seek an assurance from the government that they intend to finalise the agreement with the New South Wales government by the deadline it has agreed in August.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:18): Obviously, I cannot announce the conclusion of agreements until that occurs, and any such announcements would be made jointly by the New South Wales and Australian governments. But let me provide the reassurance to you, Senator Siewert, that discussions are going extremely well with New South Wales. In fact, a couple of months ago I signed with Minister Ajaka, in New South Wales, an agreement to see the NDIS roll out beyond the Hunter trial site, in Western Sydney, for young kids with disability. That will commence very shortly, and that will be the first rollout of the NDIS beyond the existing trial site. But, in relation to the broader issue of the bilateral agreement with New South Wales for transition to the full scheme, discussions are going very well. Things should happen soon. Watch this space. (Time expired)

Employment

Senator SINODINOS (New South Wales) (14:19): My question is to the Leader of the Government in the Senate and Minister for Employment, Senator Abetz. Can the minister inform the Senate how the government is fostering a strong environment for job creation?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:20): Unlike those opposite, everything this government does is about restoring the economy to create jobs for our fellow Australians. Since our coming to office, over 330,000 jobs have been created. The job creation rate is more than four times the rate seen in the last year of Labor. Australia's jobs growth over the past year has been stronger than in the United States, stronger than in the United Kingdom, stronger than in Canada, stronger than in every other G7 nation.

Whilst we know we are doing better than others, we recognise that we need to do even more. That is why this government has signed up three landmark free trade agreements with China, Japan and Korea. These trade deals will create almost 9,000 jobs per year and create 178,000 jobs by the time all the agreements come into full force in 2035. This is visionary. This is wealth and job creating. This is providing a real, positive future for job seekers.

The government is also investing more than $50 billion in infrastructure, creating jobs during construction and of course long-term jobs as well. We are cutting red tape. We are giving small business the tax breaks they need to grow jobs. Gainful employment enhances a person's mental health, physical health, self-esteem and social interaction. Jobs turn people into financially self-reliant individuals who can shake off the shackles of welfare. Job creation is an untold social and economic good, and that is why we are so determined to create more jobs.

Senator SINODINOS (New South Wales) (14:22): Mr President, I ask a supplementary question. Will the minister inform the Senate what steps the government is taking to deal with the particular issue of youth unemployment?
Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:22): The government believes that the best form of welfare is a job, and part of what we are doing to help our young people into work is creating jobs through growing our economy. We also recognise that finding and keeping work can be difficult, and we have a number of initiatives designed to give our young people the skills, support, incentives and hope to secure these jobs. The government's new $6.8 billion jobactive employment services program cuts red tape for service providers and gives young people the incentives and assistance to re-engage with training or to find and keep a job. Just last week, the former Labor Premier of Queensland Peter Beattie said of our jobactive program: 'The government's doing a lot of good things. They've got a great program called jobactive.' If he can recognise it, why can't those opposite?

Senator SINODINOS (New South Wales) (14:23): Mr President, I ask a further supplementary question. Will the minister inform the Senate about some of the types of jobs that are being created and where they are being created?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:23): The more than 330,000 jobs that have been created since the coalition took government have been created right across the economy, in tourism and agriculture, and we are on a jobs growth trajectory. Over the next few years, we expect to see more than 110,000 new jobs in retail. We expect to see an additional 140,000 jobs in education and training and 130,000 new jobs in professional, scientific and technical services, and we are on track to see more than 250,000 new jobs in health care and social assistance. This jobs growth trajectory represents great hope for our young people, who will have the opportunity to secure a wide variety of jobs now and into the future.

Royal Commission into Trade Union Governance and Corruption

Senator JACINTA COLLINS (Victoria) (14:24): My question is to the Attorney-General, Senator Brandis. Can the Attorney-General confirm that Commissioner Heydon was invited to address a Liberal Party function which enabled people unable to attend the dinner to make a donation to the Liberal Party and included a donation compliance form? If that is not a fundraiser, what is?

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): Senator Collins, I do not want to accuse you of tedious repetition, but nevertheless, having given the Sir Garfield Barwick Address myself, let me tell you what the Sir Garfield Barwick Address is. The Sir Garfield Barwick Address is a legal lecture. It is a legal lecture promoted by members of the New South Wales bar who form the New South Wales legal professionals branch of the Liberal Party. It is not an event of a political character, notwithstanding the fact that it is promoted by members of the bar who are members of the Liberal Party. It is not a fundraiser if, by 'fundraiser', you mean an event that makes a profit. It was provided for at cost price.

Senator Collins, you have referred to an endorsement on the acceptance form. My understanding is that that endorsement is to comply with statutory requirements of New South Wales election law.
Senator JACINTA COLLINS (Victoria) (14:26): Including the request for a donation, Minister? Mr President, I ask a supplementary question. Can the Attorney-General confirm that Commissioner Heydon agreed to speak at a Liberal Party fundraiser whilst still engaged as a commissioner investigating trade unions—whilst he was still engaged in that role? If that is not perceived bias, what is?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:26): Senator Collins, you obviously are not familiar with the principles by which courts decide these matters, but nevertheless there has been a foreshadowed application—

Senator Jacinta Collins interjecting—

The PRESIDENT: You have asked your question, Senator Collins.

Senator BRANDIS: There has been a foreshadowed application that the commissioner disqualify himself, and I am not going to anticipate what might be said in the course of that application, nor would it be appropriate to do so.

As to what a fundraiser is, to my mind, Senator Collins, a fundraiser is an event that raises funds. This did not.

Senator Conroy: You should be on the High Court! You should be on the High Court! You're wasted here! With a fine legal analysis like that, you should be on the High Court!

The PRESIDENT: Senator Conroy, you have a colleague on her feet waiting to ask a question.

Senator JACINTA COLLINS (Victoria) (14:27): That just makes it an unsuccessful fundraiser! Mr President, I ask a further supplementary question. Can the Attorney-General confirm that the commissioner was advised that the event was a Liberal Party function, had agreed to attend the function, had received at least four emails confirming it was a Liberal Party event and had done nothing about it until he was caught out by the media? If that is not grounds for Commissioner Heydon's resignation, what is? What else has he overlooked, and why does he apply higher standards to others? (Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:28): Take caution in your tone, Senator Collins. Take caution in your tone, because it seems to me, Senator Collins, that you are now attacking the credibility and the integrity—

Senator Jacinta Collins: What about Heydon's tones?

The PRESIDENT: Senator Collins, you have asked your question.

Senator BRANDIS: of a very distinguished Australian. Mr Heydon withdrew from this function at his own initiative—not, as you dishonestly and sleazily say, having been caught out by the media but on his own initiative, at a time earlier than any report into the matter had surfaced in the media. Take caution in your tone, Senator Collins. You are talking about a justice of the High Court of Australia; a man appointed to the New South Wales Court of Appeal by a Labor state government; an eminent, illustrious Australian legal scholar; a Vinerian scholar; a Rhodes scholar; one of the most eminent and distinguished Australians this country has ever produced. Thank God we have Australians of the integrity and the
intellectual weight of Dyson Heydon who are prepared to take up public service, notwithstanding that they subject themselves to the slings and arrows of creatures like you.

The PRESIDENT: Senator Brandis, you will have to withdraw that last remark.

Senator BRANDIS: I think I meant—

Honourable senators interjecting—

The PRESIDENT: Order! Order on both sides.

Senator BRANDIS: We are all God's creatures, but, if Senator Collins takes offence, I withdraw.

The PRESIDENT: Thank you, Senator Brandis.

National Disability Insurance Scheme

Senator SESELJA (Australian Capital Territory) (14:30): My question is to the Assistant Minister for Social Services, Senator Fifield. Can the minister advise the Senate what improvements the government has made to the operating approach of the National Disability Insurance Scheme since coming to office?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:30): It would be fair to say that when I came into the role in relation to the NDIS there was a bit of work to do. The NDIS was not in a state of administrative nirvana. Firstly, the name DisabilityCare Australia was one that people with disabilities found patronising. They did not want to be objects of care, so we changed the name back to the NDIS.

We also discovered that the previous government had applied an efficiency dividend not just to administration as you would expect but also to package costs for individuals. They actually applied an efficiency dividend to the money that was meant to be going to individuals in their packages. So we overturned that and we put that $44.9 million back into the pot for people with disability. We commissioned a capability review of the NDIS agency, which found that the agency was like a plane that was being built in midair. We have put a bit of work into the capacity of the organisation and made very good progress.

We also found that there was a plan to purpose-build stand-alone NDIS offices throughout the country. I put my head together with my good friend Senator Payne, and we thought that the Department of Human Services has a big property footprint, so why not, where it makes sense, co-locate with the Department of Human Services. So, in many cases, Senator Payne will be my landlord. Senator Payne, I will be a good tenant. Also, we found that there was a plan to have 10,000 staff for the NDIS. The Minister for Finance and I thought, ‘Why don't we open up the opportunity for not-for-profits and businesses to provide some of those administrative functions?’ So we will now see staffing levels below 3,000. (Time expired)

Senator SESELJA (Australian Capital Territory) (14:32): Mr President, I ask a supplementary question. Can the minister inform the Senate what progress has been made in keeping the NDIS sustainable and within its funding envelope?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:33): As I was concluding there, we will have staffing levels below 3,000 rather than about 10,000. Average package costs when we came
into office in the first quarter of the scheme were about $46,000. We have now consistently had that down to about the mid-30s, which is where it should be.

We have also kept enhancing and building on the actuarial capacity of the agency, which is important because the whole basis of the scheme is early investment to reduce long-term costs. We also have $143 million in the budget to build a new ICT system that is critical to making sure that the scheme can be delivered efficiently to provide consistent supports for people with disabilities.

I can report that the scheme and the trial sites are operating within budget. That is good news. As I said, this is a shared venture with state and territory partners, but I particularly thank the staff of the agency for the work they have done. (Time expired)

Senator SESELJA (Australian Capital Territory) (14:34): Mr President, I ask a further supplementary question. Can the minister update the Senate on the finances of the NDIS?

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (14:34): You cannot have a good social policy without good economic and budget policies, which is why we are working hard to repair the budget so that we can fund the NDIS. The Australian Labor Party continue to contend that they fully funded the scheme. Just to recap: it will be a $22 billion scheme, $10 billion will be from the states, $3 billion is Commonwealth money that would have been spent anyway in the absence of the NDIS and there is a further $9 billion of new Commonwealth investment. The previous government said: 'Oh, don't worry about that. The half per cent increase in the Medicare levy covers that.' Well, no, that only covers about 40 per cent of the Commonwealth's net additional costs. The other thing that those opposite will say is: 'We had a terrific graph in a paper when we were in government that outlines it.' I want to refer to that graph, which has a footnote that has '(a) selected long-term savings'. They did not specify what those long-term savings were, so there is $5 billion unfunded. (Time expired)

Gun Control

Senator MUIR (Victoria) (14:35): My question is to Senator Brandis, the Minister representing the Minister for Justice. The Martin Place Siege Joint Commonwealth-New South Wales review recommended that all levels of government simplify the regulation of the legal-firearm market through an update of the technical elements of the National Firearms Agreement. What are the government's plans in this area?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:35): Thank you very much indeed, Senator Muir. That is a very important question. Obviously the government is studying and will study all current and future reviews whether the coronial inquiry, the departmental review or other reviews that have followed in the wake of the Martin Place siege. One of the measures that the government has undertaken is the National Firearms Agreement, which does set out a national approach to the regulation of firearms. The Firearms and Weapons Policy Working Group, comprising members of the Commonwealth, state and territory governments and policing agencies, is currently considering technical updates to the National Firearms Agreement as a result of recommendations made in the Martin Place siege review. Any recommended updates will aim to strengthen and streamline firearms regulation by addressing technological advancements and changes to the firearms
market that have occurred since the National Firearms Agreement in its initial form was signed in 1996.

Relevant stakeholders will be consulted throughout the process including those from the firearms community and other appropriate groups and organisations. I can tell you, Senator Muir, that my department has established a firearms industry reference group comprising peak bodies from the firearms industry to provide advice on the update. Ministers, relevant police ministers and attorney- generals from all jurisdictions will consider the updated version of the National Firearms Agreement in November.

Senator MUIR (Victoria) (14:37): Mr President, I rise to ask a supplementary question. I refer you to the recent statements by Senator Fifield to the Senate in response to the notice of motion in relation to firearms on 13 August this year. Does the government intend to trigger a buyback of all lever-action shotguns with a magazine capacity of five rounds or more that are currently legally registered as a category A firearm in Australia?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General) (14:38): The Minister for Justice made some announcements in relation to that a couple of weeks ago. The government does regard lever-action firearms as a serious matter. I will provide you with further particulars of the details of that scheme. But be in no doubt that this government, like the Howard government before it years ago after the Port Arthur massacre, is determined to take whatever measures are necessary in relation to firearms to keep the community safe. That being said, of course we will have regard to the legitimate and proper interests of all stakeholders including recreational firearms users.

Senator MUIR (Victoria) (14:39): Mr President, I ask a final supplementary question. Should the review of the technical elements of the National Firearms Agreement cause the reclassification of any firearms currently lawfully held by licensed firearm owners, will the government commit to funding a nation-wide buyback of any firearms that are reclassified?

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): It is an interesting issue you raise, Senator Muir. I am not in a position to make that commitment now, but we will take into account and consider what you have had to say.

Liberal Party

Senator GALLAGHER (Australian Capital Territory) (14:39): My question is to the Minister representing the Prime Minister, Senator Abetz. Can the minister confirm that last night's cabinet meeting did not have a single formal cabinet submission to consider and instead took the time to chew the fat with the chairs of backbench committees? Can the minister confirm that the Prime Minister has also cancelled next week's cabinet meeting?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:40): One good thing about the honourable senator's question was that she delivered it with a broad smile—in other words, she was not serious about the question. As a relative newcomer to this place, can I indicate to the honourable senator she does not have to accept those sorts of questions from the question committee that will only humiliate her. As I recall, the honourable senator was once the Chief Minister of a territory and she would well know that one does not divulge that
which may or may not be on cabinet agendas. And therefore for her as the Chief Minister to seek to assert that we as a federal government should do that, which she never did, would be highly inappropriate.

The assumptions on which the honourable senator based her questions are not based on fact. Once again, I would simply say to the honourable senator and the Labor Party: do not base your questions on some of the gossip columns that are in our new daily newspapers. The Australian people expect us as a national parliament not to deal with these sorts of silly issues of whether or not something was a fundraiser or not. They want to know about jobs, they want to know about national security, they want to know about the National Disability Insurance Scheme, they want to know about the free-trade agreements that will deliver jobs well into the future and they want to know about the Medical Research Fund that really provides a vision for the scientific community and research community in our country. They are the sorts of things that excite the Australian people. They are the sorts of things that this government is getting ahead with, and we will not indulge in this sort of gossip.

**Senator GALLAGHER** (Australian Capital Territory) (14:42): Mr President, I ask a supplementary question. They also want to know if their government has an agenda, Senator Abetz. Can the minister confirm that the cabinet submission last week about Australia's new post 2030 emissions reduction target did not contain the proposed figure and was left blank?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:42): I am more than happy to confirm to the honourable senator and indeed the Australian people that this is a government with an agenda—an agenda to grow the economy, an agenda to grow job opportunities for our fellow Australians, an agenda to deliver free trade agreements to create 9,000 jobs per annum and an agenda that includes the agricultural white paper that was so well received right across the rural communities. This is the government with an agenda for Northern Australia, where we have another white paper and another plan seeking to develop our nation.

In my home state of Tasmania, there is a plan to grow the irrigation system and the agricultural capacity of my home state. In the other states, we have a plan to ensure that the shipbuilding capacity in South Australia never again has to go through the valley of death. Mr President, I would love an extension of time. *(Time expired)*

**Senator GALLAGHER** (Australian Capital Territory) (14:44): Mr President, I ask a further supplementary question. Can the minister confirm that senior ministers kicked the bean counters from Treasury and Finance out of the room during a funding discussion by a national intelligence agency? Minister, is this what two years of great government look like?

**Senator ABETZ** (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:44): As I understand it the government has not engaged any bean counters. What I can say to the honourable senator is that good government looks like the creation of 336,000 new jobs since we came to government, at a rate four times that which Labor were able to achieve in their last year in government.

Good government is about bringing our finances back under control so that future generations do not have a millstone of debt around their necks. Great government ensures that
the National Disability Insurance Scheme is rolled out in a methodical, purposeful manner so that the benefits go to the recipients and not the bureaucrats and other people.

Good government means that we make the sorts of savings in the rental arrangements that Senator Fifield and Senator Payne have been able to achieve. That is what this government is about and we will continue to pursue that for all Australians. (Time expired)

**Green Army Program**

Senator LINDGREN (Queensland) (14:45): My question is to the Assistant Minister for Education and Training, Senator Birmingham, representing the Minister for the Environment. Can the minister update the Senate on the progress of the government's Green Army Program?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:45): As Senator Abetz was saying before, there are many things this government is on about and focused on, like ensuring that we create more opportunities for young people, more opportunities for them to get training and experience and more opportunities for them to contribute to the environment. These are indeed things that this government wants to achieve. I know that Senator Lindgren as a former teacher is very focused on opportunities for young people, especially in the state of Queensland, and I value her interest in the Green Army Program, as does Minister Hunt.

The Green Army Program is providing valuable opportunities for 17- to 24-year-old Australians to get real, on-the-ground training and experience for up to six months while delivering practical environmental programs. It is proving to be a huge success, with more than 700 projects announced since the Green Army was launched and more than 350 projects rolled out or being rolled out around Australia.

Round 4 applications for the Green Army are now open, and the government is encouraging projects that focus on preservation of our heritage; protection of the Great Barrier Reef; protection of threatened species, aligning with our efforts in the threatened species recovery strategy; and protection of remote and Indigenous projects in particular. For the first time the government has combined the 20 Million Trees small grants round with a Green Army round, so that community groups can apply for up to three Green Army teams to assist with their planting efforts.

This is making a significant difference to young people and the environment right around Australia, but particularly in Senator Lindgren's home state of Queensland.

Senator LINDGREN (Queensland) (14:47): Mr President, I ask a supplementary question. Can the minister inform the Senate what benefits this program is having on the local environment?

Senator BIRMINGHAM (South Australia—Assistant Minister for Education and Training) (14:47): The Green Army Program has many benefits to the local environment. It has many diverse benefits, such as: propagating and planting of native seedlings; weed control; revegetation and regeneration of local parks; habitat protection and restoration; improving water quality by cleaning up waterways; creek bank, foreshore and beach restoration; revegetation of sand dunes and mangroves; constructing walking tracks to protect local wildlife; and cultural heritage conservation. We have more than 240 teams on the ground, and that is close to some 2,000 young people working on environmental projects.
In Senator Lindgren's home state of Queensland, there are around 57 projects on the ground at present. These are helping to improve water quality on the Great Barrier Reef, helping fire recovery on North Stradbroke Island and helping rehabilitation of cassowary corridors at Mission Beach—and the Brisbane river restoration projects.

All of the projects are delivering practical environmental benefits in the state of Queensland and right around Australia—mobilising young people to do so.

**Senator LINDEGREN** (Queensland) (14:49): Mr President, I ask a further supplementary question. Can the minister advise the Senate how the Green Army is benefiting young people taking part in the program?

**Senator BIRMINGHAM** (South Australia—Assistant Minister for Education and Training) (14:49): Young people aged 17 to 24 participating in the Green Army Program enjoy the opportunity to participate and contribute to environmental projects they are often passionate about, and to get real work and training experience whilst doing so. They receive practical skills, training and contacts that can help them through the rest of their lives.

The feedback from many of them is extremely encouraging. James Cooper, from Kawana in Queensland, says: 'When I finish Green Army I hope to become a park ranger. I'm sure the Green Army would help me there.' Kristal, from Boroondara in Victoria, says, 'Local to home, hands on experience, being outside, learning about all the different plant species.' She recognises the real benefit that it is delivering. Clare from Horsham in Victoria says, 'You get a lot of knowledge out of it, and I think it is a good starting point to start a career in conservation.' These are young people who recognise that this can give them a helping hand—to start in life, to contribute to the environment, as a career or throughout their lives, in any way possible. *(Time expired)*

**Royal Commission into Trade Union Governance and Corruption**

**Senator BILYK** (Tasmania—Deputy Opposition Whip in the Senate) (14:50): My question is to the Minister representing the Prime Minister, Senator Abetz. When was the Prime Minister's office first aware that Commissioner Heydon was giving the Sir Garfield Barwick address—

*Government senators interjecting*

**Senator BILYK:** Excuse me!—at a Liberal Party function.

**The PRESIDENT:** Just a moment, Senator Bilyk. Order on my right.

*Opposition senators interjecting*

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

**Senator Bilyk interjecting**

**The PRESIDENT:** Order. Yes, you will be starting again in a moment, Senator Bilyk. Just a moment.

*Government senators interjecting*

**The PRESIDENT:** On my right: Senator Edwards, Senator Back, order! Senator Macdonald. Senator Bilyk we will start again. Start the question again.

**Senator BILYK:** They are worse than the children I used to care for. My question is to the Minister representing the Prime Minister, Senator Abetz—
Senator Fifield: You have been for waiting three years to use that one.

Senator BILYK: I've said it often about your side—

The PRESIDENT: Order—to the question.

Government senators interjecting—

The PRESIDENT: Order on my right.

Senator BILYK: When was the Prime Minister's office first aware that Commissioner Heydon was giving the Sir Garfield Barwick address at a Liberal Party function, and did the Prime Minister, as a member of the New South Wales Liberals, receive an invitation?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:51): In relation to the specifics, I will take both those matters on notice. Can I invite, just for once, the Australian Labor Party to consider what they are engaged in. Today the Law Council of Australia has issued a release which says:

The public attacks on the Commissioner—

Honourable senators interjecting—

The PRESIDENT: On my left! Senator Cameron and Senator Edwards! On my right!

Senator ABETZ: It says:

The public attacks on the Commissioner being played out through the media are unacceptable and damage the basis on which tribunals and courts operate. The proper—

Senator Conroy: He should resign.

Senator ABETZ: It is exactly that behaviour, Senator Conroy, that the Law Council of Australia condemns and quite rightly so.

Opposition senators interjecting—

The PRESIDENT: Senator Conroy and Senator Carr!

Senator ABETZ: Mr President, can I say the Australian Labor Party has a record in this area. When a royal commission was established into Carmen Lawrence's behaviour, the Labor Party went out immediately to attack and anybody who would take on that role would face the full force of the ALP. They did the same thing with Commissioner Cole when he was charged to look into the corruption of the construction sector. When a judge of the High Court addresses a Labor Party function—in fact, the inaugural Neville Wran lecture—nothing could be seen. 'This is a Labor Party event. There can't be a problem there.' But when there is the suggestion that somebody— (Time expired)

Senator Wong: You didn't listen to the Law Council on Gillian Triggs. You were happy to traduce her.

The PRESIDENT: Senator Wong!

Senator Conroy: Not this Liberal stooge.

The PRESIDENT: Order on both sides!

Senator Heffernan interjecting—

The PRESIDENT: Senator Heffernan.

Senator Conroy: We can hear him and you know it. You'd better shut him up.
The PRESIDENT: I do not need help from you, Senator Conroy.

Senator Cameron interjecting—

The PRESIDENT: Senator Cameron!

Senator Conroy: Seriously, you've got to do something about him.

The PRESIDENT: I did not hear the name mentioned. Order! Senator Heffernan, if you made any inappropriate remarks, I expect you to withdraw them.

Senator Heffernan: I didn't.

Senator Conroy: No, you didn't!

Senator Heffernan: I will tell you what I said.

The PRESIDENT: No, you will not repeat them.

Senator Heffernan: I said Justice James Wood was the royal commissioner—this is what I said.

The PRESIDENT: Do not repeat anything inappropriate, Senator Heffernan.

Senator Heffernan: He was on the clear—

The PRESIDENT: Sit down, Senator Heffernan! I will ask you one more time. You will not repeat anything inappropriate. If you did say something inappropriate, I expect you to stand up and to withdraw.

Senator Heffernan: I did not.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (14:55): Mr President, I ask a supplementary question. I refer to the email from Liberal organiser of the event, Mr Greg Burton, who said he would be inviting politician lawyers including federal parliamentarians. Did any of these politician lawyers raise any concerns with the Prime Minister's office regarding Commissioner Heydon's lack of impartiality in addressing the New South Wales Liberal Party while the royal commission was still afoot?

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:56): I am not aware of any politician lawyers in relation to the question asked but I am aware of a lawyer who is a member of the Law Council of Australia, which put out this statement, and that is Mr Keogh, who would seek to be the Labor candidate for Canning. So if we are talking about politician lawyers or lawyer politicians, what about the would-be ones who are associated with a statement that has told the ALP in not so many words to desist from this sort of behaviour?

The venom and hatred that is being spewed forth by those opposite is simply because Mr Shorten has been exposed for hiding from the Australian people for eight years a donation of $40,000 which was falsely described as a research officer for a company when he was employed as Mr Shorten's personal campaign director. That is the reason. (Time expired)

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (14:57): Mr President, I ask a further supplementary question. I refer to the Prime Minister's comments last year that he trusts Dyson Heydon's judgment and that he was 'very happy to put ourselves in the hands of Dyson Heydon and see where this commission goes'. Is the Prime Minister's
continued trust in Commissioner Heydon based on the fact that a partisan inquiry is exactly what he wanted?

Honourable senators interjecting—

The PRESIDENT: Order! Senator Conroy and Senator Brandis.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (14:58): The simple fact is that both sides of Australian politics have expressed trust in Dyson Heydon. That is why he was appointed by no less than Neville Wran, former Labor Premier of New South Wales, to the Court of Appeal in New South Wales for one reason only—not because of any alleged bias but because of his legal capacity.

Senator Cameron: He's biased. He's your man. You know that. He's a bit like Godwin Grech.

Senator ABETZ: Senator Cameron cannot bring himself to acknowledge that a Labor government got Mr Heydon started on his judicial career. It was the Labor Party. Why? Because he was so eminent, because he was so stainless. He is an impeccable individual. Why the venom? Why the hatred? Because Mr Shorten has been exposed for overlooking certain paperwork—$40,000 worth of donations to himself. They are also concerned— (Time expired)

Trade with China

Senator McGrath (Queensland) (14:59): My question is to the Minister for Human Services, Senator Payne, representing the Minister for Trade and Investment. Can the minister inform the Senate how the government's free trade agreement with China will stimulate jobs and growth for all Australians—

The PRESIDENT: We lost your microphone in the last few seconds but I assume the minister heard the question.

Senator Payne (New South Wales—Minister for Human Services) (14:59): I thank Senator McGrath for that question. It is absolutely essential that the ChAFTA is implemented as soon as possible. It is one of our trilemma of trade agreements that are with the major economies of North Asia. These agreements are very, very powerful enablers for Australia and they are part of this government's help to diversify our economy, as I have said before. In fact, just like our trade deals with Japan and Korea, which are already in operation, the benefits to Australian businesses and the people they employ will flow immediately.

ChAFTA, if we implement it this year, will result in a double-bonus effect of tariff cuts for our exporters—one round of tariff cuts this year and a second round of tariff cuts in January 2016. This would result in literally hundreds of millions of dollars in tariff or tax relief for our exporters. In fact, upon full implementation, some 95 per cent of Australia's goods exports to China will enter China duty free. That is why it is essential that those opposite support this deal and allow the benefits to flow immediately.

If they are not prepared to listen to it from me, they might note that the agreement has been backed by Labor figures—by John Brumby, Craig Emerson and the luminary Bruce Hawker. If they are not good enough for them—and I do not often quote Labor Premiers—I will quote Daniel Andrews, the Premier of Victoria, who said:
It is very exciting to see the free trade agreement that, for the first time takes a really bold step in terms of services. Being able to have much greater access and a much bigger profile and presence in China for services offered, or at least led by Victorian companies and consortia right out of Melbourne.

That was a quote from Mr Daniel Andrews on 13 January this year. He would be the Labor Premier of Victoria, as I understand it. The Labor Premier of South Australia said: China is our largest trading partner. China also is our fastest-growing trading partner. This free trade agreement will give us the impetus to grow that trade opportunity even further.

Senator McGrath (Queensland) (15:01): Mr President, I ask a supplementary question. Can the minister inform the Senate of the cost to Australian industry if the China-Australia Free Trade Agreement is not implemented by the end of this year? Which sectors stand to suffer if this landmark does not receive support?

Senator Payne (New South Wales—Minister for Human Services) (15:02): I thank Senator McGrath for his supplementary question. We have had the opportunity to identify some of the sectors which will suffer the most. It is interesting to start with something like the financial services sector, who warn that if not progressed 'the cost to our economy will be more than $4 billion' and some '10,000 jobs in financial services alone by 2030'. In agriculture, the NFF has advised that delay will cost agriculture alone $300 million in 2016—with untold flow-on effects to rural and regional communities. There may be no-one opposite who cares about those, but we on this side most certainly do—and Senator McGrath in particular in relation to the rural and regional communities of Queensland, which will rely on the ChAFTA opening up opportunities for them. Failure to ratify will, for example, cost the red meat industry $100 million, dairy up to $60 million, wine up to $50 million and grains more than $43 million. (Time expired)

Senator McGrath (Queensland) (15:03): Mr President, I have a further supplementary question. Can the minister inform the Senate how the China-Australia Free Trade Agreement will benefit the small business sector and create jobs?

Senator Payne (New South Wales—Minister for Human Services) (15:03): This is a very important point. These free trade agreements are not just about big business and that end of town. If you are a small business with a great product or a great service, e-commerce will give you a direct route into the world's major markets, including of course China, as a result of ChAFTA. These FTAs translate into jobs and opportunities for everyday Australians. Let us take for example Kimberley Kampers owner Bruce Loxton in Ballina. He has big plans to export his caravans into China as a result of the FTA—directly as a result. He has already applied to double the size of his premises and is hoping to add between 30 and 40 staff on the North Coast of New South Wales. Under ChAFTA he can do that because the 10 per cent tariff on caravans will be eliminated. The ChAFTA will not only increase the competitiveness of his business, Kimberley Kampers, but also create new opportunities and new jobs for Australians—and those opposite need to support it. (Time expired)

Senator Wong:

The President: I will give the call to the Leader of the Government in the Senate first but, Senator Wong, I will come back to you if you like.

Senator Abetz: Mr President, if I may, I would briefly correct an answer. I believe that in one of my answers I referred to Labor Premier Neville Wran when it should have been former...
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Labor Premier Bob Carr. Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS TO THE PRESIDENT
Parliamentary Behaviour

Senator WONG (South Australia—Leader of the Opposition in the Senate) (15:04): by leave—Mr President, I wish to draw to your attention a matter which occurred in question time.

Senator Ian Macdonald: You can't just stand up and have a chat.

The PRESIDENT: Senator Macdonald, Senator Wong will be heard in silence.

Senator WONG: Mr President, I appreciate that and I thank the Senate. In answer to a question asked by Senator Bilyk, opposition senators heard the Attorney suggest that she was about to commit a crime.

Government senators interjecting—

Senator Conroy: That is exactly what he said.

The PRESIDENT: Order, Senator Conroy!

Senator WONG: I would ask you, Mr President, to consider if that is an infringement on Senator Bilyk's privilege as a senator and whether it is consistent with the Senate standing orders. It is not a threat that belongs in the Senate.

The PRESIDENT: Thank you, Senator Wong. 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) (15:05): Do I need leave?

The PRESIDENT: You can seek leave, Senator Brandis.

Senator BRANDIS: by leave—That statement is false.

Senator CONROY (Victoria—Deputy Leader of the Opposition in the Senate) (15:05): I seek leave to make a small statement.

Government senators: A small statement?

Senator CONROY: A short statement.

The PRESIDENT: Leave is granted for one minute.

Senator CONROY: That statement was false. He clearly attempted to intimidate the senator asking the question with the threat of criminal sanctions and started quoting the Royal Commission Act.

Senator Brandis interjecting—

Senator CONROY: That is exactly what you did, Senator Brandis. You are a bully and you should apologise and withdraw.

The PRESIDENT: Order! Senator Conroy, you will have to withdraw that remark about Senator Brandis.

Senator CONROY: I withdraw.
The PRESIDENT: Thank you. In relation to the issue raised by Senator Wong, I will consider the Hansard and the visual footage of the chamber.

Senator Conroy: Too much of a coward to put it on the record.

The PRESIDENT: Order! Senator Conroy, if you want these matters dealt with properly, just listen to my ruling. In relation to that matter and also the matter in relation to Senator Heffernan, I will withdraw all the footage from question time and also what Hansard may have detected and I will then report back to the Senate if I deem it necessary.

Senator Abetz: Mr President, I would invite you to ask Senator Conroy to yet again withdraw the comment that he passed across the chamber to Senator Brandis.

Senator Conroy: I withdraw.

The PRESIDENT: Thank you, Senator Conroy.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Royal Commission into Trade Union Governance and Corruption

Liberal Party

Senator JACINTA COLLINS (Victoria) (15:07): I move:

That the Senate take note of the answers given by the Attorney-General (Senator Brandis) and the Minister for Employment (Senator Abetz) to questions without notice asked by Opposition senators today relating to the Commissioner of the Royal Commission into Trade Union Governance and Corruption and to meetings of the Cabinet.

I think it is important to reflect, yet again, on the discussion we have had in relation to the trade union royal commission because ministers attempt to say such questions are repetitive, that we are just rehashing old territory and then they start getting even more defensive. Once again, I got a lecture from Senator Brandis about my tone—though I think this was a first. They are issues that, fortunately, the President has indicated he will take away and look at as well. But it reminds me of the suggestion recently from Laura Tingle that some things for this government are almost like new religions. National security was one recently, but even the appropriate behaviour of royal commissioners seems to be another—how dare one ask questions. The point here is that the questions that are being asked are not repetitive. This story seems to be evolving.

The answers provided by both Senator Abetz and Senator Brandis today, with respect, are somewhat desperate if not pathetic. The comparison that Senator Brandis made to today about the future behaviour of former politicians was extraordinarily weak. We saw that Senator Abetz needed to correct his reference to a past appointment of Commissioner Heydon by, he thought at first, Neville Wran, but, as it turns out, it was Bob Carr. But, with respect, it is much like the debate about whether it is a fundraiser, an unsuccessful fundraiser, a Liberal Party event or whatever. The real point is that Commissioner Heydon, when he was a commissioner into trade union behaviour, chose to accept an invitation to a Liberal Party event and it was clear, by virtue of it calling for donations, that it was also a fundraiser. Now, he tells us that he overlooked certain connections. It seems as if he overlooked them a couple of times.

The point I made in question time was that that is all well and good—all of us overlook things on occasions—but Commissioner Heydon needs to apply the same standards that he
applies to those whom he is investigating. As a recent article by Helen Davidson and Lenore Taylor points out, this has not been the case during the course of the royal commission. He has on several occasions admonished people. Indeed, Senator Abetz, it was not Mr Shorten who was highlighted as one of the three people on this occasion; it was Ralph Blewitt, it was Julia Gillard and it was Leah Charlson who were all admonished for overlooking something— not twice, three times or four times over several months.

The core issue is whether Commissioner Heydon's position in this case has become partisan. That is the core issue. What is evolving are, of course, other associations that are important. This gives me a chance to reflect on a comment that I made yesterday about a link between the invitation—and I was not quite sure who but it might have been the Law Council or the Law Society of New South Wales that had a link to this invitation that I questioned, but, as it turns out, it was actually the New South Wales Bar Association. Professional associations of lawyers, in my view, do need to be careful about their party political links and connections because, at the end of the day, despite quite eminent appointments in the past, their partisanship in the future may become an issue as it has in relation to this royal commission.

The other associations, as it turns out over the last day or so, have highlighted the close relationship that Commissioner Heydon has to the now Prime Minister through the constitutional monarchy legal committee, through his position on the selection panel for Mr Abbott's Rhodes scholarship, and one wonders what else. The key issue here, though, is that the Prime Minister has failed to appoint someone to this trade union royal commission who can maintain a sense of balance and impartiality. This is the Prime Minister's fail and he has failed because we all know it has always been a witch-hunt. (Time expired)

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (15:12): The venom and hatred that the Australian Labor Party have been spewing forth against Dyson Heydon is motivated by one reason and one reason alone—that is, the revelations that have emerged from this royal commission. There is the revelation that Mr Shorten hid from the Australian people for eight years the fact that he had been given a $40,000 donation in the form of a paid staff member to be his personal campaign manager. That person was, it appears, misdescribed—some would use harsher words—as a research officer for the particular company, in circumstances where he was clearly not so engaged.

How do we know all this? Before he had to give his evidence, Mr Shorten changed the documentation to delete 'nil' from his declaration to tell the Australian people that somehow, somewhere, a $40,000 contribution was made. How you could overlook such a matter is, quite frankly, beyond me. Why it would be misdescribed is also beyond me. But not all the evidence has been given. What we do know is that the Labor Party have changed their own declarations in relation to Mr Shorten's campaign for his seat those eight years ago.

We also know that, because of the royal commission—without any findings or recommendations being made—Mr Shorten's very, very good mate and successor in title in the Australian Workers Union had to resign as Government Whip in the upper house in Victoria. We know that. This is all about payback. It is about revenge. It is about shooting the messenger. It is about hoping to besmirch Mr Heydon in such a way that the actions that have now been exposed will not be seen in the light they deserve to be seen in.
But for the royal commission, we would never have known that the Australian Workers Union, led by Mr Shorten, had traded away workers’ entitlements in exchange for what appears to be donations to the union. So cleaners can be paid less, mushroom pickers can be paid less, circus workers can be paid less—indeed, use was made of the Work Choices regime to ensure that these conditions were driven down by the Australian Workers Union. And—surprise, surprise—the businesses that benefited from these sleazy deals just happened to make donations to the Australian Workers Union. But for the royal commission, these sleazy dealings would never have been exposed. But for the royal commission, the Australian people would still be in the dark, like the mushroom pickers at Chiquita Mushrooms. But for the royal commission, we would not know—and this would have to be one of the lowest acts of all—that moneys donated by companies to assist people with drug and alcohol issues were misapplied; 80 per cent went to the CFMEU and only 20 per cent to the proper fund. Can you get any lower than taking money from the needs of those who have alcohol and drug issues?

What do we know about the money that goes into the Australian Workers Union? What do we know about the money that goes into the CFMEU? Thousands—indeed, over the years, millions—of dollars have gone directly to the Australian Labor Party. Their source of funding has been exposed by this royal commission: money from shonky deals with employers and money skimmed off charitable organisations goes to the unions, which in turn donate to the Labor Party. This is what motivates this attack on Mr Heydon, and I suggest to the Labor Party that they take into account the Law Council of Australia's admonition today to stop it. (Time expired)

Senator GALLAGHER (Australian Capital Territory) (15:18): I rise to take note of answers from Senator Brandis and Senator Abetz in question time today. Defending the indefensible appears to be the new philosophy of the coalition government, and today we heard more attempts from an embattled government to defend what has been outed to the community as what everyone now clearly understands are the political motivations behind the royal commission into trade unions.

In question time today Senator Abetz and the Attorney-General, Senator Brandis, were desperately trying to defend a royal commission that has focused a lot of its attention on previous Labor leaders. In the last week I think we have all seen it exposed as a political witch-hunt, which we have always said it was. The royal commissioner, Mr Dyson Heydon, summed it up perfectly himself when he said that the judiciary had to possess 'a measure of independence from the wrath of disgruntled governments or other groups'. We all know that a strong, democratic nation is built upon the pillar of an impartial and independent justice system, and one that is seen at all times to be above the political fray.

This government appears to be happy to trash that framework, and to use the royal commission as a vehicle to pursue its political opponents and as a smokescreen to cover up its own lack of courage to tackle some of its ideas in relation to industrial relations itself. Perhaps the government is still burnt from Work Choices and hides behind the protection of a royal commission.

The episode we have seen playing out over the royal commission and the way that the government has responded exemplifies everything that is wrong with this government, and puts it out there for all to see very clearly just how low this government has reduced itself to.
In responses in question time—and this is symptomatic of this government's approach—we have seen ministers ignore obvious problems, like the acceptance by the royal commissioner of the opportunity to give the Sir Garfield Barwick address. They deny that there was a problem and they dig deeper in defence—really dogged, blind defence—of a mate and colleague. This is despite very clear evidence and opinion from people with experience in how to handle matters of bias and potential conflicts of interest—providing very extensive responses to some of the problems presented from the position the royal commissioner finds himself in.

There is no doubt from where we sit that this royal commission was always politically motivated—spending $61 million on a royal commission to pursue your political opponents. It was done before with the previous Liberal government inquiry into trade unions, and it is being done again. There is some irony in this pursuit of political opponents and the expenditure of this amount of money in this place this week, when the cleaners who clean this building are undertaking protected action because they are after a $1.80 pay rise. It really shows how wrong this government's priorities are.

When you look at the question of bias and of apprehended bias, the test is whether a 'fair-minded lay observer might reasonably apprehend that the judge'—in this case the royal commissioner—'might not bring an impartial mind to the resolution of the question before them'.

