



THE HON DR CRAIG EMERSON MP
MINISTER FOR SMALL BUSINESS, INDEPENDENT CONTRACTORS AND
THE SERVICE ECONOMY
MINISTER FOR COMPETITION POLICY AND CONSUMER AFFAIRS
MINISTER ASSISTING THE MINISTER FOR FINANCE ON
DEREGULATION

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GILBERT: Good morning and welcome to AM Agenda.

Prime Minister Julia Gillard will this morning provide the detail of her government's revised asylum seeker policy.

The Prime Minister received praise for her mining tax compromise. Can she find some sort of effective middle ground on the contentious issue of border protection?

Joining me this morning to discuss this and the other matters of the day, the Small Business Minister, Craig Emerson and the Deputy Opposition Senate leader, Senator George Brandis.

Gentlemen, good morning to you both.

EMERSON: Good morning, Kieran.

BRANDIS: And good morning to you.

GILBERT: Craig, first to you. The revised Labor policy on asylum seekers. You can't outflank the Coalition to the right. You certainly don't want to alienate those to your left do you?

EMERSON: Well it's a matter of making sure that we've got the right policy; that is the correct policy, not the hard right wing policy. And that policy has got to be a firm but fair policy.

There are real risks for people arriving by boat. It is far from the ideal way of a migrant arriving in this country. I think we saw just a couple of weeks ago, perhaps a dozen asylum seekers perish. It's a hazardous journey. It shouldn't be encouraged, it should be discouraged.

GILBERT: What can you do? What can you do that the Coalition's got temporary protection visas, you're opposed to those, they've got offshore processing, you're opposed to that?

EMERSON: We don't support the Pacific solution.

GILBERT: Well what can you do?

EMERSON: Well you can work with the source countries and with other countries in the region because, as we know, asylum seekers tend to come from a source country perhaps to a neighbouring country, then to a country in the region and then by boat to Australia.

So I think it's a matter of working with those authorities in those countries. It's important to have an orderly immigration program, there's no doubt about that. But I would like to put it in perspective as well Kieran, because emotions tend to overwhelm facts here. Do you know that the number of asylum seekers arriving by boat in Australia since 1975 is less than 25,000? So I'd just like your viewers to understand that we're talking about, over a very long period of time, 35 years, less than 25,000 people arriving by boat. That is not to minimise or to dismiss this as an issue. Of course it's an issue of concern in the community. But of those 25,000, more than half have arrived under previous Coalition governments.

And the last thing I'll say about this is I know that the Coalition says that there aren't any significant push factors; well let's ask Malcolm Turnbull about that. He said the push factors are 'enormous'.

GILBERT: Let's get Senator Brandis to respond to a couple of those things. Well first of all, is this issue resonating for the Coalition politically? And then I'll get you to respond to a few of the things that Craig Emerson pointed out.

BRANDIS: Well Kieran, I think there's a lot of community concern about the fact that the Labor Party have lost control of the borders. And you know, you can't have a discussion about this area of policy without the context and the context is that there wasn't a problem three years ago.

When the Howard Government was voted out of office, it had the problem fixed, and that must never be forgotten - that there

had been a very - a sharp escalation in the amount of people smuggling activity throughout the late 1990s. So in 2001 the Howard Government introduced strong policies to protect Australia's borders, two in particular, the introduction of temporary protection visas and the introduction of the Pacific solution.

And the cumulative effect of those two policies was to see the number of unlawful arrivals reduced to a trickle. In the six years after those policies were introduced, there were 18 boats, three a year on average.

GILBERT: What are you expecting from Julia Gillard?

BRANDIS: Let me just finish. When the policies were weakened by the Rudd Government in 2008, there was almost an immediate response because the people smugglers were back in business and instead of three boats a year; we now have three boats a week. There have been 75 boats in this calendar year alone, so you know, the Labor Party has created this problem, and it's now casting around...

GILBERT: What did you expect?

BRANDIS: ...trying to find a solution.

GILBERT: I'm not expecting you to use a crystal ball, but I mean you'd have a fairly good idea of what Julia Gillard is going to come up with today.

BRANDIS: I have no idea what Julia Gillard will say, but I suspect there'll be a lot more rhetoric than substance in it.

GILBERT: Okay.

BRANDIS: Because Craig has ruled out temporary protection visas. That was part of the effective package of policy measures that was introduced by us in 2001. Craig seems to have ruled out the Pacific solution. That was probably the most important of the measures introduced by us in 2001.

What there'll be is there'll be a lot of rhetoric, just as there used to be a lot of rhetoric by the way, from Mr Rudd, but will there be a solution to the problem? Not until the people smugglers know they don't have a product to sell.