We have watched this situation roll out over the past week, and people on the streets are talking about this subject. I do not think that I have heard even one person say that they think there is not at least a perception of apprehended bias presented by this unfortunate situation. More than that, we have heard the unfortunate response from the government to this situation and have seen their doggedness in trying to defend a colleague and friend, and they are refusing to address this problem. Whilst it remains unaddressed there will not be any faith in the royal commission, in its processes or, indeed, in the report that it will hand down if it proceeds to an end. It again shows the lack of leadership at a political level across the country.

Senator FAWCETT (South Australia—Deputy Government Whip in the Senate) (15:23): I too rise to take note of the answers but more particularly to take note of the questions. Here we are at a time when South Australia has the highest rate of unemployment in the nation and people are leaving jobs, and yet every question in question time from those opposite has gone to the issue of this royal commission.

No matter what Senator Gallagher says about apprehended bias, it does not change the fact that the royal commission is exposing is deep-seated corruption within the union movement. A number of things have been revealed during this royal commission about the bribes, the blackmail, the bullying and the criminal offences that, as a direct result of this royal commission, have seen union organisers arrested and charged with criminal offences. We have heard about the tight linkages between the union movement and members opposite. As a result of the royal commission we have seen Mr Shorten, as Leader of the Opposition, scramble to correct the record after eight years of hiding a $40,000 donation to his campaign. He has scrambled to correct the record before the light of transparency provided by this royal commission could be shone onto his circumstances. Those opposite are defending the indefensible not just because of that conduct but, more importantly, because of the things that are important to Australians—things like the economy and jobs for our citizens and our
children. The union movement is now running a scare campaign against initiatives of this government around things like free trade agreements. This government has signed three free trade agreements that former governments, particularly the former Labor government, were never able to achieve, yet we have seen the Electrical Trade Union blatantly lying on TV about the impact on jobs of the free trade agreement. Anyone who watches TV at the moment will see the consistent ads coming up—always designed to tug at the heartstrings—of a dad talking to his son and saying how jobs will not be available because Tony Abbott did not choose him.

In hearings of the Joint Standing Committee on Treaties, officers from the Department of Foreign Affairs and Trade were questioned at length about this issue by Labor Party members of the committee. What became clear, in answer after answer after answer, was that that campaign by the unions is just wrong. It is inaccurate and they are peddling lies as a scare campaign because they see this as an opportunity to bolster the political stakes for the Labor Party heading into the next election. The department provided quite detailed explanations and it is very clear that China has been brought into line with most other countries in terms of how Australia deals with them. All workers who come in have to have the relevant qualifications, there has to be market testing, jobs have to be advertised and Australians have to get first choice. There are time limits for anyone who is brought in, and they have to be paid Australian wages and work under Australian conditions. All of the claims of the union movement are wrong. That is why it is so disappointing that the opposition would spend the whole of question time today debating the motivations of the commissioner rather than addressing the substance of the evidence which has emerged during the commission about the fact that the union movement—which now represents a very small percentage of the Australian workforce—is, for political reasons, actually undermining measures taken by this government to create jobs, grow our economy and provide our young people with a future.

If there is a failure of leadership, if there is a failure of judgement, surely it is in the focus of the opposition on short-term political expediency as opposed to calling their supporters—and I am the first to acknowledge that unions do have a place—to account for the corrupt activity, for the lies which are economic vandalism and for sabotaging the future of this nation.

Senator BILYK (Tasmania—Deputy Opposition Whip in the Senate) (15:28): The previous speaker is concerned that we spent the whole of question time asking questions about whether Commissioner Heydon is credible and whether he should continue, because of his links to the Liberal Party. Do you know what, Senator Fawcett? It is our job on this side to ask questions. You talked about South Australia—

The DEPUTY PRESIDENT: Senator Bilyk, could you address your remarks through the chair.

Senator BILYK: Sorry, Mr Deputy President. Of course, Senator Fawcett has now left the chamber, but I did not see him standing up and defending the people of South Australia on the issue about whether or not submarines should be built in South Australia. Nor have I seen him stand up and defend the people of South Australia with regard to what is happening with job development in their state—or any of the other issues in that state. So I do not know that he is quite the right person to be questioning us about the questions we are asking. We have every right to ask questions about Commissioner Heydon. It is not disrespectful; it is asking...
questions and seeking answers. To be honest, I was a bit surprised that my questions got such a reaction from those on the other side, who interjected so loudly and behaved so badly. They were questions like: 'When was the Prime Minister's office first aware that Commissioner Heydon was giving the address at a Liberal Party function? Was the Prime Minister invited? Did any of the politician lawyers raise any concerns with the Prime Minister's office regarding Commissioner Heydon's lack of impartiality in addressing the New South Wales Liberal Party while the royal commission was still afoot?' The last question I asked was about the Prime Minister saying last year that he trusted Dyson Heydon's judgement and he was very happy to put us—the government—in the hands of Dyson Heydon and see where this commission went. The question after that was, 'Does the PM still have this continued trust in Commissioner Heydon based on the fact that a partisan inquiry is exactly what he wanted?'

I was amazed at the response that got—the interjections and the yelling at me. I thought it was absolutely surprising, and it makes me think they doth protest too much. We had what I would call a rather disappointing question time today and we are pretty used to it from those on that side. The Royal Commissioner—

**Senator Bushby:** If you asked better questions you would get better answers.

**Senator BILYK:** It was the catcalling, more or less. It was the interjections and the completely over-the-top reaction of those on your side, Senator Bushby—through you, Mr Deputy President, to the senator. But the royal commissioner, Mr Dyson Heydon, is another of the Prime Minister's captain's picks. According to the Guide to Judicial Conduct, published for the Council of Chief Justices Australia and New Zealand:

> Although active participation in or membership of a political party before appointment would not of itself justify allegations of judicial bias or an appearance of bias, it is expected that a judge on appointment will sever all ties with political parties. An appearance of continuing ties such as might occur by attendance at political gatherings, political fundraising events or through contribution to a political party, should be avoided.

While those opposite seek to defend the trade union royal commissioner and his continued role I would like to cite some other advice given by a very senior legal figure as to why Justice Heydon should disqualify himself. In 2002 this figure said:

> The law compels judges who have such a bias or may reasonably be thought to have such a bias to disqualify themselves (from sitting on cases).

In 2011 the same person wrote, 'the appearance of departure from neutrality is a ground of disqualification'. And you know who wrote that? Dyson Heydon himself wrote that.

**The DEPUTY PRESIDENT:** Senator Fawcett on a point of order.

**Senator Fawcett:** I rise on a point of order regarding standing order 193—reflections on members. I want to point out the inaccuracy of the reflection of the senator opposite saying that I have never raised my voice in this place regarding submarine construction in South Australia. In more than a dozen speeches here as well as opinion pieces, members opposite well know, I am a strong advocate, and I seek her to withdraw and correct the record—

**The DEPUTY PRESIDENT:** There is no point of order. If you claim to have been misrepresented there are abilities to correct that and it is not up to the chair to determine the truth or otherwise or accuracy of what other senators may say in this place.

**Senator BILYK:** Obviously today I am upsetting a few people over there—
Senator Abetz interjecting—

Senator BILYK: Just hitting a few nails on the head I think, Senator Abetz. That advice came from Dyson Heydon himself— *(Time expired)*

Question agreed to.

### National Disability Insurance Scheme

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:34): I move:

That the Senate take note of the answer given by the Assistant Minister for Social Services (Senator Fifield) to a question without notice asked by Senator Siewert today relating to the National Disability Insurance Scheme.

There was a report in the media today that the Expenditure Review Committee had been at odds discussing this and, importantly, that various Public Service departmental heads had been at odds about the rollout and the cost of the NDIS. It was very important to hear Minister Fifield say that the government is not considering a slowdown in the rollout of NDIS. In fact, they want the NDIS to be the best it can be. I think everybody in this place wants the NDIS to be the best it can be, but members of the community get extremely nervous when they see reports that departmental heads—and the Expenditure Review Committee, because we all know what happens at the Expenditure Review Committee in terms of slashing to funding of programs.

The community, particularly the disability community and those with disability, have fought so hard to ensure that the NDIS was in place and that it did offer choice, flexibility and support for those with disability. They get very nervous whenever they see reports that the government might be talking about slowing down the rollout of the NDIS and changing the nature of the NDIS. While I hope that the community will be reassured by the comments that Minister Fifield made, I get really nervous when I hear the government making comments about how they have managed to reduce the packages for people. I think $46,000 was the average package when this government came into power, and he was saying it was reduced to the mid-thirties.

There are some particular reasons for that. Firstly, any people with a high level of disability were some of the first onto the scheme, so it was to be expected that there would be a high cost for their packages. Secondly, I do not actually think it is something to boast about—that we have reduced the cost of packages to people with a disability. What we want to hear is that people are getting the supports that they need and that allow them flexibility, choice and the ability to have a quality of life that they have never had access to before but that also enable them, in some instances, to gain employment, if that is one of the goals they have set in their plan. We want them to be able to take part in effectively in the planning process. But I do not want to see us standing here bragging because we have reduced the costs of a package. What I want to hear is that the packages are meeting the needs of people. I think that is something that the people who were campaigning for so long for this scheme want to hear too. They want to know that the NDIS is in fact delivering that quality care and quality choice.

The comment that the government and the Expenditure Review Committee in fact will not be slowing down the scheme is very important, but the implication that was slipped in there was that the Commonwealth cannot control the states: 'So, if there is potentially a slowdown, let's blame the states.' I hope that was not the government's intent, but it certainly was the
angle that you could read into that. When I asked about whether the government is going to meet the deadline, particularly with New South Wales, while the minister did not confirm that it would actually make that date, I think he was trying to imply that it would make the date. That issue was specifically referred to in the media—that out of the meeting with the departmental heads did not come a clear sign-off on the agreement with New South Wales. As the end of August comes, that will be a clear sign as to whether we are going to see a potential slowdown of the rollout of the NDIS. *(Time expired)*

Question agreed to.

**PETITIONS**

**Australia Post**

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

To the Honourable President and members of the Senate in Parliament assembled.

We urge the Senate to act:

We, the undersigned members of the community, have lost confidence in the current Chief Executive Officer of Australia Post—Ahmed Fahour.

- We do not agree to pay 42% more for a letter to be delivered up to 2-3 days later than the current service standard.
- We do not agree to pay more than 100% more for next day delivery.
- We want the current Australia Post CEO Ahmed Fahour to be replaced by Senator Madigan (from 626 citizens).

Petition received.

**NOTICES**

**Presentation**

Senators Xenophon, Sterle, Whish-Wilson, Madigan, Lambie and Lazarus to move:

That the Senate—

(a) notes:

(i) the current compulsory country of origin labelling regime in the Northern Territory for seafood sold for immediate consumption, and the benefits it has provided to consumers, retailers and the fishing and aquaculture industries, and

(ii) the findings of the Rural and Regional Affairs and Transport References Committee report *Current requirements for labelling of seafood and seafood products*, and particularly in relation to the economic benefits of extending such a mandatory scheme across Australia, including:

3.61 The committee holds the view that mandating country of origin labelling in relation to fish products sold in restaurants and other cooked seafood outlets comprises an effective, simple and cost-effective means of achieving a level playing field for Australian and overseas seafood producers. To this end, the committee recommends the immediate removal of the exemption under Standard 1.2.11 of the Code, and

the following recommendation:

3.63 The committee recommends that the exemption regarding country of origin labelling under Standard 1.2.11 of the Australia New Zealand Food Standards Code for cooked or pre-prepared seafood sold by the food services sector be removed, subject to a transition period of no more than 12 months; and

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**CHAMBER**
calls on the Government to take urgent action to introduce a compulsory country of origin labelling regime for seafood sold for immediate consumption within no later than the next 12 months.

Senators Rice, Lazarus, Leyonhjelm, Lambie, Muir and Xenophon to move:
That the following bill be introduced: A Bill for an Act to require a plebiscite on marriage equality, and for related purposes. Marriage Equality Plebiscite Bill 2015.

Senator Wong to move:
(1) That the following Address to His Excellency, the Governor-General be agreed to:

To His Excellency the Governor-General, General the Honourable Sir Peter Cosgrove AK MC (Retd)

May it please Your Excellency—

We, the Senate of the Commonwealth of Australia in Parliament assembled, respectfully submit that the Honourable John Dyson Heydon AC QC, whom Your Excellency requested to make inquiry into and report upon the governance arrangements of separate entities established by employee associations or their officers (Royal Commission into Trade Union Governance and Corruption), by his conduct in accepting an invitation to speak at a function raising campaign funds for the Liberal Party of Australia (New South Wales Division) has failed to uphold the standards of impartiality expected of a holder of the office of Royal Commissioner.

Accordingly we respectfully request Your Excellency to revoke the Letters Patent issued to the Honourable John Dyson Heydon AC QC.

(2) That so much of standing order 172 be suspended as would prevent the President transmitting the Address to His Excellency in writing only.

Senator Whish-Wilson to move:
That the Senate notes:
(a) the seven recommendations of the Rural and Regional Affairs and Transport References Committee's inquiry into industry structures and systems governing levies on grass-fed cattle;
(b) that the Minister for Agriculture (Mr Joyce):
(i) has only supported, in principle, two of the seven recommendations, and
(ii) has rejected the primary recommendation, being the establishment of a legislated producer-owned body;
(c) that the Australian Beef Association, the Cattle Council of Australia, and the Australian Meat Producers Group and Concerned Beef Producers have presented a united voice to the Minister for Agriculture in support of the primary recommendation to establish a legislated producer-owned body; and
(d) that claims by the Liberal and National parties that they are supporters of the Australian beef industry are undermined by the failure of the Minister for Agriculture to support the united voice of beef producers.

Senator Moore to move:
That there be laid on the table by the Attorney-General, no later than noon on Thursday, 20 August 2015, all documents related to the proposed attendance of Commissioner Dyson Heydon at a Liberal Party function on 26 August 2015, including:
(a) documents held by Commissioner Dyson Heydon, and the Royal Commission into Trade Union Governance and Corruption, including any communication or record of communication with organisers of the Liberal Party's 2015 Sir Garfield Barwick Lecture;
(b) any communication or record of communication between:
(i) the Attorney-General or his office, the Attorney-General's Department, the Prime Minister or his office, or the Department of the Prime Minister and Cabinet, and
(ii) Commissioner Dyson Heydon, the Royal Commission into Trade Union Governance and Corruption, or the organisers of the Liberal Party's 2015 Sir Garfield Barwick Lecture;
(c) any communication or record of communication between the Attorney-General or his office and the Prime Minister or his office; and
(d) any communication or record of communication between the Attorney-General's Department and the Department of the Prime Minister and Cabinet.

Senator Lazarus to move:
That the Senate—
(a) notes that:
(i) the Australian sugar industry directly employs approximately 16,000 people across the growing, harvesting and transport sectors,
(ii) 95% of the sugar produced in Australia is grown in Queensland with the balance grown in New South Wales,
(iii) the sugar cane industry is one of Australia's largest and most important rural industries, and sugar has been identified as Queensland's most important rural crop,
(iv) the Rural and Regional Affairs and Transport References committee in its report Current and future arrangements for the marketing of Australian sugar recommended the development and implementation of a mandatory sugar industry code of conduct, and
(v) sugar cane growers are urgently seeking the assistance of the Government to support them in ensuring the long-term viability and health of the Australian sugar industry; and
(b) calls on the Government to act on the Committee's recommendation by working with stakeholders across the Australian sugar industry to develop an industry code of conduct, and to ensure that sugar cane growers have the flexibility to engage any party to undertake marketing and establish an independent arbitrator to undertake pre contractual commercial arbitration.

Postponement

The following item of business was postponed:
Business of the Senate notice of motion no. 1 standing in the name of Senator Rice for today, proposing a reference to the Education and Employment References Committee, postponed till 15 September 2015.

COMMITTEES

The Clerk: Notifications of extensions of time for committees to report have been lodged in respect of the following:
Community Affairs References Committee—out of home care—extended from 18 August to 19 August 2015.
Environment and Communications References Committee—fin-fish aquaculture industry in Tasmania—extended from 18 August to 21 August 2015.
Legal and Constitutional Affairs References Committee—arts programs and funding—extended from 14 October to 26 November 2015.
The PRESIDENT (15:40): Does any senator wish to have the question put on any of those motions? No-one does. We shall proceed.

MOTIONS

Vietnam Veterans Day

Senator WRIGHT (South Australia) (15:41): I, and also on behalf of Senator Xenophon, move:

That the Senate—

(a) notes that:
   (i) 18 August is Vietnam Veterans Day, and
   (ii) some of those who have served or trained in the Australian Defence Force (ADF) overseas and in Australia have experienced trauma (including abuse), health and mental health challenges in the course of their service or training;
(b) acknowledges the importance of the William Kibby VC Veterans' Shed in Glenelg North for providing a safe space for South Australian veterans to discuss past trauma, health issues and welfare issues with peers and other veterans, and
(c) acknowledges and welcomes the ongoing work of Mr Barry Heffernan OAM in his role as Shed Coordinator at the William Kibby VC Veterans' Shed and as leader in the ongoing battle for justice for those who experienced abuse while members of the ADF.

Question agreed to.

Shipbuilding Industry

Senator CAROL BROWN (Tasmania) (15:42): I move:

That the Senate—

(a) recognises that Prince of Wales Bay in Hobart was declared a Defence precinct by the previous Labor Government;
(b) notes that:
   (i) the Tasmania Maritime Network, representing over 30 businesses, has an international reputation for building boats and has the skills to fit out boats, insulate them and provide communications and build modular units for significant and sophisticated vessels such as Australia's Air Warfare Destroyers,
   (ii) the network has partnered with a German firm and submitted a bid as part of the Pacific Patrol Boat Replacement Project, and
   (iii) if successful, the bid would demonstrate the enormous capability of Tasmanian businesses and bring enormous social and economic benefits to Tasmania; and
(c) calls on the Minister for Defence (Mr Andrews) to confirm that the Pacific Patrol Boats will proceed as scheduled and be a fair and open process for all Australian yards and companies.


The PRESIDENT: Leave is granted for one minute.

Senator FIFIELD: In March this year, the government committed to bringing forward a tender for the replacement Pacific patrol boats. The tender, for up to 21 vessels, has now closed, and responses are being assessed by Defence. By expediting this process, the government has demonstrated its commitment to Australian shipbuilders. This announcement in March was complemented by the announcement earlier this month that the future frigate
and offshore patrol vessel projects will be brought forward and built in Australia. I can confirm on behalf of the Minister for Defence that the Pacific patrol boats will be built in Australia and that the process is indeed a fair and open one.

**Senator CAROL BROWN** (Tasmania) (15:43): I seek leave to make a short statement.

**The PRESIDENT:** Leave is granted for one minute.

**Senator CAROL BROWN:** For Tasmania, as an island state, the maritime industry has always been and will continue to be extremely important. When Labor were in government, we worked proactively so Tasmania could take its rightful place in Australia's defence shipbuilding efforts. Businesses, unions and local government joined forces with Labor and succeeded in establishing a Defence precinct at Prince of Wales Bay, near Hobart. The Tasmanian Maritime Network is more than ready and able to take on Defence contracts which will create hundreds of jobs for the maritime industry in Tasmania. These jobs will include much-needed apprenticeships and traineeships for young Tasmanians. Importantly, there would be flow-on effects across the state. Tasmania has an international reputation for building boats, and we have the skills to fit out any Navy boats, insulate them and provide communications. I commend the motion to the Senate.

Question agreed to.

**Post-Traumatic Stress Disorder**

**Senator WANG** (Western Australia) (15:44): I move:

That the Senate—

(a) notes:

(i) a newly formed Western Australian initiative ‘Alongside’ is responding to the urgent educational, counselling and coping skill needs of families (partners and children), of first responders and Australian Defence Force (ADF) current and past service members all suffering from post traumatic stress disorder (PTSD) – these families of our protective service members implicitly sacrifice some quality of life knowing the daily risks faced by their family members,

(ii) that an ABC 720 Perth interview with the organisation leader in February 2015 introduced the PTSD factors impacting Western Australia's police families, resulting in a flood of enquiries from the broader group covered by this motion, including over 20 000 tweets, more than 100 direct enquiries, and over 800 individuals who connected via Facebook, from across Australia,

(iii) the National Coronial Information System (NCIS) Intentional Self Harm fact sheet shows that, between 2000 and 2012, one member of our emergency service personnel committed suicide every 6 weeks, a figure which the NCIS acknowledges largely underrepresents the scale of the problem, and that true data is only inferred by the tip of this iceberg – official reports of fatalities which include 62 police officers, 22 firefighters and 26 ambulance officers,

(iv) the 2010 ADF Mental Health Prevalence and Wellbeing Study reported that approximately 22 per cent (11 000) of the ADF population experienced a mental disorder in 2009 10, and around 7 per cent had co-morbid health diagnoses, with PTSD the most common, and

(v) that children of a parent with PTSD are significantly more likely to have a mental health diagnosis due to intergenerational transmission of trauma, but accurate data on the broader impact of PTSD is elusive, with a distinct paucity of credible research on the effect from, implications of, and early to longer term care options for, the families of PTSD first line sufferers – effectively these are people who are invisible to most of us, who are motivated to help the PTSD sufferer, and who endure a host of risks and threats to their wellbeing, without sufficient recognition or qualified support; and
(b) calls on the Government and this Parliament:

(i) to invest in a more focused yet holistic examination of the societal impact and consequences of our failure to adequately address the circumstances surrounding PTSD fallout as described in this motion, and

(ii) to seriously and urgently consider how Australia's intellectual and physical resources can best be employed to bring about both a greater public awareness and sense of responsibility for protecting those who protect us, while investing in accredited remedial help in support of these families.

Question agreed to.

Steel Industry

Senator RHIANNON (New South Wales) (15:44): I seek leave to amend general business notice of motion No. 813, standing in my name for today, relating to Australian made steel.

Leave granted.

Senator RHIANNON: I move the motion as amended:

That the Senate—

(a) notes that:

(i) more than 10 000 jobs are directly dependent on BlueScope Steel's operations in Port Kembla,

(ii) over 20 per cent of young people in the Wollongong region between 15 and 24 years of age are unemployed, and many more are under employed,

(iii) the Port Kembla steel works have been the backbone of the Illawarra economy for more than 80 years, and

(iv) the 'New Steel Deal' proposed by the South Coast Labour Council and the Australian Workers' Union Port Kembla, and supported by many other stakeholders in the Illawarra, includes a public procurement framework mandating at least 50 per cent of Australian made steel in all federal and state infrastructure projects; and

(b) calls on the Government to consider policy options, such as the New Steel Deal, and to commence discussions on the future of the Port Kembla steelworks with unions, BlueScope Steel management, the New South Wales State Government and other relevant stakeholders with a view to saving the steel industry in Port Kembla.

Senator FIFIELD (Victoria—Manager of Government Business in the Senate and Assistant Minister for Social Services) (15:45): I seek leave to make a short statement.

The PRESIDENT: There being no objection, leave is granted for one minute.

Senator FIFIELD: The Australian government encourages major projects to develop an Australian industry participation plan which sets out how they will provide full, fair and reasonable opportunity for Australian industry to participate in the project. In line with international obligations, an Australian industry participation plan does not mandate the use of Australian industry but provides opportunities for capable and competitive Australian industry to participate in investment projects. Mandating local content would increase costs to the community and to major project proponents, with associated risks of reducing competition and moving projects offshore.

Australia's obligations under the WTO Technical Barriers to Trade Agreement require that regulations do not create unnecessary obstacles that inhibit trade. In principle, progress towards implementing regulation is in response to increased risk, to justify the increased cost.
and impact. Every policy option must be carefully assessed, its likely impact costed and a range of viable alternatives considered in a transparent and accountable way against the default position of no new regulation.

Question agreed to.

**Workplace Relations**

*Senator BUSHBY* (Tasmania—Chief Government Whip in the Senate) (15:46): At the request of Senator O'Sullivan, I move:

That the Senate notes that:

(a) it is the right of every Australian worker to be employed in an environment that is free of the threat of coercion or violence regardless of the industry in which they work;
(b) corruption, blackmail or thuggery has no place in the modern Australian workplace; and
(c) all political parties commit to protecting the rights of workers by eliminating any organisations that promote or undertake such behaviour in an Australian workplace.


The PRESIDENT: Leave is granted for one minute.

*Senator MOORE*: The opposition will be supporting this motion. It is, however, important to put on record that that the motion should apply equally to all people in the labour market. It is equally as applicable to employers as it is to unions. The opposition is sceptical of the content of this motion, given that it has been the practice of the government to regurgitate articles published in the media as proven fact. That is completely irresponsible. The Abbott government clearly has an agenda against unions and the labour movement, and it is seeking to use legislation and executive power to pursue it. It has introduced fundamentally unfair pieces of legislation and established a political royal commission to look into the union movement but not the conduct of employers.

For the record, on the issues in this motion, it is Labor that proposed a joint police task force to immediately investigate allegations of corruption reported in the building and construction industry. We are actually serious about investigating crime that occurs in the workplaces. The government merely wants a show trial, namely the royal commission.

Question agreed to.

**MATTERS OF PUBLIC IMPORTANCE**

Royal Commission into Trade Union Governance and Corruption

The PRESIDENT (15:48): I have received the following letter from Senator Moore:

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

"The need for a Royal Commissioner to appear to be unprejudiced and impartial."

Is the proposal supported?

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

The PRESIDENT: The proposal is supported. I understand that informal arrangements have been made to allocate specific times to each of the speakers in today's debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.
Senator LUDWIG (Queensland) (15:49): I rise to speak under standing order 75 on 'the need for a royal commissioner to appear to be unprejudiced and impartial'. Just last week, Commissioner Heydon accepted an invitation to a Liberal Party fundraiser, the Sir Garfield Barwick lecture, as we have heard. I think, first, it is interesting that the exchange of emails was between Commissioner Heydon's office and Mr Gregory Burton, who, I might add, is widely tipped to be the next Liberal candidate for Mackellar. On the email to Commissioner Heydon from Gregory Burton, he reaffirmed the commissioner's knowledge that this was a Liberal Party function of the Liberal Party lawyers professional branch. This was made clear to Commissioner Heydon by the organisers of the fundraiser. Second, when the commissioner publicly withdrew from the invitation after The Sydney Morning Herald acquired the Liberal Party branded advertisement for the Sir Garfield Barwick lecture, the commissioner claimed that he had 'overlooked' the fact that this was a Liberal event.

The facts are that Commissioner Dyson Heydon is undisputedly one of Australia's leading legal minds, and he has enjoyed an esteemed legal career, having had the honour of serving as Justice of the High Court of Australia. When you look at the correspondence between Gregory Burton and the commissioner's office, it shows that he either had or should have had full knowledge of the event's being of a political affiliation, and at best he ought to have known, when you look at the email. To say that he, as a former High Court justice, 'overlooked' this I think stretches the imagination.

The flyer had a Liberal Party logo on the back, and it had a photo of the commissioner and a photo of Sir Garfield Barwick. On the back of that, it had a form to fill out to pay for tickets, to be directed to the Liberal Party. It even allowed you to make donations to the event, to the Liberal Party, even if you did not want to attend. The flyer and the correspondence were clear.

This royal commission is just now showing itself for what the Prime Minister intended it to be: a taxpayer funded political exercise to go after the Prime Minister's opponents.

I think the most interesting revelation out of this is another candid display of the government's hypocrisy. Let's go back as early as January this year. We had the government and Senator Brandis in a war of words with the Human Rights Commissioner, Professor Gillian Triggs. I quote Senator Brandis on 11 January:

… Professor Triggs' decision to delay holding an inquiry into the issue of children in detention … can only be interpreted, and has been interpreted by many, many people in Australia, as an act that looked partisan.

However, this became much more serious when Senator Brandis called for Professor Triggs's resignation as Human Rights Commissioner. Senator Brandis said:

The position is, I'm sorry to say, that the Government has lost confidence in Professor Triggs.

Senator Brandis was criticised for attacking Professor Triggs. He defended the concept of statutory independence of the Human Rights Commission:

Of course, in most respects the commission is independent—and it is important that it should be so. That independence protects, among other things, the exercise of its powers of inquiry and report …

He went further again. In an opinion piece in The Australian, Senator Brandis goes further:

As I have said many times, an institution such as the Human Rights Commission must be like Caesar's wife. Given that its functions require it, on occasions, to criticise the government of the day, it
is absolutely critical to its credibility that it should have an unblemished reputation for freedom from political bias.

... ... ...

In a democracy, it is not character assassination to call a public official to account or to subject their performance to public scrutiny. That applies to the Human Rights Commission as much as to any other executive agency.

So let's not have this debate from those opposite, saying we should not criticise, we should not examine and we should not look. It is entirely appropriate, under Senator Brandis's own hand.

I do not know if Senator Brandis's memory has failed him, but this seems strangely similar to what is playing out now with Commissioner Heydon: (1) we have an independent statutory officer, Commissioner Dyson Heydon; and (2) we have an act that looks partisan, the acceptance of an invitation to speak at a New South Wales Liberal Party fundraiser. There are some serious questions to ask of this government in respect of that: (1) why is the government now jumping to the defence of Commissioner Heydon but asking Professor Triggs to resign; (2) how does Commissioner Heydon still have this government's confidence; and (3) how can the Prime Minister and Senator Brandis now say that the act of Commissioner Heydon accepting an invitation from the New South Wales Liberal Party to attend a fundraiser was not partisan? But let me help Senator Brandis—I am sure he would not particularly want me to—because I think the answer is quite simple. On the one hand, we have a statutory officer who is an open critic of the government, so of course the government must relentlessly accuse Professor Triggs of bias and demand her resignation after she released a report unfavourable to the government. On the other hand, we have the head of the government's politically motivated inquiry into its enemies, so of course the Prime Minister will honourably defend Commissioner Heydon and assure the Australian people that his report will be unbiased and unprejudiced. I think it is called 'hypocrisy'.

When we turn to the PM's judgement in this, this again raises significant doubt over the Prime Minister's judgement. He has pushed unfounded criticism of the Human Rights Commissioner on the matter of bias. He has defended the former Speaker of the House of Representatives, whose bias was arrogant and intentional, as was clear to every Australian watching question time. Now he defends clear bias on the part of the head of this royal commission into his political enemies. This is a person who should not be Prime Minister. This person is struggling to maintain even the confidence of his own colleagues, but I can say to you, Mr President, he is struggling also to maintain the confidence of the Australian people.

The question is not direct bias; the question is really apprehended bias. But the question that must also be addressed is: how can the Attorney General still say the royal commission is truly independent and free from bias? It is a question that the Attorney-General must and should answer. In an address at the opening of the G20 Anti-Corruption Roundtable on 28 February 2014 in Sydney, Senator Brandis affirmed the concept of judicial independence:

An effective, independent and impartial judiciary is an essential part of any modern system of governance.

I would like the record to reflect that I agree with Senator Brandis. The judiciary must be independent and impartial, and it must appear so and be perceived to be so. Dyson Heydon has to make decisions on admission of evidence before the commission and incorporation of
evidence in the final report of the commission. Justice Dyson Heydon accepting an invitation to speak at a New South Wales Liberal fundraiser whilst commissioner of the Royal Commission into Trade Union Governance and Corruption does amount, I think, to either the perception or a reasonable apprehension of bias.

There are significant problems with the royal commission. There are significant problems with the way the commissioner has acted towards witnesses. Further to that, in his response to Mr Burton the commissioner made clear that he would be willing to attend such an event as a speaker after he was no longer royal commissioner. It shows, I think, that there is some association between the commissioner and a political party, namely the Liberal Party. He was aware there was a conflict of interest at the time he was invited, he accepted the invitation, and any fair-minded person would say that amounts to a reasonable apprehension of bias. It is even quite possible that it could be viewed as something further.

What makes this event even worse is that the Australian taxpayer is footing the bill for this. The commission was meant to wind up and have a report issued in October; however, conveniently for the government the reporting period was extended even further, to the end of this year, and $80 million of taxpayers' money is now being spent on a witch-hunt.

The PRESIDENT: Thank you, Senator Ludwig. Just before I call Senator McGrath, I just remind senators to be cautious in how they reflect on members of the other place.

Senator McGrath (Queensland) (15:59): I also rise to speak on this matter of public importance. I will fully defend the professionalism and the impartiality of Dyson Heydon AC, QC. The senator opposite said that the royal commission had significant problems. I think the significant problems that have been identified are those affecting the union movement and corrupt union bosses across Australia. The issue that the Labor Party has with Justice Heydon is not any allegations about impartiality; it is the corruption and the badness that has been taking place in the union movement over a number of years. The royal commission has done vital work to uncover questionable dealings by union bosses. Criminal charges have been recommended against at least three of the most senior officials of the militant construction union the CFMEU. No less than four people have been arrested in association with the dealings of the CFMEU thanks to the work of the royal commission. A series of unions have been implicated in secret slush fund scandals that have finally come to light. We should not forget that the Leader of the Opposition, a secretary of the Australian Workers Union, traded away the penalty rates of low-paid workers, had his union receive hundreds of thousands of dollars in unexplained payments and failed to disclose over $40,000 donated to his political campaign by a company with which his union was dealing. Of course, he remembered this hours and days before his own appearance before the royal commission.

The Labor Party and their paymasters in the union movement have been engaged in a desperate attack on the royal commissioner. Labor and the unions are desperate to bring down Justice Heydon because of the work he is bringing to light. He is shining sunlight into the nefarious activities of various elements of the trade union movement. The ACTU has claimed by media release that the commission is untenable and that the commissioner's actions are an example of bias. Yet, when given the opportunity to bring a claim of bias to the royal commission, they prevaricated. They clearly do not know whether they have enough evidence to even argue a bias case, let alone win a case. I would like to read from the media statement of the President of the Law Council of Australia, Duncan McConnel:
The public attacks on the commissioner being played out through the media are unacceptable and
damage the basis on which tribunals and courts operate.

He went on to say:
The person who sits as a royal commissioner is entitled to the same respect, inside and outside of the
inquiry, as a judge in court.

In this case, Mr John Dyson Heydon AC QC is a highly regarded former judicial officer. They
concurred that the proper place for an application is the commission itself, yet the Australian
Council of Trade Unions cannot decide whether it has grounds to make one.

What I think we should do is have a look at the career of Justice Heydon in terms of what a
brilliant legal mind we have here. He graduated with a Bachelor of Arts from the University
of Sydney. He was a Rhodes Scholar for New South Wales in 1964. He graduated with a
Master of Arts and a Bachelor of Civil Laws from Oxford University. He was admitted to the
New South Wales Bar in 1973. He was a professor of law at age 30 and a QC in 1987. He was
Dean of the Sydney Law School. He was appointed by a Labor Premier, Mr Bob Carr, to the
New South Wales Court of Appeal. He was a former judge with the High Court of Australia
and he was appointed a Companion of the Order of Australia. Justice Heydon is one of the
most respected jurists in Australia. The unfortunate and unacceptable attacks that the Labor
Party and their allies are throwing at Justice Heydon in this mud fest are a sad indication of
their own lack of belief and their own lack of certainty about the allegations that are coming
out of the royal commission.

What is also interesting is that sometimes the word hypocrisy is thrown about this
chamber—I am unsure about the correct term and whether it is unparliamentary—but Labor
party members have been involved in organising their own legal lectures at which serving
judges have spoken. Now they are claiming, hypocritically, that Commissioner Heydon's
decision not to attend a similar function organised by the Liberal Party proves bias. Their
events include Justice Kirby delivering the Neville Wran lecture, established by the Labor
Party, while a serving High Court judge. In that speech he noted that he has delivered lectures
associated with the Liberal Party as well. Luke Foley, the New South Wales Labor politician,
delivered the lecture this year. Justices Kirby and Gordon delivered the Lionel Murphy
memorial lecture on separate occasions which were initially funded by financial grants from
Labor governments. This is very similar the Garfield Barwick lecture, which Commissioner
Heydon was asked to deliver and which commemorates the contribution of a former
Attorney-General who became a High Court judge. The Australian Society for Labor
Lawyers—and that sounds like a fun bunch of people, doesn't it?—is lawyers who are
sympathetic to the Labor Party or members of the Labor Party and has had papers presented
to it by Justice Michael Kirby while in the New South Wales Court of Appeal in 1984; Mary
Gaudron while as a High Court justice in 1987; Michael McHugh while in the New South
Wales Court of Appeal in 1987; the ACT Chief Justice and Chief Magistrate in 1988; and

When Labor get up here and attack Justice Heydon, it is clear that they have failed to look
in their own closet in terms of their own corporate, political and legal history before they have
made the attacks on Justice Heydon. The real reason that Labor are attacking Justice Heydon
is the work being undertaken by the royal commission. For those listening at home I have a
top 10 list of interesting developments that have come out of the royal commission. In the
remaining two minutes and 40 seconds I have, I hope I get to go through the top 10 concerning developments that have come out of the royal commission. This will give an indication of why Labor and their paymasters in the union movement are concerned about the good work—the impartial work—that has been undertaken by Justice Heydon.

We found out: (1) in Victoria, Comanchero bikies were employed as debt collectors in the building industry; (2) CFMEU officials Brian Parker and Darren Greenfield consorted with underworld crime figure George Alex, whose friends and colleagues included the leader of the Rebels bikie gang—a former Comanchero—and ISIS recruits Khaled Sharrouf and Mohamed Elomar; (3) construction company Boral suffered a 75 per cent reduction in its market share after refusing to comply with the CFMEU’s unlawful demands; (4) the private details over 300 construction workers were leaked by the construction industry super fund Cbus to the CFMEU; (5) John Setka abused and threatened workers; (6) the ACT police arrested a former construction union organiser and previous Labor Party sub-branch president, Fihi Kivalu, after evidence to the commission that he had demanded tens of thousands of dollars in payments from tradesmen in return for getting work. (7) officials of the HSU pressured their staff to cheat online right-of-entry tests in the names of their organisers. (8) the Australian Workers Union added workers to its membership roll without the knowledge or consent of those workers; (9) the Australian Workers Union arranged to have a super fund pay its own assistant secretary $93,000 for 2½ days work; (10) the Australian Workers Union received hundreds of thousands of dollars in unexplained payments from series of companies.

But it is actually the top 11—I did miss out Bill Shorten. Bill Shorten, the leader of the Labor Party forgot that when he was running for election that $40,000 was expended on his behalf in payments to his campaign manager. And they are the real reasons why Labor is going over Justice Heydon—it is revenge. Labor know they have been caught out and they want to have revenge on the commissioner who caught them out in terms of the skulduggery and the dirty deals that have been done for years by the Labor Party and the union movement.

Senator RICE (Victoria) (16:09): I rise to speak on the need for a royal commissioner to appear to be unprejudiced and impartial, which is clearly an important thing. What we are debating today goes to the very heart of the integrity of our legal system—that justice should not only be done, but should be seen to be done. To quote a 2011 judgement in British American Tobacco Australia Services Limited and Laurie:

It is fundamental to the administration of justice that the judge be neutral.

Those words are very applicable today, as they come from Justice Dyson Heydon during his time as a justice of the High Court of Australia. The principle applies to judges, tribunal members, and, yes, royal commissioners. It is crucial to maintaining public confidence in the system.

Let us look at some facts here. The Trade Union Royal Commission was established in 2014 by the Abbott government. The same Liberal government appointed former Justice Heydon as the royal commissioner. Under the watch of Commissioner Heydon, the commission has investigated the operations of the Liberal Party's political opponents. In April 2014, there was an email exchange between Mr Heydon and the organisers of the Sir Garfield Barwick lecture in which the connections between the event and the Liberal Party were spelled out. The invitation promoting Heydon's appearance clearly said:

Cheques should be made payable to the Liberal Party of Australia.
And

… all proceeds from this event will be applied to state election campaigning.

Let us put aside our opinion of whether the royal commissioner is in fact biased; it is the appearance of bias that is important here.

The royal commission certainly appears to be politically motivated. It comes as the party of WorkChoices has waged an attack on people's rights at work. This royal commission was meant to lay the groundwork for further attacks on things like penalty rates. The royal commissioner has got to be considered alongside the government's other attacks on trade unions—the attempts yesterday to reintroduce the ABCC, the attempt yesterday to tie unions up in red tape. This is the context of the appearance of bias.

The event in question, the Sir Garfield Barwick lecture, is clearly a partisan event. It is a New South Wales Liberal Party fundraiser. Then we find out that Mr Heydon—himself a Rhodes scholar—was on the panel that gave the Rhodes scholarship to one Mr Tony Abbott. David Mann has written one jibe at the time was that the scholarship was given to a second-grade footballer, third-rate academic and fourth-class politician. What should happen now?

As Justice Heydon said in 2002:
The law compels judges who have such a bias or may reasonably be thought to have such a bias to disqualify themselves from sitting on cases.

Let us now look at the words of Attorney-General George Brandis:
The political impartiality of the commission [has] been fatally compromised.