GILBERT: All right, let's just cross now. I want to get to the thoughts of - we'll come back to our gentlemen here on the panel very shortly. I just want to get Julian Burnside QC, human rights lawyer whose is in our Sydney city studio.

[Julian Burnside interview]

GILBERT: Senator Brandis, are you concerned that the Coalition - in fact, political debate, full stop, is whipping up fear, unfounded fear?

BRANDIS: Well, I think people are concerned. But, you know what in fact makes things worse is when we have condescending people like Julian Burnside say that people who don't agree with his point of view are red necks. Now, that's an insult. It's an insult to Australians.

The Coalition has consistently said from the days of John Howard, and throughout our period in Opposition, that people who raise a concern that our borders are not being sufficiently controlled, that we've lost - that we don't have control of our own immigration policy, are raising legitimate issues. And they are. And not only does it not assist the debate for condescending people like Julian Burnside to stigmatise those people as rednecks, it, in fact, inflames it by putting the - by saying that those people are not entitled to their point of view. It's illegitimate, because they're not as well educated or as wealthy as Mr Burnside, that, in fact, they're not acting even in good faith. That doesn't help at all.

GILBERT: Craig Emerson, David Bradbury, the Member for Lindsay in Sydney's western suburbs issued a statement rejecting what Julian Burnside had to say, but he did endorse some of the points that you made about the level of problem that exists.

EMERSON: Yeah, I think...

GILBERT: What do you think of what Julian Burnside's contribution to this debate, has it been positive or negative?

EMERSON: Well, you'll find that I agree with the propositions that George just made, and Julia Gillard has said this, David Bradbury is saying the same thing. As the Member for Rankin in Logan City, I say the same thing. That is, people who are concerned about asylum seekers arriving in Australia are not red neck or racist by the fact that they're expressing such a concern. And I agree with George that it is unhelpful for people to be labelled as such by Julian Burnside, or anyone else. They are - this is a legitimate public policy debate.

But while we're on rhetoric, George just described people arriving by boat as unlawful arrivals. It is not unlawful to seek asylum by boat in Australia. I don't want to be nitpicking about it, but the point - the significance of George's contribution there, as a very distinguished lawyer, is that he is part of this process of loading up the show with emotion, talking about illegal boat people, unlawful arrivals. I don't think that helps.

Let's have a proper public debate based on the facts, the sorts of facts that I describe. Less than 25,000 people arriving by boat in 35 years. And, incidentally, a majority of those under Liberal governments.

GILBERT: Is that ... is that rhetoric inflammatory?

BRANDIS: Well, overall, for a start, you're wrong. I mean, it - the - Australian law - the UN refugee convention is, of course, a convention which Australia is a party to. People have a right to seek refuge, but there is a way to seek refuge. And that is, they join the queue. They a...

EMERSON: So they're illegal immigrants if they arrive by boat?

BRANDIS: Yes, they are. Yes, they are. If they breach Australian - Australia's procedure for dealing with applications for asylum, yes, they are.

But - now, Craig, can I say this to you, and I don't mean to hurt your feelings at all.

EMERSON: You won't [laughs].

GILBERT: Much - and I'm sure I won't, but mu...

EMERSON: We've been through lots worse, George.

BRANDIS: Well, that's what I was going to say.

EMERSON: [Laughs]

BRANDIS: Because much as I appreciate you agreeing with me, with my critique of Mr Burnside, in fact, in debate after debate on this program, and in other forums, and on the ABC, until now, when I have been expressing the view I've consistently expressed, you have been saying, oh, that's dog whistling, that's inflammatory, that's stirring up racial feelings in the community. Now you've changed your tune...

EMERSON: Oh no, I have not said that you stirred up...

BRANDIS: The Gov... you...

EMERSON: I think Tony Abbott...

BRANDIS: ... and the to... Julia Gillard and other members of the...

EMERSON: ... is seeking to profit from this.

BRANDIS: ... other members of the Government have consistently - until you've realised that you're completely out of touch with public

opinion done the very thing that you've just criticised Julian Burnside for doing.

EMERSON: And Tony Abbott's policy is to tow boats back to sea.

BRANDIS: Which is what Kevin Rudd said, as part of your policy, at the 2007 election.

EMERSON: No, no, do you support a policy...

BRANDIS: Where possible.

EMERSON: ... of towing boats back out to sea?

BRANDIS: Well, in fact, the policy is to return them to the country from whence they came...

EMERSON: No, no, to tow them...

BRANDIS: ... where possible.

EMERSON: ... out to sea.

BRANDIS: Where pos...

EMERSON: That is the policy that Tony Abbott's...

BRANDIS: Where possible.

EMERSON: Tony Abbott is advocating towing them out to sea.

BRANDIS: Where possible at...

EMERSON: And that will be dangerous.

BRANDIS: No.

EMERSON: That will be dangerous. And I don't think...

BRANDIS: You're misstating the points here, Craig.

EMERSON: ... that is a human - humanitarian approach, towing people back to sea and possibly letting them drown?

BRANDIS: Well that's not the position.

EMERSON: Now, you guys think that's a great policy. I don't.

BRANDIS: You're misstating the position. Let me state it. We have said that, where possible, and when it can be done without risk to life, we will return the boats to the country whence they came.

We acknowledge, and both Tony Abbott...

EMERSON: [Indistinct] boats to the country from whence they came.

BRANDIS: And Scott Morrison have said that we acknowledge that, in most cases, that won't be feasible. It was done several times during the time of the Howard Government, but we will not put lives at risk.

GILBERT: Okay.

EMERSON: You'd be very happy with the banner headlines.

BRANDIS: And we've always been consistent with that.

EMERSON: You'd be very happy with the banner headlines in the tabloids, which you got, and that is, Abbott will tow the boats out to sea.

GILBERT: And Kevin Rudd...

EMERSON: I think we should have an objective...

GILBERT: Kevin Rudd promised the same thing before the last election that he would t...

BRANDIS: Kevin who?

GILBERT: ... send the boats back.

BRANDIS: I think Kevin Rudd's been airbrushed out of history, Kieran.

EMERSON: Well, let's have a look at the policy that Julia Gillard unveils today going into the next election.

GILBERT: Okay, we'll - we will. Ten thirty is when that speech is going to be delivered to the Lowy Institute.

We're going to take a quick break and we'll be right back.

[Unrelated items]

GILBERT: Welcome back to AM Agenda. With me, Craig Emerson and Senator George Brandis.

Craig, the compromise on the mining tax seems to be costing more than first thought, closer to \$4.5 billion, as opposed to \$1.5 billion.

EMERSON: It's costing what's in the forward estimates. That is, we are going to collect ample revenue in the forward estimates, and beyond, from this deal.

GILBERT: Because commodity prices are higher?

EMERSON: One of the influences that the commodity price assumptions by Treasury - by Treasury - have been revised up as a result of information provided on the latest round of negotiations. That's a perfectly sensible thing to do.

We've also got rid of a \$1.1 billion exploration rebate. We've got rid of refundability on any mine losses, and the starting base, that is, the capital base, is going to be depreciated over 25 years, not five years.

You put all those together and you still get robust revenue over the forward estimates and beyond. Why? Because we fundamentally believe that the community should share in the increased profits. And the Coalition...

GILBERT: Why did the Government not focus or explain...

EMERSON: ... believe the opposite.

GILBERT: Why didn't the Government, sort of, explain it in a bit more detail at the time of announcing the tax, that it was actually going to be, you know, \$15 billion as the starting point, as opposed to the initial 12, and make us sort of, believe that it was \$1.5 billion in lost revenue [indistinct]...

EMERSON: Compared with the forward estimates, the previous forward estimates, what we said is exactly accurate, is exactly accurate. We announced a restructuring of the tax. We announced the details of the restructuring of the tax, and in so doing, we announced funding that is sufficient to fund small business tax breaks, increased superannuation...

GILBERT: Senator Brandis.

EMERSON: ... for working Australians - opposed by Tony Abbott and the Liberals.

BRANDIS: Well, look, your question's spot on, Kieran. I mean, the fact is that it wasn't until yesterday when Dr Henry was asked some questions by Liberal Senators at the Senate Economics Committee hearing that he revealed, for the first time, that the cost to the revenue of this change was not \$1.5 billion, as the Government represented, and the Prime Minister represented last Friday, but \$4.5 billion. So there has been a misstatement of a magnitude of three times by the Government of the effect of these changes.

EMERSON: Incorrect.

BRANDIS: Now...

EMERSON: Incorrect.

BRANDIS: Well, that is what Dr Henry said, the cost of the revenue is \$4.5 billion on his assessment. The Government said the cost of the revenue would be \$1.5 billion...

GILBERT: I'm sorry, we're going to have to...

BRANDIS: And that's why we said the modelling needs to be released.

EMERSON: This is hilarious from a Coalition...

GILBERT: No, you...

EMERSON: ... who want to wipe the lot out. They want to wipe the lot out.

GILBERT: Okay.

EMERSON: Now they're saying it's not enough.

BRANDIS: We think it's a big tax but it's also...

EMERSON: You want to wipe it out.

BRANDIS: ... dishonestly represented. It's been dishonestly represented.

GILBERT: I'm going to have to pause. We'll reconvene next week. Great to see you both.

EMERSON: Rightio.

BRANDIS: Thanks Kieran.

ENDS