That was not about this case; that was about the Australian Human Rights Commission President, Gillian Triggs. Imagine if Ms Triggs had attended a fundraiser for one of the parties opposed to this government? Imagine the calls from the government for the commissioner to step down. Similarly, if a judge was discovered to be raising money for the prosecution, there would be a mistrial and the case would be over. That is what has to happen here. Any pretence of independence of the trade union royal commission is now gone. The royal commission must be immediately terminated.

We have got to stop this tit-for-tat pushing of party political agendas. Australians do not want this government to operate in this he-said she-said manner. We have got to get back to a situation where people have trust in government and trust in the impartiality, particularly of royal commissions. Royal commissions sit there at the pinnacle of our system of inquiries. It is absolutely critical that they are held above reproach, at the highest levels of community regard. They have got to be impeccable otherwise there is such a corrosive influence on the public's assessment of the impartiality of royal commissions and of government itself. The government must put politics aside and focus on governing.

Senator LINES (Western Australia) (16:14): I too rise to speak on this matter of public importance, the need for a royal commissioner to appear to be unprejudiced and impartial. Is it any wonder that the Abbott government is so sensitive to this issue of the royal commission and the role of Mr Heydon as the royal commissioner? It is very obvious that he was invited to a Liberal Party fundraiser. Any fair-minded person who looks at that invitation can see for themselves that it was and is a Liberal Party fundraiser, with funds going to two state campaigns. It has the Liberal Party logo all over it, and Mr Heydon accepted an invitation to speak at that Liberal fundraising event. Those are the facts and they cannot be disputed.
The facts are there, and that is why those opposite in the Abbott government are so incredibly sensitive to this matter and will put any kind of spin on it, the sort of spin we have heard over the last couple of days, to try to say it is something else. Anyone with an interest in this matter, or indeed anyone who sees the invitation, can see for themselves it is a Liberal Party fundraiser, and indeed Mr Heydon agreed to speak at it.

I want to look at the principles of impartiality and prejudice, because they are clear in the national guide to court officers. It reads:

An appearance of continuing ties, such as might occur by attendance at political gatherings, political fund raising events or through contributions to a political party should be avoided.

Nothing could be clearer than that, and we have established that Mr Heydon accepted an invitation to speak at a Liberal Party fundraiser. He accepted that invitation and he received emails which clearly stated it was a Liberal Party fundraiser. So that principle in the national court guidelines is certainly breached in that context. Mr Heydon himself, as many of us have said in this place, said in 2011:

It is fundamental to the administration of justice that the judge be neutral. It is for this reason that the appearance of departure from neutrality is a ground of disqualification.

And the quote goes on. So again there is no neutrality in the acceptance of an invitation to speak at a Liberal Party fundraiser. And just yesterday the Prime Minister, so desperate to keep his own job—because the royal commission and Mr Heydon were another captain's pick—misquoted Julian Burnside QC, who said he believed Justice Heydon was an honourable man. Mr Burnside recently said he believed Justice Heydon was an honourable man, but that the government had misquoted him.

What Julian Burnside had said was:

I think he is an honourable person and I think in the circumstances an honourable person would step aside.

The Prime Minister, never one to let the truth get in the way of his spin, only used a selection of what Julian Burnside QC said, stating, 'Dyson Heydon is man of honour'. And of course he did not finish Julian Burnside's complete quote, because Julian Burnside did not put spin on it as the Prime Minister did. The bit that the Prime Minister forgot was that Julian Burnside said, 'In the circumstances, an honourable person would step aside.' And that is what Mr Heydon should do. He should step aside.

Mr Heydon clearly knew it was a Liberal Party fundraiser because the email's heading had that and indeed the body of the email had it. In fact, he has strongly criticised a witness who appeared before him in the royal commission for not reading her documents so thoroughly. It seems that what applies to witnesses does not apply to the commissioner himself. We all know that ignorance is not a defence, and I am sure Mr Heydon knows that. It is time that this witch-hunt of a royal commission be concluded and the now tainted Mr Heydon step down. Never mind the fine record he may have had; he has well and truly overstepped the line, and it is time for him to resign that post at the royal commission.

Senator CANAVAN (Queensland) (16:19): Unfortunately this is not question time but statement time, so I cannot ask Senator Lines some questions or get answers. But I would still like to put some rhetorical questions on the record.
I listened to Senator Lines, and she was saying that it is unacceptable for Justice Heydon to accept an invitation to a Liberal Party organised event. The question I would ask Senator Lines is: if it is such a scandal for that to be accepted, why was it okay for Justice Kirby to deliver the Neville Wran lecture in 2008, organised and established by the Labor Party? Why was that okay while he was a sitting, serving High Court judge? Why was it okay that Michael Kirby addressed the Society of Labor Lawyers while he was on the New South Wales Court of Appeal? Why was it okay that Mary Gaudron, also as a High Court justice, addressed the same body? Why was it okay that Michael McHugh, while he was on the New South Wales Court of Appeal, addressed the Society for Labor Lawyers? Why was it okay for ACT chief justices and chief magistrates to address the same body? Why was it okay for Justice Jeffrey Spender, while he was on the Federal Court, to similarly address the Society for Labor lawyers?

What we have here is blatant hypocrisy from the Labor Party, and we have that hypocrisy because this is not about Justice Heydon and not about this particular event. What this is about is a desperate ploy from a desperate union movement in hock with a desperate political party to distract attention from the disgraceful conduct of union members and officials exposed by this royal commission. It is all a distraction technique.

I am a father of four kids and I know distraction techniques well. When you do not like what your children are doing, when you do not like if they are crying or whingeing or behaving badly, you distract them. You try to distract their attention and put something else in their face or do something like that. That is exactly what the Labor Party are trying to do here because they do not like what is going on down there at the royal commission. They do not like what is happening so they are trying to distract attention from it, at great cost to the Australian people and to good public policy in this area.

I have not seen the Labor Party introduce or state that there is a matter of public importance about the conduct of union officials while I have been here. This time in our chamber is a time for opposition and minor parties to state what they view are the important issues facing the public and we can debate them in this chamber during this time. I have not seen the Labor Party put up one matter of public importance about how it is important that union officials be subject to high levels of propriety and good conduct. I have not seen the Greens either put up motions to discuss and debate the conduct of union officials as they have been exposed in this royal commission and in other fora in the last few years.

What is the bigger issue here? Is it an issue that we seem to have organised crime involved in our trade union movements? Is that an issue? It has been something the assistant commissioner of the Victorian Police Force has stated to the royal commission? I do not know the assistant commissioner of the Victorian Police Force but I imagine he is of good standing. He has alleged that there are examples of organised crime and criminal conduct in our trade union movement. My question to the Labor Party is: is that an issue? Do you think that is a matter of public importance? Do you think it is a matter of public importance that we may have organised crime in our trade union movement? I certainly do. I think that is an extremely important issue for the public to know about and to debate but it is not something the Labor Party want to expose.

Does the Labor Party think it is a matter of public importance that the royal commission has exposed that some CFMEU officials, in particular Mr Brian Parker and Mr Darren
Greenfield, have been exposed as being involved with Australians who have subsequently ended up fighting for ISIS. Khaled Sharrouf and Mohamed Elomar were both involved with the CFMEU. Is that a matter of public importance? Apparently not, according to the Labor Party because they have never brought that forward in the time available to them in this chamber. Is it a matter of public importance that the CFMEU regularly and consistently disobeys the law on construction sites particularly in Melbourne? Is that a matter of public importance because we know recently in disputes, particularly with Boral and other construction companies in Melbourne, that the CFMEU has disobeyed court orders and has continued to engage in unlawful conduct. Is that a matter of public importance? I think it is a matter of public importance when trade unions do not obey the law but it is not something the Labor Party seems to want to discuss.

Does the Labor Party think it is a matter of public importance when the private details of 300 construction workers are leaked by an industry superannuation fund to the CFMEU? Is that a matter of public importance? Is it a matter of public importance when John Setka makes vile and insistent threats to other people in his role with the CFMEU? Is that a matter of public importance? I reckon it might be. I also think it might be a matter of public importance when people are arrested for unlawful conduct and we know at least four people have been in the royal commission so far and that criminal charges have been recommended against at least three of the most senior officials in the CFMEU. I reckon that might be a bit more important than an event organised for lawyers for lawyers to speak at. I think all of the conduct might be a little bit more important, but that is not something the Labor Party wants to bring into this chamber to debate. It is not something they are willing to have exposed and that is why we have this desperate attempt to distract attention from this disgraceful conduct and that is the only way you can describe this conduct. It is absolutely disgraceful. It should be condemned by every member of this chamber and I think in their heart of hearts it would be but for political reasons it is not something the Labor Party want to talk about.

I did say at the start of my contribution that—surprise, surprise—Labor Party lawyer groups have organised similar functions where sitting judges, including sitting High Court justices, have spoken.

**Senator Conroy:** Not while they are prosecuting cases.

**Senator CANAVAN:** That has happened on multiple occasions, through you Chair to Senator Conroy. I do not think that is such a bad thing. It is not my idea of a fun night out. I am not a lawyer and sometimes being in a political party with many of them I get sick of listening to them, to be honest. But if that is what knocks your socks off, if you want to listen to a justice of the High Court or some other lawyer, go for your life. I have no problem with that and I have no problem with people joining political parties in our country, be it that they join the Labor Party or the Greens or some of the minor parties. I do not have any problem with Australians joining political parties. Indeed, I would recommend and argue more Australians should join political parties because it would be a great thing if more people took an interest in the future of our country.

Whatever your views are, it is a great idea to join a political party and to get involved in the battle of ideas. Some of those ideas do circulate around matters of the law, although that is not my particular kettle of fish—I think that is the wrong metaphor but I cannot think of the right one. It is not what floats my boat, talking about the law. If that is what people want to do, they
should go for their life. The Labor Party have done it many times and that is great. One of the most important things about this last week's debate is that clearly judges and other senior legal officials in our community will be less likely to accept invitations to such events after this stunt from the Labor Party and the multiple stunts they have had in the last week. It will be less likely that events such as this will be organised in the future and I think that is unfortunate. I think it is unfortunate that fewer people will in future be able to go to these events, that fewer senior legal officials will want to discuss and provide their experience and wisdom to the members of political parties and our democracy will be weaker for that effect.

I did listen also to Senator Rice earlier mention that in her view this was a politically motivate commission. Senator Rice, through you Chair, whatever your thoughts are on why the royal commission was established, there is no doubt that, having been established, it has exposed serious misconduct which needs to be followed up and I am sure will be followed up. The calls to shut it down are completely out of proportion and reveal that the real reason behind why we are having this debate is that they want to cover up this corrupt behaviour.

**Senator LAZARUS** (Queensland) (16:29): The people of Australia have lost faith in the Abbott government. Tony and his team continue to lurch from one catastrophe to another. Every morning the people of Australia wake up to yet another colossal Prime Ministerial stuff-up—Choppergate, knighthoods, pension cuts, GP co-payments, and same-sex marriage. The Heydongate saga is just another stuff-up in the growing pile of Prime Ministerial and government stuff-ups. I am of the view that a royal commissioner must be impartial and independent of political associations. Based on this, Dyson Heydon's position is untenable and he must step down in order to restore community confidence in the trade union royal commission. I should add that I am strongly of the view that the trade union royal commission is nothing more than a political attack on the health and future of unionism across Australia.

There are many areas of our community where we desperately do need royal commissions, and the CSG mining sector is one of them. Across our country, farmers and landholders are being decimated by the impact of CSG mining. CSG mining is killing animals, poisoning our water, depleting our water supplies, devastating land values and affecting human health. Why won't the government establish a royal commission into the human impact of CSG mining? It is because CSG mining companies donate to the coalition.

Dyson Heydon must go and the need for the trade union royal commission must be re-assessed. As I keep saying, I cannot keep the government honest but I can keep them accountable. If the Abbott government have any respect for the people of Australia they will act swiftly to remove commissioner Heydon.

**Senator CONROY** (Victoria—Deputy Leader of the Opposition in the Senate) (16:31): I rise to support the matter of public importance. I was pleased to hear that Senator Canavan believed that there was some behaviour that was absolutely unacceptable. Let me read to you the following quote:

[Quote from Senator Canavan]
Probity may be affected by conscious bias for or against a particular litigant or class of litigants. The law compels judges who have such a bias or may reasonably be thought to have such a bias to disqualify themselves ...

That is a quote from none other than Justice Dyson Heydon from a 2002 address to an assembled gaggle of his right-wing friends. Pithy and accurate, Justice Heydon was striking at the heart of the values that underpin our society’s approach to justice. But Justice Heydon and the royal commission over which he presides have departed so far from these values that their respective roles are now untenable. Furthermore, Mr Abbott's $80 million dollar royal commission has been exposed as the cynical, political Star Chamber that it is.

In February 2014 Mr Abbott repaid the favour after he himself was sent to Oxford on a Rhodes scholarship by none other than former Justice Heydon. But Mr Abbott did keep an election promise, one of the very rare examples of him doing so. He took the necessary steps to establish a royal commission that would be specifically tasked with pursuing his political opponents. There was no pretence about this at all. Its whole job was to denigrate former Prime Minister Julia Gillard and to attack, undermine and smear the current Leader of the Opposition. The terms of reference were fatalistic. They implicitly accused the trade union movement of engaging in unlawful conduct and explicitly directed the royal commission to pursue particular unions. It was immediately clear to all that this royal commission would act as the Liberal Party's publicly-funded political dirt unit. Not satisfied with just having a little dirt unit in their press secretaries gathered together under their Whip—not content with that—they wanted an $80 million plaything with coercive powers to smear their political opponents. This was a Star Chamber from the first day and it has been exposed again as a Star Chamber in the last few days.

Tony Abbott needed someone to head up this dirt unit. Enter Dyson Heydon. After a youthful appointment as a law professor, Justice Heydon was elected Dean of the University of Sydney Law School in 1978. His tenure in this role must surely have been successful, because one of his school's students at that time went on to become the Prime Minister of Australia, Mr Tony Abbott. In fact, as I said, Justice Heydon was lucky enough to examine the future Prime Minister in detail as he sat on the Rhodes scholarship committee that awarded Tony Abbott his scholarship. Surely the Prime Minister is eternally grateful for the privilege. Following a brief yet controversial stint as Justice of the New South Wales Supreme Court's Court of Appeal, Prime Minister John Howard appointed Justice Heydon to the High Court in 2003. Justice Heydon spent his 10 years on the High Court benches as a judicial activist, regularly dissenting from the moderate rulings of his colleagues and, in doing so, pursuing his right-wing ideologies in the minority.

His family has a longstanding relationship with the Liberal party. His father had even acted as an advisor to the Liberal Menzies government. So Mr Abbott had his man: a respected lawyer, an ideological right-winger, and a man whose family had enjoyed successive generations of Liberal Party patronage.

Senator Ryan: What did your dad do?

Senator CONROY: Pardon?

Senator Ryan: Blaming someone for what their father did?

Senator CONROY: Oh dear!
There are roughly 2,500 barristers in the state of New South Wales. Twenty five of these barristers operate from Eight Selborne Chambers in Sydney—just 25 out of 2,500. Eight Selborne had, surprisingly, been home to Justice Heydon and these 25 barristers and represented the most intimate of the legal fraternity. Despite the weight of chance stacked heavily against this small community of legal practitioners, three of these 25 who shared chambers with Justice Heydon have been awarded multimillion dollar contracts from the trade union royal commission, the most prominent of which, of course, is Jeremy Stoljar, who was appointed by Dyson Heydon as counsel assisting the royal commission. Mr Heydon knew that Stoljar would make a reliable deputy. They had long been friends. Heydon was such a keen supporter that he had gladly launched Stoljar's book in 2011.

As you would expect in such a murky world of patronage and jobs for mates, the government has been exceptionally keen to maintain the secrecy of payments to Heydon and his friends. While they have successfully hidden Heydon's fees behind the thin veil of commercial confidence, investigations by the Senate's committees have revealed that Jeremy Stoljar's pockets have been well lined by the royal commission to the tune of $3.4 million. While taxpayers are wondering what value they are receiving from this star chamber, Justice Heydon and his lavishly paid buddies, Mr Abbott and the Liberal Party are getting everything they have paid for.

The ACTING DEPUTY PRESIDENT (Senator Seselja): Order! Pause the clock.

Senator O'Sullivan: Mr Acting Deputy President, on a point of order. Standing order 193 makes it very, very clear that it is not possible for a senator to make imputations of improper motives and personal reflections on the houses, or members or officers of those houses. You could not have made a more serious imputation against the character of the Prime Minister, Mr Abbott, than the one just made by Senator Conroy, and he should be asked to withdraw.

Senator CONROY: I have no idea what he is talking about.

The ACTING DEPUTY PRESIDENT: Senator O'Sullivan if you could point us to the imputation, without pointing to the exact words used necessarily, so I can rule.

Senator O'Sullivan: Senator Conroy made a reference to the relationship between Mr Abbott and the royal commission—

Senator Lines interjecting—

Senator O'Sullivan: Do you want to listen or not?

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT: Order! There is a point of order. I will hear the point of order and then I will rule on it. It is difficult for me to rule if you are interjecting.

Senator O'Sullivan: Mr Conroy made a reference to the relationship—

Senator CONROY: Senator to you.

Senator O'Sullivan: I don't tend to make a contribution with interjections, Mr Acting Deputy President.

Senator Lines: Well, call him Senator Conroy.

The ACTING DEPUTY PRESIDENT: Order! Senator Lines, I do not need the interjections. Senator O'Sullivan is aware that the use of proper titles such as senator should
be used in here and I would remind him. We do not need your assistance while he is making his point of order. You are not being helpful. I will now go to Senator O'Sullivan so that he can make his point of order.

Senator O'Sullivan: Senator Conroy made it very clear through his words that there were imputations against our Prime Minister with respect to the appointment of this royal commissioner having occurred as a result of the relationship with the Prime Minister, with the royal commissioner and through their historical association. It is a very serious imputation and it should be withdrawn.

The ACTING DEPUTY PRESIDENT: Senator Conroy, it would assist the Senate if any imputations that were made against the Prime Minister were withdrawn.

Senator Dastyari interjecting—

The ACTING DEPUTY PRESIDENT: Standing order 193 does stand. I did not hear the precise words that Senator O'Sullivan is referring to, but it would certainly assist the debate in the chamber if you would withdraw any motives or imputations and we can move on.

Senator CONROY: Like you, I am a little unclear. But if there was an imputation that the good senator from Queensland has taken offence to, I happily withdraw it.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Conroy.

Senator CONROY: While the taxpayers are wondering what value they are receiving from Justice Heydon and his lavishly paid buddies, Mr Abbott and the Liberal Party are getting what they paid for. The Heydon royal commission wantonly ignores the standards that have been established and upheld by royal commissions before it—accepting hearsay, refusing objections and cross-examinations, double standards for different witnesses and even providing detailed briefings for the media. Dyson Heydon has overseen a royal commission totally failing principles of natural justice. They stand there and, as they have witnesses walking into the box, they start distributing to the press gallery, before the witnesses have even sat down or are handed it themselves, the documents that they are going to be cross-examined on. So the first time the witnesses get to see documents is as they are handed to the media. This is a star chamber that is about nothing more than helping this pathetic government get re-elected. This royal commission has been put in place, this star chamber, this quasi-judicial theatre, to smear and slander the Liberal Party's political opponents.

But Dyson Heydon's bias and partisan ways were finally exposed by the revelation that he had agreed to address a Liberal Party fundraiser—an absolute slam-dunk case. His claims that he was unaware that the event was a political fundraiser simply do not stand up to scrutiny. By his own admission, he received multiple pieces of correspondence that outlined the event's ties to the Liberal Party. The chair of a Liberal Party lawyer branch invited Mr Heydon to the event on 10 April 2014 and the email explicitly explained the relationship between the Liberal Party and the lawyer branch and the event itself. {Time expired}

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (16:44): I have not been here for a long time—

Honourable senators interjecting—

Senator O'SULLIVAN: Settle down, fellas. As I said to these colleagues last night: kick your shoes off, rest back and have a listen up. I have not been here for a long time, but in the
time that I have been here I have seen, on occasions, an abuse of the parliamentary privilege that underpins our ability to get on with the job. But I have never seen such an atrocious abuse as I have just witnessed from Senator Conroy. I have never seen such an attack—in this case on a senior retired jurist of this nation, one of the most respected legal jurists in the country. I do not intend to waste one more second of this chamber's time in relation to the facts that led up to it, because they are well and truly clear. Through question time today and yesterday we have heard from our colleagues across the chamber, including the Greens. Have they got any interest in job creation in this nation? No. About education reform? None whatsoever. Or about disability services? They were chatting and giggling away over there today as they prepared to ask questions on this.

In the short time that I have to make a contribution, we need to ask ourselves: why would they want to attack this royal commission? Why would they want to attack this eminent jurist? I will tell you why: it is because over the last three or four days they have been exposed and their connections, both the Greens and the Labor Party, with their criminal activity—sorry, I withdraw that—with their association with people who are engaged in criminal activity that leads to benefits for those organisations, who then go ahead and nourish the Australian Labor Party and the Australian Greens with phenomenal sums of money. You are paid players, paid to be in this place to represent their interests and to defend them against these very, very serious allegations as exposed by this royal commission.

A fact I pointed out last night was that, in all the hundreds of hours in recent debates and in debates before, not once—with one exception, which I will come to—has anyone from that side ever mentioned transparency, accountability, holding people to account, or the abuse of power and positions? Only once, and that was a contribution made by Senator Ludwig last night when he referred to this royal commission as a 'stalking horse.' This is a pearl. Pick up your pens and make a note of it so you never, ever make the mistake of using it yourself. He said they were using this royal commission as a stalking horse to pursue transparency and accountability. Have a listen to that! As I said in my contribution last night: some days you people must not be able to think as the galloping hooves of this royal commission come up behind you.

We have exposed some of the most entrenched modern criminality and criminal behaviour in this country impacting on the productivity of this nation to the tune of hundreds and hundreds and hundreds of millions—I suspect possibly billions. And, I said here, the people who are doing this, who have been exposed by the royal commission, are being protected by the Australian Labor Party—the same crowd that stands up at every opportunity to tell us that they are here for the workers of Australia. I have got to tell you that you do a good job of protecting the unions. You have done a terrific job standing up and battling on their behalf, but nothing you have done will make a positive contribution to the development and maintenance of jobs in this country, to the growth and development in the construction industry, to the issues of transparency and accountability. You need to look them up. I have an Oxford dictionary in my office—I will drop it around if you need it. Accountability—

Honourable senators interjecting—

Senator O'SULLIVAN: No, no. You think it is a joke, Senator Sam. In between your filming liabilities as a cameo, all you want to do is laugh when your pathetic performance in
protecting these criminal organisations is raised. And it is a massive abuse of parliamentary privilege. I thank you for the opportunity to make the contribution.

Senator LAMBIE (Tasmania) (16:49): I rise to speak to the matter of public importance. As a royal commissioner leading an inquiry examining union governance and corruption, it is clear that Mr Heydon has displayed a form of bias in accepting an invitation to become a keynote speaker at a Liberal Party function.

A royal commissioner cannot decide his own impartiality or perception of bias. You do not need a law degree to work that out; you just need to use some common sense. For heaven’s sake—we have a situation where the Australian people know how a royal commissioner will vote at the next election. The royal commissioner has personally admitted that he was the main act at an important Liberal Party event. What next? Will Commissioner Heydon suspend royal commission hearings so that he can hand out Liberal how-to-vote cards at the Canning by-election?

No judge, after overwhelming evidence of bias has been produced, including words from this own mouth, can make a ruling on his own impartiality or perception of bias. He can defend his bias, he can argue and put forward a case to the contrary to a higher authority, but he cannot then make a judgement on his impartiality and expect the average Tasmanian to accept the integrity and fidelity of that decision.

Evidence may have emerged in this royal commission that has implicated the Liberal Party and its associates in corruption. But, because Commissioner Heydon has refused to allow crossbench senators to access his secret volume, we will never actually know the truth. He must resign now, and his secret report must be viewed by all crossbench senators.

You cannot, as Commissioner Heydon himself has written, have a confidential report that shows ‘a grave threat to the power and authority of the Australian state’ without people associated with all sides of politics being involved in serious corruption, criminal or subversive activities.

The longer the Prime Minister and Commissioner Heydon cover up that secret report from crossbench senators, the greater the likelihood that the Liberal Party is implicated in serious illegal activities. It is up to the Liberal Party and the Prime Minister to prove that they have not been implicated or linked to illegal activities in Mr Heydon's confidential volumes.

The Prime Minister made another captain's pick when he chose Justice Heydon to lead this royal commission, knowing full well the strong family and professional links that he had with the Liberal Party. When this sorry farce ends in a successful High Court action against the commissioner, it will ultimately be the Prime Minister who is at fault for the waste of hundreds of millions in taxpayers' money.

The ACTING DEPUTY PRESIDENT (Senator Seselja): Order! The time for the discussion has expired.

PETITIONS
Shark Culling

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:52): by leave—I table a non-conforming petition, which I have circulated, about shark culling in Western Australia, Queensland and New South Wales.
Petition received.

COMMITTEES

Community Affairs References Committee
Corrigenda to Report

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:53): I present corrigenda to the report of the Community Affairs References Committee on the adequacy of existing residential care arrangements available for young people with severe physical, mental or intellectual disabilities in Australia.

Ordered that the document be printed.

Public Works Committee
Report

Senator SMITH (Western Australia) (16:53): by leave—On behalf of the Parliamentary Standing Committee on Public Works, I present report No. 6 of 2015, referrals made May and June 2015 and move:

That the Senate take note of the report.

On behalf of the Parliamentary Standing Committee on Public Works, I present the committee's sixth report of 2015, which deals with two projects—one referred to the committee in May and the other in June.

The first project is the proposal to build an international quality visitors centre adjacent to the Australian National Memorial in Villers-Bretonneux in France. The Department of Veterans’ Affairs will oversee the project which is expected to cost $93.4 million.

The committee received a briefing on the project and held hearings in Canberra on 26 June. Along with the national memorial, the centre—to be named after Sir John Monash—will recognise and pay tribute to the 290,000 Australians who served on the Western Front between 1916 and 1918.

The centre is designed to offer visitors a unique experience. It will use state-of-the-art multimedia technology to provide visitors with an immersive experience that will be both evocative and educational. The works will comprise the interpretive centre itself but will also include significant civil, horticultural and landscaping works to the site.

Importantly, the centre will be built partially below ground level so that it does not visually compromise the iconic and poignant Lutyens-designed memorial. In fact, some of the planned landscape features will complete Lutyens' original design for the site.

The opening of the centre is planned for April 2018 to coincide with the centenary of the Battle of Villers-Bretonneux. Visitor numbers in excess of 100,000 per year—both Australian and international visitors—are expected.

This project is a significant undertaking for Department of Veterans' Affairs. The delivery time frame will be tight. For this reason, the committee recommends that the Department of Veterans’ Affairs provide a status report at the mid-point of the project. This will allow the committee to assess how the Department of Veterans' Affairs is tracking in terms of expenditure and build schedule.
The committee is satisfied that this project has merit in terms of need, scope and cost and recommends that it proceed.

The other project I report on today concerns the Department of Defence stage two redevelopment of Royal Australian Air Force Base Williamtown in New South Wales. The works will upgrade and replace critical infrastructure to improve the functionality and capability of facilities at the base. The estimated cost of the project is $274 million.

The base has grown significantly since its establishment in the early 1940s. This prompted Defence to carry out improvement works in the 1990s and the first stage of this redevelopment project was completed in 2004.

The second stage will include upgrades to engineering services, constructing new office accommodation, vehicle entry and parking facilities. It will also include demolition of some buildings that cannot be refurbished to meet current stands and have now reached their end of their useful life.

The committee received a briefing from Defence and conducted a site inspection on 22 July. At the subsequent hearings Defence outlined how the redevelopment will consolidate various elements that are currently dispersed across the base in order to deliver significant efficiencies.

Through the public consultation process and during the public hearing, concerns regarding road access and safety were raised. A representative of Port Stephens Council told the committee how this project provides an opportunity for the local council to work with Defence to provide safety upgrades and enhancements to the adjacent Medowie Road. This is a suggestion that the committee endorses and the committee has made a supporting recommendation.

The committee is satisfied that this project also has merit in terms of need, scope and cost and recommends that it proceed. I commend this report to the Senate.

Question agreed to.

Economics References Committee
Report

Senator DASTYARI (New South Wales) (16:58): I present an interim report of the Economics References Committee on corporate tax avoidance.

Ordered that the report be printed.

Senator DASTYARI: I move:

That the Senate take note of the report.

I rise to speak to the interim report of the Senate Economics References Committee inquiry into corporate tax avoidance. I note that while this is not the final report of the work of the committee on this matter it is a significant contribution of work and it is a significant interim report.

The inquiry into corporate tax avoidance will continue into the second half of the year, with a provisional final reporting date of 30 November 2015. In this, the first of our interim reports, there are 17 recommendations covering four areas: evidence of tax avoidance and aggressive minimisation, multilateral efforts to combat avoidance and aggressive
minimisation, potential areas of unilateral action to protect Australia's revenue base and the capacity of Australian government agencies to collect corporate taxes.

It is expected that the final report will focus primarily on transfer pricing and profit shifting with a secondary focus on excessive debt loading, foreign companies avoiding permanent establishment in Australia, the use of tax havens, exemptions from general purpose accounting and the role of private accounting firms in tax avoidance.

The interim report makes recommendations over the four broad areas I outlined earlier. Firstly, that there should be more transparency and more disclosure of the revenue that is earned in and flows out of Australia and into low-tax jurisdictions. Secondly, that the committee agrees that the current government is right to support multilateral efforts to combat aggressive tax avoidance through the OECD base erosion and profit shifting but also believes that this should not and does not prevent us from taking unilateral action to preserve our revenue base. Thirdly, we offer possible suggestions for more reporting by the ATO to parliament, including a public register of tax avoidance settlements reached and what the experts at the ATO think is effective tax policy, what they think should be tweaked, what their estimations of foregone revenue are and any potential improvements to the system. Finally, we offer some suggestions and some minor tweaks to improve how agencies like ASIC can help the ATO collect corporate taxes.

I do not believe these recommendations are controversial. They will improve the information that we all have. As the inquiry continues it will focus on some more controversial issues, including transfer pricing and profit shifting. There is also likely to be a secondary focus on the use of tax havens, the role of private accounting firms in tax avoidance and foreign companies avoiding permanent establishment in Australia.

The evidence from this inquiry has demonstrated just the size, the scope and the nature of this problem. While this is not a problem or an issue that all firms are engaged in and certainly it is one, with the evidence that we have seen, that is largely being engaged with by multinational firms operating subsidiary operations in Australia, the size of this problem, the scope of this problem and the nature of this problem should not and cannot be ignored.

There is anger out there in the community. There is anger that there are companies that are able to behave in such a way all of which, in the evidence that we have been presented so far, has been legal, all of which has not demonstrated illegal behaviour from the evidence that we have seen. The concern out there and the questions that people are asking are: how is this type of behaviour legal? How is this type of behaviour allowed? How do we have a structure, a system and a set of rules that allows a lot of this behaviour to go on and allows a lot of this behaviour to be ongoing?

I want to thank some people in particular for the incredible work that they have been able to do in the production of this report. Firstly, there are the people who brought this issue to our attention from the Tax Justice Network and from United Voice. I want to particularly thank from United Voice Patrick Gorman, Jacqui Woods and Madeleine Holme and also thank the former national secretary of that union. Again, the report that was initially produced, as they outlined, had a lot of technical attempts to be able to calculate some data. Some of the techniques they used were crude but the crudeness was designed to be able to make the case as to why this is an issue for further investigation. I want to thank the Tax Justice Network, in particular Mark Zirnsak, Anthony Reed and Jason Wood.
I want to commend the work from Chris Jordan and his team from the Australian tax office for their cooperation with the work of this inquiry. Again, not everything that was said was something that I would necessarily have agreed with on all matters to do with the Australian tax office, but the way in which they engaged with this inquiry, the way in which they engaged with this interim report deserves to be commended.

I want to thank the incredible work of the senators on this committee. I want to thank in particular Senator Sean Edwards and his staff and his team. I want to thank Senator Canavan and his staff. I want to thank Senator Xenophon and his staff. I want to thank Senator Ketter and his staff. And I want to thank Senator Whish-Wilson and his staff. But in particular I also want to extend my sincere thanks to former Senator Christine Milne and her hardworking staff who have pushed many of these issues that we considered in this inquiry. There is no doubt that Christine Milne's 25-year public contribution has played a huge role in putting this issue front and centre, and it would be remiss of me not to recognise that it took Christine Milne to actually first bring this issue to my attention. I am proud of the work that has been done and the work that the committee will do.

I also want to make special mention of the Labor shadow economics team and the guidance and advice from them, including Andrew Leigh, Chris Bowen, Bernie Ripoll and Ed Husic.

The work of the parliamentary library has been sensational. The amount of research that they have done in preparing some of the reports and information that has really informed this debate is truly worth commending. I want to thank Catherine Lorimer, Indra Kuruppu, Kai Swoboda, Jonathan Chowns, Liz Wakerly and Les Neilson. I hope I have not missed anyone.

I certainly also want to acknowledge Anne Holmes, the former head of the economics team at the parliamentary library, who has moved on to bigger and better things.

The team from the Senate economics committee staff is sensational. Dr Kathleen Dermody and her staff are the most overworked committee in the country. I am so sincerely thankful for the incredible work that she does and especially, without mentioning everyone who works in her team, Alan Raine for his advice, his crisp writing, the long nights, the early mornings, the weekends and the incredible work that has been produced in this.

I do also want to take the opportunity to thank my own team and my staff and the work they do, in particular Cameron Sinclair, who has really driven a lot of the work behind this report.

But I want to say that I believe that, while there are different views on how these issues can and should be dealt with—and I note there are further comments from the Greens and there is a dissenting report from the government—I think there is a consensus as to the enormity of the problem and there is a consensus to the significance of this issue. I believe, while people in this chamber in this place may come to this issue with different techniques, with different strategies on how to tackle it, I do not believe that there are people in this debate in this chamber who come at it with any bad intent or any intent other than actually being able to tackle this issue.

I believe there are some simple, practical steps that we can and should take immediately. I believe they are outlined quite succinctly within the report. I want to thank everybody for the work that they have done and the work they will continue to do as we move on from this interim report to the production later in the year of a final report.
Senator EDWARDS (South Australia) (17:07): I also rise to speak on the interim report on corporate tax avoidance by the Senate Economics References Committee. I acknowledge the collegiate nature of the contribution that we have just heard from Senator Dastyari. In all reasonableness, this is a very important references committee. I chair the Economics Legislation Committee, as a member of the government team, like Senator Canavan, who joins us here in the chamber. Senator Dastyari is the chair of the references committee.

We are interested in ensuring that everybody who deals in Australia and takes money from a retail or wholesale perspective in Australia and earns their income from Australians and Australian businesses pays their tax in Australia. Obviously this is a big issue in world terms too, which is why the Treasurer, Mr Hockey, has been so active in this space since coming to government. It is somewhat strange that we have found ourselves in this inquiry now, given that it is running in parallel with the work of the Treasurer and the Assistant Treasurer, Mr Frydenberg, who have been actively working with the G20 nations on this. In fact, last year, when Australia was the president of the G20, this was a lead topic for the Treasurer when those countries came together in Queensland.

It is enjoyable to go through and work on issues which the government is working on, but it almost seems that the chair and a number of the other people participating in the committee thought that this was all new. Well, it is not new. It is not new for the government. It has been a high priority for the government. But the work we are doing is assisting the government in highlighting those issues, and I have been proud to work in a collegiate way with members of the committee to ensure that we do get what is right.

It has been somewhat of a sideshow at different times, as companies have been called in panel sessions and we have heard from them about their various taxation arrangements. What I did not hear in the contribution from Senator Dastyari was the fact that none of the activities of the companies that we have had before us have in any way, shape or form been proven to be illegal. That just highlights why all sides of this chamber should be working hard to ensure that the government of the day, the Abbott Liberal-National coalition government, gets this policy setting right for all time and to ensure that it does not do it unilaterally and not in concert with what the rest of the world is doing. It is essential that this occurs in such a way.

The reason that we put in a dissenting report is largely that most of the issues that were contained in the report were things that either we have addressed as a government or had no intention of addressing—they either added red tape or did not work in a policy setting which would fit into an international framework. We heard Senator Dastyari talk about the Tax Justice Network. For anybody that is listening to this contribution, the name of the Tax Justice Network is a little bit—not deceptive but it just implies something that it perhaps is not or is not up to. It is interesting that Senator Lines has left the chamber, because she used to work for the United Voice trade union, which the chair of this committee referred to along with the Tax Justice Network lobby group.

It was somewhat embarrassing at one of our hearings, when the companies Microsoft, Google and Apple were in front of us, and I had to explain some things to other senators. You might be interested, Senator Canavan—it was one of those rare occasions that you were not with us on the journey, in Sydney. I had to explain to a number of the senators the difference between turnover, net profit and EBITDA and how that reflected on a balance sheet and taxable income and gross revenue. To be giving a lesson in economics in a Senate hearing
was somewhat unedifying. That was somewhat of an embarrassment to the opposition senators.

The other consideration that has been encompassed in this coalition dissenting report is the fact that the coalition has granted more resources than ever before to deal with multinational tax avoidance. The Public Groups and International division of the ATO have more specialised staff, with greater access to resources, than existed under any former Labor government. That is really the issue. The opposition are quite shrill, when we are actually in government doing something about this at the highest level internationally—the G20 and the OECD countries. What we call BEPS—base erosion and profit shifting—is now on the international stage, and we are at the forefront.

You might know that the UK introduced what they colloquially call the Google tax. That is something which they did under pressure. Policy under pressure is not always good, so we are trying to find a better way to deal with people who, while they do not act illegally, their activities—to use another colloquialism—do not pass the pub test. The pub test is: people who earn their revenue, their income and their profit in this country should pay their tax in this country. We do not resile from that.

In the remaining time that I have available to me I will say that, if you had listened to the previous contribution, you would think that everything is all wine and roses in the Senate Economics References Committee, but, disappointingly, yesterday was a pretty rough day for me. I respect the institution of the Senate committees. I obviously respect the fact that there are times when you can talk about reports, and there are times at which they remain confidential until there is an agreement. There is a process by which this Senate operates which I think suffered a great blow. In the rough and tumble of what goes on in this place, you can expect that politics will play out. But when the very institution which binds us, which gives us the level of civility and the level of what we can expect in this, is breached, then, sadly, you have to use whatever you are able to draw on in stopping this from happening again.

Unfortunately, it was with a heavy heart that yesterday I referred to the President of the Senate the fact that I believed that the contents of this interim report had been leaked widely to the press. It was represented in a 17-minute expose on a nationally televised program in prime time. Also, the 18 recommendations in the report were aired on Radio National yesterday morning and then again in AM on the ABC, where the presenter actually said that he had sighted the report and the television coverage actually showed the report. That is when I felt that there had been great damage done to what we know and hold dear in this place, which is the confidentiality of committee reports until such time as they are tabled in this place.

This is the time when people should be talking about committee reports. This is the time when you get your opportunity to go out and run your media programs, to run your lines, to run whatever it is. I respect that, and I think everybody in this place should respect that. I know that Senator Whish-Wilson is going to follow me in this debate. He and I are in furious agreement on this. I know that there are members on the other side who also hold this protocol dear, and I am sure that he will make his own comments on that.

I thank you, Mr Acting Deputy President. I look forward to working with the committee some more on this issue.
Senator WHISH-WILSON (Tasmania) (17:17): I rise to also speak on the release of the Senate Economics References Committee interim report on tax avoidance. I must confess that, yes, I nearly choked on my coffee on Sunday morning, watching Insiders, when I noted that they were speaking about the conclusions of this report, because, as Senator Edwards said, now is when we should be releasing those conclusions and talking about them. This is not necessarily a political process, but this is a matter of due process. The Greens certainly want to note that it is disappointing for a committee which has achieved so much, which was initiated by my previous colleague Senator Milne for very good reasons and which has been conducted in a spirit of tripartisanship—if I could add more numbers to that, I would. It has been conducted in a spirit of tripartisanship. There have been numerous hearings, and an incredible amount of work and effort has gone into this. It is disappointing that it has been sullied at the end by what has obviously been a leak. All I would say on behalf of the Greens is that we hope that, whatever comes of it, it does not happen again.

What I want to say here today is pretty simple. We have heard numerous recognitions of people who have contributed to this report. It was almost two years ago that I was visited by the Oaktree foundation and they raised this issue of tax avoidance as being a key thing that they were going to target. We have also had visits from the Tax Justice Network and United Voice, and we have had a considerable amount of input from Mark Zirnsak, from the Tax Justice Network, to help us with our additional comments. That was providing input to us during the committee process and in the conclusions that we have drawn as a party.

I would say that tax avoidance is out of control in this country. It is one of Australia's biggest exports, but it should not be. We are talking about—the numbers we have seen are quite mind boggling—billions of dollars. Revenue of $388 billion went offshore from Australia to related parties in the year that we looked at, 2011-12. For comparison, the total amount collected by the federal government for domestic tax revenues that year was $330 billion. We are almost seeing an equal amount of revenue going offshore through multinational networks as we are collecting in this country. It is a significant problem that we have to tackle. Just to give you another comparison, in 2011-12 we exported nearly $57 billion worth of iron ore in Australian dollar terms, and that year we also saw—from information that was provided to the committee—nearly $60 billion that went to tax havens. That is a pretty interesting point of comparison.

How do we tackle this? Unfortunately, you cannot tax what you cannot see. We do know that reputational risk is taken seriously by large corporations, particularly corporations that have strong brands and sell products. Customers, no matter where they are, do not like the fact that companies might be avoiding their tax or using legal loopholes—and it must be pointed out that in a lot of the cases we are dealing with tax minimisation; it is not necessarily illegal. It is a fact that we need to change the laws, especially between countries, to make sure that this kind of thing does not occur, because there are too many loopholes that allow tax minimisation.

We need to see people power working. We need to see people voting with their feet and penalising companies that are clearly being named and shamed for tax minimisation. I do not mind using that term. I know it was debated on Q&A last night, but I think we know that reputational risk is important to companies and that they are not going to want to see their names being dragged through the mud for tax minimisation.
We found, while going through the inquiry, that there were a number of large companies that were exempted by ASIC from providing publicly detailed financial accounts. This has to end. To take one example from a hundred, Facebook have never lodged a financial report in Australia. They have been granted exemption from full financial reporting because they were a small proprietary company controlled by a foreign company but they are not part of a large group. Who among us can characterise Facebook as a small company? This is just one of the ludicrous points that came up very early in the inquiry. Most of the big global companies either are completely exempt from financial reporting or have permission to file special purpose accounts. Special purpose accounts tell us nothing of the value and are given out like candy in the name of red tape reduction. The Greens want all these exemptions to be scrapped and full financial disclosure to be made public in accordance with prevailing accounting standards. Every time 'GST' comes out of this government's mouth, the public need to remember the phenomenal amount of money that we are losing from tax dodging in this country. If we tighten the rules and regulations, we can bring that revenue back into society to help fund schools, hospitals and the other things we need it for.

One company that the ATO classified as being in its most at-risk category was News Limited. What the ATO said about the company was that it ranked as the most at-risk because of:

... the history of their aggressive behaviour in tax over a period of time. But, importantly, it is about transparency and willingness to be open with us.

These are direct quotes from the ATO:

Historically, this particular taxpayer has made it quite clear that they have not had an interest in being open with us and discussing any of their affairs with us prior to their doing transactions.

News Corp Australia transferred $4.5 billion to its New York parent by a return of capital through share acquisitions instead of disbursing, as it normally would, through a dividend. That is the kind of example that the committee heard, and these are the kinds of rules and regulations we need to have a look at. This is only an interim report. We are looking at things such as base erosion, profit shifting, thin capitalisation rules et cetera in the second half of the report, but we need to get some solid understanding about how to tackle those issues.

One thing that became very clear to us also was that the Australian Taxation Office, as we already knew from previous estimates inquiries, is significantly under-resourced. It does not have the resources to tackle these issues of large multinational tax minimisation. We heard that, in this country, taxation in this area is by negotiation. It is settlement by negotiation. They literally march into the offices of these companies with their lawyers. The companies are totally lawyered up. A lot of the experts these companies have are actually previous tax office employees, and they negotiate as to what tax they are going to pay. There is very little litigation around this. Senator Canavan was in Melbourne when we had a whistleblower from the tax office, a previous tax office employee, tell us all about this. The ATO lacks resources and expertise. It needs to be fully armoured so that it can take this issue seriously.

The Greens have made seven recommendations in our additional comments. They are available for anybody to have a look at. Recommendation 1 is:

The Australian Taxation Office should be required to publish the details of the top 10 Australian companies that transfer wealth off shore in each financial year. A right of reply will be afforded to each named company to justify its transactions.
Recommendation 2 is:
Australian companies that are part of a larger group of international companies should not be eligible for special purpose accounting treatment and must provide ASIC with detailed financial reports to prevailing accounting standards.

Recommendation 3 is:
Australian companies that are part of a larger group of international companies should include in their financial statements the value and purposes of all transactions between related companies.

There are a number of other recommendations there that relate to provision of information. Efficient markets work on the provision of information, and we cannot actually tackle this issue until we can get that information first, so that is really where we have to start. The second last recommendation is:

That the Parliament establish a public register of beneficial ownership of companies and trusts so that identification of financial beneficiaries can be traced and publicly identified. The Australian government should also work closely with other countries to establish a global standard for such registers.

The bigger context of this debate around multinational tax avoidance is that we need to raise revenue in this country. We do not actually have a deficit problem in Australia; we have a revenue-raising problem. We need to raise revenue and not raise these issues around taxing the poor, as we have seen in this government's first budget, and going after the sick. We need to think about other ways that we can raise revenue to spend in this country. We need a fair and equitable tax system, and it is simply not fair that large multinational corporations—because they have significant resources, can lawyer up in negotiations with the tax office and are almost impossible to pin down unless we have global cooperation—can get away without paying their fair share of tax. That is not fair, it is not equitable and it is not acceptable. I look forward to this committee doing a lot more good work to pursue this area.

Senator CANAVAN (Queensland) (17:27): I want to start off by taking a slightly different emphasis from that of previous speakers on this report. I make the point that our tax system is often held up as the envy of the world. Our tax framework provides more powers to the Australian Taxation Office than almost any other country in the world provides to its taxation office, and we should be proud of that. Certainly, when you talk to small businesses or other people in this country, I do not think many of them would think that the Australian Taxation Office does not have sufficient power. When it comes to small businesses and individuals, the Australian Taxation Office has enormous power to ask questions, to find out information and ultimately to bring prosecutions. That is not to say that we cannot make our law better, but I do take issue with Senator Whish-Wilson claiming at the end that somehow we can deal with our deficit problem just through looking at multinationals and corporate tax avoidance. As I am sure Senator Whish-Wilson would know, we have a budget deficit of $35 billion this financial year. We raise around $70-odd billion in corporate tax. I do not think we are going to increase our take of corporate tax by in the order of 50 per cent through any of the recommendations in this report or the subsequent final report. Indeed, if we were going to do that, it is surprising that this interim report has not actually made any recommendations which will raise more revenue directly.

As other speakers have outlined, this interim report has focused on strengthening the transparency of information provided by large companies to the Australian Taxation Office
and to the Australian people. It is only an interim report, but I fear that it falls down in the fact that it does not adequately assess or build off what the government is already doing in this area. Indeed, it makes almost no comment on what the government is already doing on corporate tax, and I suppose that in some senses, therefore, it is an implicit endorsement of what the government is already doing. I will not go through all of the detail, because I think Senator Edwards usefully summarised earlier the government's actions, but suffice to say that what the government has already done and announced is many times greater than the recommendations of this report. This report is only about asking for more information and transparency from corporations. What the government has actually done is gone after 30 multinationals already; it is strengthening our anti-avoidance law, which is the centrepiece of our taxation framework, and the strength that we have in it; it is increasing penalties for those who avoid tax; and it is also implementing a voluntary code of conduct to establish or to provide greater transparency and a consistent vehicle for corporations to publicly provide how much tax they pay.

I want to make a couple of other points on the inquiry itself. I too join with Senator Dastyari in thanking the hardworking economics staff. I think the Senate economics committee might have fourteen inquiries on at the moment. It is an immense workload. I hope that, when we consider establishing more references committees, we take account of the workload that is already placed on the hardworking committee staff. Notwithstanding that, this was an important report, and they have done a stellar job in producing this report.

I would say though, in a more negative comment, that I do think some of the hearings for this report did approach an almost show trial atmosphere. There are no doubt issues in this area that need exploration, but at times the conduct of some senators was not helpful, in my view, to the proper exploration of these issues and at times sought to disparage, with very little evidence or context, hardworking Australians and professional hardworking Australians.

In particular I would like to stand up for the accountants in this country. There was one hearing where senators, particularly from one political party, sought to disparage and call into question the ethical standards and conduct of accountants without any evidence whatsoever that there was some kind of misconduct occurring by accountants. I am almost 100 per cent positive that not every accountant in this country does the right thing all of the time, but we are lucky enough to have in this nation an accountancy profession and practice that takes pride in its standards. They are professionally governed organisations with standards that must be adhered to if they want to maintain their certification as accountants, and no-one is helped when we unfairly drag such professions through the mud without any evidence. We have not had the scandals here in our accountancy profession that have beset the United States, particularly after Arthur Andersen a few years ago. We should be thankful for that, and I hope that the accountancy profession in our country continues to maintain its high-level of professional and ethical standards.

Finally, I also add my objection to one particular aspect of the interim report as outlined in the government's dissenting report, and that is the approach to demanding private and confidential information from individuals in this country. I do not believe that we should be asking individual taxpayers to publish their information, however lucky they might be. I will never approach the threshold of $100 million or so that we are putting on this—I am not going to have that much money—but I do not think the politics of envy helps either when we
go after particular individuals in our nation and ask something of them that none of us individually would ever be willing to do—that is, publish our own private taxation records. Indeed, if we want to do that as politicians, let's have the guts and do it ourselves. In other countries they do that. In some other countries, politicians publish their taxation records on a regular basis. If we are expecting some people in our community to do that, have the guts and publish your own taxation records as well. I do not think anyone does that to my knowledge and I do not think that anyone will. We should not ask others to do what we would not be willing to do ourselves.

Overall, I want to thank again the hardworking staff of the economics committee and the overall good nature with which this committee was conducted, and I look forward to contributing to the final report.

Question agreed to.

Foreign Affairs, Defence and Trade Legislation Committee

Government Response to Report

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:35): I present two government responses to the Senate Foreign Affairs, Defence and Trade Legislation Committee on its inquiry into the implementation of the Defence Trade Controls Act 2012 (progress reports nos 2 and 3) and I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—

Senate Standing Committee on Foreign Affairs, Defence and Trade Legislation Committee

Progress Report No.2 into the Implementation of the Defence Trade Controls Act 2012

Government Response

Recommendation 1

The committee recommends that Defence report to the committee on the process it will use for consulting stakeholders on any proposed legislative amendments and changes to the regulations for the Defence Trade Controls Act 2012 before the committee's next six-monthly review report. The committee expects the report will help reassure stakeholders that the consultative process embodied by the Steering Group will not fail at the conclusion of the implementation period.

Government Response

Agree

Since December 2012, Defence has worked intensively with industry, research and government stakeholders through the Strengthened Export Controls Steering Group on implementation of the Defence Trade Controls Act 2012 ('the Act'), to balance the interests of legitimate users of sensitive goods and the risks that these goods may be diverted for illicit uses.

Throughout the Steering Group process, Defence consulted stakeholders on proposed changes using a transparent, iterative approach. From March to September 2013, Defence worked with the Steering Group's pilot program and other stakeholders to identify the issues with the Act as written. From September 2013 to June 2014, Defence worked with the Steering Group's pilot program and other stakeholders to test alternative approaches to address these issues. This testing has resulted in proposed amendments to the Act, captured in the draft Defence Trade Controls Amendment Bill 2015 (the Bill).
Defence will continue to engage with stakeholders throughout implementation of the new export controls. Defence is working with stakeholders through the Steering Group process to develop detailed guidance, training and tools to help stakeholders understand their obligations and implement appropriate internal compliance arrangements before the offence provisions of the Act come into force. Regular legislative review will provide a mechanism for stakeholders to provide feedback on the operation of the Act and suggest ways in which the operation and administration of the Act can continue to evolve and be refined over time.

**Recommendation 2**

Further to Recommendation 1 of the committee’s first progress report, the committee is keen to ensure that the intent of the steering group guides any changes in the day-to-day processes of DECO as this will assist transition to the provisions of the Act. The committee therefore recommends that DECO examine the processing of applications and licences in relation to measures being taken to implement the findings of the pilot program and provide a report to the committee prior to the committee’s next six-monthly report. The committee is particularly interested in how DECO will implement the steering group findings as regards industry applications.

**Government Response**

Agree

Since October 2013, DECO has drawn on the expertise of export control managers from Australian industry on the practical implementation of the Act, and the Steering Group has formalised this arrangement as an Industry Experts Sub-Group. This group is particularly well placed to work with DECO on detailed practical implementation issues that are also relevant to DECO’s current operations.

Many of the initiatives developed through the Steering Group process are being applied across DECO’s business and will benefit all applicants, including industry:

- Introduction of streamlined licences for lower-risk activities will apply equally for intangible supplies under the Act and for physical exports under Regulation 13E of the *Customs (Prohibited Exports) Regulations 1958*, so that the same licensing arrangements apply regardless of whether an exporter will ship the controlled items in physical form, or send them overseas electronically.
- Maximum licence duration will be extended from the current two years to five years or the life of a project. This will apply to physical exports and intangible supplies.
- Introduction of project-based licences that will cover a range of identified activities within the scope of a project.

The permanent stakeholder consultation arrangements described in the response to Recommendation 1 above will provide a formal avenue for industry and research sector feedback on DECO’s operations. This formal process will build on DECO’s close contact with regular exporters and ensure that stakeholder feedback informs continuing improvements to DECO’s operations.
Senate Standing Committee on Foreign Affairs, Defence and Trade
Legislation Committee

Progress Report No.3 into the Implementation of the Defence Trade Controls Act 2012

Government Response

Recommendation 1
The committee recommends that the Defence Trade Controls Amendment Bill 2015 be passed.

Government Response

Agree
The Defence Trade Controls Bill 2015 was passed by the Parliament on 19 March 2015.

Recommendation 2
The committee recommends that the Strengthened Export Controls Steering Group be retained, for at least the duration of the 12-month transition period set out in the amendment bill. The committee recommends that during this period the steering group develop recommendations to government in regard to the most appropriate mechanisms for ongoing consultation between stakeholders, and for the periodic review of the legislation.

Government Response

Agree
The Government has agreed to retain the Strengthened Export Controls Steering Group for at least the duration of the 12-month transition period set out in the amendment bill. During this period the steering group will oversee the development of appropriate mechanisms for stakeholder consultation, to support implementation and periodic reviews of the legislation.

Recommendation 3
The committee recommends that it continue to monitor the implementation of the Defence Trade Controls Act 2012, as amended, during the further 12-month transition period set out in the amendment bill. The committee should report to the Senate on an interim basis if required, and after the conclusion of the 12-month period, on the further progress of the implementation of the Act and related issues.

Government Response

Agree
The Government supports the proposed role of the Committee to continue to monitor the implementation of the Defence Trade Controls Act 2012, as amended, during the further 12 month transition period set out in the amendment. The Government further supports the Committee reporting to the Senate on an interim basis if required, and after the 12 month period, on the implementation of the Act and related issues.

DOCUMENTS

Order for the Production of Documents

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:35): I table a document relating to the order of the Senate of 11 August 2015 for the production of documents relating to the Roe 8 extension and the Perth Freight Link.
BILLS

Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015

First Reading

Bill received from the House of Representatives.

Senator SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:36): 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 SCULLION (Northern Territory—Minister for Indigenous Affairs and Leader of The Nationals in the Senate) (17:36): 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—

The Treasury Legislation Amendment (Small Business and Unfair Contract Terms) Bill 2015 implements the Government's 2013 election commitment to provide a 'fair go' for small businesses, by extending to the small business sector unfair contract terms protections currently available to consumers.

This Bill will amend the Australian Consumer Law, which is set out in Schedule 2 of the Competition and Consumer Act 2010, and the Australian Securities and Investments Commission Act 2001 (ASIC Act), to extend the consumer unfair contract terms protections to cover standard form, small business contracts that are valued below a prescribed threshold.

Consumers have been protected from unfair contract terms since 2010. However, the former government, despite its initial intentions, decided not to proceed with offering similar protections to small business.

It is time that small businesses, which often face the same vulnerabilities as consumers, also receive protections when offered 'take it or leave it' contracts. Between 1 January 2011 and 31 December 2014, the Australian Competition and Consumer Commission received 1,375 small business complaints relating to unfair contract terms. This figure does not include complaints directed to state and territory fair trading bodies, state small business commissioners and industry ombudsmen.

Under the new protections, a court will be able to strike out a term of a small business contract that it considers unfair. For example, a term that allows the business offering the contract to unilaterally change the price or key terms could be considered unfair.

In this way, this Bill provides a remedy for small businesses when an unfair contract term is included in a standard form contract. This will reduce the incentive to include and enforce unfair terms in contracts with small businesses, providing for a more efficient allocation of risk and giving small businesses greater confidence to enter into contracts to invest and grow their business.

This Bill is an important reform for small businesses and reflects a key part of the Abbott Government's small business policy platform from the 2013 election. The Bill is an Australian first, and in designing the legislative amendment the Government consulted extensively with stakeholders.
In 2014, the Commonwealth Treasury, on behalf of Commonwealth, state and territory consumer affairs Ministers, conducted a 10 week public consultation process to gather information about the extent of the problem and the views of stakeholders on policy options. Over 80 submissions and around 300 survey responses were received as part of this process.

Stakeholder feedback indicated that small businesses across a wide range of industries have concerns with unfair terms. Small businesses, like consumers, are vulnerable to the inclusion of unfair terms in standard form contracts as they can lack the time and legal expertise to critically analyse contracts.

The consultations also found significant support for addressing the problem through a legislative extension of the current consumer unfair contract terms law.

I note that state and territory governments were actively engaged in the development of this measure and Consumer Affairs Ministers formally agreed to the proposal to amend the Australian Consumer Law in April 2015, as required under the Intergovernmental Agreement for the Australian Consumer Law. In line with the Corporations Agreement 2002, the Commonwealth notified the states and territories that these legislative protections would be mirrored in the ASIC Act.

Public consultation on the exposure draft legislation was held between 28 April and 12 May 2015, providing stakeholders with the opportunity to comment on the draft Bill. It received almost 50 submissions and my Department, the Treasury, also held discussions with a number of stakeholders.

I would like to thank all of the stakeholders that engaged with the Government through these consultations. Your feedback will help ensure this important reform is implemented effectively.

I would now like to turn to the provisions of the Bill.

In both the ASIC Act and the Australian Consumer Law, this Bill applies the unfair contract terms provisions to small business contracts. A contract will be a small business contract if at least one party to the contract has fewer than 20 employees and its value is below the prescribed threshold.

A headcount approach is used to determine whether a business has fewer than 20 employees by headcount, excluding casual employees not employed on a regular or systematic basis. This characterisation of small business, which is used by the Australian Bureau of Statistics, has been chosen as it provides a proxy for the human resources available within a small business.

A headcount approach, rather than full time equivalent, will also simplify the application of the law. It assumes that small businesses will find it easier to recall the number of people they employ at the point of entering into a contract, rather than a full time equivalent calculation.

It is important to note that only casual employees employed on a 'regular and systematic' basis will be counted as part of this definition. This is intended to account for factors such as seasonal variations in employee numbers which are not part of a business' normal workforce.

The second limb of the small business contract test is that the value of the contract must not exceed $100,000, or $250,000 for a multi-year contract. This 'transaction value' threshold was chosen so that the protections apply when small businesses engage in day-to-day transactions, while encouraging them to conduct due diligence on large contracts fundamental to the success of their business. There is a significant difference between high value contracts and those day-to-day contracts thrust before small business. It is right and reasonable for all enterprises to seek advice on larger contracts. Responsible and savvy small businesses understand this responsibility.

Determining how this threshold applies to a contract did attract significant feedback in the exposure draft consultations and this will inform the development of guidance material to support the implementation of the law.

The final element of the Bill I would like to highlight is the mechanism that will allow the Government to exempt laws that it deems are equivalent to the unfair contract terms law.
This mechanism recognises the importance of avoiding regulatory duplication and unnecessary compliance costs in sectors where there are equivalent and enforceable protections against unfair contract terms. In designing this regulation-making power the Government has taken care to ensure the power is not broader than is necessary to achieve this objective.

Specifically, this Bill provides that to grant an exemption the responsible Commonwealth Minister must be satisfied that the law or regulation provides enforceable protections for small businesses which are at least equivalent to the unfair contract terms protections. In forming such a view, consideration must be given to a number of prescribed matters, namely the impact on small businesses, businesses generally and the public interest.

I will now turn to the implementation of this important reform.

This Bill will take effect six months after it receives Royal Assent. Over this six month period, the regulators will engage with industry and produce guidance material and other information to assist them to comply with the new law. As part of the 2014-15 Budget, the Government provided $1.4 million to the Australian Competition and Consumer Commission for this purpose.

In conclusion, this Bill introduces an important reform that will give businesses access to a level playing field to grow, invest and create jobs. With this legislation, the Government is restoring time and resources back to small businesses to invest in their business’ success rather than navigating a costly and time consuming maze of contract terms.

Stakeholder feedback provided in 2014 and 2015 has helped the Government to settle on an appropriate model for these protections. The selected transaction value thresholds ensure the protections apply when small businesses engage in day-to-day transactions, whilst encouraging small businesses to conduct due diligence on large contracts fundamental to the success of their business. The Bill also provides a mechanism that will allow the Government to exempt laws that it deems are equivalent to the unfair contract terms law and enforceable.

The Bill is part of our strategy to ensure Australia is the best place to start and grow a business. It meets our 2013 election commitment to extend to the small business sector unfair contract terms protections currently available to consumers. It is an important reform, and the latest in the Government's ongoing commitment to the small businesses of Australia.

Debate adjourned.
Community Affairs Legislation Committee
Report


Ordered that the report be printed.

BILLS

Australian Small Business and Family Enterprise Ombudsman Bill 2015
Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator WHISH-WILSON (Tasmania) (17:38): I have been looking forward to this speech this afternoon. I hope to be able to entertain you for at least a few minutes because I hold in my hands here today another bill called the Small Business Commissioner Bill 2013, which happens to be a Greens bill. I introduced this to parliament prior to the 2013 federal election when we were in the balance of power with Labor.

I looked at the legislation and the act around the federal Small Business Commissioner. At the time, the Small Business Commissioner was doing the rounds and coming and visiting people like myself who were small business advocates for our parties. Mr Brennan his name was. I had several meetings with him and I certainly enjoyed my discussions. It seemed to me that his office and his role needed a lot of strengthening. It actually needed some power and some teeth and a bit more resourcing.

I did get in touch with Mr Brennan when I put my bill up with the small business commissioners from around the country, not to mention all the various advocates from small business organisations such as Peter Strong from COSBOA and others. Right at the time I was doing this, we had a bit of an issue. I would say it was more than a bit of an issue here in Canberra. We had the construction of the new Australian Security Intelligence Organisation headquarters in Canberra and it was dogged with controversy. There were huge cost overruns.

Unfortunately, the cost blow-outs and questions over approval processes led to some tragedy for a number of small businesses that were sub contracting on that project. Over 100 small businesses at one point in time did not get paid at all and in some cases they went bankrupt. It was a really significant issue for a small area like Canberra. I repeatedly met with a number of those small businesses and I held out hope that a newly appointed small business commissioner could actually help represent them and get them what they were owed by Lend Lease.

The money was provided by the government for the construction of the ASIO building project, that money went to Lend Lease, which was the chief contractor, and of course Lend Lease subbed it out. Urban Contractors was organising a number of the smaller contractors and it went into liquidation or at least went into trading in receivership and, of course, a
number of the companies at the bottom of the food chain did not get paid. I thought it would be a great example of how the small business commissioner could work, and hit the ground running given that we had literally had hundreds of companies knocking on our door saying 'we are in dire straits'. So we put up this bill.

I would like to tell you a little bit more about this bill. Essentially the functions and powers were covered under division 2. Section 8 sets out the dispute resolution functions of the commissioner. We had sought functions and powers which allowed them to receive and investigate complaints from small businesses about their dealings with departments, statutory agencies and executive agencies of the Commonwealth. It allowed the commissioner to investigate complaints and facilitate resolutions of these complaints including compelling witnesses to attend arbitration and hearings.

There were a whole number of other things that I thought were pretty good. It was a no-brainer. All it needed was some good lawyers, which of course we had in the Senate, a good piece of legislation and then a bit of political will to do it. So anyway, I put the bill up, it went off to committee and, unfortunately, it did not get supported. I was not quite sure why. We were going into an election of course.

I will not say exactly who it was but I did speak to a very influential and well respected small business advocate in this country who said, 'Peter, the only reason your bill is not being supported is the Liberal Party expect to be in government after the election and they want to put up the same bill themselves.' I was not sure if that was the case but now that I look at what is in front of me, it is certainly very similar to what we suggested back in 2013. But unfortunately it does not quite have the teeth we would have wanted to see around dispute resolution. Although there are better processes in place than there are at the moment for the Small Business Commissioner, who is essentially an advocate for small business and can take some positive roles in facilitating conflict resolution, we wanted to see something a lot stronger than that.

Models did exist with state small business commissioners. It was great to hear that these small business commissioners cut the burden to the taxpayer in their various states—I had a good meeting with the Victorian Small Business Commissioner—because by getting together with parties, they prevent these things from going to court. Of course that kind of litigation is very expensive, not just for the taxpayer but for the small businesses themselves. The Small Business Commissioner provided an excellent first point of contact for people who needed dispute resolution, especially small companies that were taking on bigger organisations. They, of course, would be prime candidates for using a Small Business Commissioner.

So now we have a different name—a small business ombudsman. I can understand why there are concerns around that name. I have read the submissions that express those concerns. Personally, I do not think it is a game changer but, at the end of the day, I just wanted to point out that the Greens had a very good idea that was very similar to this, and it is a shame it did not get up before the election because then I could have campaigned on it. Now, I am standing here supporting another piece of legislation that is very similar. But it is good for small business. It is not perfect—it could have gone further—but it does at least provide avenues for dispute resolution and advocacy. We also recommended a direct link with the small-business department and the minister and that that relationship would be a regular,
reporting relationship and that they would work closely together. I see this reflected in this bill, and I see that as a positive as well.

There are examples where things have fallen between the cracks—between state and federal agencies. There are a number of positive roles for a federal small business ombudsman to play—I will switch my use of the frame and the name now to the 'small business ombudsman'. If you want a real-life example of where this kind of legislation that we have in front of us today could have played a really positive role, once again, go back and have a look at that situation with the cost overrun with the ASIO building, because the government does spend a lot of money in Canberra. The federal government allocates a lot of money, and when we go through the tender and the contract processes a number of small businesses are involved in that. These things are buyer beware—there are risks associated with these large contracts, and that was an example where, had we had a good advocate on the ground who was well resourced and had the ability to help these small businesses, we could have achieved some very positive outcomes.

I look forward to hearing what the other contributors have to say about this, and I hope that it is implemented in the spirit that the Greens brought this original legislation to the Senate with in 2013.

**Senator CANAVAN** (Queensland) (17:47): I welcome the Greens' support for this measure, although I will make one comment on Senator Whish-Wilson's contribution. I know numbers are not the Greens' strong suit, and they might not have noticed, but before the election the coalition—the Liberal and National parties—did not have the numbers. We did not have the numbers either here in the Senate or in the other place. As well-intentioned as I am sure Senator Whish-Wilson's private senator's bill was, at the time, and I was not a member of the Senate then so I cannot recall it, it would not have been able to be implemented by the government at the time. The only way we could have got to the place we are today, to do something like this, was for the Liberal and National parties to be elected at the last election, which fortunately we were. We were elected on a platform to introduce an ombudsman, and it is with great pleasure that I rise today to share my support for this initiative and welcome the fact that the government has brought it forward as an important way to help small businesses receive appropriate access to justice and redress through our competition system.

To start my comments today, I want to go back to when we did have an ombudsman. We actually had an ombudsman for some areas of our economy that will be impacted by this bill. A grocery ombudsman was established back in 2000, I believe. He was around for about five or six years. Last year I was fortunate enough to meet Mr Robert Gaussen, who was the Produce and Grocery Industry Ombudsman at the time. He also subsequently came and provided evidence to the economics committee about his work and what the effect of it was. I thought he gave very compelling evidence. He gave very compelling evidence to show why an ombudsman is an important tool in the competition workshop and an important way of providing a low-cost means for small businesses to access justice and bring matters to a head. At the time, Mr Gaussen told the Senate Standing Committee on Economics:

> ... any code of conduct that has no adequate enforcement regime will not be a successful code of conduct. The words that appear in this code—

which is the grocery code—
are good words. The content and intention of what is being described in this code are great, and they are needed and are long overdue. But there is no obligation on anyone to do anything, even if they sign up to it, because of the system under which there is no enforcement.

Mr Gaussen goes on to say:
The average cost for the ACCC to investigate, inquire into and manage disputes is massive, so there is no way in the world that they can provide, through their systems and the laws under which they have to operate, an effective enforcement regime. They are not resourced to do that. An ombudsman service, with referral capacity to the ACCC, provides that filter and at a much reduced price—and quickly. The key to disputes is speed.

I think that is a very important point. To resolve disputes—whether with my wife or with your contracting business—the key is speed. When I have a fight with my wife I try to resolve it as quickly as possible, because if you let matters fester that is when people start—

Senator Bilyk: Happy wife, happy life.

Senator CANAVAN: Happy wife, happy life! Senator Bilyk, that is absolutely right. That is the anthem I operate under in my life—I try to, at least. Sometimes I go to bed without resolving those disputes, but I try the next morning to make sure I reflect on my behaviour—usually it is me at fault—and resolve that dispute and restore the relationship. I do not think it is any different in business either. If we can have an easy service, which allows people to resolve disputes quickly, they are more likely to continue on with a trusting and productive relationship, going forward, compared to having to rush off to court or make a complaint to the ACCC, in which case, clearly, people will start to bear a grudge on either side of the fence and positions become strengthened and put in concrete through that process. So this is a very important bill in that regard.

There are, of course, alternatives to an ombudsman, other than going to the ACCC or going to court directly. Many other codes of conduct and other dispute resolution frameworks in our country rely on mediators or arbitrators rather than an ombudsman. Indeed, the recently introduced and regulated Food and Grocery Industry Code of Conduct relies on mediation and arbitration. Last year we established a legislative instrument to do with bulk wheat export marketing. Similarly, the provisions of that rely on mediation and arbitration. They are a useful alternative dispute resolution process. But they have their own limitations as well. They are not as costly as the ACCC or a court action, but they still can be slow and expensive at times.

In the case of mediation they can sometimes, of course, not resolve a dispute, because there is no decision maker put in place. While mediation can sometimes be a useful way of resolving disputes it will not necessarily do so in all cases. Then there is arbitration, which is a higher level of dispute resolution. It does provide for a decision maker and a final conclusion to be made, but it can be quite costly these days, in particular. Most arbitration services now rely on third parties or contractors to be involved, which can be quite expensive.

Earlier, I quoted Mr Robert Gaussen, who is the former grocery industry ombudsman. He appeared at a Senate Economics Committee hearing on the recently introduced Food and Grocery Industry Code of Conduct, which relies on mediation and arbitration. We heard evidence in the committee hearing that arbitration can these days be extremely costly. Mr Gaussen said that arbitration is overwhelmingly more expensive in today's years than even litigation, because the courts are now much quicker and more efficient in the time they take to
resolve matters. Arbitrators might get one or two matters a year. They have very little practical experience in the area so they are learning from nought. Quite frankly—and Mr Gaussen said some of his close friends were arbitrators—they spin it out unnecessarily so because they are being paid a higher rate. It is a bad system. Most of them are on daily rates but some will get $2,500 to $8,500 a day. It is not bad work! But people have to pay that cost. It is normally shared between the businesses that are involved in the dispute. Often it will be a small business that is involved in the dispute, and they will potentially be up for $2,500 to $8,500 a day. It is quite expensive.

After we had heard that evidence, the committee asked Treasury to provide more information. Unfortunately Treasury had not calculated these costs when it did the regulatory impact statement for the Food and Grocery Industry Code of Conduct, but it did go away and get some information for our committee and it came back and said that professional fees varied, depending on the complexity of the case and the amount in dispute. They also varied between service providers. Treasury understands, based on consultation with a private mediation provider that typical mediation costs are in the order of $275 per hour for each party and that typical disputes resolved following around seven hours of mediation, so that the total cost is around $1,925 for each party, which, again, is quite an expensive way of resolving a dispute.

For some businesses that will not be an overbearing hurdle for them to resolve their dispute. Indeed, for a healthy business it probably should not be, at a couple of thousand dollars. The issue here is that many businesses, particularly small businesses that are involved in disputes are often at the very same time under cash flow pressures or perhaps even long-term operational issues. Because they are involved in a dispute they might not be getting paid by the relevant suppliers. They might be getting paid lower amounts of money than they believe are due to them. Therefore, even just a couple of thousand dollars, on average, could be too much a burden to bear.

That is why, in my view, it is important that we have an alternative cheap and low-cost way of resolving disputes, and an ombudsman allows us to do that. It allows us to do that because an ombudsman is something the Commonwealth government will fund. It will provide the ability for small businesses and others to come forward and have their disputes resolved in an easy and costless fashion.

Indeed, after finishing the Senate Economics Committee inquiry into the Food and Grocery Industry Code of Conduct, I concluded, along with some senators from the National Party, that we should have the grocery code ombudsman in place of the mediation and arbitration process in the grocery code. Relying on arbitration and mediation in the grocery code was not, in my view and that of the National Party senators, an effective way of dealing with the issues in this particular field. We have mediation and arbitration for bulk wheat exporting. That is a different market. You have grain traders who trade substantial amounts of grain and have a substantial amount of turnover who probably can afford to go through processes of this kind. The grocery code is dealing with a completely different class of businesses and operators, often businesses with very thin margins, small amounts of turnover in relative terms, and businesses that may be put under undue pressure from time to time.

I firmly believe that an ombudsman would be the best way to deal with issues in the grocery sector in particular. I commend the government for bringing forward this bill to
provide for a low-cost way for small businesses generally to get access and resolve disputes—not specifically from the grocery code, as I would like to see, but generally for the small business sector. That will provide a way for the small businesses in our community to achieve more readily available redress.

This is a policy that the coalition took to the last election. It was part of our small business policy—and one of a number of initiatives at that election—to establish a small business and family enterprise ombudsman. This particular bill implements that commitment. It will do three things. It provides a Commonwealth-wide advocate for small businesses and family enterprises, someone who sits above all of the policy-making areas in this field, to provide a voice within government for small businesses. It will provide a concierge for dispute resolution and provide its own dispute resolution service. So it will allow small businesses an alternative way of coming forward. They can still, of course, go to the ACCC, they can still, of course, engage their own lawyers under private enforcement and law, and they can still seek to resolve disputes under the various codes of conduct that might apply in their sector. But they can also now access an alternative way of doing that, and that is only a good thing and should be supported. It will also, of course, contribute to development of small business policies more widely across the government.

We are a government that is about protecting small business, supporting small business, supporting people who want to take a risk in their lives, back themselves and be their own boss. I said in my maiden speech in this chamber that I want to have a country where people can, if they so choose, start their own business, have their own job, save for their own house and start their own family. Having economic security as part of small business is one aspect of achieving that. This legislation is only a small way of doing that but it fits into a broader context of supporting small business in our country through the recent tax changes we made in the budget, through the grocery code of conduct we have established and through the competition policy review that has recently concluded and the various changes that might come from that.

I note that this legislation has gone through the regulatory impact statement process. This has shown that it will lead to a net reduction in the regulatory burden facing businesses by a small amount: 0.007 million per year. I suppose that is only $7,000—I am getting a nod from some advisers. It is a small amount of money but it is a net reduction in regulatory burden because this will be an easier way to resolve disputes. It will produce broader economic benefits across the economy, not just in terms of red tape, of around $18 million per year. So it is something that should be supported, and I commend the government for it.

In the time remaining I will say a little more about the government's small business agenda. As we saw in the budget, this government is about supporting small businesses, particularly making sure that they face a lower tax burden over time, with both the reduction in the corporate tax rate for small businesses and the granting of a tax rebate for small businesses that are not incorporated, which will help to achieve that. The more than $3 billion worth of savings in depreciation allowances that we have implemented in the budget has been a great stimulus for our economy, again supporting small businesses that want to invest in our economy. We want to support people who take a risk, invest in their business, invest in our country and invest in creating more jobs for all Australians, and we have been able to achieve that.
Late last year the Harper review reported. That was a broad look at competition policy across our policymaking landscape. I will particularly focus on some conclusions of that report that relate to these bills and their objective of supporting small business. We have various competition laws in Australia that seek to restrain the ability of large corporations to act in a dominant and abusive way in marketplaces. We have a good competition law but—just as I said on corporate tax earlier that we have a good tax system—that does not mean that it cannot be made better.

Senator Whish-Wilson: Bring on section 46.

Senator CANAVAN: I thank Senator Whish-Wilson. I was just about to come to section 46. The centrepiece of our law which seeks to restrain the activities of dominant firms or firms with a significant degree of market power is section 46. The jurisprudence around section 46 has evolved over time. I would argue—and I agree with the Harper review—that the jurisprudence has evolved to an extent which effectively means that actions under section 46 have very limited ability to succeed. The courts' interpretation of the 'taking advantage' test is a hypothetical one and one that, as an economist, I would say helps economists put their kids through college but does not help small businesses take action in court. Recent cases on Rural Press and Melways that have come to the court on section 46 have involved long, arduous and technical debates about economic structures, particularly of markets and particularly hypothetical structures in those markets, and it has proven very difficult for plaintiffs to prove and take successful action on that. It is also the case that the 'purposes' test as it is currently drafted is out of kilter with the rest of the world. Most other countries, at least in western and English-speaking countries with a common law background similar to ours, have adopted codified laws which make it an offence for a dominant firm to act in a way that has the effect of being anticompetitive in some way, shape or form as defined.

The Harper review has made some detailed recommendations as to how we could finetune our law to introduce an 'effects' test, to remove that 'taking advantage' test which has proven so problematic and, relatedly, to adjust the proscribed purposes under section 46 to make it a more comprehensive test of a substantial lessening of competition. I know that the government is considering its response to the Harper review at this point. I am on record in this chamber as supporting the general thrust of the Harper review recommendations. I think it has clearly identified a problem in our existing law and jurisprudence and a problem that deserves some response.

Senator Whish-Wilson: Bring us some legislation.

Senator CANAVAN: I am sure that the government in due course, after due consideration of the Harper review, will bring a response forward, and I look forward to that. Returning to the bills before us, they should be supported by this chamber because they add to the avenues that small businesses can access to get a better deal for themselves. They will provide small businesses with a lower cost way of resolving disputes and they will reduce the burden that is placed on our regulators and the business sector more generally in resolving those disputes. As I said earlier, that is an important attribute because it will help resolve disputes quickly, cheaply and efficiently. That is the same approach I take to my marriage. If it is good enough for me and my wife, I think it is good enough for our small business sector that we try to resolve disputes quickly, cheaply and efficiently. I think this bill will help do that. Senator Cormann was not here to hear my earlier contribution about my marital difficulties from time
to time. Suffice to say I have a very strong marriage thanks to the fact that I do try to resolve disputes quickly, and I think this bill will help the small businesses of our country achieve the same result. They do need to have productive relationships with bigger businesses. Small businesses are not islands. They often do rely on contracting with larger businesses. They do face difficulties in that regard. Anything we can do that will build the trust and confidence for them to have those relationships, to invest in their own businesses and to develop stronger and more productive relationships with other businesses will be good for our economy. It will be good for jobs, it will be good for investment, and it should be supported by this chamber.

Senator CORMANN (Western Australia—Minister for Finance) (18:07): Firstly, I would like to thank all those senators who have contributed to this debate. Our government is very serious about supporting small business as the engine room of our economy, and this proposed legislation, the Australian Small Business and Family Enterprise Ombudsman Bill 2015 and the Australian Small Business and Family Enterprise Ombudsman (Consequential and Transitional Provisions) Bill 2015, is another manifestation of that serious commitment. In 2013 the government announced that it would transform the current position of Australian Small Business Commissioner into one with real power to assist small business and family enterprises, and the current bills deliver on that commitment.

The Australian Small Business and Family Enterprise Ombudsman Bill 2015 will create an ombudsman with two key functions: an advocacy function and an assistance function. Through these functions the ombudsman will be a Commonwealth-wide advocate for small business and family enterprises, a concierge for dispute resolution who will also offer an outsourced alternative dispute resolution service, and a contributor to making Commonwealth laws and regulations more small business friendly.

In relation to the advocacy function, part 3 of the Australian Small Business and Family Enterprise Ombudsman Bill will allow the ombudsman to conduct inquiries for the purpose of advocating to government on behalf of small businesses and family enterprises. Inquiries may be undertaken on the ombudsman's own initiative or on referral from the minister. Importantly, for the purpose of giving the ombudsman real power, the legislation will allow the ombudsman to require a person or entity to produce information and documents for the purposes of an inquiry. Noncompliance with such requests may attract a penalty.

The ombudsman's advocacy role will contribute to making Commonwealth laws and regulations more small business friendly. This forms part of the Australian government's general deregulation agenda. Regulatory compliance costs as estimated by the Treasury in 2014 could be as high as five per cent of gross domestic product. To assist with getting rid of inefficient regulation and to prevent it from being imposed in the first place, the ombudsman will provide advice on legislation, draft legislation and regulatory practices. The ombudsman will thus be a strong and influential advocate for the interests of small business and family enterprises being at the forefront of policy and program design. The ombudsman will also promote best practice interactions, which could involve the ombudsman recommending changes in practices by Commonwealth government agencies.

Naturally, the ombudsman will be impartial, but the ombudsman must also be seen to be impartial. Therefore, because the ombudsman will advocate particular positions in relation to various issues, the ombudsman may not personally take any part in any alternative dispute resolution processes.
In relation to the assistance function, under part 4 of the Australian Small Business and Family Enterprise Ombudsman Bill, the ombudsman may provide assistance in relation to requests. It is anticipated that, in the majority of cases, the ombudsman will transfer requests to other officials under whose jurisdiction the requests fall. The various levels of government—Commonwealth, state, territory and local—and the agencies within those levels often appear as a maze to those in the private sector. Therefore, the ombudsman's concierge function will assist by guiding small businesses and family enterprises to the relevant agencies. In some cases the ombudsman may refer requests for assistance to the ombudsman's own outsourced alternative dispute resolution service.

The scope of the ombudsman has been deliberately designed to be very broad. There is therefore a very broad definition of both a 'family enterprise' and a 'small business' as being a business with fewer than 100 employees or with revenue under $5 million in the previous financial year. Despite this very broad definition, there are naturally restrictions on the ombudsman's operation. The Commonwealth Constitution, for example, contains no power which would allow the ombudsman, in most cases, to deal with disputes between two unincorporated entities in the one state. In addition to such constitutional restrictions, the ombudsman will also not duplicate the functions of any other official, for the simple reason that doing so would be a waste of public money. The ombudsman therefore will work cooperatively with other officials and complement their existing services—thus providing more services to small businesses and family enterprises.

The government acknowledges the feedback provided on the ombudsman through an extensive consultation process, consultation which has included public feedback on a government discussion paper and draft legislation and responses to a committee inquiry. In relation to recent commentary on the ombudsman, proposed section 95 of the Australian Small Business and Family Enterprise Ombudsman Bill requires that a review of the ombudsman's assistance function be conducted no later than 30 June 2017, with further reviews at intervals of not more than four years. The first review represents a good opportunity not only to review the assistance function as required by this bill but also to consider other matters raised before the Senate. This includes comments provided in the inquiry report of the Legal and Constitutional Affairs Legislation Committee.

The Australian Small Business and Family Enterprise Ombudsman (Consequential and Transitional Provisions) Bill 2015 ensures that the ombudsman can work collaboratively with the Commonwealth Ombudsman by allowing the Commonwealth Ombudsman to transfer matters to the Australian Small Business and Family Enterprise Ombudsman.

These bills fulfil an election commitment and, moreover, they demonstrate the importance of small businesses and family enterprises to Australia. I commend these bills to the Senate.

Question agreed to.

Third Reading

The DEPUTY PRESIDENT (18:13): As no amendments to these 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 CORMANN (Western Australia—Minister for Finance) (18:13): I move:
That these bills be now read a third time.

Question agreed to.

Bills read a third time.

**Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015**

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

**Senator JACINTA COLLINS** (Victoria) (18:14): When we were last dealing with this bill, I was in continuation in relation to the opposition's second reading contribution. I was in the process of outlining the various measures incorporated within this bill. I will continue where I left off with respect to measures to amend the Proceeds of Crime Act 2002 to increase penalties for failing to comply with a production order or with a notice to a financial institution in proceeds of crime investigations. The bill will amend the Proceeds of Crime Act to address ambiguity in the provisions, streamline the appointment of proceeds of crime examiners and support the administration of confiscated assets by the Official Trustee.

The bill will also give the Independent Commissioner Against Corruption of South Australia—ICAC SA—whose office became operational in September 2013, the ability to access information from Commonwealth agencies consistent with other state anti-corruption bodies, defences for certain Commonwealth telecommunications offences and the ability to apply for certain types of search warrants.

There are measures to update references to reflect the new name and titles associated with the Queensland Crime and Corruption Commission consequential to the Crime and Misconduct Commission Amendment Act 2014 for Queensland coming into force. There are measures to clarify when a variation to controlled operations would require deputy commissioner or commissioner approval and to clarify that an authority for a controlled operation must not be varied if it would alter the criminal offences to which the controlled operation relates. There are measures to amend two paragraphs in the Classification (Publications, Films and Computer Games) Act 1995 for consistency with current Commonwealth drafting practices and to correct an amendment to the act made by the Classification (Publications, Films and Computer Games) Amendment (Classification Tools and Other Measures) Act 2014.

The bill also includes amendments to insert the concept of being 'knowingly concerned' in the commission of an offence as an additional form of secondary criminal liability in section 11.2 of the Criminal Code; and amendments to introduce mandatory minimum sentences of five years imprisonment for firearm trafficking.

While Labor supports the majority of measures in this bill, which will improve Commonwealth criminal-justice arrangements, we have serious concerns with some of the proposed amendments. In particular, Labor is concerned about the insertion of knowingly concerned as a secondary form of criminal liability and the introduction of mandatory minimum sentences for firearm trafficking offences. We note the strong opposition held by
peak law organisations with regard to these amendments and the lack of consultation that has occurred with respect to this bill.

Labor is concerned about the uncertainty surrounding the concept of knowingly concerned. We note the concerns raised by the Law Council of Australia in relation to how the provisions have been drafted and the dangers arising out of 'vaguely defined laws'. We believe that the introduction of such a vague and open-ended concept as knowingly concerned is inconsistent with the fundamental principles of the rule of law:

… which requires that the Criminal Code should be precise enough to allow people to readily ascertain prohibited conduct …

The government has argued that the need has arisen to introduce the concept of knowingly concerned as a secondary form of liability into section 11.2 of the Criminal Code. The ability to effectively prosecute alleged offences against Commonwealth law remains the critical objective of the Commonwealth Director of Public Prosecutions, the CDPP. It is important that the director of public prosecutions has both the resources and powers to achieve this objective. However, I am not convinced that the provisions in schedule 5 of the bill support this objective. Labor notes the evidence provided by the Law Council of Australia, who strongly oppose the introduction of knowingly concerned. They state:

The proposal to introduce knowingly concerned as part of the law of complicity in the Criminal Code—making it applicable to all Commonwealth offences, offences numbering in the hundreds—is a radical change which has been proposed without apparent consultation with States and Territory jurisdictions and against a background of its rejection on three prior occasions in the Model Criminal Code process. Not only has the government failed to engage with stakeholders with regard to these amendments but also it has failed to justify the need for an additional form of secondary criminal liability to apply to all offences in the Criminal Code.

The government has highlighted particular categories of offences where the concept of knowingly concerned is required, including drug and drug-importation offences and insider-trading offences. However, all of the offences identified have already been drafted in a way that address the concerns raised without the need to include 'knowingly concerned' in such a blanket way.

Labor believes that the proposed change in relation to the introduction of knowingly concerned is a major change to the Model Criminal Code. Leading up to the adoption of the Model Criminal Code in 1995, there was a long consultation. The consultation occupied some years and included some of Australia's leading criminal practitioners. There ought to be full consultation in relation to any proposed general change to the Model Criminal Code. No Australian state or territory, besides the ACT, has the offence of knowingly concerned nor does the United Kingdom. Introduction of a general offence in the Commonwealth Criminal Code could lead to confusion in trials where the accused are charged with both state and Commonwealth offences. Uniformity is important for drug law offences where the state and Commonwealth offences may well figure in the same trial.

Labor does not oppose the introduction of the element of knowingly concerned in relation to individual offences in appropriate cases. Indeed, this has already occurred in relation to a number of offences in Commonwealth legislation. As the Australian Human Rights Commission noted in its submission to the Senate committee, it is 'difficult to anticipate the impact of extending this form of liability to all offences'.
Labor cannot support schedule 5 in its current form. We urge the government to conduct a proper consultation process before proceeding with any change to the Model Criminal Code. We agree with the recommendation of the Law Council of Australia that where there is a need to extend criminal complicity the proposed amendments should be specific to that offence only.

With respect to mandatory minimum sentencing, once again, here, ideology triumphs over rational public policy in the Abbott government. The Abbott government has continued to accuse Labor of not putting up a fight-back against organised crime because of our successful amendments to the Crimes Legislation Amendment (Psychoactive Substances and Other Measures) Bill 2014, which removed mandatory minimum sentencing for the trafficking of firearms into Australia. But that is simply not the case.

In 2012, Labor introduced legislation that would have increased the maximum penalty for firearms trafficking to life imprisonment. That would have made it the same as the maximum penalty for drug trafficking.

Minister Keenan's proposal contains a watered-down penalty of 10 years. The government has yet to explain why it is doing this, other than to claim that it was an election commitment, with no justification. Minister Keenan's measures are also mostly symbolic, as they do not include specified non-parole periods.

There is little evidence that mandatory sentences work as a deterrent. In fact, the government's own department says that mandatory sentences may create an incentive for a defendant to fight charges, even where there is little merit in doing so.

We want tougher penalties on gun trafficking and the government has watered these down. Whilst Labor supports the government's intentions to protect the community from gun-related violence, we urge the Abbott government to adopt a similar sentencing regime in relation to the proposed firearms trafficking offences. This would send a strong message to serious criminals but avoid the issues associated with mandatory minimum sentences.

The Abbott government continues to not heed the advice of experts who understand the complexities and sensitivities of such cases. The Australian Labor Party maintains its position that the introduction of mandatory minimum sentences for those convicted of firearm trafficking offences should be avoided. We note that these provisions have already been considered and rejected by the parliament and that the government has failed to justify the need for such provisions.

The Senate Legal and Constitutional Affairs Legislation Committee received evidence from a number of submitters who strongly opposed the introduction of these amendments. The Law Council of Australia referred to a number of unintended consequences of mandatory sentencing, which included 'undermining the community's confidence in the judiciary and the criminal justice system as a whole'.

The Australian Human Rights Commission noted that these amendments give rise to the potential for injustices to occur and 'run counter to the fundamental principle that punishment should fit the crime'.

We also note the concerns previously raised by state prosecutors, who believe that these provisions can lead to unjust results and impose a significant burden on the justice system.
Labor believes that the government has failed to explain the need for mandatory sentencing provisions. I, again, draw attention to the Attorney-General's Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers, which specifically stipulates that minimum penalties should be avoided. These are the Attorney-General's own guidelines. I, again, reiterate this point, as we did the last time when this government presented these provisions: the Attorney-General's Guide to Framing Commonwealth Offences specifically stipulates that minimum penalties should be avoided.

I also refer to evidence previously given by the Attorney-General's Department, where it stated that it was not aware of specific instances where sentences for the trafficking of firearms or firearm parts have been insufficient.

While we note that the Attorney-General has the power to direct the Commonwealth Director of Public Prosecutions to not prosecute an offender in certain circumstances, the government has given no indication that it would consider using this power when cases of injustice occur.

Furthermore, the Attorney-General can also revoke an order at any point. We note that the current Attorney-General has already revoked an order introduced by the previous Attorney-General in relation to people-smuggling offences.

I urge the government to replace the imposition of mandatory minimum sentences for firearms trafficking offences with increased penalty provisions, as set out in the Crimes Legislation Amendment (Organised Crime and Other Measures) Bill 2012. This bill was introduced in November 2012 by the then Labor government and proposed the introduction of new aggravated offences for firearm dealing, which would attract a higher penalty of life imprisonment. These provisions would still send a strong message to serious criminals, while minimising the risk of a miscarriage of justice.

While Labor supports most of the provisions in this bill that improve criminal justice arrangements, we continue to have serious concerns about the implications of schedules 5 and 6 of the bill as they stand.

Senator WRIGHT (South Australia) (18:27): I rise to speak about the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015. This is a large and complex bill. It amends 14 separate acts and contains 17 separate schedules of amendments. It raises serious concerns for the legal profession, state and territory prosecutors and, indeed, the Australian Greens.

These concerns stem from the fact that this bill undermines a number of established common law principles which have evolved to protect against unjustified or disproportionate intrusion into individual rights. It is also an example of an increasingly ad hoc approach to criminal law reform by the Commonwealth government that threatens the progression towards uniform criminal law across Australia. Having uniform criminal law in Australia is desirable because it makes it easier to understand, administer, prosecute and defend in criminal matters, no matter what geographical jurisdiction is involved. In addition, having uniform concepts or definitions also assists where a case may involve a mixture of federal and state or territory law.

As is very clear from the many debates we have been involved in in the last few years, the Australian Greens are not prepared to give the government a blank cheque when it comes to
amending the criminal law. The Australian Greens consider that it is of paramount importance that laws with far-reaching implications are subject to rigorous scrutiny to ensure that they are necessary, that is, there are no other laws which already do the same job; that they are effective, that is, that they will actually work; and also that they are proportionate in terms of their impact on individual rights.

The kinds of laws that require this kind of scrutiny have significant effects on people's lives. They impose criminal sanctions, and in some cases they restrict liberty or take away existing, traditional common law privileges. So this particular bill seeks to make changes to some fundamental features of our criminal law, from the mental element, which is usually required if someone is to be considered criminally liable, to the court's discretion to impose appropriate sentences and the sharing of information between prosecutors.

Unfortunately, these changes are being advanced without adequate consideration of whether they are necessary, effective or proportionate and without the support of the states and territories and other relevant stakeholders, such as the Law Council of Australia. For these reasons, the Australian Greens have recommended that the bill not be passed in its current form and will be moving amendments to remove the most concerning features of the bill, which are in schedules 5 and 6.

It is not possible to outline in detail each of the 17 schedules of this bill, so I will focus my comments on three schedules—one that we believe is particularly worthy of support and the other two, schedules 5 and 6, that we simply cannot agree with.

So let us look first at schedule 4, which is the forced marriage changes. The Australian Greens firmly believe that schedule 4 is to be commended and should be supported. This schedule does relate to forced marriage. The changes to the forced marriage offences are welcomed by the Greens, as is the recommendation made by the majority of the Senate Committee on Legal and Constitutional Affairs that the Commonwealth, state and territory governments review underage sex offences to ensure there is consistency between them and the federal offences of forced marriage.

But I must turn now to the most problematic aspects of the bill. These are: inserting the concept of being 'knowingly concerned' in the commission of an offence as an additional form of secondary criminal liability in schedule 5; and the introduction of mandatory minimum sentences of five years imprisonment for firearm trafficking offences in schedule 6. Both of these features of the bill have been strongly criticised by a number of individuals and organisations who have made submissions to the Senate Legal and Constitutional Affairs Committee's inquiry into the bill, including the Australian Human Rights Commission, the Law Council of Australia and Australian Lawyers for Human Rights. These features of the bill were also subject to rigorous and concerned scrutiny by the Parliamentary Joint Committee on Human Rights in its 22nd report of the 44th Parliament.

In its report the Parliamentary Joint Committee on Human Rights found that the mandatory sentencing amendments proposed in schedule 6 of the bill were 'likely to be incompatible with the right to a fair trial and the right not to be arbitrarily detained'. Mandatory sentencing provisions have long been shown to be ineffective and unfair, and for this reason the Australian Greens have always opposed them whenever governments of any persuasion have sought to introduce them in what is usually a populist bid to look like they are being tough on crime. This particular coalition government has repeatedly attempted to introduce mandatory
penalties for firearm trafficking, removing the time-honoured role for judges to exercise discretion and judgment by taking into account the particular circumstances surrounding a particular offence and offender.

There is absolutely no evidence that mandatory sentencing reduces crime. But there is much evidence that it can lead to manifest injustice. Despite strong criticism from criminology experts, members of the judiciary, the legal profession and the Australian Human Rights Commission, this government remains determined to remove the court's power to impose a penalty that fits the crime, even though all the evidence suggests that this does not actually add anything to crime prevention. Indeed, the Attorney-General's own department has confirmed that it is not aware of any cases at all where the current sentences for trafficking of firearms or firearm parts have been insufficient. So why is it necessary?

The Australian Greens are not prepared to give up—in favour of mere cheap populism—important and respected principles to enhance the rule of law or Australia's international human rights obligations or indeed strategies for deterrence that are based on evidence. If the government is serious about preventing trafficking in firearms—and it should be—it should start by implementing the considered recommendations of the Legal and Constitutional Affairs References Committee's inquiry into illicit guns in Australia, which I chaired and which reported earlier this year.

For these reasons, the Australian Greens will be moving an amendment to remove schedule 6 from the bill.

I will turn now to schedule 5, which seeks to amend the Criminal Code to increase liability for an offence if a person was 'knowingly concerned' in the commission of an offence by inserting that new concept into section 11.2 of the Criminal Code. The Australian Greens share the same concerns strongly raised by the Law Council of Australia and others about this development. Why? You may ask: does it not sound reasonable on the surface? And that is the problem. This essentially introduces a new form of extended criminal liability into the Commonwealth Criminal Code without certainty or clarity about what the concept really means. There is already an extensive secondary liability regime under the Criminal Code, and this existing regime already makes it an offence to aid and abet or conspire with another to commit an offence.

The Australian courts are already intimately acquainted with the concept of 'aid, abet or conspire'. Some say it is a gold standard for secondary liability. This additional concept of 'knowingly concerned' was specifically considered and rejected as a form of secondary liability when the Criminal Code was being developed. It is an amorphous concept, more vague and open-ended than the traditional formula of 'aid, abet, counsel or procure', as was pointed out by those who drafted the current Criminal Code.

They rejected this addition at the time because they thought it 'would add little in substance and is more open-ended' and preferred the terms 'aid, abet, counsel or procure' because they are well understood in criminal codes across the country and within common law jurisdictions. It is bemusing to me that the Attorney-General is now turning his back on this accepted wisdom to introduce another category of criminal liability, particularly in the context of a rapid expansion of the type of conduct that now constitutes a criminal offence under the code.
The Australian Greens support efforts to ensure our criminal law is responsive to new forms of criminal activity and is effective in terms of deterring and prosecuting crime. We do have to respond in a timely and effective way to changes in criminal behaviour, but we also know that, while it may see a cheap and easy option to continually expanding the parameters of the criminal law, it does not guarantee strong crime prevention results. It may look as though something is being done; it does not necessarily work. This is particularly true when changes are made to the criminal law that make it difficult for police, prosecutors, juries and the community to understand what is and what is not an offence.

Introducing vague and complex concepts such as 'knowingly concerned' that move further and further away from the traditional elements of a criminal offence make it harder, not easier, to gather evidence and successfully prosecute those involved in criminal activity. The Law Council has asked the pertinent question: what does the addition of 'knowingly concerned' really add to the Criminal Code? For example, would a journalist who goes undercover to observe the actions of a particular group in order to write a story about them and sees them commit offences be 'knowingly concerned' in the commission of an offence? What if the journalist were an undercover police officer, obtaining criminal intelligence? What about a situation where family members give comfort to an aged and terminally ill parent who takes a suicide pill? Could the family members then be considered to have been 'knowingly concerned' in the suicide?

I will be asking the Attorney-General these questions in the committee stage of this debate. I guarantee that the response I will get from the Attorney-General will be the response I always get when I ask questions about where the drafting of the act is amorphous, unclear and uncertain, which is highly undesirable when you are setting up a criminal regime and people have a right to know what is and what is not an offence. The response I will get from the Attorney-General will be, 'Senator Wright, I don't deal in hypotheticals.' The problem is we keep having legislation proposed to us where the limits of the offences are not clear. It means that Australian citizens cannot go about their lives with the certainty that they are or they are not committing a criminal offence.

There is also a conceptual problem here. Under the new test of 'knowingly concerned', the prosecution would have to prove that the defendant intended to be knowingly concerned. The Law Council has, I think reasonably, submitted that this does not appear to make any sense. It also begs the question: if the prosecution has evidence that a person intended to be 'knowingly concerned' in the commission of the offence—for example, evidence that they intentionally participated in the planning of the offence—why could they not be prosecuted under an existing category of criminal liability such as conspiracy or aiding and abetting?

From a human rights and rule of law perspective, we should always set a high hurdle of necessity before sweeping new forms of criminal liability are introduced. In this particular case, legal commentators agree that the government has not even come close to justifying why we need this new concept of 'knowingly concerned' or what it would actually add, in practical terms, to the existing extended liability provisions in the Criminal Code. For these reasons, the Australian Greens do not support changes to introduce the concept of 'knowingly concerned' into the Criminal Code as a general principle of criminal responsibility. For this reason, in addition to amending the bill to remove the mandatory sentencing provisions, I will be moving an amendment to remove schedule 5 from the bill.
Senator IAN MACDONALD (Queensland) (18:42): The Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015 is another bill by the coalition government designed to protect Australians, to make it as reasonable as possible for there to be convictions of a number of offences which currently go unchallenged because of the complexity of the law. Sure, I heard previous speakers and I heard evidence that there are some concerns about some infringements of human rights and personal liberties but in Australia at the moment the greater concern is that we have to keep all Australians safe and we have to give our law enforcement and our protection agencies every opportunity of being able to compete with those who would wish to harm Australians.

While I understand why the government has proceeded with this bill, I regret that other political parties—and you have heard from some of them in this debate—do not have the same commitment to keeping Australians safe. There is always the concern about the rights of the accused. Rarely do we hear the same concerns about the rights of the victims or the rights of every Australian to live their life peacefully.

I chaired the Legal and Constitutional Affairs Legislation Committee, which held an inquiry into this matter. We had a number of submissions and I thank those who took the time to put some serious effort into the submissions they made. I do appreciate that and thank them on behalf of the committee. The committee held a public hearing in Sydney on 20 May and a number of witnesses appeared. I thank those witnesses for their assistance to the committee in considering what is accepted to be a quite complex bill.

Again I repeat that this bill is all about giving our enforcement agencies and our protection agencies every opportunity to discharge their duties in keeping Australians safe. I would point out that organised criminals, gangs, terrorists and would-be terrorists do not have to abide by the same rules and regulations that enforcement agencies, protection agencies and prosecution agencies have to abide by. They know no rules. They can do what they like. They can breach every rule known to Australians or to humanity, and they have no qualms or restraints in doing that. That is why it is essential that we give our agencies every opportunity to keep Australians safe.

Other speakers have gone through at some length what is in the bill. I will not take the time of the Senate by repeating those comments, but as committee chair I do want to thank those who made detailed submissions to the inquiry. We have considered the concerns raised by submitters, particularly relating to schedules 1, 5 and 6 of the bill. While the committee understood that some of these provisions may have some impact on individuals' freedoms and liberties, the committee acknowledged that the first priority is to keep our nation safe. Events earlier this year, such as the Martin Place siege, have deeply affected the committee and have demonstrated that stronger laws to protect the community are needed.

The committee noted the findings of the Australian Crime Commission in its Organised crime in Australia 2015 report which demonstrate that 'organised criminal gangs represent an ongoing threat to this country' and are relying on new technologies to escape prosecution. The law must keep pace with modern technology and the way in which criminals operate. The committee noted that the majority of provisions contained in the bill have been drafted at the request of the Commonwealth Director of Public Prosecutions. The committee agreed that the passage of the bill would remove impediments currently faced by the Commonwealth DPP when prosecuting offenders for serious crimes. The proposed amendments would ensure that
offenders are no longer being charged with offences that do not reflect their true level of criminality. The committee was of the view that overall both the minister and the department had provided sufficient justification for the measures contained in this bill, and the committee consequently recommended that the bill be passed.

As well as recommending that the bill be passed, the committee indicated that it thought that the Commonwealth, state and territory governments should consider reviewing underage sex offences to ensure that there is consistency with the federal offences of forced marriage. As other speakers have said, the issue of forced marriage was very prominent in the submissions made to the committee in relation to that aspect of this bill. The committee agreed that the amendments proposed would result in additional protection for children and persons with a disability who do not have the capacity to consent to marriage. The committee was persuaded by the evidence of the Law Council of Australia that it would be beneficial for the government to conduct a review of other underage sex offences that may accompany a forced marriage offence. This would ensure that, where the prosecution brings charges for forced marriage and underage sex offences, the same onus of proof would apply to all charges—hence the second recommendation of the committee. I certainly hope that the Commonwealth government will institute those reviews with state and territory governments to ensure there is some consistency with the federal offences of forced marriage.

In relation to the issue of mandatory minimum sentences, the committee, while noting concerns raised by a number of submitters—some of which have been repeated in this debate—believed that the government had introduced sufficient safeguards to ensure that no injustices resulted. Further, as identified by the Australian Human Rights Commission, there is a safeguard afforded by section 8 of the Director of Public Prosecutions Act 1983, which empowers the Attorney-General to issue directions or guidelines to the Commonwealth Director of Public Prosecutions which ‘relate to the circumstances in which the director should institute or carry on prosecutions for offences’. The committee is aware that past Attorneys-General have issued section 8 directives in relation to the application of mandatory minimum sentencing.

The committee was concerned about the apparent lack of consultation between the government and stakeholders prior to the drafting of the bill. The committee is of the view that, due to the technical nature of the amendments proposed in this bill and the number of schedules, it would have been beneficial had the government engaged in a consultation process with stakeholders and state and territory DPPs. For example, evidence from the Attorney-General’s Department that the amendments would be welcomed by its state and territory counterparts was at odds with submissions from both the NSW and Victorian DPPs raising concerns over the amendments in schedule 9 of the bill. The Law Council of Australia also advised the committee that, whilst it had met with the department, it had not been consulted on the explicit amendments in the bill.

The committee was of the firm view that there was value in government consulting with relevant stakeholders during the development of the proposed legislation. The committee thought that some prior consultation with relevant stakeholders would assist the government in getting the drafting right and would perhaps pre-empt some objections that may have been made to the bill. The committee cannot understand why the government does not, as a matter of course, do that. This was raised with the department. We would certainly urge that, in the
future, particularly in relation to complex bills of a legal nature, the department consult with relevant stakeholders, not so much on the themes or the end result they want but on how best to achieve that, and that they use the expertise that is available amongst the stakeholders to make sure that the legislation is as it is meant to be. The committee welcomed the suggestion from the Law Council that, in future, consultations could be undertaken by the relevant department or the Law, Crime and Community Safety Council.

Having thoroughly and carefully considered all aspects of this bill, the committee did recommend that it be passed, subject to the condition I mentioned. Can I conclude where I started. This bill is not about making things tough for Australian agencies, border protection forces, police and prosecutors; it is about giving them an equal chance—a chance that is at least equal to the criminals, the terrorists and law-breakers that they are charged with apprehending. It is about giving our police and enforcement agencies the same opportunities to arrest and convict those who would harm our fellow Australians.

This bill is another in a series by the Abbott government that will ensure that Australians are kept safe. I can guarantee members of the Senate, and they will know from their own experiences, that that is what most Australians expect and want from their federal government. They are not terribly interested in the niceties of some of the erudite legal arguments that have been raised in this debate. What Australians want to know is that their government is doing everything possible to protect the personal safety of themselves and their families. On that basis, this bill does go towards that end. It is appropriate and, as the committee recommended, it should be passed.

Senator O'SULLIVAN (Queensland—Nationals Whip in the Senate) (18:55): I might open by saying that I am on the cusp of suffering from crime fatigue. It troubles me that, as I make a contribution to this Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015, it seems to be heavy going for our government to try to put in place adequate laws and adequate tools, resources and powers for those of our nation who are charged with the responsibility of maintaining law and order. The effort to get this Senate to support us on some of these measures seems to be quite heavy going.

The first thing we need to acknowledge is that one of the greatest costs to our nation is the cost to administer people's lawlessness, their criminal and quasi-criminal activities. I make the point that, whilst not necessarily directly relating to crimes and misdemeanours, when people's everyday behaviour is against a rule or a regulation it can have a cost to our nation.

All of us have driven along our great highways and seen long sections of road, some of them for 20 or 30 kilometres, where there are the imprints of truck tyres that have destroyed $200 billion worth of pavement in less than an hour. These trucks that are overloaded and not rated for that purpose, drive along the highway on a hot day and that can impact on the cost of our nation by effectively rendering a road unserviceable or, at the very least, reducing the life of that road. Its serviceability can be reduced by a decade or more, meaning that some government or another has to attend to the capital works to replace the road for our use.

This cost of people's behaviour on our nation is very, very heavy. It is one that weighs heavy on the minds of Australians. It is no secret to those of us involved in politics that what is on the mind of most Australians—in no particular order for some or a particular order for others, depending on where they are in their life—are the issues of health, education and law and order.
It is well recognised, and there has been a lot of research done in this space, that law and order will always take precedence when the community feels insecure. Education is significantly important to us because as parents and as grandparents we devote a large part of our lives and the resources of our lives to ensuring that we get the very best education for our children. We also work very hard—and this government has made both education and health a serious focus of its term—to try and get the best health services in place for the citizens of Australia. Recently, through this very House, we spoke about looking over the horizon and investing in research for future health benefits of Australians.

But when you do some qualitative research and have discussions with our citizens, they will tell you that, without law and order, issues such as health, education and many other issues are not important to them. They need to feel safe. This government is very conscious of that. This government is acutely aware of the negative impacts of lawless behaviour on the citizens of the nation and of the impacts it has—and it has massive impacts—on our nation's economy and productivity.

I do not intend to revisit that space because it makes my head hurt after the contributions I have had to make over the last couple of days with the CFMEU and all those associated issues. But, nonetheless, the government is well aware of it, and this Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill is a very well thought through, very considered, contribution that will assist this government in putting in place measures that give those tools, powers and resources to our law enforcement agencies and allied agencies to enable them to keep our country safe.

The challenges that present for our nation, and indeed for those people who are charged with keeping us safe, have increased dramatically. I myself have a background in law enforcement, which I have mentioned in contributions I have made to the Senate before. I remember recently making a contribution to the preface of a book that was published by retired Assistant Commissioner Laurie Pointing, whom I had the privilege of serving as a staff officer in the mid-1980s. Laurie had chronicled law enforcement over the form of his career.

In my contribution to his book I made the point—and it was an observation, not a reflection—that when Laurie and his peers were selected as police officers they were largely selected because of their physical prowess and their ability to demonstrate the application of common sense in their role as peace officers.

At the time that he started—and fortunately Laurie is still with us, writ large and living in my home state of Queensland—police were still moving around in many of the regions with the use of horses. They sometimes had to travel up to 100 kilometres, in modern lingo—back then, about 60 miles—to access a telegraph line or, on rare occasions, phone lines. Many of them were on their own and it might have taken them a week or two to do a job that would today take an hour or two. They would travel with horses and packhorses to the far-flung areas of their often lonely police beats to attend upon complaints of crime.

At that time, and I referred to this in the preface, they had no concept of the transition that would happen in law enforcement—Laurie acknowledged this himself—in the space of his career. When he retired he was in charge of some 670 personnel who shared almost 300 vehicles, and those vehicles were fitted with the very latest technologies. That is the reference I made to the tools and resources that we need to put in place for these people to do their jobs, and this legislation in part addresses some of those challenges.
Today we see that our law enforcement agents can conduct their patrols, and in the space of seconds they can successfully access data to: help them to identify an individual; tell them facts and figures about vehicles and vehicle movements; about who the owner may be and where the owner lives—at least according to the registered data; whether the owner or driver, if they have been intercepted, has a criminal history and if they are wanted for questioning for any offences or if there are outstanding warrants and the like. Those capabilities are new capabilities. In my lifetime one would often have to wait overnight for information. Those of us who were, sadly, born in the 1950s or so will remember the old teletypes—where you would send a message away and you were lucky to get a reply, sometimes, within 10 or 12 hours.

I know that this coalition government is committed to this particular purpose—it is significantly important that we not just keep up but also, to the best of our ability, get one step ahead of those who would commit criminal offences, so that we are in a position to detect them. But most importantly, the ideal ought to be—and I know this is the ideal objective of most law enforcement and security agencies—to get ahead of the game and either prevent the crime or the behaviour happening in the first instance or present such a united, efficient and competent front that it acts as a deterrent.

I will visit one or two of the statistics that make modern law enforcement and the need for these types of legislative changes essential. We have some 50 million movements across our borders annually—50 million people; imagine that. If those travellers reflect society, then a significant percentage of them have probably engaged in criminal behaviour historically. Additionally, it would not be unreasonable for us to propose that a number of the 50 million would actually be travelling to our country to give effect to their criminal behaviour. And let us not forget those who are committing a criminal offence when they leave our nation. They could be carrying prohibited goods or they could be heading off somewhere in the world to commit an offence as described under the jurisdiction of our nation, such as the alleged fighters—cowards, I say—who are leaving our nation to join conflicts to kill and pillage innocent citizens in, in this case, the Middle East.

If the 50 million does not boggle your mind, let us compare the people movements across borders now in our country with the numbers that Assistant Commissioner Pointing and his colleagues confronted just 30 or 40 years ago. We are dealing with hundreds and hundreds of millions of movements across our state borders each year. I drove back to Canberra from Sydney on Sunday, and there was a constant stream of traffic in two lanes in front of me for as far as they eye could see—the whole way from Sydney to Canberra. I have no doubt that, had I had the capacity to look all the way back to Sydney when I reached the outskirts of this city, that line would be unbroken all the way back to the New South Wales capital. So think about that. Not only do we have 50 million people coming across our borders and leaving our borders, but we have hundreds and hundreds of millions of people—

Senator Bilyk interjecting—

Senator O’SULLIVAN: I heard that interjection—including, sadly, members of the CFMEU, who deserve some personal attention. I would advocate that this legislation be slightly further amended to put in a dedicated division of all law enforcement agencies just to wake up each day to deal with the CFMEU and those who support them in their behaviour. But I digress.
As well as the relatively porous borders internationally and the very porous borders of our states, we have the movements within a state. Again we are dealing with hundreds of millions of movements every day. Offenders have the ability to go and commit a crime at a new place; they can leave home in the morning, drive 600 kilometres, commit an offence and be back home to have tea with the wife and kids, in effect. When you think of the very nature of law enforcement, particularly post-event investigation, the challenges are enormous. They really are enormous. You might be left with the colour of a car, a make and model—and, of course, there will be hundreds of thousands of them in the state and the vehicle in question might not now be a local vehicle. We need to ensure that we have the tools and the resources to deal with that, and this bill is looking to do that. This bill is looking to make sure that these people are resourced with the equipment that they need and the financial support that they require, as well as the powers that one needs to equip oneself to do the job.

If none of the other things that I have spoken about present a challenge, we have the area of new technologies. That is the internet, in particular, but it is not limited to that alone, of course. These new technologies are being applied for the commission of offences, and equally they are being used to avoid detection—to conceal the behaviour of individuals. Mind you, when people commit an offence or they set out to commit an offence, most of them—except for the true idiots—make an effort to conceal their behaviour. Some of them are not very good at it, but indeed each of them will put a pair of socks on their hands and wear an old balaclava that they found in their grandma's drawer to try to reduce the prospects of detection—except for the members of the CFMEU, who are not ashamed to show their faces as they move around and commit offences in this country. But again, I digress. I really wish I had never heard of the CFMEU, because I am breaking out in cold sweats when I mention the name. Let us come back to the issue of the technologies. With these new technologies it is very difficult for law enforcement agencies to keep up. We have things known as the 'black net'. Apparently if you have an ability to do more than turn the device on, you can delve somewhere into the deep bowels of the ether of—I don't know—cloudland or something. That used to be a dance venue in Brisbane when I was a young fellow.

Let me close because, whilst I could truly go on for hours and hours and each time I ran out of something to say I could just start to talk about the CFMEU again, unfortunately my time comes to a close. I say to colleagues that, even though we have had a battle in this place over the last few days about resourcing and providing powers to agencies to curb the lawlessness of some of the trade union movement, this is a more widespread bill. This will give it to our law enforcement agencies. This will give new powers, tools and resources to those people charged with protecting our nation, the security of our nation and our families. I commend as loudly as I can the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015 to the Senate.

Senator RUSTON (South Australia—Deputy Government Whip in the Senate) (19:15): I too stand to make a short contribution to the Crimes Legislation Amendment (Powers, Offences and Other Measures) Bill 2015. It is a real pleasure to be here today to speak to this bill, because it does deliver on a commitment that was made by the Abbott government when it was in opposition to tackle crime and to make sure that we make our communities safer. I cannot understand why anybody in this place would not want to see anything enforced to make sure that our communities are safer from criminals. The most important thing that we
can do as a government is to make sure that we provide the necessary tools to our law enforcement officers to make sure that they are able to do that.

The reality is that we live in a new world. There is no question that the tools that are available to our criminals these days are quite different to the tools that were available in the past. As Senator O'Sullivan, who has been a law enforcement officer for most of his life, quite rightly points out, we have to make sure that the tools that we give to our law enforcement officers are commensurate with the tools that are available to the criminals, because, if we are going to catch criminals, we need to be at least as well resourced as they are and preferably better resourced. If we are going to keep our community safe then we need to make sure that the full weight of the ability of this parliament is given to our law enforcement officers so that we can keep the men and women of Australia safe.

What we have got today is a suite of powers that we are putting forward to this parliament to enable the Commonwealth to be able to make laws that are robust, effective and reflect the government's efforts to target criminals and reduce the heavy cost of crime to Australians. Crime is not just affecting those people that are directly impacted by the crime; across the whole of the country the cost of crime to this nation is absolutely massive. This bill seeks to make sure that we give the tools necessary to our enforcement officers so that they can reduce the level of cost to our community for crimes that are committed.

There is a suite of different specific measures within this bill—for example, tougher penalties for gun related crimes. The bill introduces mandatory minimum sentencing for five years imprisonment for the offences of the illegal importation of firearms and firearm parts into Australia and illegally moving firearms and firearm parts across borders within Australia. It gives mandatory minimum penalties. It sends a very strong message to the gun related crimes and acts as a deterrent to our criminals so that they do not think that it is easy to get their hands on these lethal weapons.

Another measure in this is the operation and effectiveness of serious drug and precursory offences, which is a really serious issue at the moment. We have all been talking about the epidemic of ice in this community. We heard the very sad story of Senator Lambie and her son, but there are many sad stories out there about the impacts of drugs on our community. Whilst we understand that we certainly are not going to enforce our way out of the drug problem that we have got in Australia and in particular this methamphetamine problem, it is one of the tools that we need to make sure that our law enforcement officers have got so that they can do their very best to try and get these drugs off the streets. Whilst we have to change, we have to educate our community and we have to work with the people who are impacted—and there is a whole heap of social and cultural change that needs to take place to enable us to deal with the drug issue—one of the very strong platforms within that suite of things that we must do as a community to deal with drugs is to make sure that our law enforcement officers have got the necessary tools to make sure that they can get these perpetrators, who are killing our children, off the streets. I do not think anybody in this place would be particularly—

Debate interrupted.

**ADJOURNMENT**

The ACTING DEPUTY PRESIDENT (Senator Peris) (19:20): I propose the question:

That the Senate do now adjourn.
This evening I rise to speak regarding a major international event recently concluded where 26 young Australians represented their country—our country—proudly. I refer to WorldSkills Australia's Skillaroos, who are flying home from South America as we speak, having competed in the 43rd WorldSkills international competition in Sao Paulo, Brazil. Just as our elite athletes train daily for the Olympics, so too do these skilled tradespeople, who have spent three days competing in their skill area along with over 1,000 participants from 53 countries all with the same goal in mind: to win a medal and to do their best.

I am absolutely delighted to announce that Australia came home with three silver medals, two bronze medals and 11 medallions of excellence, which are presented to the top competitors in each skill area that score above average. One of the three silver medals was won by Joseph Pauley in the industrial mechanics millwright category. Joseph also walked away with the best of nation award, which is presented to the highest scoring competitor from their respective country. The remaining silver medals were presented to Jyothi Forman in the jewellery category and Harlan Wilton for web design. The two bronze medals were awarded to Dylan Di Martino for plumbing and heating and to Sam Spong for bricklaying. Sam was trained by Troy Everett, one of our Australian Apprenticeships ambassadors, so I am especially pleased with that result.

Let me focus particularly on our best of nation award winner, Joseph Pauley, for one moment. Joseph is from Albany, Western Australia. He has a Certificate III in Engineering Mechanical Trade—Fitter and Machinist—and was trained at the Midland campus of Polytechnic West. Joseph has a genuine passion for his trade and has credited his WorldSkills journey with having made him a better tradesman. Joseph also faced a recent personal tragedy that almost saw him leave the competition before it started, but he persevered and came home with the silver medal. I am sure all senators would agree with me that he was well rewarded and is well deserving of his silver medal, as indeed all our Skillaroos deserve the praise that they receive.

Joseph's fellow silver medallist, Jyothi Forman, completed a certificate III in jewellery manufacture at Melbourne Polytechnic. And Harlan Wilton, the third Skillaroo silver medallist, completed his diploma in web design at the TAFE New South Wales Western Sydney Institute's Wentworth Falls campus. Special mention also goes to John Reminis from Nowra, whom I particularly enjoyed baking bread with during a visit to Nowra in recent months. He is one of the recipients of the medallion of excellence, along with Kallon McVicar in welding, Nicholas Roman in joinery, Hayley Parker in hairdressing, Emma Hillier in fashion technology, Adele Di Bella in patisserie and confectionery, Karl Davies in automobile technology, Samantha Johnson in restaurant service, Blair Watters in car painting, Beau Kupris in refrigeration and air conditioning and Dale Fisher in graphic design technology.

I would like to acknowledge every one of the 26 Skillaroos, whether a medallist or not; all the experts; the families and friends; the teachers; the trainers; the employers; and the amazing team who helped support our WorldSkills Australia contestants, led by Mark Callaghan, for their relentless determination to represent our nation proudly. That is exactly
what they did. They represented Australia proudly and demonstrated that all Australians should be proud of our vocational education sector, which is highly respected across the world. The results at WorldSkills show that our skills are not confined to one area; we have shown excellence across industries as diverse as restaurant service, jewellery making and bricklaying.

Continuing to focus on the quality of our training system and the skills of the people within it is critical to Australia's future prosperity. Our government's policies are determined to ensure that we have the highest quality in the content of training and the highest quality amongst our training providers. On behalf of the government, I extend my congratulations to everyone involved in Skillaroos and I look forward to personally acknowledging their efforts next month once they have all returned home.

**Aminya Aged-Care Facility**

**Senator POLLEY** (Tasmania) (19:24): I rise this evening to speak of the imminent closure of the Aminya aged-care home in Scottsdale, north-east Tasmania. With the closure of this facility and the loss of jobs, we will see $1 million ripped out of that local economy, an economy that has already been hit very hard over the last decade or two with the closures in food processing and the downturn in forestry.

Last Saturday I was invited to speak at a public rally in support of the aged-care home. I would like to acknowledge the work that was undertaken by Tim Jacobson and his team at HACSU to ensure that there was a fantastic rollout of the community to support this very important home. We know that, when you live in rural and regional Tasmania—in fact, right around this country—a nursing home will always be the heart that keeps beating in your community. It is what knits that community together. If you lose that facility, it will leave an enormous hole in that community. On my own behalf and on behalf of the community, I would like to place on record acknowledgement of and thanks to the new Mayor of Dorset Council for his leadership in ensuring that the local council will do whatever it takes for this aged-care home to remain in Scottsdale.

One of the disappointing things is that Presbyterian Care, who are currently the providers of this home, have encouraged the residents to leave the home already, so of course families and individual residents are concerned about their future. Unfortunately, we have a situation where there are only 17 residents still remaining in that facility. Another thing I cannot understand is why Presbyterian Care have closed down their respite beds. That would have been money that could be injected into that facility.

As I have said publicly, at that rally and at the first public rally that was organised, through Tania Rattray, the MLC for that area, I am more than happy to work with the Liberal federal member for Bass and the state Liberal government—in fact, the three tiers of government working together with the opposition—so that this home remains open. But thus far, unfortunately, that offer has not been taken up.

We know in Tasmania that over the next five years we are going to need 5,000 additional aged-care workers to look after the ageing population that we have in Tasmania. As you all know, because I speak about it often in this chamber, Tasmania is the fastest-ageing state of our nation. It is very important that this government shows some vision, some policy to
ensure that regional and rural Australia are not going to be left behind when it comes to providing the best possible aged-care homes, which our older Australians deserve.

Aminya has served that community so well over such a long period of time. As I said, we know the local council, through the mayor, is more than happy, and has been trying, to help facilitate discussions. We know that there are other providers, like the very good service of May Shaw on the east coast of Tasmania, that have expressed some interest. And we know that there are two other providers. But we have not been able to get any real information out of Presbyterian Care to ensure that these negotiations go forward. The union is very keen to protect those jobs.

The community want that aged-care home retained so that its residents can stay close to their families, because the next nearest facility that any of these residents could move into would be in either George Town or Launceston, both of which are more than an hour's drive away. If your husband or wife has to go into residential care and you are 80 or 85, there is no way you are going to be able to keep engaged with your loved one. So I am calling on the minister and the assistant minister for aged care in this chamber to take an active interest to ensure the best possible outcome—and that is retaining Aminya in Scottsdale as a viable alternative. I call on the local federal member to join with me in looking to see how else we can ensure that this facility can remain a viable proposition, no matter who is running it. As they said at the rally, they do not care who funds it; they do not care who runs it; they just want their home to stay in Scottsdale, and the very least we should be able to expect from this government is to ensure that there is action and that this is resolved as soon as possible.

**Trade with China**

Senator MADIGAN (Victoria) (19:29): 'Free trade agreement'—few words evoke such disinterest amongst everyday Australians as these. In the next five minutes or so, I would like to address aspects of the China-Australia Free Trade Agreement. This reckless agreement, I fear, will impact millions of Australians, regardless of their age, background, gender or ethnicity. It will mean Chinese workers will be able to come to Australia in their hundreds of thousands to work on our building sites and in our industries. This will happen at a time of rising unemployment.

These Chinese workers will be exempt from fundamental and basic language requirements. When Australian co-workers need to talk to their Chinese counterparts, it will need to be in Mandarin. A Chinese-trained electrician will not have the same skills and qualifications as are required of their Australian counterpart. Remember, China has 70,000 workplace deaths a year.

I am a blacksmith-boilermaker by trade. The two things I have found to be most important on a building site are competence and communication. The government, it seems, wants to undermine both. Imagine trying to give instructions to someone who does not understand the meaning of left or right and does not know blue from yellow. It would be difficult. It would be dangerous. It would not be right for a building site.

Now, safety is one thing, but sovereignty is another. We as a nation need to draw a line. If we are open to abdicating and negotiating away our ownership and our responsibility for our farmland, our electricity grids, our transport fuel security, our roads, the supply chain for our Defence Force, and now even where our labour force comes from—when we have an
unemployment rate of 6.3 per cent—I cannot help but ask the question: who on earth does this government think it is working for? In one swift move, this government drove the car industry off the side of a cliff. It effectively said to tens of thousands of Australians that what they did for a living was no longer considered in the national interest. So it should come as no surprise to us that the government has signed a free trade agreement which will possibly lower standards across the board.

When I was young, I was always taught to strive for excellence in everything I did. I was taught that it was important to have high standards in my work and the way I treated others. This sort of behaviour in Australia is expected of all professionals, regardless of whether they are blue or white collar. It is therefore right that we have a rigorous regulatory framework to ensure those standards, the safety of our work sites and the protection of Australian consumers.

In summary, I would like to outline the reasons why the free trade agreement between China and Australia should not be adopted. First, it will allow subskilled Chinese tradies to work on 457 visas. Second, subskilled Chinese tradies who will not necessarily know how to speak English will be on our building sites in large numbers. Third, this will apply to building sites worth more than $150 million, which are relatively small commercial projects. Fourth, it will mean that future governments cannot change migration policies in this area. Fifth, Chinese who work in 10 selected 'skilled trades' will not be tested. It is for these reasons and many other reasons that I would like to have my unequivocal disapproval of this free trade agreement noted.

Petition: Marriage

Senator LINDGREN (Queensland) (19:34): Last Thursday, 13 August, representatives from 46 different Aboriginal groups and clans visited Parliament House to present a petition to members and senators. It was an honour to receive the petition. The presentation of the petition was celebrated with a traditional marriage dance, didgeridoo music and other culturally appropriate events.

The 'Uluru bark petition', as it is named, urges the government to maintain the definition of marriage as a union between man and woman. The petition states: 'The sanctity of marriage between man and woman continues to be held in honour among all.' It also states that it is 'an affront to the Aboriginal people of Australia to suggest another definition of marriage' and cites 'the spiritual implication of this sacred union'. It states further: 'Our fathers and mothers are also honoured and form the foundation of our families, clans and systems and pass down our teachings, our culture, our traditions, from generation to generation.'

This is the first petition to parliament that makes clear that the current definition of marriage is a matter of great importance to Australian Aboriginal people. The definition of marriage is a matter not just of state or religious significance but of cultural significance. The Uluru bark petition provides a valuable insight for the Australian parliament. The meaning of marriage is not simply a matter of contemporary definition which depends on the present views of a number of vocal advocates for new and different definitions of marriage. It has an enduring meaning that is of great spiritual significance and value to Australia's Aboriginal peoples, who have lived in Australia for at least 80,000 years.
There has been some criticism that the significance of this petition is reduced because many of its signatories are Christians. To disparage the views of Indigenous petitioners because they are Christians is both ignorant and patronising. Christianity has played a significant role in many Indigenous settlements and groupings from the early days of white settlement.

I urge senators and members to read the petition and to consider the significance of the meaning of marriage to the 46 Aboriginal groups and clans represented by it. The petition reminds us of the universality of the truth of marriage between a man and a woman, as it has been for millennia across many diverse cultures.

University of Tasmania

Senator CAROL BROWN (Tasmania) (19:36): I rise to speak about an important milestone in the life of the University of Tasmania, the only university in my home state. The university is this year celebrating its 125th anniversary, and there is much to celebrate and be proud of. At the weekend it was announced that the University of Tasmania has maintained its position as one of the world's top universities. The Academic Ranking of World Universities ranks the top 1,200 universities globally, and this year the University of Tasmania ranked at 305, up three places from last year. Vice-Chancellor Peter Rathjen welcomed the rise in rankings, from around 400 prior to 2010, as good news for the university and Tasmania. Professor Rathjen said:

Our intent is to be home to world-class teaching and globally impactful research because that is how we best serve our students and that is how we best serve our community … Rankings are important because they directly impact on our institution's reputation. In an increasingly global and competitive employment market … our reputation helps us to attract international students to Tasmania, which has significant economic and cultural benefits for the broader community.

The University of Tasmania has certainly come a long way in the past 125 years since fewer than a dozen students attended the first lectures and actually lived on campus at Domain House in Hobart. In the fifties the university moved to its Sandy Bay campus, and it now has campuses in Launceston and on the Cradle Coast and has joined forces with the Australian Maritime College in Launceston. The university is now a truly state-wide university, but who knows if that will be the case if the Abbott Government continues to proceed down its misguided path of deregulation of universities?

The University of Tasmania continues to go from strength to strength and makes an outstanding contribution to Tasmania's social, cultural, intellectual and economic development. As Professor Rathjen says, its reputation is important, and the university and its hardworking staff, students and researchers are establishing its reputation as a world-class international education hub. In its 125th year it is experiencing record student numbers. There are currently more than 34,000 students enrolled, including nearly 4,000 international students. The university has a vibrant student community, with a student union that was first formed in 1899 and has a long history of advocacy and supporting students.

The university also has a strong alumni network. Just this year the university has passed the 100,000 alumni mark. The alumni network spans over 120 countries, and as part of the 125-year celebration the university is running Welcome Home Week, believed to be the first of its type in Australia. Welcome Home Week is aimed at getting former students to come back to share in the 125th anniversary celebrations. The week-long celebration starts on 29 August
and includes 150 different events, including sporting contests, workshops, school and faculty reunions, public lectures, and art and cultural exhibitions. It will give former students the chance to meet up, visit their old stomping ground and celebrate the anniversary of the fourth oldest university in Australia.

At the start of the year I was fortunate to join many others who came together to mark the beginning of this very significant year in the life of the university. I was pleased to talk to Her Excellency Professor Kate Warner, who last year was appointed Tasmania's first female Governor. A distinguished academic, Professor Warner is one of five governors produced by the university. At her appointment it emerged that she has taught around 50 per cent of all legal practitioners who are currently practicing in Tasmania. Professor Warner is one of the university's greatest minds and finest alumni. Three other Tasmanian governors—the Hon. Sir Guy Green AC, the Hon. William Cox AC and the late Hon. Peter Underwood AC—all graduated together on 11 May 1960. But it is not just servants of Tasmania who have studied at and graduated from the University of Tasmania. The university has announced that Her Royal Highness Crown Princess Mary of Denmark, a graduate of the university, has agreed to become the patron of the 125th anniversary.

It is the University's academics, researchers and students who have put Tasmania on the international stage. They have much to be proud of. I understand the challenges they face but hope that the next 125 years are as successful as the past 125 years.

**Genetically Modified Crops**

**Senator LEYONHJELM** (New South Wales) (19:41): Many people will have heard of the Luddites, 19th century workers in the wool and cotton mills of West Yorkshire and Lancashire who were so fearful of industrialisation that they wrecked machinery and burnt down mechanised mills. Some of them were punished with transportation to Australia, a nation that benefited profoundly when those mills were able to process our wool in ever larger amounts. History showed the original Luddites were wrong to be afraid of the future. We now know the Industrial Revolution lifted millions of people out of poverty in a way that revolutions seldom do. People in countries that embrace new technologies, including Australia, have become healthier and wealthier as a result.

But every generation spawns a new pack of Luddites. Luddites claimed that metal ploughs would contaminate the soil, that train passengers would not survive travelling at high speed through tunnels, that gramophones would make musicians redundant, that microwave ovens would make food carcinogenic and that vaccines were responsible for autism. The philosopher Bertrand Russell once noted that every great advance in civilisation has been denounced as unnatural. This might explain why the Luddites of today call themselves environmentalists.

Unfortunately, while Luddites were once just ill-informed vandals destroying workplaces in their own communities, now their ideas are sometimes lethal on a global scale. Consider, for example, the case of genetically modified food. In the 20-odd years in which GM crops have been grown, there have been no documented negative human health effects. There are many documented benefits, including better nutrition, more efficient production and reduced use of pesticides. But unfortunately this has not stopped South Australia and Tasmania, our two worst performing economies, from banning GM crops.
At a global level, one GM crop, golden rice, has the potential to save millions of children who suffer from vitamin A deficiency. Its yellow appearance is due to genetic modification to contain betacarotene, a source of vitamin A. A single bowl of golden rice can supply 60 per cent of a child’s daily vitamin A requirement. Regular white rice does not provide this vital nutrient, and, with three billion people worldwide reliant on rice, there are many cases of deficiency. The British medical journal The Lancet reported that, in total, vitamin A deficiency kills 668,000 children under the age of five each year. Those children who do not die often go blind. But Luddites such as Greenpeace have been openly denying the benefits of golden rice for at least 15 years with complete disregard for the science and in full knowledge of the impact of vitamin A deficiency. The consequences have been catastrophic. While golden rice is now finally being grown overseas, some eight million children died while Greenpeace was successfully campaigning against it. Greenpeace has also played a part in preventing famine-hit people in Africa from accepting food aid that was genetically modified. These modern-day Luddites are willing to let other people pay the ultimate price for their attitudes.

The government of India indicated recently that it would suspend Greenpeace India’s foreign funding licence on the entirely sensible grounds that the organisation works against the country’s economic interests. This follows the stripping of Greenpeace Canada’s charitable status in 1989. Australia should follow suit. Greenpeace Australia demonstrated that they are philistines when they destroyed wheat crops being trialled by scientists from CSIRO here in Canberra. In a world where millions still lack adequate nutrition, improving food quality and productivity must be one of the most noble of scientific pursuits. Yet Greenpeace Australia sought to ensure that research is not carried out. They should be stripped of their charitable status. They should reap what they sow.

Netball World Cup

The ACTING DEPUTY PRESIDENT (Senator Peris) (19:47): Senator McKenzie, before you start, I have to remind you that The President did request the other day that senators were not to wear sporting attire.

Senator McKENZIE (Victoria) (19:47): It is a Canberra winter. I am not planning to play sport; indeed, in this suit I will not be playing sport. This scarf is simply because of the chill in the cold Canberra night air!

I rise tonight to speak of the fabulous victory by the Australian Diamonds—wait for it, Senator Polley—with a score of 58 to 55 on Sunday at the Allphones Arena, watched by over 16,000 very, very passionate netball fans not only from Australia; I can tell you there was a lot of black and white in there. What is fabulous about this is that not only as a nation is this our 11th world cup victory; but over half a million people, including senators on all sides of the chamber, actually viewed it over the course of the world cup. Around that particular match we had nearly 200,000 Australians viewing women’s sport, which I think is absolutely fantastic. I think you will agree with me, Madam Acting Deputy President Peris, that women’s sport right now is of rock star status, particularly this week, but I will get to that a little later. I think the wonderful display of strength, skill, strategy and speed, which netball affords its participants, was fantastic and on show in that particular game like nothing else. Despite Maria Tutaia’s absolutely fabulous attempts over the course of three quarters to get back the
significant lead that Australia smashed from them within the first quarter, they were unable to do it, and we brought home the cup with three goals to spare.

I want to briefly mention to the Senate that I would like to congratulate the Prime Minister for honouring the Diamonds at an official reception on Thursday. I am quite excited. He is probably a bit of a netball dad tragic, as so many here in the parliament are both in this chamber and also in the other chamber. When the Prime Minister makes the statement, as he did today, that women's sport does not always get the attention it deserves, he is right. If we can take anything out of the world cup on the weekend and over the last 10 days, it is that women's sport is here to stay and it is gaining traction in a greater and greater way. That is evidenced by not only the participants—we have over a million netballers here in this country, and they are not all women—but also by the eyeballs in front of TV, which again provides commercial opportunities not only for the organisations but especially for the athletes.

In my own parliamentary team, unfortunately it is not the same story for the Australian parliamentary netballers as it was for the Australian Diamonds. We did try to shine. On the Friday of the Netball World Cup we met with the New Zealand parliamentary team, who had flown over especially for an event that is televised by Sky New Zealand—if anyone is interested. We lined up along the third line, sang our national anthems and went to work. I would like to commend my parliamentary colleagues of varying skill and fitness levels who took to the court for very tough seven by seven minute thirds: Senator Jenny McAllister; Sharon Claydon; my co-captain, Jo Ryan, who is a mad passionate netballer; and of course Senator Connie Ferrarvanti-Wells, who was our shooter and who did an outstanding job. In fact, I think her percentage of goal shots beat the New Zealand team in the actual match. We went into the final seven minutes four ahead, but unfortunately we lost by four. It was tough, but what I would like to commend to my female senators and members in this place is that we are confident, we are leaders, you need to put your body on the line and we need you in the parliamentary netball team because the five of us had to stay on the court for the entire match to meet the rules of the game.

I would like to praise the co-captains, Louisa Wall, from the Labour Party in New Zealand and also Louise Upston, the Minister for Women, who unfortunately injured herself and was in a Sydney hospital receiving treatment the last time I saw her. I wish her a speedy recovery. I note that they moved a fabulous notice of motion in the New Zealand parliament today congratulating the Silver Ferns, and I hope to do so in the Senate over the coming week. What we were able to do as parliamentarians—as I am on the cusp between five and seven minutes, I am going to seek leave to continue into Senator Canavan's time—not to take his time but just to finish these very important words. Senator Canavan, I am sure you will not mind.

What we were able to do as parliamentarians from across the Tasman was come (Extension of time granted) together and raise money for Netball Australia's foundation program called Confident Girls, which takes sport and its empowering nature to disadvantaged young women in Australia. I would like to congratulate both teams and all those parliamentarians in both places that contributed to the Confident Girls program and who have made a significant donation.

This is on the back of a fabulous week the women's sport where the Opals beat New Zealand 61 to 41, with 82,000 Australians appreciating the privilege on TV. We had a
women's AFL exhibition game which, again, was incredibly sponsored and absolutely endorsed by the general public in terms of viewing. The girls did beat the Poms in the ashes—and hats off because Lord knows the boys could not get anywhere on that—and that is on the back of the fabulous response and support that the Matildas received earlier in the year.

As the Prime Minister says, women's sport does not always get the attention it deserves but the role it plays in empowering women and building communities cannot be underestimated or denied. I commend our government and my parliamentary colleagues who participated with me in the competition against the New Zealand parliamentarians as part of the owls—the collective noun for owls is a parliament, just in case you did not know. I hope that we have many more participants going forward. Thank you for your indulgence.

National Competition Policy

Senator CANAVAN (Queensland) (19:54): This year marks the 20th anniversary of the signing of the National Competition Policy agreements between the states, territories and the Commonwealth government, a landmark agreement for our nation. Australia then was a very different place. Almost all phone calls were made through one publicly owned telephone company, which just two years earlier had been called Telecom. Electricity was delivered by what were in effect large government departments. Prices were high, costs were inefficient and we were covered disproportionately, with high prices on businesses increasing the cost of doing business.

The National Competition Policy was controversial. Opposition to it formed a large part of Pauline Hanson's platform. It was also hugely beneficial to our country. It primarily benefited all Australians through a reduction in prices. Electricity and telecommunication prices fell by a fifth. Rail freight rates dropped by eight per cent for wheat and up to 42 per cent for coal, and port charges fell by 50 per cent. Milk prices dropped by five per cent and the reductions were the result of increased efficiency and productivity, not a marketing campaign by a large supermarket chain. Other prices did go up. Principally water prices rose by eight per cent but this followed decades of under-pricing for water and led to more responsible decisions on water use. Australian cities are some of the most water efficient in the world now, thanks in part to these changes that this delivered and this has delivered obvious benefits to our environment.

In effect, the changes allowed Australian businesses to do more with less. They allowed them to employ more people and unemployment fell to levels not seen since the 1970s. Productivity growth was the highest in 40 years and the average Australian was $7,000 better off thanks to this economic growth. The Productivity Commission estimated at the time that the changes increased Australia's GDP by 2½ per cent.

One of my first jobs as a professional economist was to work on the Productivity Commission's 2005 review of National Competition Policy. Most of the above figures come from that report. But unfortunately our record in the last 10 years has wiped away many of the hard-fought gains we had made. Since then, electricity prices have more than doubled. There has been a reregulation of our ports and coastal shipping laws leading to the absurd situation that it costs more to send sugar from North Queensland to Melbourne than it costs to send sugar from Brazil to Melbourne.
Nothing demonstrates a change in our political debate better than the debate on carbon tax, where 20 years ago Treasury and our central economic agencies would have extolled the benefits of lower electricity prices and their importance for the wider economy. During the carbon tax debate, they argued that higher electricity prices did not matter all that much because businesses could just pass them on. In 10 years I have gone from working at the Productivity Commission to becoming a Nationals Party senator for Queensland in this place. The people that I represent—small businesses and farmers in Queensland—cannot just pass it on. Many get paid based on a world price and no-one in New York or international markets is going to pay our cane growers more just because Australian governments routinely ignore their costs. We have gone from having an electricity market that is based on getting the cheapest electricity despatched first to one that gets the most expensive electricity, by definition, despatched first.

Twenty years ago when we signed the National Competition Policy agreements, we established a national electricity market. We established an auction process that every five minutes sets a price for electricity in this country. We set up that market because it would provide incentives to make sure that the cheapest electricity was bought first in that marketplace because that would benefit those purchasing electricity. Electricity was no longer sold in a Stalinist or planned way; it was sold on the basis of who could provide the cheapest electricity.

Today we have things like renewable energy targets, which, by definition, despatch the most expensive electricity first. The most expensive electricity is still renewable energy. Under the Renewable Energy Target, electricity providers must meet a mandated amount of their electricity production from those sources, from more expensive sources. That pushes up the price and the cost of production, which will ultimately flow through to businesses and households and make us less efficient, less productive, have a weaker investment climate and lead to fewer jobs.

I recognise as well that at the time the National Competition Policy came in, it was hard for the Nationals and people in rural and regional areas. Many of the adjustment costs fell on regional areas, but then those cheaper electricity and freight rates were of enormous benefit to rural industries as well. What frustrates me now as a member and proud senator of the Nationals Party is that while the man in the Akubra hat is told that he must be more efficient and he does not deserve subsidies, the man in the hard hat benefits from union controlled building sites that pay productivity allowances that do not promote productivity outcomes. Country people are told they must pay cost reflective prices for services, while a worker in a city can hop on a bus or train and pay a fare that often is lucky to recover a third of the running costs of a public transport network. At the core of national competition policy was the application of competition and price oversight to the government businesses involved in the hard infrastructure sectors of energy, water and telecommunications. Ten years ago, in 2005, the Productivity Commission recommended that some of the NCP reforms should be adopted and that they should focus on applying the same principles to the so-called ‘soft sectors’ of health and education and training. That has happened to some degree. We have introduced casemix funding in our health sector, and we have reformed some aspects of our education sector. But to a large degree there has been no coordinated approach from all state and
territory governments and nothing to replace the competition payments that encourage states and territories to comply with those agreements.

In effect, after 20 years of experience, we had 10 years of formal agreements, with financial incentives to comply. Then in the last 10 years we have had an uncoordinated and haphazard approach that has not delivered the same kinds of clear, national and consistent benefits. I would argue that it is now time to reconsider our approach to these areas of reform. I compliment the government for bringing forward a root and branch review of the Competition and Consumer Act that it has recently reported—the Harper review. It is considering those recommendations now.

But that was only one small component of the national competition policy reforms. At the time, those reforms did make changes to the then Trade Practices Act as a result of the Hilmer review, but they did not just stop there. They did help make sure that we provide services to the Australian people in the cheapest and most cost-effective way. They did ensure that our regulations were well suited to the objectives that they were seeking to fit and did not unnecessarily restrain competition and reduce benefits to Australian consumers.

I do think it is time that we rediscover that approach. We do need to rediscover a national, consistent and broad-based approach to reform, because clearly that approach delivered great benefits to our community. That approach worked in terms of providing effective incentives for governments to implement what were at the time difficult and tough reforms. And that approach delivered enormous gains for the Australian people. Those gains are still there. We could still make many gains in these areas for the Australian people, if we were just to return productivity growth to the level we have traditionally had—not the level we have had in the last 10 years, which has been quite stagnant—we would deliver in 10 years to the average Australian an income of $6,000 per year higher. That is if we were only to hit those historical productivity targets.

The only way we can hit those targets is not by just setting a target. Setting a target does not always work. I set a target to get below 95 kilos and I have never achieved that, but I keep setting the target year after year. What we need to do is to do things that actually meet the target. It takes hard work—like running around the lake, which I don't do enough of. In our case, it will take hard work to make these difficult decisions to look into our electricity sector, and look at whether we have got the right incentives in place for the cheapest electricity to be produced. It will take hard work to look into the efficiency of our ports, which have become more inefficient over the last few years, and to look into our telecommunications sector as well, to make sure that is acting as competitively as it should, particularly with the emergence of the National Broadband Network.

I think it is right and proper that the government is focusing its debate on jobs and growth; they are the most important things facing our nation. Growth has slowed since the GFC, and jobs growth has not been as strong as it has been in the past. Recently, jobs growth has started to pick up again, but we are only going to be sustainable if we focus on the small details first; that will lead to better outcomes. You do not go to a football game concentrating on the scoreboard; you go in concentrating on the little things have to do to get that result. That is what we need to have as an approach here too. We do not want to focus on the economic growth we need; we need to focus on how we are going to get that economic growth, what
reforms we are going to put in place and how we are going to make for a more efficient and cost-effective economy.

**National Broadband Network**

**Senator BILYK** (Tasmania—Deputy Opposition Whip in the Senate) (20:04): 'Fast. Affordable. Sooner.' That was the catchcry of Mr Abbott and Mr Turnbull prior to the last federal election, when they made all sorts of pie-in-the-sky promises on the National Broadband Network.

Two years on from their comical policy launch, where Mr Abbott astutely pointed out that he was 'no tech-head' and not so astutely claimed that his communications spokesman had 'invented the internet', they have gone very quiet on their original promises. The three-word slogan, 'Fast. Affordable. Sooner.' has barely been mentioned since the election. In fact, I think it has gone into witness protection. And it should be no surprise that the Abbott government has run a hundred miles from their ridiculous slogan. Because, rather than delivering on the slogan, they have failed on all three elements. Let us go through them one by one.

'Fast'—I find it interesting that the Abbott government would even make promises based on broadband speeds when they clearly do not understand the importance of it. Before the election, we heard ridiculous statements from this government about broadband speeds, with Mr Abbott saying '25 megs is going to be more than enough for the average household', and Mr Turnbull saying he could not imagine what people would do with 100 megabits per second. Rewind 20 years to when the typical connection was a 56K dialup, and I am sure most people would have struggled to imagine what they would have done with a one megabit connection, yet it would be hard for any household or business today to get away with less.

As new applications are developed every day, Australians' demand for broadband speed doubles roughly every 18 months. This time last year, 28 per cent of NBN subscribers were already ordering plans with speeds of 50 megabits per second or more. The benefit of fibre to the premises is that speeds can continue to be increased according to available technology, without digging up and replacing the infrastructure.

Fibre to the premises can already deliver speeds of one gigabit per second, and there is the potential one day for speeds over fibre to be measured in terabits; that is—for those on the other side that do not really understand this—millions of megabits. This means an FTTP network is the network for the next 100 years, not just the next 10. But, by the time the Abbott government's second-rate NBN is rolled out, it will already be redundant. Many would argue that their second rate NBN was redundant before it even began.

While, under Labor's plan, Australia would have been a world leader in broadband connection, we now risk falling behind other countries which are recognising the need for fibre-to-the-premises. Japan, Hong Kong, Singapore, Korea and New Zealand are all making substantial progress on developing either public or private fibre-to-the-premises networks, delivering speeds of up to one gigabit per second.

The rapidly growing digital economy represents a huge economic opportunity for Australia, but not if we cannot keep up with the rest of the world on high-speed broadband. If you will not take my word for it, listen to those in the tech sector who understand where
broadband technology is headed globally—people like Simon Hackett, a director of NBN Co, appointed by Mr Turnbull himself. In March this year, Mr Hackett said:

FTTN sucks ... If I could wave a wand, it's the bit I'd erase.

And recently we heard from Malcolm Rodrigues, the founder of Singaporean broadband provider MyRepublic, who described the Abbott government's network in terms that I cannot repeat because the language would be unparliamentary. Let us just say he referred to the network as a four-letter synonym for excrement. I can repeat a subsequent quote in the same speech from Mr Rodrigues, where he said:

I don't know what [the government] is doing on the other policy fronts but on this they've completely stuffed it.

More and more Australians will leave the country looking for jobs and you'll continue to be a resource based economy.

The hope of building IT jobs and a digital economy will kind of be more difficult to achieve.

Many, many people in the ICT industry are similarly scathing of the government's second-rate NBN. In the judgment of the industry that actually understands this technology and its capability, the Abbott government's second-rate fibre-to-the-node network 'sucks and they've stuffed it'.

The second word they talk about is 'affordable'. Prior to the last election, we had Mr Turnbull continuing to perpetuate the ludicrous myth that the real cost of Labor's NBN was $90 billion. Mr Turnbull has failed to this day to explain the methodology for this outrageous claim. He has still yet to reveal whether he threw darts at a dartboard, read tea leaves, conducted a séance or sacrificed a goat to come up with his overinflated $90 billion figure. Whatever the case, his parliamentary secretary, Mr Fletcher, was forced to concede the lower figure of $56 billion—still a grossly overinflated figure with no credibility, but a concession of $34 billion nonetheless.

Prior to the election, NBN Co came up with the more realistic cost for the fibre-to-the-premises network of $37 billion. However, there was the potential for that cost to come down. We know from documents leaked to The Age last year that a fibre-to-the-premises rollout in Melton in Victoria had been delivered 50 per cent cheaper and 61 per cent faster than in comparable suburbs. While the coalition tried to claim they could deliver their second-rate network for $29.5 billion, we now see the cost blowing out to $42 billion.

Regardless of the arguments over the capital costs, they are not the full picture when it comes to estimating the cost of the network. A network with slower speeds would return lower revenue and we still do not know what the full costs will be of maintaining Telstra's ageing copper network. Prior to the election, this government loved to harp on about waste and mismanagement, but there is nothing more wasteful than building a network that is expensive to maintain, has low commercial returns and does not meet Australia's needs in the 21st century.

The third word in their three-word slogan was 'sooner'. Prior to the federal election, Mr Abbott and Mr Turnbull promised that the NBN would be fully rolled out by the end of 2016. By contrast, the 2015-16 budget papers forecast that 3.1 million homes and businesses would have the NBN in place or under construction by September 2016. The truth is that the NBN
rollout under this government has ground to a halt. And the very thing that was meant to speed it up—the government's second-rate multi-technology mix—is the culprit.

The government has wasted so much time switching from FTTP to MTM, that in response to a question I asked in the last round of budget estimates, NBN executives admitted that there was not one commercially available fibre-to-the-node connection anywhere in Australia—not one. In other words, after almost two years in government, the second-rate network was yet to even start to be delivered. During the same month, June this year, Mr Turnbull was celebrating the NBN reaching its millionth home or business connection. What he failed to mention was that, of those one million premises, a paltry 2,000 were connected under the government's FTTN trial, with the remainder being rolled out under the former Labor government's NBN plans. So what was Mr Turnbull actually boasting about? The 998,000 homes and businesses connected to Labor's NBN or the 2,000 premises connected to his second-rate network?

The Abbott government also trumpets the fact that they are starting a recruitment drive to hire another 4,500 NBN workers. While this is welcome news, especially in my home state of Tasmania where 200 of these workers will be recruited, it is very cold comfort for the hundreds of NBN subcontractors in Tasmania who have already lost their jobs because of this government's bungling of the project. This includes 100 Q-Fibre and 60 Visionstream workers who have been sacked in just the last few months.

The other recent announcement the government has been doing a song and dance about is the plan to launch two satellites on 1 October to support the NBN's satellite service to 200,000 premises. Mr Turnbull is engaging here in a rather large bit of historical revisionism. In breathtaking hypocrisy, Mr Turnbull recently claimed that Labor underestimated the capacity needed for the satellite service, yet in 2012 he said:

There is enough capacity on private satellites already in orbit or scheduled for launch for the NBN to deliver broadband to the 200,000 or so premises in remote Australia without building its own.

So if Mr Turnbull had had his way in 2012 there would be no satellite launch and the satellite service would be overstretched. But we welcome the government's acceptance of the need for this important infrastructure and look forward to the launch of the satellites that Labor commissioned in 2012. It is a spectacular backflip from Mr Turnbull, but a welcome one nonetheless.

At least the satellite service is going ahead, even if the rest of the rollout has slowed to a crawl. The Abbott government talked a big game on the NBN, yet the rollout has slowed, the costs have blown out, and they are not delivering the NBN the Australia's digital economy needs. It is no wonder the government has gone so quiet on their three-word slogan 'Fast. Affordable. Sooner.' From what we can see of their progress to date, the slogan 'Slow. Expensive. Late.' That would be far more accurate.

Aboriginal Deaths in Custody

Senator SIEWERT (Western Australia—Australian Greens Whip) (20:14): Tonight I rise to speak on the appalling increase in the rate of incarceration of Aboriginal and Torres Strait Islander people and the continuing deaths in custody in this country. Late last year, the Productivity Commission's Overcoming Indigenous disadvantage report showed that the rate of Aboriginal imprisonment had more than doubled in the last decade, while the rate of
imprisonment for non-Indigenous Australians remained relatively constant. The high incarceration rate continues to worsen.

I was recently at the Finance and Public Administration References Committee hearing in Perth which was taking place as part of the inquiry into Aboriginal and Torres Strait Islander experience of law enforcement and justice services. Based on the submissions and the evidence given on that day, it is clear that the situation is dire and is worsening. I would like to quote from Chief Justice Martin, who spoke at the hearing and presented evidence to the inquiry about Aboriginal people's experience in the justice system in Western Australia. As part of his evidence he said:

Aboriginal people are more likely to be spoken to by police than non-Aboriginal people. When spoken to by police, if suspected by criminal offending, they are more likely to be arrested than proceeded against by summons. If they are arrested, they are less likely to get bail. When brought before a court, they are more likely to plead guilty. If they contest their guilt, they are more likely to be convicted. If convicted, they are more likely to be sentenced to a term of imprisonment than a non-custodial sentence and, when considered by the parole board, they are less likely to be granted parole … at almost every step in the process, systemic disadvantage is built in and works against Aboriginal people.

Western Australia detains young Aboriginal people at a much higher rate than any other state or territory, and the rate of overrepresentation is rising. Justice Martin clearly outlined the need for succinct and streamlined national data that painted a picture of Aboriginal and Torres Strait Islander incarceration state by state. An example he gave was to know why the number of people on remand in Western Australia has grown significantly over the last two or three years—and he did not know that.

Nationally, an alarming number of Aboriginal people have died in custody since the Royal Commission into Aboriginal Deaths in Custody, and the majority of the 339 recommendations made by the commission have not been implemented. These recommendations address not only specific issues about the justice system but also the need to address issues of disadvantage, and they made a lot of very specific recommendations about that. This year, 4 August unfortunately marked one year since the death of Ms Dhu, a young 22-year-old Aboriginal woman who died in Port Hedland whilst in police custody for unpaid fines. Thanks to campaigning by Ms Dhu's family and friends, an inquest was promised and will now be held this November. Initially it was promised by Premier Colin Barnett for the middle of this year. Unfortunately, he failed to meet that commitment, but we are pleased to see the date finally set for November.

However, there are a number of Aboriginal people in Western Australia who have died in custody in Western Australia for whom we are still awaiting inquests to be carried out. Ms Dhu's family and friends lobbied very vigorously to achieve a commitment for an inquest by the state government. Families of Aboriginal men and women who died in custody in Western Australia at a similar time to Ms Dhu have not received any such commitment of an inquest—and it should not have to be up to members of people's families to lobby and campaign for an inquest.

I would like to take a minute to raise awareness of these people who have died in custody and their families. On 30 November 2012, Ms Mandijarra, who was 44, died in the Broome Police Station lock-up. She had been arrested for drinking in public. An inquest is yet to be held. On 6 March 2013, Mr Jayden Stafford Bennell, who was aged 20, was found dead in his
cell at Casuarina. It is believed his death was a suicide. An inquest is yet to be held. On 22 October 2014, Mr Wallam was found dead in his cell at Casuarina. It is reported that his death was a suicide. An inquest is yet to be held. He was in fact due to be released in January. His death is supposedly being reviewed as part of the task force Mr Barnett set up to review Ms Dhu's death. I pay my deepest condolences to the families of these Aboriginal men and women who were let down by the system in Western Australia.

In Australia, we have not enough to address the recommendations of the royal commission, and I dare to say that, if those recommendations had been implemented, those deaths may not have occurred. Our federal and state governments are not taking enough action to drive down the high incarceration rates and the rates of deaths in custody of Aboriginal and Torres Strait Islander peoples. I urge the Premier of Western Australia to urgently look into the fact that these three deaths in custody have not yet had inquest dates set to inquire into these deaths.

One of the actions that needs to be taken to address this terrible issue is to set justice targets, so that we have a clear, transparent and accountable process to look at justice, incarceration rates and deaths in custody. Each year following the apology and then Prime Minister Mr Rudd's commitment to report against the Closing the Gap targets we have had at the beginning of each year a report on progress against those targets. If we had justice targets every year the government in power would have to report against those targets every year and this place would be forced to pay attention, and governments—federal, state and territory—could be held accountable.

We do not have these targets, unfortunately, because this government, despite their commitment in opposition, did not deliver on their commitment to put in place justice targets when they came into power. This backflip by the government upset many in our community and many Aboriginal and Torres Strait Islander leaders and organisations, including the national peak body for Aboriginal and Torres Strait Islander Legal Services, NATSILS, who were seeking a pledge to consider justice targets as part of the Closing the Gap policy agenda. The government in opposition agreed and then did not do it. Late last year the Senate backed my motion to establish justice targets which would help provide a clear framework for the federal government to work with communities, the states and territories and Aboriginal organisations to start putting in place a meaningful approach around the targets in order to reduce incarceration rates and to address deaths in custody.

There should be a commitment by this government to justice targets. Given the increasing number of Aboriginal and Torres Strait Islander peoples being incarcerated, it is obvious that our federal government and our state and territory governments are not doing enough to address this issue. Senator Scullion, the Minister for Indigenous Affairs, has previously said the targets aimed at Closing the Gap on imprisonment levels would send the wrong signal, that Aboriginal offenders were different from others. In my opinion, this is a baseless statement that is stopping a more strategic national approach and stopping a focus on reducing incarceration rates and addressing the major issues of disadvantage that continue to face Aboriginal communities—the same as they did when the 339 recommendations were made by the Royal Commission into Aboriginal Deaths in Custody.

I do not know if the government are worried that setting targets will in fact hold them to a level of accountability that they feel nervous about. I urge them to reconsider the justice targets and, in setting those targets, to consult with Aboriginal and Torres Strait Islander
organisations and the broader community. Australia needs to address these appalling rates of incarceration now and urgently.

Trade with China

Senator BACK (Western Australia) (20:24): Following the successful conclusion of free trade agreements with Korea and Japan by Minister Robb, his advisers and the department, I rise proudly this evening to refer to the third leg of the trifecta, the China-Australia Free Trade Agreement, and speak to the chamber about the enormous opportunities for Australia, for Australian business and for Australian workers well into the future from this agreement. We know that China is already our biggest trading partner when we are speaking of commodities. What is particularly interesting in ChAFTA is the emphasis the Chinese side wish to place on access to our services.

At the moment, services account for some 80 per cent of Australia's economic activity but only 20 per cent of our export revenue. Imagine the capacity of our economy if we could move that 20 per cent of export revenue from services up to 40 per cent. ChAFTA will allow us to do it. In 2014, 60 per cent of all of our services exports in education, tourism and travel were to China; 30 per cent of overseas higher education students in this country are from China; and some 10 per cent of the Australian community have a Chinese dialect as their first language in the home. For example in the services sector, some 200 Australian architectural firms have worked in China, some 80 are now and more than 1,000 architects are actually working on Chinese projects.

In the event that we are to pursue major projects in this country, we must be able to address the question of skills shortage. We know that such a shortage can massively increase costs and increase risk. More importantly, in terms of the decisions for future investment, if the proposed project does not have a good, clear understanding of the likelihood of availability of skilled labour into the future, then you will find that that project will not come into this country. It was the former Labor government that introduced investment facilitation agreements around the Roy Hill iron ore project in the Pilbara—the project by Gina Rinehart and her group which is now nearly complete. There has been a lot of conjecture in recent times as to why it is that at the signing of an MoU, we do not have some understanding of the need for skilled labour and, therefore, the opportunity for Australians and others.

Despite all the nonsense that went on from the then Labor government about these agreements, it was Gary Gray, the member for Brand, who stood up very strongly and indicated how important these were for that project. Indeed, no 457s visa holders, to my knowledge, have actually been employed on that project. But the point is made that before that could proceed, the proponents needed to know that they had the labour available to them. So when an MoU is signed, it is a very early phase in the process, far too early to be talking about what is needed by way of the labour force to bring the project to effect—you are talking feasibility and bankability, and it is some years later.

The important point I wish to leave the chamber is that before you get to the final stage of proceeding with a project, in the event that you are contemplating bringing overseas labour into the country, labour market testing must be undertaken before you can bring in 457 visa holders. In other words, you need to eliminate the risk of not having sufficient skills available before starting a project. Our Labor opponents absolutely love 457 visas. During this
contribution this evening, I will be asking the Labor Party, through the leader, Senator Wong: what is their opposition to ChAFTA? Labor love 457 visas.

I wonder what labour market testing was actually undertaken when unions employed 457s visa holders under former Prime Minister Gillard and the then Labor government? It was Mr John McTernan, the former communications director and a 457 visa holder, who had the role of developing a philosophy against 457s. Where was the labour market testing? United Voice, the Australian Education Union, the Finance Sector Union, the National Tertiary Education Union, the TWU, the shoppies, the ASU and the MUA all have or have had recently 457 visa holders in their employ. These have been in very important areas which apparently Australians are not equipped or competent to do like industrial relations and advisers, copyrighters and media advisers. I am saying to Labor that, in the context of ChAFTA, there will be labour market testing.

Minister Robb made a very interesting point the other day when he said that when ChAFTA comes into existence there will not be the need to change one letter of one word of industrial relations legislation as it exists in this country. Under the coalition, 457 visas have declined and the Chinese representation in 457s in this country is only about six per cent. I will be calling on Mr Shorten and his colleagues to bring the unions—who direct and dictate the activities of the Labor Party, as we saw in two bills that were passed down—to get on top of this issue associated with xenophobia.

In recent times, AMWU New South Wales Secretary, Tim Ayres, claimed that this ChAFTA deal:

... will mean that on very ordinary construction projects in our cities and our suburbs ... will allow the company to import Chinese workers at lower wages and conditions, denying young construction workers and young apprentices the opportunity for work.

Wrong! The CFMEU National Secretary, Michael O'Connor, the brother of Brendan O'Connor—you would think he would know better—was even more blunt when he said the union opposition was about stopping 'greedy bastards trying to steal Australian jobs'. Is that what happened at Roy Hill—a $2 billion project that is about to massively increase Australia's net wealth and income from taxation and other purposes? No.

And we have heard Queensland Labor trade minister, Jackie Trad, complaining about supposedly unskilled Chinese tradespeople being eligible for 457 visas, despite the fact that they will still need to go through skills testing and obtain state-based accreditation from her own government. Only last night, the member for Bendigo in the other place said that, if this ChAFTA goes through, when an electrician knocks on the door the homeowner cannot be confident of the skills of the electrician undertaking that work. An absolute disgrace. ACTU president, Ged Kearney, stated that workers from China can come under temporary work visas of any category and will not be subject to labour market testing, and that workers can be brought in from China with low levels of English and with lower skills.

Let me make these points again. The companies will have to participate in labour market testing before they bring workers in. Secondly, they must be employed under Australian terms, conditions and pay; and, thirdly, they must undergo skills assessment before working in Australia. It is time we stopped these ridiculous myths. I say it is up to Mr Shorten, and it is up to Senator Wong in this place, to bring the unions under control in this particular circumstance.
Who is supporting ChAFTA? Luminaries such as Mr Martin Ferguson; Simon Crean; Peter Beattie, a former Queensland premier; John Brumby, a former Victorian premier; Bob Carr, a former New South Wales Labor premier and former Minister for Foreign Affairs; Daniel Andrews, the current Premier of Victoria. They are all strongly supporting this agreement.

Let me also make this point very, very strongly: it has been estimated that, if we do not sign this agreement by December this year, the agriculture sector on its own will lose some $300 million. Why? Because, if it is signed by December, we get the first lot of tariff reductions, and a few days later, in January, we get the second lot of tariff reductions. That is what happened with the Korea free trade agreement in December of last year and January of this year.

I will finish with the comments of President Xi, when he made this observation: 'When small rivers are filled, big rivers also fill.' He said, 'Only through win-win cooperation can we make big and sustainable achievements that are beneficial to all'. The old mindset of zero-sum game should give way to a new approach of win-win and all-win cooperation.

Workplace Relations

**Senator KETTER** (Queensland) (20:34): I rise to speak about the government's disgraceful industrial relations policies and to make a comment that I am proud to be a senator for Queensland and I am proud to be a Labor senator. I am also very proud of the fact that I am a former official of one of Australia's largest trade unions—in fact, it is the largest trade union—the shop assistants' union. As a former official of that union I am particularly concerned about the impact the government's industrial relations policies are going to have on the group of workers that I have spent much of my working life defending. I am concerned that this government is seeking to Americanise the industrial relations system which Labor has built up over so many years.

Whilst the government is looking to undermine workers, Labor is looking to the future. I will talk more about that later. Labor believes that research and innovation are at the heart of Australia's future prosperity and will create the jobs of the future. I will outline Labor's plan for the future later on. There is significant uncertainty about what the coalition will be taking to the next election in respect of its industrial relations agenda, but we know that the government is coming after penalty rates for low paid shop assistants and hospitality workers. The draft report from the Productivity Commission has flagged that quite clearly. Unfortunately it has become all too common for this government to target the most vulnerable people in our society. I would ask: what is it with this government's obsession with dismantling Australia's industrial relations system?

We would know from history that there have been two prime ministers who have sought to either dismantle or fundamentally alter our industrial relations system and who have paid the price at the ballot box. Following the disastrous Work Choices policies, former Prime Minister John Howard lost his seat. And we know that in 1929 Stanley Bruce, who sought to dismantle the Commonwealth arbitration system, also paid the ultimate political price in losing his seat. The lessons of history are there—but no, we have a government which seems obsessed with taking on low paid workers and removing entitlements.

The Productivity Commission inquiry into Australia's workplace relations system which was ordered by the Treasurer proposes a two-tier penalty rate system which would cut the...
penalty rates of every worker in the hospitality, retail and entertainment sectors of our economy. Labor will never support a two-tier penalty rate system that would leave millions of Australian workers worse off. I cannot pretend to understand how the Productivity Commission could come to the conclusion that one group of people is worthy of penalty rates and another group is not. One group of people is entitled to fair compensation for giving up social and family time on the weekend and another group is not. I would consider that to be an un-Australian proposition.

We have seen some different statements from members of the government in this area. We have heard the Minister for Employment, Senator Abetz, saying, 'We have a system that has worked relatively well over many years now, and I don't want to put the parliament in the space of the Fair Work Commission.' That is in contrast to what the Prime Minister said recently in looking at the issue of penalty rates. He said, 'I think there is a case for looking again at this issue of penalty rates.' The Prime Minister then went on to seek, in my view, to unduly pressure the independent umpire, the Fair Work Commission, by saying, 'Let's hope the Fair Work Commission is alert to the need to maximise employment and maximise economic activity.' We see this government looking to put pressure on the independent umpire to encourage them to inhibit the growth of minimum wages and to minimise conditions of employment in order to allegedly maximise employment and economic activity. Labor does agree that the Fair Work Commission is the appropriate body to consider all of these matters and that the Prime Minister should leave it to do just that: to conduct its business as the independent umpire.

Mr Abbott has also had the audacity to suggest that Labor, in pursuing its defence of penalty rates, is trying to restore the 'church Sunday'. In fact, it was also the Prime Minister who said, 'If you don't want to work on a weekend, don't work on a weekend.' I find those comments somewhat insulting on a number of different levels, because they speak to an attitude which suggests that those who might consider Sunday to be a special day of the week and those who give up the opportunity for social and family time or religious observances are less worthy of respect. It is particularly interesting given the Prime Minister's own views on these types of issues that he has expressed on previous occasions. Let us never forget that it was the Prime Minister who said that Work Choices was 'good for wages, it was good for jobs and it was good for workers.' So we know where this government is coming from when it comes to industrial relations.

We believe that penalty rates are so important for many Australians. Low-paid workers in particular rely heavily on penalty rates. They have been a feature of our industrial relations system for over 100 years, having been established just after Federation in 1909, in the Commonwealth Conciliation and Arbitration Commission.

Despite the comments that I have already ascribed to the Prime Minister, even he has conceded the importance of penalty rates in previous comments. He said, 'Penalty rates are very important to people. If you're a low-paid worker, one of the things that you often love to do is work late nights and weekends, because it does substantially increase your income.' So this Prime Minister is quite well aware of the impact of reducing penalty rates and what it would do to low-paid workers. From my own experience as a former official of the SDA, I understand that retail employees are amongst the lowest paid in our community. The average shop assistant on the award wage receives about $19 an hour, and I am in awe of those people
who are trying to support a family and meet the cost of living while receiving that level of pay. When you are in that situation, penalty rates are particularly important.

We know that the Australian people also generally view penalty rates as being important. Research was conducted by EMC recently where people felt that those who are required to work outside of normal hours, like night shifts, weekends or public holidays, should receive a higher rate of pay. The research is very informative, and it found that a large majority of people—81 per cent—felt that workers should receive higher rates of pay for working outside of ordinary hours. I also make the point that 73 per cent of Liberal-National voters agreed with the proposition that people who work outside normal hours should receive higher rates of pay.

This is an important issue. Governments who attack the industrial relations system, who seek to remove conditions of employment, do so at their peril. I would call on the government to change this disastrous course.

Shark Culling

Senator WHISH-WILSON (Tasmania) (20:44): Nothing attracts headlines and our attention like news of shark attacks. We can blame the movie Jaws for this macabre attraction. These headlines help sell papers but they do not help us understand and deal with the reality of co-existing with sharks on our immense and beautiful coastlines. They also do not help when fear and emotion are running high like they are at the moment in places on the east coast of Australia like Ballina or Lennox Head, where a number of tragic shark encounters have recently taken life and limb and put the local community, including surfers, into an entirely understandable spin. Having just returned from holidays at Byron Bay myself—and I was there the same week that the beaches were closed after two shark attacks—I can totally understand the feeling in the community and the intensity that has been developing over a number of years.

As a surfer and a conservationist sharks are to me both a source of fear and awe. I have surfed most of the world's oceans and have only even had one close encounter with a shark. It was probably where you would least expect it: at a spot called Green Balls in Bali, where it would be fair to say I was harassed out of the water. I have also surfed places like Red Bluff, called camp of the moon, up near Carnarvon, which is one of the 'sharkiest' places on earth, where I literally saw sharks every day when I was surfing yet I was not bothered by any of them. I am a surfer, and the perspective I can give on this debate is a unique one—one that can only be provided by someone who wants to save the creatures who are potentially out to eat him.

With this in mind, I wanted to say a few important things tonight. Sharks are a fact of life for the surfer. They live in the water. Their food lives in the water. Recently it has been reported that surfers in the Ballina-Byron area have called on the New South Wales government for a limited shark cull following this increase in the frequency of shark encounters. I will not preach to anyone on this issue. I want to state clearly tonight that I totally understand the fear, the anxiety and even the loathing around these tragic shark encounters.

The scientist and champion of biodiversity Edward O Wilson described great white shark as:
The last expert predator of man still living free. Great whites are by all odds the most frightening animal on earth—swift, relentless, mysterious and unpredictable.

But we need to put aside these understandable and instinctive emotions and calmly and rationally address the issues underlying the tragic causes of mistaken identity that have led to the loss of human life and injury in our oceans—not least because shark encounters are likely to increase into the future.

What is causing an increased frequency of shark attacks? In short, us. Recent shark attack increases are consistent with a global trend with increasing numbers of interactions following a global increase in coastal population. There is a range of factors changing the marine environment in places like Australia: increased coastal urbanisation results in increased numbers of people in the water, continued clearing of coastal habitats, increased pollution, increased fishing pressure, changing global ocean temperatures, increased pollution such as ocean mercury through waste water disposal and the burning of coal, ocean acidification and the scourge of marine plastics all put pressure on the food chain.

I have thought often and deeply on this issue. My conclusions are that the two most important things for a surfer like me are: firstly, understand the risks involved with surfing; and, secondly, only go in the water if you accept the risks. You may still be and are likely to be uncomfortable with the acceptance of these risks—sharks are always on my mind when I am in the water—but it must be your choice. As I just noted, the good news for ocean lovers is the risks of unwanted shark encounters are statistically very low and can be mitigated to some extent. But by any statistical measure death by shark attacks does not rate against even the most minimal of threats to the vast majority of modern humans.

In 2014 the Taronga Zoo Australian shark attack file reported that there were a total of five shark attacks in that year and that over a 50-year period the number of fatal shark attacks in this country averages one per year. Keep this in perspective. The Australian Marine Conservation Society reports we kill 73 million sharks every year. The IUCN reports that a quarter of the world's sharks and rays are threatened with extinction. Sharks are a keystone species. They perform critical roles in the ocean, including maintaining the balance between predator and prey in marine ecosystems.

The danger of sensational headlines such as the atrocious headline and photo in the *Daily Telegraph* last Thursday around opposition to a Ballina shark cull is that they overblow these risks and so cause more fear and anxiety. This leads to fewer people enjoying the water and more unrealistic responses calling for shark culling as a means to protect lives and recreation. The risks should be better understood. Most surfers will be able to tell you what the high risk factors are in relation to sharks and attacks. Also, devices such as shark shields, which I use myself sometimes when I surf in Tasmania, do exist to mitigate the risk of shark attack, but nothing is fail-safe. To quote shark scientist Barry Bruce from CSIRO in Hobart, 'The ocean is not a risk-free environment.' You must know this—the ocean is not a risk free environment.

The instinct for self-protection is strong and understandable. Most surfers or others who support culling sharks do so because they see this as a protection measure. But, perhaps unwittingly for many surfers, this firstly means supporting the assumption that all sharks should be caught because they are dangerous and secondly that culls will protect them. The problem is neither of these expectations are true or are supported by any scientific or statistical evidence.
Experts from the University of Western Australia’s Oceans Institute Professor Shaun Collin and Dr Ryan Kempster have said that culling sharks is purely an emotional or political response, not a decision based on scientific data. Culling techniques like drum lines are indiscriminate across species. Recently the WA shark cull caught in just a few months dozens of tiger sharks—hardly proven killers, with one recorded suspected attack in Perth in 1968—but no white sharks, which are responsible for the majority of attacks. The baited drum lines used by fisheries are even likely to have attracted sharks to the area. Nets and drum lines are also indiscriminate killers of our oceans’ dolphins, turtles and whales. It is also well proven that even in areas that are heavily netted and baited many sharks slip the nets and get through.

The risks of shark encounters will always remain unless every single shark is killed in the ocean. It is debateable how much they are lowered by reactionary strategies such as shark culls. So go figure—and go enjoy the water, but understand and accept the risks before you do so. There are always risks in a marine environment, with natural predators who rightly belong there and who have deserved that right through surviving millions of years of evolution. But there are also pleasures and fulfilment in the ocean as long as one keeps this in perspective. This is epitomised by quotes from the family of a 46-year-old Tasmanian man—who I note has not been officially identified—recently fatally injured by a great white shark in Triabunna, Tasmania. This family immediately responded—in their quotes to the media—by saying that culling sharks was the last thing he would have wanted, describing the suggestion as ‘ridiculous’. One of them said:

He loved the water. Loved nature. I don't think he would want anyone to change the way they felt about what they were passionate about.

And my condolences to his family. On this note, I want finish with one of my favourite quotes:

We all come from the sea, but we are not all of the sea. Those of us who are, we children of the tides, must return to it again and again, until the day we don't come back, leaving only that which was touched along the way.

We have touched the ocean enough already, and the indiscriminate culling of sharks is not the right option.

Australian Broadcasting Corporation

Senator McGrath (Queensland) (20:53): Few organisations generate debate and polarise the national conversation as much as the ABC, the Australian Broadcasting Corporation. Sadly this conversation has increasingly become about the ABC itself—it’s machinations, its vacillations, its inclinations—rather than the stories of Australian life that should hold centre stage. I have said before, much to the dismay of my colleagues, that I love the ABC. It is a platonic love. I love Gardening Australia on a Saturday night at 6.30. I love Grand Designs and Kevin McCloud. And I have started to become a little bit obsessed by Inspector George Gently. As someone who grew up in rural and regional Queensland, I am a friend of the ABC—and the best friend you can ever have is someone who will be an honest friend and who will speak a hard truth when they see a problem.

I have previously spoken in this place about my concerns as to the direction of the national broadcaster, its political biases and the attitudes of some of its staff. Sadly, even when these issues have been raised with the ABC through the Senate estimates, there has been nothing but weasel words and stony-faced denials. According to the ABC, comments by a radio
presenter that Osama bin Laden was 'honoured and respected' by his supporters were editorially consistent with the context in which they were made. Google search terms to promote coverage of the passing of former Labor Prime Minister Gough Whitlam were considered necessary, yet no search terms were considered necessary to be purchased when the former Liberal Prime Minister Malcolm Fraser passed away. This shows the clear political bias of the ABC. Gough Whitlam, that great demigod, goes to meet his maker in the sky: 'Oh yes, we'll buy search terms for him.' But, for Malcolm Fraser, as much as he had made a political journey in the later decades of his life, because the ABC holds in the bowels of its basements those who are still maintaining the rage about what happened in 1975: 'No, we will not buy Google search terms for a Liberal Prime Minister—but we will for a Labor Prime Minister'. Presenters can interrupt and badger senior government ministers during interviews. They can be aggressive, but in ABC land they just call it 'tenacious'. And staff can post abusive statements on social media about government policies affecting the ABC—a topic I will return to later.

According to the ABC, there is absolutely, definitely no cultural 'group think', no left-leaning bias. But the most grievous example of the ABC's systemic issues in terms of its bias to the left is that bastion of the leftist 'Twitterati', Q&A. The ill will that Q&A generates through toxifying the ABC brand is damaging to the reputation of the ABC and has undermined the broad array of good work that it does, particularly in rural and regional communities. Back in May, during the budget estimates, I raised with the ABC managing director the clear lack of balance on Q&A panels and the persistent slant. I use 'slant' in the broader sense of the word, but it is more than a slant; it is sort of like a Titanic slant, in that it is so biased in terms of having on the Q&A panels people who accurately represent all viewpoints in Australia.

In some circles, it was controversial for me to say that most, if not all, coalition senators and members thought that Q&A had a prominent left-wing bias. Mr Scott rebuffed the criticism, preferring to reshape the test of bias by asking whether a range of issues were raised and an opportunity was given for a diversity of viewpoints to be expressed. Yet it is quite apparent that, on every program of Q&A, the centre right representatives are always outnumbered by those of the centre left. I am not calling for a Q&A that is dominated by Liberal-National politicians. I am not calling for a Q&A that is dominated by Labor Party politicians. I would like a Q&A that is balanced in terms of its viewpoints and how it represents Australians. Consistently this program has this Titanic slant to the left, and those on the centre right always outnumbered, especially when you consider the position and the attitudes of the host, Tony Jones.

I want to talk about what we have seen since late May in terms of the program aired where Zaky Mallah, a notorious convicted criminal and extremist, was permitted to ask a live question seeking to justify terrorism. This did not demonstrate balance or good journalism. What it demonstrated was how out of touch the national broadcaster has become from normal, ordinary Australians. But, to be fair, the ABC did take action. The following day, the ABC issued a statement acknowledging its error in judgement in allowing Zaky Mallah to ask a question from the audience and saying that it would review that error.

On 25 June Minister Turnbull ordered the Department of Communications to undertake an urgent review of the chronology and facts of the incident. The department confirmed Mr
Mallah's criminal history and the failure in \textit{Q&A} vetting. But then, in an unprecedented step for the ABC, in July of this year the ABC board issued a statement of its own, reaffirming ABC management's earlier admission of error. The board noted a failure of editorial processes and judgment, saying that the matter should have been escalated to senior management.

The board also announced details of an editorial review of \textit{Q&A} by the former Managing Director of the SBS, Shaun Brown, and journalist Mr Ray Martin, covering the 23 episodes that aired in the first half of 2015. But let's not kid ourselves. For those people who are listening at home: Ray Martin through his public comments has shown his true colours. He is an apologist for \textit{Q&A}; he is not a reviewer of \textit{Q&A}, and he should have stood aside following his comments, which implied—actually, more than implied; they explicitly cleared \textit{Q&A}. I would love to know how much Mr Martin is being paid for this community service that he is doing on behalf of the ABC.

But more recently, in August, the ABC Board made the decision to shift \textit{Q&A} to its News Division by the beginning of 2016. It is good that finally the decision-making processes around topics and questioners, audience and panel selection, and social media on \textit{Q&A} are being examined. This is something that I had previously requested of Mr Scott during budget estimates. But the fact that it took such an outrageous incident indicates that the concerns about balance have been taken not at all seriously by the ABC up to this point. They only acted when it was starting to become a public issue that they could not control.

Following the incident, I have taken my own steps to try to put some pressure on the ABC to try to lift its game. In June I wrote to Mr Scott to reiterate the views I had expressed to him in person about \textit{Q&A} and the cultural bias of the ABC. In his annual Corporate Public Affairs Oration, Mr Scott had characterised Mr Mallah's appearance as a matter of free speech and used the ABC's independence to deflect a broader criticism of bias. The duties of the ABC to maintain independence and impartiality do not absolve it from the need to satisfy the expectations of the Australian people, especially considering the $1.1 billion that Australian taxpayers put into the ABC. Rather, the taxpayer funded broadcaster must rightly use its reach and influence to benefit Australia and uphold our freedoms and values. I copied my letter to the ABC Board chairman, and Mr Spigelman has since responded, indicating a desire to meet, which I will do.

Shortly after I wrote to Mr Scott, I launched a petition on the Be Better ABC site. So, if you are listening at home or you are reading the \textit{Hansard} later when you are trying to get to sleep, please log on to Be Better ABC and sign the petition, because we want our national broadcaster to be better. But sadly, in response to this petition, a senior producer of the ABC wrote on Facebook: 'I have just the one feeling. That the senator should STFU.' I am not going to elaborate on what STFU stands for, but it is an acronym for a colourful expletive phrase that invites the person to perhaps sit down and be quiet. This seemed contrary to the ABC social media policy, and I have also written to Mr Scott over that. What this shows is that the taxpayer funded Australian Broadcasting Corporation is still out of touch and is failing to understand its responsibilities, its accountabilities and its duty to the Australian people in the 21st century.

In my maiden speech, I noted the troublesome editorial trajectory that the ABC had established for itself, and I called for a review of the ABC Charter to restore balance. Based on the revolving doors of quality assurance reports and editorial reviews over recent years, I
do not think that the ABC is going to do much more. That is why the need for the charter of the ABC to be reviewed is now a pressing and urgent problem for this government to consider.

Vietnam Veterans Day
Shipbuilding Industry
Illicit Drugs

Senator LAMBIE (Tasmania) (21:03): Today is the 49th Vietnam Veterans Day, and next year will mark the 50th anniversary. I take this opportunity to remember and honour the 521 Australians who died fighting in that war. Because of Senate duties, I could not attend the official ceremonies in Canberra today, so earlier this morning I went to that beautiful Vietnam veterans memorial in Canberra and laid some flowers and reflected on their and their families' sacrifices. I was lucky enough to catch up with a few veterans who were out early this morning, and I acknowledge the strong feelings that are stirred up on this day. I thank the families and friends of those 521 Australian Defence Force members for enduring their terrible loss so we can live free and enjoy the democratic rights and privileges we often take for granted.

Of course, unfortunately, the deaths of our Vietnam soldiers, airmen and sailors did not stop in Vietnam. Too many of the more than 60,000 members of the Australian Defence Force who survived their time overseas in Vietnam lost their lives back home in Australia and continue to lose their lives because of the physical and mental damage they experienced during their service and in their transition into civilian life.

I would like to think we have learnt the lessons from the avoidable tragedies and injustices that our Vietnam veterans were forced to suffer, but unfortunately we have not. Over the last 15 years there has been another cohort of 70,000 young Australians who once again swore an oath, trained and were sent overseas to fight. Unfortunately, they are suffering similar avoidable tragedies and injustices to those that our Vietnam veterans were forced to suffer. Their rates of suicide, family breakdown, drug and alcohol abuse and homelessness are likely to be as great as, if not greater than, those of our Vietnam veterans. All that I and many others can do is shake our heads and say: why? Why haven’t we fixed this up?

I recently met with a fine, articulate young man, Peter Mullaly. Peter was a graduate of our Army's officer-training facility at Duntroon and served on active duty in Iraq as well as in disaster relief operations both domestically and overseas. As an officer Peter spent his captain's years in various headquarters positions, contingency management, operations management and training development as well. He was medically discharged last year in August, after 10 years of service. Within six months he was living, homeless, in a tent on the south coast of NSW. He now has accommodation and was rescued from homelessness by a former commando, Geoff Evans, who through RSL LifeCare runs a brilliant program called Homes for Heroes.

But how did this fine young Australian man end up homeless? Why did this outrageous injustice happen? I have made a YouTube recording of my interview with Peter, where he says: 'I was then left in a position where they'—the Army—'had accepted liability. Defence was to blame for what you are experiencing. Then you are told there is an unknown period of time—maybe six, likely 12, months—before you will find out about your pension and
compensation. And that's if you don't have to go through extra reviews and extra medical tests and the like. In that period you will get $300 to $600 a fortnight.' I will just repeat that last figure: a digger, an officer, a veteran who was medically discharged because of injuries that the Army accepted had been caused during his service, struggled to survive on $300 to $600 a fortnight. This young hero received less than someone on Newstart while he was forced to wait months for the government bureaucrats in DVA and ComSuper to get the paperwork done so that he could receive his full entitlements. And Peter is not alone. Time after time I have heard the same story. Our young veterans are struggling to survive on a few hundred dollars a week because this government's incompetent veterans' affairs minister—who is swanning off around the world pretending he cares for our veterans—cannot fix the appalling dysfunction within his department.

Here is what the former Captain Peter Mullaly says should happen to fix this bureaucratic mess we now call the Department of Veterans' Affairs: 'The first step is to take the approach that veterans' affairs is not reactive. You shouldn't be waiting for the veteran to get to that point to ask for things to be put into paperwork. Veterans' affairs and all things veterans' affairs needs to be a proactive process that starts well before they leave Defence. The process and the paperwork needs to start before they lose defence entitlements, or before they are discharged. And these are unwell people in a lot of cases, and you can't be in a situation where you are waiting for unwell people to understand a complicated and convoluted act, and it needs to seek to benefit the veteran. At the moment it's the complete opposite. The issues I would describe between DVA and ComSuper is it shouldn't be there to start off with. They are two different organisations with different roles and different criteria, they shouldn't be linked and over time one must happen first before you are entitled to the other. They serve different purposes. There is nothing stopping the process to occur concurrently and prior to your discharge.'

So today, on the 49th anniversary of Vietnam Veterans Day, I say to Senator Ronaldson: you are incompetent. You should resign. You incompetence has caused horrific and unnecessary physical, psychological and financial harm, homelessness among our veterans and family breakdowns. As a matter of fact, so far this year there have been 17 known suicides, but still nobody wants to call a royal commission. Nobody wants to examine what is going on in veterans' affairs and why we are losing so many of our diggers.

I give warning to this Liberal government: I am going to do everything I can as a senator to ensure that Tasmania plays a lead role in the Pacific Patrol Boat project. Australia needs up to 22 vessels to replace the current fleet of ageing Pacific patrol boats under an Australian foreign aid program that supports our Pacific island neighbours to independently patrol and protect their economic exclusion zones. The project will bring vital jobs and prosperity to Tasmanian businesses and workers. We have Australia's best boat and ship builders and outfitters at our marine precinct in Hobart, and they are being betrayed and let down by lazy government members of parliament. Already, respected sources tell me that, in order to shore up Liberal seats in Western Australia, they are going to give the shipbuilding program to Austal, which is based, of course, in Western Australia. I am reliably told that this tendering process for the Pacific patrol boat project has become a farce because the political fix is in.

My message to this Liberal government is this: do not take your seats in Tasmania for granted. There is a business-friendly, conservative alternative to the Liberal party in
Tuesday, 18 August 2015

Senator SINGH (Tasmania) (21:13): I rise tonight to highlight the importance of the COP21—the conference of the parties to the United Nations Framework Convention on Climate Change, to be held in Paris later this year—and to highlight why this government's emissions reduction targets announced last week do not go far enough. To do so, I want to draw on cartoonist First Dog on the Moon's concise description of this government's so-called climate policy:

Direct action isn't a policy position, it's the rules of a late night drinking game at Greg Hunt's place. It's not about economics or the environment, this is nothing more than gleeful glittering, skittering revenge. I could not say it any better myself. Last week Mr Abbott committed Australia to one of the weakest emissions targets in the developed world: a reduction of just 26 per cent on 2005 levels by 2030, or only 19 per cent on 2000 levels. That target does not put us 'roughly in the middle of the pack of comparable countries', as the government would have us believe, in the face of all the evidence and basic economics. In fact, in the words of Bernie Fraser, the chairman of the board of the government's Climate Change Authority and one of the most eminent economic minds in Australia, 'We're pretty clearly at the bottom.' In the lead-up to the COP21, the UN Paris climate change conference, the Abbott government is setting Australia up to fail in helping to prevent the world from warming by more than two degrees. Climate scientists say that, if the world fails to limit this warming, it will tip over the point where the release of huge amounts of greenhouse gases like methane from melting permafrost or monster forest fires can be prevented. All the government has in its toolbox is the slush fund it calls the Emissions Reduction Fund. As a policy tool, the ERF is about as weak as...
climate action gets. In fact, as Malcom Turnbull, one of the government's own ministers, has said and has never taken back, it is:

… a con, an environmental fig leaf to cover a determination to do nothing.

The ERF is designed to make sure that the government will not be accused of doing nothing, but in the real world, where we all live, it is nowhere near enough to protect Australia's atmosphere, environment and economy. For starters, the cut in emissions from the recent Direct Action auction is not as big as it sounds. On average, the contracts signed by the government last for seven years. Broken down, that means a cut of just six to seven million tonnes a year. To put that into perspective, using the most recent available data, Australia will need a cut of more than 40 million tonnes each year to reach the national target of a five per cent cut in emissions below 2000 levels by 2020. So what Minister Hunt announced for the next decade needs to be delivered annually just to meet Australia's minimum target. As Mr Fraser has made very clear:

If we are going to rely on Direct Action and the Emissions Reduction Fund, the costs of that on the budget are going to be enormous and they're not going to be sustainable …

France understands this problem. They think our Prime Minister is opposed to ambitious action on climate change; that, if he even goes to Paris, he will go as a wrecking ball to climate consensus. China is also openly sceptical. They have accused us of doing less to cut emissions than we are demanding of other developed countries. Therefore, I want to read into Hansard some of those questions that China, the United States and Brazil lodged with the United Nations in April this year. They are painful questions for this uncomfortable Abbott government to answer about what it actually means to do something about global warming and what it means for Australia to play its fair part in the global effort to delay or mitigate global warming.

Let me read some of those questions. Australia has a smaller population than nine European countries, yet it emits more than every European nation bar Germany. Why then, during the negotiations leading up to the Paris climate conference at the end of this year, is Australia doing less to cut emissions than it is demanding of other developed nations, and why is this fair? What evidence or modelling is there that the Abbott government's Emissions Reduction Fund, the centrepiece of Direct Action and under which the government will pay some emitters to make some cuts, is enough to make up for the axed carbon price and to meet Australia's commitment of a minimum five per cent emissions cut below 2000 levels by 2020? Will this government explain Australia's low level of ambition, and does it at any stage plan to boost its target to cut emissions more quickly? Is Australia actually lowering its level of ambition, not raising it, by effectively reducing the pace at which it will cut industrial emissions through the expansion of the number of agricultural programs included in its greenhouse gas accounting?

These are the questions that have been put to the Australian government by other nations in April this year. If the Abbott government had a credible global warming policy or even a climate policy beyond 2020 at all, these questions would not be painful. A Shorten Labor government, pursuing Labor's climate policy goals, would answer these questions with authority, credence and evidence. In fact, the world would not need to ask a Shorten Labor government these questions at all. A Labor government would have directed its departments to do the modelling. In comparison, the Abbott government admits that no quantitative
analysis has been conducted on the mitigation potential of the Emissions Reduction Fund. That is because Mr Abbott does not trust Australians. He is not prepared to ask us whether, to paraphrase Clive Hamilton, we are willing to delay the growth in real GDP to 2030 by 12 months and, in so doing, play our part in global efforts to tackle climate change, or whether we would prefer to do nothing about climate change, sponge off the rest of the world, become an international pariah and get that growth a year earlier.

Labor does trust Australians and we will give them a choice. At the next election, we will be a choice between real action on climate change versus no action at all. Labor has a vision to reach 50 per cent of renewables by 2030, and we want to see our country do its part to reduce emissions with an emissions trading scheme, the market based mechanism universally regarded as the most effective and economic means of reducing emissions.

While we still have a choice when it comes to our climate, it is the Australian people's present misfortune that it is the Abbott government choosing for us at the moment and it is the Abbott government representing us at the COP21 meeting in Paris later this year. It is my growing hope, and I know it is a growing hope for a number of Australians—in fact, that number is growing by the day—that in the next year, or at least at the end of next year, Australians will have chosen a new government, a Labor government to take the strong and necessary action on climate change not just for us but for our children, for our grandchildren and, indeed, for the future of our country and our planet.

Environment

Senator McALLISTER (New South Wales) (21:22): The Abbott government announced this afternoon that it will limit the ability of communities and environmentalists to challenge decisions under the Environmental Protection and Biodiversity Conservation Act. This is a reaction to the successful challenge to Adani's Carmichael project; however, the comments by the Prime Minister and the Attorney-General leave some confusion about precisely what the government is proposing. However, from what we have heard so far, we should be concerned that this is not proceeding on the basis of good policy.

This weekend we saw the first law officer of the Commonwealth accuse environmentalists of conducting 'vigilante litigation' because they had the temerity to challenge a government decision in court. Senator Brandis would do well to reflect on the role of the court, and on what exactly a vigilante is. A vigilante, by definition, is someone who seeks extra-legal justice, someone who works outside of the courts. What these environmental groups have done is the exact opposite of vigilantism. No-one has chained themselves to bulldozers or sabotaged mining equipment. Instead they have taken their concerns about the legality of a government decision to a court, as people are entitled to do in a civil society.

If this is vigilantism, it is difficult to see what method if any Senator Brandis would think legitimate. Protest and civil disobedience? Well, that is hardly likely to be acceptable. Court actions? From todays' statements, apparently not. Public lobbying and activism? The Liberal federal council agreed earlier this year to strip environmental groups of their charity status because of just these actions. It seems that Senator Brandis and this government would like to see environmental groups do nothing except politely wring their hands on the sidelines. And that is because this government is intent on pursuing a radical agenda that sees no place for environmental concerns.
Senator Brandis has described the environmental groups as having 'gamed the system'. The reason for this seems to be that environmental groups who opposed the Carmichael project because of its contribution to climate change then challenged the government's approval on the basis of breaches of planning law. Bringing a court case on the basis of legal technicalities is not called 'gaming the system; it is called 'the practice of law'. Senator Brandis knows this, which is why he did not raise the same concerns when windfarm opponents sought to shut down renewables projects on the basis of planning law concerns.

In truth, this government is not offended by the fact that environmental groups relied on legal technicalities to challenge its decision, but simply the fact that they sought to challenge the decision at all. As we have seen time and time again, this is a government allergic to scrutiny and oversight. The problem for the government is that this is a society that operates according to the rule of law; a principle that Senator Brandis has repeatedly described as 'fundamental'. Justice Dyson Heydon, a jurist who enjoys this government's full confidence, has said that 'the rule of law operates as a bar to untrammelled discretionary power...'

The way it does that is by insisting that government decisions be made according to law, irrespective of whether they concern important projects. Projects do not deserve less scrutiny simply because they are big. If anything they deserve more. The fact of the matter is that this decision does seem to have been made in breach of the relevant environmental legislation. A government department made a mistake when approving the Carmichael project, as occasionally happens when large and complex projects are concerned. It failed to consider matters that it was obliged to consider by law.

Senator Brandis has complained that 'we should keep political disputes in the parliament and leave the courts to resolve legitimate, bona fide legal disputes.' With due respect to the Attorney-General and his legal analysis, the courts do seem to have considered this to be a bona fide legal dispute. That is why they were prepared to hear the environmental groups' challenge, rather than dismissing it for lack of jurisdiction.

The options here are quite simple. On the one hand, if the government believes that there should be a legal requirement to consider these matters when making a decision such as this then the government should not object to the scrutiny provided by the courts and by third-party environmental groups. This scrutiny may delay projects, but the alternative is the government proceeding on a decision that is contrary to its own laws.

On the other hand, if the government does not believe that there should be a legal requirement to consider these matters, then it should have the courage of its convictions and change the law. As we all know, however, it will not do this because we are not talking about a radical environmental provision, but rather a Howard government era provision that is supported by many people inside and outside of this chamber.

Senator Brandis has chosen a third route—complaining about people holding his government to the laws it supports. It should not have been a surprise to this government that it had to take certain factors into account when making a decision about the Carmichael project. The law was there on the books for everyone to see, government decision makers and concerned citizens alike.

The courts are there to ensure that governments act according to law. Third-party litigants such as environmental groups play a crucial part in this. The reason we have environmental
protection laws is because the community demands it. The public does not want projects that destroy the environment and in doing so endanger our health, spoil precious resources like water, or ruin ecosystems. The environment cannot speak for itself, however. We depend on environmental groups to raise concerns for us. There is a reason that the legal community calls cases like the Carmichael case 'public interest litigation'. It is because environmental groups are seeking to act in the public interest, not for their own personal interest. If they are not permitted to do so, who else has the expertise to recognise illegal planning decisions and the determination to bring them to the court's attention? The answer is probably no-one. Although that may make it easier for the environment minister to escape scrutiny for poor decisions, that is not how things work in a society governed by the rule of law.

**Youth with a Mission: Medical Ships Australia**

**Senator MOORE** (Queensland) (21:30): This evening I want to talk about a wonderful group of people who offer services to communities across the world. Youth with a Mission, which people call YWAM—which I have some trouble with—is a Christian charity which has operated across the world for about 30 years now. It is a Christian movement operating in more than 1,000 locations in over 180 countries, with 25,000 full-time staff, and it has been operating since 1960. It is a decentralised structure and actually encourages local community networks through nations to form their own process.

What I want to talk about this evening is Townsville-based YWAM medical ships. This organisation has been running out of Townsville since the 1990s and has operated as a process to provide services to Papua New Guinea. It is based on a structure of building to 'care, connect, serve and build with individuals and communities'. It values people's motivation to work together to develop change and has a range of goals: access to quality health care, food, drinking water and shelter; opportunity for education; expression of local culture, arts and entertainment; healthy relationships; exposure to Christian faith and values; fair and productive government; and an opportunity to work and develop. You would understand that many of those echo the intent of the Millennium Development Goals. We are coming to an end of that process now, but they have key work in working together to develop the best possible communities.

YWAM is actively developing communities by addressing health care and training needs in Papua New Guinea alongside the priorities and vision of the PNG National Health Plan and Australia's commitment to the UN's Millennium Development Goals. We have a large medical ship which actually operates as a base for the group, which does trips into Papua New Guinea, providing the services there. We hope that the wonderful history that has been in place for the period will continue.

The first services operated in February 2010, when they had a 16-port relations tour along the east coast of Australia. This was replicated earlier this year with the celebration of the launch of the new ship, which is going to provide enhanced services in the area. The idea is to raise awareness of the services, engage people, and make people see that they can genuinely make a difference to community.

The MV *Pacific Link*, under YWAM MSA management, made its maiden voyage to PNG in August 2010. They had a three-month pilot program in the Gulf Province. In 2011, it continued with enhanced programs—2012. And in 2014 it has seen the growth pattern
continue, with training and medical ship outreaches to all major areas of Gulf Province and Western Province, also working effectively and very strongly with the local community.

Each year the organisation puts out a stunning annual report. As always, not only does it create knowledge and have a range of statistics, but also it has the most amazing photographs which capture in an immediate way the joy and commitment of the people receiving the services and also of those providing them. I really do encourage people to go on to their website and have a look at this stunning process, showing real community work.

Just a couple of stats—I can't do a speech without putting some stats in—in 2014, and this is from a long list of health interventions that were made, there were: 9,109 primary healthcare patients; 9,833 immunisations, an integral part of the process working locally; and 2,960 in dentistry, an enhanced program that is working.

Whilst the new ship travelled down the east coast earlier this year, there was an encouragement for people who came to visit the ship to see what it was all about. Over 18,000 people did that down along the east coast of Australia. People were encouraged to bring along toothpaste, toothbrushes and things that could work effectively, and they would see that the value of their gift would actually have an impact on providing dental hygiene through these remote areas of PNG.

There were 2,810 health interventions in optometry, and 109 in ophthalmology. They held local health promotion sessions, and 36,167 people attended those. They provided professional development, working with local professionals to develop and raise skills so that this work can continue after the ship moves on, and 889 people attended. And preventative health resources, information that can be taken into the community, were distributed to over 19,000. The total for 2014 of services in the medical field for YWAM ships was 81,759.

Another area that I am particularly interested in—and I have spoken in this place before on—is the issue of water and sanitation. There is a particular focus with the group there working technically to fix taps and tanks and to ensure that there is effective drinking water in local communities. There were 359 special activities in this area, and that meant that 175,000 litres of water were put on tap through collaborative projects. Those numbers are truly impressive, and they reinforce the value of this great program.

There is a very special relationship with Townsville and this service, and the YWAM team now have got their base in Townsville at the beautiful old TAFE building in the centre of town, where they actually focus their work and train volunteers to be involved in the projects. And all the workers are volunteers—people who give up their time to be involved.

There is a great link with the local media, the Townsville Bulletin. I have a copy here of a special story they put in the paper on 14 July 2015, which talks about Angeline, a little girl living in Woodlark, a remote community halfway between Papua New Guinea's main island and the Solomon Islands. This little girl fell out of a tree and badly broke her arm, but she was particularly fortunate because the YWAM ship was close. She was able to get effective, professional service straight away so that her arm would be dressed and the bone would be set and she would be able to continue without any ongoing problems with her arm. That is focused on in the Townsville Bulletin so that people there can see their involvement with YWAM at work.
I particularly want to mention my friend Mike Reynolds, an old friend who was both the mayor and state member for the Townsville region, who is now one of the co-patrons of YWAM. There are two co-patrons—Mike, with his long history of public service in Queensland and also part of the group that originally made Townsville a sister city with the capital of New Guinea, and the other co-chair is the Rt. Hon. Sir Rabbie Namalui, a former Prime Minister of PNG. These two gentlemen, with a history of public service, have come together to be the co-patrons of the organisation, providing credibility to this process because the vision of YWAM is working effectively with the country where they are providing service, being linked into the political and medical programs and signing memoranda of understanding with both the national government and the local provincial governments so that this link is entrenched.

It is exciting the YWAM has been able to move onto a larger ship. I was one of the 18,000 people who went onto the ship earlier this year when it stopped in Brisbane. To see this wonderful ship, which is now being transformed into a moving medical base, was a real excitement and an inspiration for the future work we can do together. YWAM has been acting in this way for over 30 years. I am pleased that the Australian government provides support for our development program because this is indeed what development should be about—investing in communities so that they can be stronger and know that they have a better future and can build on skills. I have the front page of the 2014 annual report in my office. It is a stunning photograph of a little girl in Papua New Guinea with a hand on her shoulder—I would think it is one of her parents—and they are clutching her health record. This young child now has the opportunity to have strong medical support, an immunisation program and there is hope for her future. That photograph sums up, I believe, the commitment of YWAM, the program which has been so successful and one which I think will continue. I wish all the volunteers well, and the extraordinarily strong group of directors who work on this project and the people across Australia who donate to keep the program operating. When you see the face of a child who now has a strong, healthy future, that is what makes the program worthwhile.

Pilon, Mr Banjo
Dean, Mr Michael
Central Coast Arts Community
Prostate Cancer
Higher Education

Senator O’NEILL (New South Wales) (21:39): I rise tonight to speak to a number of matters but firstly to pay particular tribute to two Central Coast people who we have lost in recent weeks. I note formally the passing of two wonderful coasties by the names of Banjo Pilon, a young 10-year-old, and Michael Dean, a participant in the Southern and Ettalong United Football Club who lost his life while he was playing the game he loved.

Can I speak first about Banjo Pilon. My own 18-year-old son fell in love with the freedom and joy of riding a skateboard. It was a big transition for him to move from being on a razor scooter to a skateboard. Many of the boys on the coast share a great camaraderie and Banjo was no different. He was sharing time with his friends when very sadly by the side of the road he was hit by a car and he is no longer with us. Banjo belonged to a family of incredible hope
and love and the way in which they have shared that grief and modelled incredible leadership and care for one another in our community is really worthy of note.

I first met the Pilon family through their very talented son Fletcher, who participated in the Seniors Concert that I held earlier this year. You could tell immediately what a wonderful family this is by the interaction between Fletcher and his mum. He is not only a brilliant performer but is a young man of great dedication to his craft. I want to acknowledge how that family has shown a way forward in the darkest time. Jilly wrote a very moving tribute to her son, whom she described as being 'full of huge smiles, filled with love, always having fun and living in the moment'. I note that the family were very generous in enable organs and tissues from Banjo to be given to other children. In their grief, that has given them some comfort. They are a truly remarkable family who have garnered the attention, respect, love, affection and care of the entire community.

Can I also put on the record some remarks about Michael Dean, whose story was recorded very eloquently and with great respect by Geraldine Cardozo in our very important local paper the Central Coast Gosford Express Advocate. Michael was a very proud member of the Southern and Ettalong United Football Club and I know he is going to be sadly missed by his friends. In the article in which his passing was reported his brother Mat Dean described him as:

…"a great brother, a great husband and great father who loved playing the game.

"One thing I would say, is if you met Mickey and didn’t like him, then you had a problem. As a member of the Army Reserves, an RFS volunteer with The Bays and former Umina Surf Life Saving Club member he was there to help everyone.

"He will be remembered for his warmth, beautiful smile and the mateship he shared with all he met."

I offer my sincere condolences to the Dean family and to all the friends and community members who knew Michael and miss him.

On a much happier note, I can report that on Sunday I was very pleased to join with the Central Coast arts community to celebrate the extraordinary talent we have on the coast and the incredible drive by the dedicated arts community to grow and prosper in spite of the barrage of funding cuts and disappointments that this government has wrought on the Central Coast arts community. The Central Coast Philharmonia was joined by the Katandra Voices and soloists, including a wonderful young local singer Lauren Turner. They were accompanied by traditional Irish instruments as they presented a collection of beautiful and heart-warming traditional and contemporary Irish songs. Indeed, the second half of the performance was from a choral suite arranged by Mark Brymer entitle Letters from Ireland with songs like The Cliffs of Doneen and beautiful pieces of instrumental music like Planxty Irwin and Black Berry Blossom, along with songs that would be known to Irish people all across the world, Lanigan's Ball, Skibbereen and Muirsheen Durkin. I felt, in hearing this for the first time, that I was replaying the soundtrack of my own childhood.

They very kindly invited me to participate and to read some of the letters that came from the 1800s in accompaniment to the instrumental music. I would like to read one of the letters that was read by Peter Mara, the gentleman's voice, who actually cited Jonathan Swift. I think that this goes to how political Irish music is and why it is such a resonant set of words around politics and the country of Ireland and its resumption as a republic and the commencement of
that journey in 1916, which will be acknowledged next year at the centenary. This is the letter from Jonathan Swift.

The people have already given their bread, their flesh, their butter, their shoes, their stockings, their furniture, and even houses to pay their landlords and taxes.

I cannot see how any more can be got from them, except we take away their potatoes and butter milk, or flay them and sell their skin.

To my friends I leave kind thoughts, to my enemies the fullest possible forgiveness, and to Ireland, the undying prayer for the absolute freedom and independence which was my life's ambition to try and obtain for her. Yes, Ireland will be forever more.

That letter was pretty much the close of the concert, except for *The Wearing of the Green*. That is an interesting song which records the joke of being told by their landlords that they were not allowed to wear the colour green and the form of resistance that they found just in nature's blossoming of green. It was an absolutely wonderful afternoon, attended by over 200 local participants. They just really enjoyed it. I do have to confess that on the show 75 per cent of them did indicate that there was some Irish connection. So there might have been something in that.

Apart from the wonderful event and the fact that the Anglican Church generously provided the space, I was once again struck by the need for a home for the performing arts on the Central Coast. I have previously spoken in this place about receiving a petition last year signed by more than 2,000 Central Coast residents calling on the federal coalition government to honour the indication of a commitment to a Central Coast performing arts centre if a commitment was made by the state government. Before the 2013 federal election, Labor—with me as their candidate and member at the time—committed $15 million towards a performing arts centre. That did not happen when we did not gain government, but there was a commitment to consider this $10 million from the federal government if $10 million was given by the state government. That state funding has been committed and I do hope that the member for Terrigal will be a very strong voice that. I know that the member for Gosford, Labor's Kathy Smith, and Labor's David Mehan at the Entrance and David Harris at Wyong are certainly very keen to see this project go ahead. But there has been a deafening silence since the election about when that $10 million from the state might come and an even quieter response from the federal government.

We need to make sure that Coasties are not overlooked yet again. We are still waiting for the $7 million that was committed to the Kibbleplex project, which was a renewal project for the centre of Gosford. This $10 million needs to be delivered. I am very, very keen to make sure that people on the Central Coast have the same top-class facilities as those available to Sydneysiders and, indeed, to many others in large regional cities across this great country. The petition sends a very clear message to Miss Lucy Wicks, the member for Robertson, and other Central Coast Liberal members that our community is demanding action, and the project that needs to be delivered is a performing arts centre right in the heart of Gosford.

The Australian Bureau of Statistics found that in 2008-09, the arts made a very significant contribution to the Australia's GDP—to the tune of $86 billion; that is, seven per cent—and $13 billion of that flowed directly from our field, literature and print media. We need that kind of generation of new industry on the Central Coast. We already have a blooming country music scene. There are many, many musicians who live on the Central Coast. It is a crying
shame that a community of over 340,000 people have no major town hall and no performing arts centre in which to gather.

In the parliamentary sitting break I was able to attend to some of the needs that I think are very pressing in a number of duty electorates that I have across the state of New South Wales, and I was very pleased to visit Wagga. Sadly, while I was there, I was informed once again of the neglect of a critical area of need with regard to health in the Wagga area. It is a very sad statistic that the men of Wagga Wagga and surrounds have a 28 per cent higher chance of getting prostate cancer, according to the Cancer Council, than other regions. It is even sadder when their elected representatives are not representing them and providing an adequate response. There are about 350 men living with prostate cancer in the Murrumbidgee local health district, which gives the region one of the highest per capita rates of the disease in New South Wales.

On the face of those figures alone, you would think that would make the Murrumbidgee a prime candidate for extra attention when it comes to the treatment of prostate cancer—but apparently not. For the second consecutive year, the Riverina region has missed out on being allocated a specialist prostate nurse to be based at Wagga Wagga Hospital. The Murrumbidgee was one of 35 applicants for the $6.2 million in federal funds for 14 specialist prostate nurses dotted around the nation to work in prostate cancer hotspots. I ask you to recall that people in Wagga Wagga have a 28 per cent higher chance of getting prostate cancer. But, despite that evidence, Wagga missed out again. Wagga was overlooked in favour of Bunbury, Adelaide, Mornington Peninsula, Ballarat, Geelong, Footscray, Mildura, North Ryde, Kogarah, Port Macquarie, Orange, Cairns, Rockhampton and Greenslopes in Brisbane.

Orange got a specialist nurse. Its rate of prostate cancer is 186 per thousand men. Wagga's rate is 239 cases per 1,000, and it did not get the prostate cancer nurse. Geelong got a nurse. Geelong is only 75 kilometres from the huge medical hub that is Melbourne. The people of Wagga missed out because, too often, National Party members take their constituencies for granted and they are not fighting for them in this place. I think the expression is they are lions in their own electorate and they are meek and mild back here—not only in this chamber but also in the other place.

I am very concerned that this lack of evidence base in decision making is revealing itself over and over in the decision making of this government—questionable decision making, hidden decision making. It is a government that lacks transparency. It is a government that does not follow science. It does not acknowledge science. Clearly, decisions have been made that have prevented the people of Wagga Wagga getting a fair response and securing one of those prostate cancer nurses. It is quite a disgrace on the part of this government.

The allocation of nurses under the government's $6.2 million prostate cancer nurse initiative is made by the Prostate Cancer Foundation of Australia. You cannot take anything away from the awareness that they raise, but this extremely worthwhile program needs to go in a targeted way to the areas where it is most required. The nurses provide really important support within 72 hours of diagnosis, and this is often when a patient and their families are feeling the most vulnerable. It is a vital touch-point for patients, providing everything from guidance about access to services and support during and after treatment. It can also help the individual and their family deal with the effects of a regime of drugs, therapy and surgery, which is quite specific and differentiated according to need and age. They carry the burden of
navigating the complex health system to provide these cancer sufferers with the smoothest possible road to recovery. And as you can imagine, that road can be a rockier route in the bush, in places like the Murrumbidgee. Given the distances that need to be travelled and the availability of services in each region, that really puts them in a very difficult spot.

During a recent visit to the Riverina, I was handed a petition containing 1,009 signatures gathered by Labor's state candidate for the seat of Wagga Wagga, Daniel Hayes. He was accompanied by Tim Kurylowicz, who is a community activist in the area. Dan and Tim told me that they had spoken to locals of all political persuasions and, regardless of their leaning, they were really eager to sign the petition to get a nurse for the area. This is how they described it to me, 'Hold on mate, I'll just go and get a few of my friends and I'll get them to sign it as well.' This is something that is real and live in Wagga Wagga in the Riverina area and it needs a response. Daniel and Tim did the job of the sitting National MP, Michael McCormack, in taking the fight up for the people of the Murrumbidgee. I want to put on the record that I will continue to be a voice in this parliament to make sure that they get something done. Just because they are in the bush, does not mean they are far from Labor's gaze. We will stand up for them here.

I note that the member for the adjoining electorate of Farrer, Sussan Ley, the Minister for Health, has a rural background. Surely, she should know the hardships of living in the bush and the tyranny of distance in terms of access to health care. Surely, she would be aware of the need for evidence based decision making in this context. I hope that she will make sure that a better outcome is achieved. I will certainly be watching that one.

Finally, in the time remaining, I would like to speak about a number of recent visits I had to university campuses to check in with students about how they are feeling about their degree and the certainty of advancing in their degree, given the ever-present threat of a $100,000 degree debt hanging over them, with Christopher Pyne intending to push that through the House of Representatives and up into the Senate again.

While I was in the Riverina, I visited the Wagga Wagga campus of Charles Sturt University as part of my Ed-U-Action Week campaign. At that time, students were reeling from the cutting of the pharmacy course. It had actually started there but is going to be removed back to the Orange area. The university is making that sort of decision because they are having to look at every single cent that they spend. This is a big loss for the community in Wagga Wagga and they are very concerned about what this will mean for them. This is just the start of the rationalising and the diminution of offerings in the future for universities that are struggling to manage money in the constant chaos that has been the signature of the Abbott Liberal-National coalition government in this period. Students and families just cannot imagine footing a bill of $100,000. These are challenges that distract students from their work, from doing their studies and getting on with their job.

I held meetings and met with students around the barbecue at the University of Newcastle campus at Callaghan and at Ourimbah on the Central Coast. As well, I met students at the Parramatta campus of the University of Western Sydney who spoke with me about their genuine concern about possible changes to fee structures. Whether they were local students or international students, they understood that this government is determined to create a two-tier Americanised system.
The Abbott government's changes to higher education are a triple-hit to student fees, cutting Commonwealth funding for undergraduate places, deregulating universities to allow them to charge whatever they like, and interest rates on the rise is compounding the impact of these costs. The young people that I met are very, very bright. They have a sense of their own future. They are engaged with what they are doing, but they were very angry that they had not been told that this was part of the Abbott government's plan before it came to power. They are very angry that this government is determined to push towards an Americanised system of universities, where people do not ask you what degree you have; they ask you where you studied. Here, it does not matter where you get that degree—a teaching degree from Charles Sturt University or a teaching degree from the University of Sydney—you know the quality of it and you can actually go out and get a job. The quality of the degree in America is so differentiated—those who pay have high-value and high-status degrees; those who cannot afford it end up in the second tier or further down. It is a very cheap, mean and awful way of creating two tiers in society.

Some of the students actually said that they felt that the elements of the Abbott government university deregulation had been purposely hidden from them and they indicated that they would not be able to continue their studies if this continues to be pushed through. Do not worry, Labor will stand up for education. Labor will support the students. We will not leave you behind. (Time expired)

**Gun Control**

**Baha'i People of Iran**

*Senator WRIGHT (South Australia) (21:59): 'Stay down. I love you.' These are the last words Carol Loughton said to her daughter as she pushed her towards the ground more than 19 years ago. Lying beneath her mother, Sarah Loughton died of a gun wound, a fact her mother only discovered when she herself awoke after surgery two days later. The Port Arthur massacre is vividly etched on our national psyche. The terror wrought by Martin Bryant and his private arsenal of firearms at the picturesque historic site of Port Arthur in Tasmania still chills many of us.*

*On that day Martin Bryant killed 35 people—35 people who were wives, husbands, children, parents and friends. Every one of these 35 people had a full and purposeful life that cannot be comprehended through simple statistics that count only the dead, and there are many others who still bear emotional and physical injuries from that event.*

*But from such terrible tragedy and mourning came decisive action from the then Prime Minister, John Howard, who, despite great opposition from some gun owners and from others who make a profit from selling guns, implemented significant gun reform that has been so effective that we have not seen another tragedy on this scale in Australia. Compare that to the US, where a powerful and ruthless gun lobby has paralysed any attempts to put in place such sensible gun laws. Deaths by firearms in the US are 10 times those in Australia.*

*For Carol Loughton the events of 28 April 1996 haunt her every day. She contacted my office recently after I appeared on 7.30 to talk about the importation of a new rapid-fire lever-action shotgun, the Adler, which has caused great consternation among those who remain vigilant to ensure that we do not see another Port Arthur massacre. Falling within a technicality, this potentially lethal weapon was going to attract the least form of regulation.*
In 1996 Carol was visiting Tasmania for the Anzac Day long weekend with her daughter, Sarah, who was 15. In the Broad Arrow Cafe at the Port Arthur World Heritage site, her life changed forever. Something was not right—people were screaming. Carol looked frantically for somewhere safe to hide with her daughter. It was then that Martin Bryant walked into the cafe. Carol recounted to me how he walked calmly through the space, shooting indiscriminately. Carol held up her hands in a futile gesture to stop the bullets. Bryant walked past her and tried to get out of the exit, but the exit was locked and he came back. It was at this moment that Carol pushed her daughter to the ground and lay over her, whispering in her ear. Both Carol and Sarah were shot. Carol survived, Sarah did not.

This year Sarah would have turned 34. Carol has spent 19 years without her daughter. It is not only Sarah's absence that has pained Carol since that fateful day; her life has also been blighted by the physical injuries she sustained. At the time of the shooting Carol was a high functioning public servant. She has not been able to work since. At the age of 59 she has required Meals on Wheels, and assistance with showering and self care. She can barely walk and her concentration is patchy. She is hard of hearing because her eardrum was ruptured by the sonic boom from the gun going off beside her eye. The bullet entered Carol's scapula; it could not be removed and has let to osteomyelitis—gangrene of the bones that has turned her bones to jelly. Throughout her life she has needed constant huge doses of medication, including ketamine. She has required bone grafts from other areas of her body and has undergone so many complications and operations that she has lost count of them. She will be having another in a month's time. That, Carol told me, is what it means to be shot with one bullet.

Here are some troubling facts. They are inconvenient facts for the gun lobby, so they constantly attack me on Facebook and Twitter whenever they have the chance. Gun ownership in Australia is now back up to pre-Port Arthur levels and the Australian Crime Commission estimates there are 250,000 illicit longarms and 10,000 illicit handguns in Australia. The gun debate in Australia is now being hijacked by a cashed-up gun lobby and facilitated by a rampantly pro-gun advocate in Liberal Democrat Senator David Leyonhjelm, supported by some members of the Liberal and National parties.

This became particularly evident in the course of a recent Senate inquiry, which I chaired, into the ability of Australian law enforcement authorities to eliminate gun-related violence in the community. The Greens initiated the inquiry on the back of drive-by shootings in Sydney, a siege in Adelaide in which a gunman brought the CBD to a standstill for hours, family violence shootings and crimes in other Australian cities. Despite the clear and legitimate public interest behind my inquiry, I have been accused by the Sporting Shooters' Association and many other gun lobbyists of wasting taxpayers' money. The coalition senators bemoaned the lack of reliable data arising from the inquiry, but then joined Liberal Democrat Senator David Leyonhjelm to argue against any further research that would establish the real source of illegal weapons—preferring just to claim that most are smuggled in, and constantly using their favourite panic-button word: 'borders', as in 'porous borders'. It is an inconvenient fact for gun advocates that the primary source of illicit guns is theft—as stated by the Australian Crime Commission and the Australian Institute of Criminology—and many of those guns have been stolen from legal owners.
I was genuinely surprised to see how hard the coalition senators worked to undermine the view that John Howard's gun laws had made Australia safer. So-called experts from the United States National Rifle Association were trotted out to argue that more guns actually make us safer, and that regulation and registration are not necessary.

It is clear there is a strong agenda afoot to water down the regulation of firearm ownership and use in Australia. Just last week we saw the Abbott government do a dirty deal with Senator Leyonhjelm, with the senator trading his vote on the totally unrelated issue of migration in exchange for the government allowing the dangerous Adler shotgun into Australia. The Adler is a rapid-fire, lever-action gun with seven rounds. Faster than the usual lever-action firearm, seven rounds can be fired in quick succession. If it found its way into the wrong hands there is a real concern that we could see a repetition of the tragic events we have seen in the past.

Back at the 2013 election, when there were predictions that the election of Senator Leyonhjelm would lead to a weakening of John Howard's gun laws, Senator Arthur Sinodinos denied it. But recent events have proven the opposite. By kowtowing to the radical gun lobby, the government is putting all Australians in danger. This government have ignored the substantive and thoughtful recommendations coming out of the recent Senate inquiry, which included more funding for law enforcement agencies to tackle gun crime in Australia and implementing a rolling nationwide gun amnesty. In place of true reform they are pursuing populist policy, like mandatory sentencing for firearm traffickers, even though there is no evidence that mandatory minimum sentencing has ever worked anywhere to reduce crime. Instead we need to build on the sensible laws we have and look at how to make them stronger.

In the wake of the Port Arthur massacre, Australia banned semi-automatic long arms but did not extend the ban to semi-automatic pistols. It is estimated that there are 10,000 handguns on the black market. The Australian Greens' policy is to ban the importation, ownership, possession and use of semi-automatic handguns—with exemptions for government-owned guns.

Australia has a well-deserved international reputation for sensible gun laws. These laws demonstrate what can be achieved when common sense and evidence trump politics in a way that is truly in the national interest. This happened at a time when Australia was still reeling from the tragedy of Port Arthur, but time has passed and the political culture has changed. We now have Tony Abbott as Prime Minister and a government that has, time and time again, put the interests of the powerful ahead of good policy. There is a new wave of lobbying and spending by the firearms industry and there are clear signs that the Abbott government will weaken the laws that help ensure that Australians are safe from the threat of gun violence. We must be vigilant. We must resist this insidious trend. It took only two bullets to change Carol Loughton's life forever. She is committed to ensuring that a tragedy of this type does not happen again. I commend her and thank her for her courage in speaking up.

Tonight I also want to speak about the longstanding and continued state-sponsored persecution of the Baha'i people of Iran. Baha'is are a religious minority whose members have been imprisoned, tortured and killed since the 1979 Iranian revolution. In cruel contrast to the persecution they have experienced, theirs is a peaceful and gracious faith that emphasises the spiritual unity of all humankind. They believe in one god who is the source of all creation. They believe that all major religions have the same spiritual source and come from the same
god, and they believe in the unity of humanity—that all humans have been created equal—coupled with the unity in diversity, with diversity of race and culture seen as worthy of appreciation and acceptance.

For Baha'is, universal peace is the supreme goal of human kind. It strikes me that the tenets of this faith have moral underpinnings which are very similar to those of the Australian Greens. The Baha'i writings clearly indicate that men and women are equal. They believe, from a spiritual point of view, that there is no difference between women and men and there is no basis—moral, biological, or social—for discrimination on grounds of gender. As such, there is an essential equality of rights and opportunities between men and women which is upheld and promoted.

There are quite a few Baha'is living in Australia—and, indeed, in my state of South Australia. In the 1980s, the Australian government was active in defence of the human rights of the Baha'is of Iran and in 1982 established a special humanitarian assistance program under which Iranian Baha'i refugees were eligible to migrate here. Over the ensuing years, several thousand Iranian Baha'is came to this country, enriching the size and diversity of the Australian Baha'i community and making a significant contribution to our nation as a whole. It is to our credit as a country that Baha'is have been able to seek asylum and migrate here and they can practise their religion and culture without fear of persecution or violence. It is one example of the rich legacy that comes from welcoming to Australia those who are most in need.

The Baha'is are targeted because their faith differs from the core belief of the Shia majority in Iran: that Mohammed is the last prophet sent by God. As a result they are subject to abhorrent and cruel treatment by their own government. The Baha'is have faced official prejudice and systematic persecution as a matter of government policy since the 1979 Iranian Islamic revolution, when Ayatollah Khomeini replaced the Shah as supreme leader of the Islamic Republic. The ensuing regime and the Iranian clerics regard the Baha'is as apostates and, under the new regime, Shia Islam became law. Persecution started with anyone who identified as Baha'i being expelled and barred from Iranian universities, from holding a government job and from participating in the political process.

In the early 1980s, more than 200 Baha'is were executed, and hundreds have been tortured and imprisoned, being branded as 'spies for Israel' and other fictitious crimes. Propaganda against the Baha'i began appearing in the media, calling them 'enemies of God'. Strict limitations have been imposed on their right to assemble and worship. Frequent assaults are not investigated by the authorities—including knife attacks, sexual assaults and murders—creating a sense of impunity for their would-be attackers. Raids and arrests happen frequently, usually with the charge of 'engaging in propaganda against the regime'.

Thirteen people were arrested in April this year, taking the total to over 115, including seven members of a former leadership group sentenced to 20 years in prison. They are also subject to economic persecution and intimidation. Since 2007 there have been more than 600 documented incidences of shop closings, revocation of business licences, vandalism, arson and other efforts to prevent Baha'is from earning a livelihood.

Earlier this year I was invited to speak in Adelaide at the Australian premiere of a documentary film called To Light a Candle, made by Iranian journalist Maziar Bahari. I spoke as a member of the Joint Parliamentary Committee on Human Rights in this federal
parliament, as a member of the Amnesty International parliamentary friendship group and in my role as the Australian Greens' spokesperson for legal affairs—with particular responsibility for human rights.

Maziar Bahari is an Iranian/Canadian journalist, filmmaker and human rights activist. Whilst not Baha'i himself, he has experienced the brutality of the Iranian regime. He spent 118 days in prison in 2009 on charges of espionage. While telling a sad story, To Light a Candle is actually a very hopeful film and trumpets knowledge over intolerance and the resilience of the human spirit. It insists that education is not a crime. The film celebrates the BIHE—Baha'i Institute for Higher Education—which was established in 1987 after the cruel banning of Baha'is from teaching and studying at universities in Iran. This was a particularly poignant aspect of their persecution because the Baha'is place such a great emphasis on education, learning and knowledge. Indeed, by 1973, before the revolution, the Baha'is in Iran were the first to have achieved a literacy rate of 100 per cent among women under the age of 40 despite the national literacy rate of 15 per cent.

In response to the ban a group of volunteer professors and researchers who had been discharged from their universities and colleges for no reason other than their membership in the Baha'i Faith set up the BIHE to meet the burning desire for education amongst their young people. They dedicated themselves to the BIHE project bravely offering secret classes in peoples' homes by mail and now email correspondence to equally brave students thirsty for knowledge. This does require amazing courage because the people involved in the BIHE have been and still are under threat. In 1998 and again in 2011, the authorities raided hundreds of home classrooms, confiscating materials, books and computers. Thirteen Baha'is are currently in jail in Iran for teaching and learning taboo subjects—dangerous subjects like algebra, psychology and poetry.

To Light a Candle uses personal stories and dramatic archival footage to explore both the persecution of the Baha'is and their inspiring peaceful resistance as part of Iran's democracy movement. After 30 years the BIHE is still operating today, recognised by a number of universities across the globe, including three here in Australia. It offers 37 university-level programs across five faculties: science, engineering, business and management, humanities and social sciences. These days they use leading communication technologies to connect students with domestic and international teachers and experts who are consultants. The Baha'i Institute for Higher Education has evolved from a compensatory institution to a university with academic standards not only on a par with the Iranian public university system but also equal to the standards adopted by leading universities around the world.

Parliamentarians are in a unique position to promote international human rights. I feel strongly that we should use our privilege and power to speak up for those who have neither. As a strong trading partner of Iran and with recent discussions between the regime and our foreign Minister, Australia is in a better position than it has been for some time to make its voice heard. The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to promote human rights and protect populations from the sorts of crimes that the Baha'is are routinely exposed to in Iran. I urge our Australian government to look at doing more to speak up for the Baha'is and I would encourage everyone to watch To Light a Candle. It echoes the Amnesty International edict, which is that at times of darkness it is better to light a candle than to curse the darkness. I urge people to watch the film to find out
more about these peaceful, gracious people and to be uplifted by the resilience of the human spirit at times of great challenge.

Doutney, Ms Irene

International Development Assistance

Senator RHIANNON (New South Wales) (22:19): Irene Doutney, a Greens councillor on Sydney city council, has made a major contribution to progressive policies of that city, that council and the rich activist life of inner Sydney. At the Greens’ preselection meetings in early 2008 Irene felt she was an unlikely candidate. She was new to public speaking. Many of us that know Irene regard her nomination for preselection as one of her many courageous acts. Although she was relatively new to the Greens when she was preselected, members recognised her strength and authenticity as a community advocate. Irene was surprised to be preselected as second on the Greens ticket for 2008. Then she was thrilled to be successfully elected to the City of Sydney in September of that year. She was subsequently elected again in 2012.

Since her election, Irene has been a tireless advocate for disadvantaged people in the inner city. She is well known in the community for her work supporting public housing tenants, including in their fight for basic maintenance and safety work. With Irene's assistance public housing tenants have successfully challenged Housing NSW on maintenance issues in the Consumer, Trader and Tenancy Tribunal. As a public housing tenant herself, Irene understands the positive impact that public housing can bring to people's lives. Irene challenges the notion that those receiving basic support services should be passive recipients. She values the diversity that these services bring to inner-city communities.

Irene's political journey began in the 1970s at an anti-war sit-in protest on George Street in front of Sydney's city council. It was in front of that town hall where she started her political work and it was almost 40 years later that she would take office inside that town hall as a city councillor. The challenges that she endured in these decades made her an unlikely political aspirant while she was also an effective political activist.

In Irene's early work she was confronted with the loss of her father at the age of nine and her mother at the age of 16. Irene has battled depression since the age of 12. Her journey with depression led her to a number of psychiatric units, where in the 1970s she was introduced to narcotics. Although depression dominated many years of her life, she managed to complete her tertiary studies at the University of Sydney and worked in Sydney's arts and theatre scene in the 1970s and 1980s. Irene would spend the latter half of the 1980s in a long struggle with addiction, which she conquered after her fifth attempt on a methadone program. Irene also survived abuse by a treating psychiatrist and several years in a violent relationship.

In 1996, after 11 years on the waiting list, Irene received a public housing tenancy in a Redfern unit. Although Irene's struggle with mental health would continue, this move would have a big impact on her life. After moving into her Redfern flat, Irene became part of a nursing team that cared for a friend who was dying of AIDS. She contributed three days per week, coordinating with three other carers. Not long after this, Irene entered another period of severe depression, which took her to the end of the 1990s. In the early 2000s, Irene began to find her feet as a community activist. She became active in several Redfern-based community
organisations and was elected as a tenant representative of her building, liaising with Housing New South Wales over various issues.

Since joining the Greens in 2006, Irene has been active on a large number of committees and working groups in our party. Her commitment to an inclusive city has seen her champion the rights of people with disabilities, Aboriginal and Torres Strait Islander peoples, the LGBTI community, refugees, older people and Sydney's homeless. She has led campaigns against the culling or removal of native animals in the city and has supported local volunteers who care for abandoned domestic animals. As someone who understands firsthand the benefits of public housing, Irene is a tireless supporter of the Millers Point tenants who are fighting the New South Wales government to remain in their own homes. One of Irene's favourite topics is explaining that, if Sydney is to remain a diverse and inclusive city, it is critical that public housing has a strong presence.

In 2012, during the New South Wales local government elections, Irene was forced to make public some of the details of her past, due to a smear campaign that was being planned by political opponents. By placing her story on the public record, Irene hoped not only to disarm her opponents but also to demonstrate to those who are facing hardship that a better future is possible. It took great courage to speak so openly about her own difficulties. Irene has told me how overwhelmed she is at the positive response. This courage and determination to overcome adversity is what makes Irene so effective as a councillor and a community activist. In 2014, after a period of illness, Irene was diagnosed with inoperable cancer. Despite this significant setback, she has vowed to serve her term on council and continues to advocate for an inclusive, sustainable and diverse city and work just as hard as she always has. Thank you, Irene, for your outstanding community work and friendship.

On another matter: overseas aid budgets, traditionally associated with poverty alleviation, are increasingly going to boost company profits. Examples from the British government's Department for International Development and the World Bank show that poor people in low-income countries run a poor second to powerful and well-connected companies. The following concerning examples of this massive misuse of aid money should serve as a reminder to the Minister for Foreign Affairs, Julie Bishop, to not allow Australian aid money to be misused for private wealth. The minister's planned launch of the government's private sector engagement plan for overseas aid, scheduled for the 31st of this month, should not be another handover of aid money to the private sector. The following examples of how DFID and the World Bank are using aid reveal a massive neoliberal experiment, where the only certain outcomes are high profits and run-down public services. This approach leads to greater inequality within low-income countries and between low-income countries and the developed nations.

Pearson PLC and other education companies, like Bridge International Academies, are receiving aid money to run schools across Africa. I quote:

The Omega Schools in Ghana operate on a "pay as you learn" system in which parents must pay approximately US$0.65 per day per child for school. This means low-income families in Ghana have to expend 25-40 per cent of their income on daily fees to send one child to an Omega School.

The Bridge schools in Kenya and the Omega schools in Ghana have a maximise-profits strategy that relies on using poorly trained teachers paid low wages:

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Omega teachers earn roughly $3 a day, which is approximately 15-20 per cent of a teacher's earnings in the public sector in Ghana.

Leaders of education unions in Britain, the United States and South Africa have issued a warning about the very future of public education, in an open letter to John Fallon, the CEO of the Pearson board. They wrote:

… in an effort to expand and increase profits, Pearson PLC is turning its back on free public education for all. The company's activities around the world indicate its intention to commercialise and privatise education at all levels. From fuelling the obsessive testing regimes that are the backbone of the "test and punish" efforts in the global north, to supporting the predatory, "low-fee" for-profit private schools in the global south, Pearson's brand has become synonymous with profiteering and the destruction of public education.

While my comments tonight concern the misuse of aid money in the global south going to these companies, this is also relevant for developed nations as these private for-profit companies penetrate our education system more and more.

On top of that criticism of these programs, in May this year more than 100 international organisations, including 30 in Uganda and Kenya, released a statement to the World Bank expressing their concern over Bridge International Academies, which the NGO Global Justice Network says uses 'untrained low-paid teachers and aggressive marketing strategies to target poor households'. We are talking about poor communities in low-income countries who are being denied the free public education that their countries have been attempting to build up, and now overseas aid money is being allowed to come in and destroy this.

While the statement that I have just referred to is directed at the World Bank, which has invested $10 million in BIA, Britain's DFID is also involved. The DFID Impact Fund is a 13-year project worth $115 million. DFID describes this as its 'principal mechanism for leveraging private sector investment' in developing countries. This is where the trends in our own aid program become concerning, as there is increasing emphasis under the Abbott government on the aid program being primarily for Australia's national interest, which means corporate interests benefitting from aid programs. It would be a tragedy if we followed the path that the World Bank and the British aid programs are advocating.

DFID is expanding its involvement in privatised education programs in the Democratic Republic of Congo, Ethiopia, Mozambique, Tanzania and Nepal. Through its Girls' Education Challenge, DFID will spend $545 million from 2011 to 2017 on education projects managed by the multinational professional services network PricewaterhouseCoopers and is working with Coca-Cola to promote—and again I quote from its own material—'the economic empowerment of five million female entrepreneurs across the global Coca-Cola value chain'. This may be hard to imagine. You probably could not even dream about it, but it is happening. Coca-Cola are gaining aid money to run education programs in low-income countries.

DFID's assistance to private companies is not just in the education sector. The British company Agrica received $15 million in British aid money to assist to establish an industrial rice plantation in Tanzania. What happened when they went to set it up? A whole number of small-scale farmers were evicted from their land so that plantation could be set up—again, aid money destroying the livelihood of low-income people.
Then there is the energy sector. Since 2002, $215 million has been earmarked as aid money spent by DFID to support the privatisation of Nigeria's energy infrastructure. The project, called the Nigeria Infrastructure Advisory Facility, is implemented by Adam Smith International. Obviously that name would ring a bell for some. That is a consultancy firm set up by the free-market think tank the Adam Smith Institute. Since the handing over of licences to private companies, unions claim that 10,000 employees, or 25 per cent of the workforce, have lost their jobs without compensation. Meanwhile, there have been reports of increased blackouts, according to Social Action Nigeria, and most customers have faced a 50 per cent price rise. Again, this is aid money being used in low-income countries to boost the profits of very large companies to the detriment of local people. Poverty alleviation is being left behind as these aid programs are so fundamentally changed.

Then we have the area of health. DFID is pushing similar policies in relation to health care. In Rwanda, a new aid program called 'health posts' follows a public-private partnership model. The health posts operate as a franchise, with each health post being owned, operated and managed by a nurse as a small business. Often it is low-income or middle-income people who are set up as a nurse and given a little bit of money, but the bulk of the money goes to the company that sets up these programs. It is not dissimilar from how these education programs are operating in these low-income countries, where local people desperate for work often will take a wage way below what a health professional or an education professional would get in that country—and those wages are already low. They get caught up in a system where the bulk of the aid money is going into the profits of these large companies, a deeply tragic situation.

Minister Bishop would be betraying the trust of millions of Australians if she shifted our overseas aid program to this neoliberal model favoured by the British company and the World Bank. Around the world there is a growing movement of opposition to what is happening with our aid money and what is happening in allowing the penetration of for-profit companies into our education sector. Surely we should not allow this to happen in Australia.

Coming back to the aid budget: I find that, when I speak about aid, most people believe that something good is being done with that money. There is trust around our aid program, despite $11 billion being taken out of our aid program in the last two years. People still believe it is working in a good way in low-income countries, but we feel that we are on the cusp of going in the wrong direction. As I said, most Australians believe our overseas aid program works for poverty alleviation in low-income countries, and I would say to the minister and to the government that this trust must not be broken. We must do the right thing by our neighbours and by people in low-income countries. Our overseas aid program, which over the years has largely had a very fine history and fine association, should not be allowed to be misused in such an appalling way.

Senate adjourned at 22:35
Civil Aviation Act 1988—Civil Aviation Safety Regulations 1998—
Civil Aviation Order 95.32 (Exemption from the provisions of the Civil Aviation Regulations 1988—weight shift controlled aeroplanes and powered parachutes) Instrument 2015 [F2015L01278].
Civil Aviation Order 95.55 Amendment Instrument 2015 (No. 1) [F2015L01276].

Defence Act 1903—
Section 58B—
Section 58H—Salaries— Trainees— Amendment—Defence Force Remuneration Tribunal Determination No. 8 of 2015.


Parliamentary Contributory Superannuation Act 1948—
Parliamentary Superannuation Age Factors (Surcharge) Determination 2015 (No. 1) [F2015L01272].
Parliamentary Superannuation Age Factors (Surcharge) Determination 2015 (No. 2) [F2015L01273].


Veterans' Entitlements Act 1986—
Veterans' Children Education Scheme—2015 No. R43 [F2015L01280].

Order for the Production of Documents

The following document was tabled by the Clerk pursuant to the order of the Senate of 25 June 2014: