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SITTING DAYS—2012

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>7, 8, 9, 13, 14,15,16, 27, 28, 29</td>
</tr>
<tr>
<td>March</td>
<td>1, 13, 14, 15, 19, 20, 21, 22</td>
</tr>
<tr>
<td>May</td>
<td>8, 9, 10, 21, 22, 23, 24, 28, 29, 30, 31</td>
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<tr>
<td>June</td>
<td>18, 19, 20, 21, 25, 26, 27, 28</td>
</tr>
<tr>
<td>August</td>
<td>14, 15, 16, 20, 21, 22, 23</td>
</tr>
<tr>
<td>September</td>
<td>10, 11, 12, 13, 17, 18, 19, 20</td>
</tr>
<tr>
<td>October</td>
<td>9, 10, 11, 29, 30, 31,</td>
</tr>
<tr>
<td>November</td>
<td>1, 26, 27, 28, 29</td>
</tr>
</tbody>
</table>

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FORTY-THIRD PARLIAMENT
FIRST SESSION—FIFTH PERIOD

Governor-General

Her Excellency Ms Quentin Bryce, Companion of the Order of Australia

House of Representatives Office holders

Speaker—Hon. Peter Neil Slipper MP
Deputy Speaker—Ms Anna Elizabeth Burke MP
Second Deputy Speaker—Hon. Bruce Craig Scott MP

Members of the Speaker’s Panel—Hon. Dick Godfrey Harry Adams MP,
Mr Anthony Crook MP, Mrs Yvette Maree D’Ath MP, Mr Steven Georganas MP,
Ms Sharon Joy Grierson MP, Dr Andrew Keith Leigh MP, Ms Kirsten Fiona Livermore MP,
Mr Geoffrey Raymond Lyons MP, Mr Robert George Mitchell MP, Mr John Paul Murphy MP,
Mr Robert James Murray Oakeshott MP, Ms Deborah Mary O’Neill MP,
Ms Amanda Louise Rishworth MP, Mr Michael Stuart Symon MP,
Mr Kelvin John Thomson MP, Ms Maria Vamvakou MP,
Mr Anthony Harold Curties Windsor MP

Leader of the House—Hon. Anthony Norman Albanese MP
Deputy Leader of the House—Hon. Stephen Francis Smith MP
Manager of Opposition Business—Hon. Christopher Maurice Pyne MP
Deputy Manager of Opposition Business—Mr Luke Hartsuyker MP

Party Leaders and Whips

Australian Labor Party
Leader—Hon. Julia Eileen Gillard MP
Deputy Leader—Hon. Wayne Maxwell Swan MP
Chief Government Whip—Hon. Joel Andrew Fitzgibbon MP
Government Whips—Ms Jill Griffiths Hall MP and Mr Ed Husic MP

Liberal Party of Australia
Leader—Hon. Anthony John Abbott MP
Deputy Leader—Hon. Julie Isabel Bishop MP
Chief Opposition Whip—Hon. Warren George Entsch MP
Opposition Whips—Mr Patrick Damien Secker MP and Ms Nola Bethwyn Marino MP

The Nationals
Leader—Hon. Warren Errol Truss MP
Chief Whip—Mr Mark Maclean Coulton MP
Whip—Mr Paul Christopher Neville MP

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<table>
<thead>
<tr>
<th>Members</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbott, Hon. Anthony John</td>
<td>Warringah, NSW</td>
<td>LP</td>
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<tr>
<td>Adams, Hon. Dick Godfrey Harry</td>
<td>Lyons, TAS</td>
<td>ALP</td>
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<td>Albanese, Hon. Anthony Norman</td>
<td>Grayndler, NSW</td>
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<td>Alexander, John Gilbert</td>
<td>Bennelong, NSW</td>
<td>LP</td>
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<td>Andrews, Hon. Kevin James</td>
<td>Menzies, VIC</td>
<td>LP</td>
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<tr>
<td>Andrews, Karen Lesley</td>
<td>McPherson, QLD</td>
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<td>Baldwin, Hon. Robert Charles</td>
<td>Paterson, NSW</td>
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<td>Bandt, Adam Paul</td>
<td>Melbourne, VIC</td>
<td>AG</td>
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<td>Billson, Hon. Bruce Fredrick</td>
<td>Dunkley, VIC</td>
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<td>Bird, Sharon Leah</td>
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<td>Mackellar, NSW</td>
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<td>Briggs, Jamie Edward</td>
<td>Mayo, SA</td>
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<td>Broadbent, Russell Evan</td>
<td>McMillan, VIC</td>
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<td>Canberra, ACT</td>
<td>ALP</td>
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<td>Corangamite, VIC</td>
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<td>Gippsland, VIC</td>
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<td>Christensen, George Robert</td>
<td>Dawson, QLD</td>
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<td>Clare, Hon. Jason Dean</td>
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<td>Collins, Hon. Julie Maree</td>
<td>Franklin, TAS</td>
<td>ALP</td>
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<td>Combat, Hon. Greg Ivan, AM</td>
<td>Charlton, NSW</td>
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<td>Coulton, Mark Maclean</td>
<td>Parkes, NSW</td>
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<td>Crean, Hon. Simon Findlay</td>
<td>Hotham, VIC</td>
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<td>Melbourne Ports, VIC</td>
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<td>D'Ath, Yvette Maree</td>
<td>Petrie, QLD</td>
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<td>Dreyfus, Hon. Mark Alfred, QC</td>
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<td>Dutton, Hon. Peter Craig</td>
<td>Dickson, QLD</td>
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<td>Elliot, Hon. Maria Justine</td>
<td>Richmond, NSW</td>
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<td>Ellis, Hon. Katherine Margaret</td>
<td>Adelaide, SA</td>
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<td>Rankin, QLD</td>
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<td>Ents, Warren George</td>
<td>Leichhardt, QLD</td>
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<td>Ferguson, Hon. Laurie Donald Thomas</td>
<td>Werriwa, NSW</td>
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<td>Fletcher, Paul William</td>
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<td>Forrest, John Alexander</td>
<td>Mallee, VIC</td>
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<td>Frydenberg, Joshua Anthony</td>
<td>Kooyong, VIC</td>
<td>LP</td>
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<tr>
<td>Members</td>
<td>Division</td>
<td>Party</td>
</tr>
<tr>
<td>-------------------------------</td>
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<td>Gambaro, Hon. Teresa</td>
<td>Brisbane, QLD</td>
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<td>Kingsford Smith, NSW</td>
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<td>Gash, Joanna</td>
<td>Gilmore, NSW</td>
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<td>Hindmarsh, SA</td>
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<td>Gibbons, Stephen William</td>
<td>Bendigo, VIC</td>
<td>ALP</td>
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<td>Lalor, VIC</td>
<td>ALP</td>
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<td>Brand, WA</td>
<td>ALP</td>
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<td>Bruce, VIC</td>
<td>ALP</td>
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<td>Griggs, Natasha Louise</td>
<td>Solomon, NT</td>
<td>CLP</td>
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<td>Haase, Barry Wayne</td>
<td>Durack, WA</td>
<td>LP</td>
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<td>Hall, Jill</td>
<td>Shortland, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hartsuyker, Luke</td>
<td>Cowper, NSW</td>
<td>Nats</td>
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<tr>
<td>Hawke, Alexander George</td>
<td>Mitchell, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Hayes, Christopher Patrick</td>
<td>Fowler, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hockey, Hon. Joseph Benedict</td>
<td>North Sydney, NSW</td>
<td>LP</td>
</tr>
<tr>
<td>Hunt, Hon. Gregory Andrew</td>
<td>Flinders, VIC</td>
<td>LP</td>
</tr>
<tr>
<td>Husic, Edham Nurreddin</td>
<td>Chifley, NSW</td>
<td>ALP</td>
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<tr>
<td>Irons, Stephen James</td>
<td>Swan, WA</td>
<td>LP</td>
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<tr>
<td>Jenkins, Harry Alfred</td>
<td>Scullin, VIC</td>
<td>ALP</td>
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<tr>
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<td>Tangley, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Jones, Stephen Patrick</td>
<td>Throsby, NSW</td>
<td>ALP</td>
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<td>Jones, Ewen Thomas</td>
<td>Herbert, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Katter, Hon. Robert Carl</td>
<td>Kennedy, QLD</td>
<td>Ind</td>
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<tr>
<td>Keenan, Michael Fayat</td>
<td>Stirling, WA</td>
<td>LP</td>
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<td>Kelly, Hon. Michael Joseph, AM</td>
<td>Eden-Monaro, NSW</td>
<td>ALP</td>
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<td>Kelly, Craig</td>
<td>Hughes, NSW</td>
<td>LP</td>
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<tr>
<td>King, Hon. Catherine Fiona</td>
<td>Ballarat, VIC</td>
<td>ALP</td>
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<td>Laming, Andrew Charles</td>
<td>Bowman, QLD</td>
<td>LP</td>
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<td>Leigh, Andrew Keith</td>
<td>Fraser, ACT</td>
<td>ALP</td>
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<td>Ley, Hon. Sussan Penelope</td>
<td>Farrer, NSW</td>
<td>LP</td>
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<td>Livermore, Kirsten Fiona</td>
<td>Capricornia, QLD</td>
<td>ALP</td>
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<td>Lyons, Geoffrey Raymond</td>
<td>Bass, TAS</td>
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<td>McClelland, Hon. Robert Bruce</td>
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<td>ALP</td>
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<td>Macfarlane, Hon. Ian Elgin</td>
<td>Groom, QLD</td>
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<td>Jagajaga, VIC</td>
<td>ALP</td>
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<tr>
<td>Marino, Nola Bethwyn</td>
<td>Forrest, WA</td>
<td>LP</td>
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<td>Markus, Louise Elizabeth</td>
<td>Macquarie, NSW</td>
<td>LP</td>
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<td>Corio, VIC</td>
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<td>Macarthur, NSW</td>
<td>LP</td>
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<td>Nats</td>
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<td>Melham, Daryl</td>
<td>Banks, NSW</td>
<td>ALP</td>
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<td>Indi, VIC</td>
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<td>McEwen, VIC</td>
<td>ALP</td>
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<td>LP</td>
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<td>Pearce, WA</td>
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<td>Murphy, Hon. John Paul</td>
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<td>ALP</td>
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<td>Neumann, Shayne Kenneth</td>
<td>Blair, QLD</td>
<td>ALP</td>
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<tr>
<td>Members</td>
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<td>Party</td>
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<tr>
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<td>---------------</td>
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<td>Ind</td>
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<td>O'Connor, Hon. Brendan Patrick</td>
<td>Higgins, VIC</td>
<td>LP</td>
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<td>O'Dowd, Kenneth Desmond</td>
<td>QLD</td>
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<td>Boyd, QLD</td>
<td>ALP</td>
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<td>O'Neill, Deborah Mary</td>
<td>Robertson, NSW</td>
<td>ALP</td>
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<tr>
<td>Owens, Julie Ann</td>
<td>Parramatta, NSW</td>
<td>ALP</td>
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<td>Parke, Melissa</td>
<td>Fremantle, WA</td>
<td>ALP</td>
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<td>Perrett, Graham Douglas</td>
<td>Moreton, QLD</td>
<td>ALP</td>
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<td>Plibersek, Hon. Tanya Joan</td>
<td>Sydney, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Prentice, Jane</td>
<td>Ryan, QLD</td>
<td>LP</td>
</tr>
<tr>
<td>Pyne, Hon. Christopher Maurice</td>
<td>Sturt, SA</td>
<td>LP</td>
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<tr>
<td>Ramsey, Rowan Eric</td>
<td>Grey, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Randall, Don James</td>
<td>Canning, WA</td>
<td>LP</td>
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<td>Ripoll, Bernard Fernand</td>
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<td>Kingston, SA</td>
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<td>Roy, Wyatt Beau</td>
<td>Longman, QLD</td>
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<td>Rudd, Hon. Kevin Michael</td>
<td>Griffith, QLD</td>
<td>ALP</td>
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<td>Ruddock, Hon. Philip Maxwell</td>
<td>Berowra, NSW</td>
<td>LP</td>
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<td>Saffin, Janelle Anne</td>
<td>Page, NSW</td>
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<td>Schultz, Albert John</td>
<td>Hume, NSW</td>
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<td>Perth, WA</td>
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<td>Boothby, SA</td>
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<td>Calwell, VIC</td>
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<td>Van Manen, Albertus Johannes</td>
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</table>
### Members of the House of Representatives

<table>
<thead>
<tr>
<th>Members</th>
<th>Division</th>
<th>Party</th>
</tr>
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<tbody>
<tr>
<td>Vasta, Ross Xavier</td>
<td>Bonner, QLD</td>
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</tr>
<tr>
<td>Washer, Malcom James</td>
<td>Moore, WA</td>
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</tr>
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<td>Wilkie, Andrew Damien</td>
<td>Denison, TAS</td>
<td>Ind</td>
</tr>
<tr>
<td>Windsor, Anthony Harold Curties</td>
<td>New England, NSW</td>
<td>Ind</td>
</tr>
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<td>Wyatt, Kenneth George</td>
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</tr>
<tr>
<td>Zappia, Tony</td>
<td>Makin, SA</td>
<td>ALP</td>
</tr>
</tbody>
</table>

**PARTY ABBREVIATIONS**

ALP—Australian Labor Party; LP—Liberal Party of Australia; LNP—Liberal National Party;
CLP—Country Liberal Party; Nats—The Nationals; NWA—The Nationals WA; Ind—Independent;
AG—Australian Greens

### Heads of Parliamentary Departments

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Acting Secretary, Department of Parliamentary Services—R Grove
## GILLARD MINISTRY

<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Julia Gillard MP</td>
</tr>
<tr>
<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
</tr>
<tr>
<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister on Mental Health Reform</strong></td>
<td>The Hon Mark Butler MP</td>
</tr>
<tr>
<td><strong>Minister for the Public Service and Integrity</strong></td>
<td>The Hon Gary Gray AO MP</td>
</tr>
<tr>
<td><strong>Minister Assisting the Prime Minister on the Centenary of ANZAC</strong></td>
<td>The Hon Warren Snowdon MP</td>
</tr>
<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>The Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>Senator the Hon Jan McLucas</td>
</tr>
<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Wayne Swan MP</td>
</tr>
<tr>
<td>(Deputy Prime Minister)</td>
<td></td>
</tr>
<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
</tr>
<tr>
<td>Assistant Treasurer</td>
<td>The Hon David Bradbury MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>The Hon Bernie Ripoll MP</td>
</tr>
<tr>
<td><strong>Minister for Tertiary Education, Skills, Science and Research</strong></td>
<td>Senator the Hon Chris Evans</td>
</tr>
<tr>
<td>(Leader of the Government in the Senate)</td>
<td></td>
</tr>
<tr>
<td><strong>Minister for Industry and Innovation</strong></td>
<td>The Hon Greg Combet AM MP</td>
</tr>
<tr>
<td><strong>Minister for Small Business</strong></td>
<td>The Hon Brendan O’Connor MP</td>
</tr>
<tr>
<td><strong>Minister Assisting for Industry and Innovation</strong></td>
<td>Senator the Hon Kate Lundy</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary for Industry and Innovation</strong></td>
<td>The Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary for Higher Education and Skills</strong></td>
<td>The Hon Sharon Bird MP</td>
</tr>
<tr>
<td><strong>Minister for Broadband, Communications and the Digital Economy</strong></td>
<td>Senator the Hon Stephen Conroy</td>
</tr>
<tr>
<td>(Deputy Leader of the Government in the Senate)</td>
<td></td>
</tr>
<tr>
<td><strong>Minister for Regional Australia, Regional Development and Local</strong></td>
<td>The Hon Simon Crean MP</td>
</tr>
<tr>
<td><strong>Government</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Minister for the Arts</strong></td>
<td>The Hon Simon Crean MP</td>
</tr>
<tr>
<td><strong>Minister for Sport</strong></td>
<td>Senator the Hon Kate Lundy</td>
</tr>
<tr>
<td><strong>Minister for Defence</strong></td>
<td>The Hon Stephen Smith MP</td>
</tr>
<tr>
<td>(Deputy Leader of the House)</td>
<td></td>
</tr>
<tr>
<td><strong>Minister for Defence Materiel</strong></td>
<td>The Hon Jason Clare MP</td>
</tr>
<tr>
<td><strong>Minister for Veterans' Affairs</strong></td>
<td>The Hon Warren Snowdon MP</td>
</tr>
<tr>
<td><strong>Minister for Defence Science and Personnel</strong></td>
<td>The Hon Warren Snowdon MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary for Defence</strong></td>
<td>The Hon Dr Mike Kelly AM MP</td>
</tr>
<tr>
<td><strong>Parliamentary Secretary for Defence</strong></td>
<td>Senator the Hon David Feeney</td>
</tr>
<tr>
<td><strong>Minister for Immigration and Citizenship</strong></td>
<td>The Hon Chris Bowen MP</td>
</tr>
<tr>
<td><strong>Minister for Multicultural Affairs</strong></td>
<td>Senator the Hon Kate Lundy</td>
</tr>
<tr>
<td><strong>Minister for Infrastructure and Transport</strong></td>
<td>The Hon Anthony Albanese MP</td>
</tr>
<tr>
<td>(Leader of the House)</td>
<td></td>
</tr>
<tr>
<td><strong>Parliamentary Secretary for Infrastructure and Transport</strong></td>
<td>The Hon Catherine King MP</td>
</tr>
<tr>
<td><strong>Attorney-General</strong></td>
<td>The Hon Nicola Roxon MP</td>
</tr>
<tr>
<td><strong>Minister for Emergency Management</strong></td>
<td>The Hon Nicola Roxon MP</td>
</tr>
<tr>
<td><strong>Minister Assisting on Queensland Floods Recovery</strong></td>
<td>Senator the Hon Joe Ludwig</td>
</tr>
<tr>
<td><strong>Minister for Home Affairs</strong></td>
<td>The Hon Jason Clare MP</td>
</tr>
<tr>
<td><strong>Minister for Justice</strong></td>
<td>The Hon Jason Clare MP</td>
</tr>
<tr>
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</tr>
<tr>
<td>Title</td>
<td>Minister</td>
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<tr>
<td>----------------------------------------------------------------------</td>
<td>------------------------------------------------------</td>
</tr>
<tr>
<td>Minister for Families, Community Services and Indigenous Affairs</td>
<td>The Hon Jenny Macklin MP</td>
</tr>
<tr>
<td>Minister for Disability Reform</td>
<td>The Hon Jenny Macklin MP</td>
</tr>
<tr>
<td>Minister for Housing</td>
<td>The Hon Brendan O'Connor MP</td>
</tr>
<tr>
<td>Minister for Homelessness</td>
<td>The Hon Brendan O'Connor MP</td>
</tr>
<tr>
<td>Minister for the Status of Women</td>
<td>The Hon Julie Collins MP</td>
</tr>
<tr>
<td>Minister for Community Services</td>
<td>The Hon Julie Collins MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for Disabilities and Carers</td>
<td>Senator the Hon Jan McLucas</td>
</tr>
<tr>
<td>Minister for Foreign Affairs</td>
<td>Senator the Hon Bob Carr</td>
</tr>
<tr>
<td>Minister for Trade and Competitiveness</td>
<td>The Hon Dr Craig Emerson MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for Trade</td>
<td>The Hon Justine Elliot MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for Pacific Island Affairs</td>
<td>The Hon Richard Marles MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for Foreign Affairs</td>
<td>The Hon Richard Marles MP</td>
</tr>
<tr>
<td>Minister for Sustainability, Environment, Water, Population and</td>
<td>The Hon Tony Burke MP</td>
</tr>
<tr>
<td>Communities</td>
<td></td>
</tr>
<tr>
<td>(Vice-President of the Executive Council)</td>
<td></td>
</tr>
<tr>
<td>Parliamentary Secretary for Sustainability and Urban Water</td>
<td>Senator the Hon Don Farrell</td>
</tr>
<tr>
<td>Minister for Finance and Deregulation</td>
<td>Senator the Hon Penny Wong</td>
</tr>
<tr>
<td>Special Minister of State</td>
<td>The Hon Gary Gray AO MP</td>
</tr>
<tr>
<td>Minister Assisting for Deregulation</td>
<td>The Hon David Bradbury MP</td>
</tr>
<tr>
<td>Minister for School Education, Early Childhood and Youth</td>
<td>The Hon Peter Garrett AM MP</td>
</tr>
<tr>
<td>Minister for Employment and Workplace Relations</td>
<td>The Hon Bill Shorten MP</td>
</tr>
<tr>
<td>Minister for Early Childhood and Childcare</td>
<td>The Hon Kate Ellis MP</td>
</tr>
<tr>
<td>Minister for Employment Participation</td>
<td>The Hon Kate Ellis MP</td>
</tr>
<tr>
<td>Minister for Indigenous Employment and Economic Development</td>
<td>The Hon Julie Collins MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for School Education and Workplace Relations</td>
<td>Senator the Hon Jacinta Collins</td>
</tr>
<tr>
<td>(Director-General Business in the Senate)</td>
<td></td>
</tr>
<tr>
<td>Minister for Agriculture, Fisheries and Forestry</td>
<td>Senator the Hon Joe Ludwig</td>
</tr>
<tr>
<td>Parliamentary Secretary for Agriculture, Fisheries and Forestry</td>
<td>The Hon Sid Sidebottom MP</td>
</tr>
<tr>
<td>Minister for Resources and Energy</td>
<td>The Hon Martin Ferguson AM MP</td>
</tr>
<tr>
<td>Minister for Tourism</td>
<td>The Hon Martin Ferguson AM MP</td>
</tr>
<tr>
<td>Minister for Climate Change and Energy Efficiency</td>
<td>The Hon Greg Combet AM MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for Climate Change and Energy Efficiency</td>
<td>The Hon Mark Dreyfus QC MP</td>
</tr>
<tr>
<td>Minister for Health</td>
<td>The Hon Tanya Plibersek MP</td>
</tr>
<tr>
<td>Minister for Mental Health and Ageing</td>
<td>The Hon Mark Butler MP</td>
</tr>
<tr>
<td>Minister for Indigenous Health</td>
<td>The Hon Warren Snowdon MP</td>
</tr>
<tr>
<td>Parliamentary Secretary for Health and Ageing</td>
<td>The Hon Catherine King MP</td>
</tr>
<tr>
<td>Minister for Human Services</td>
<td>Senator the Hon Kim Carr</td>
</tr>
<tr>
<td>Title</td>
<td>Shadow Minister</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Leader of the Opposition</td>
<td>The Hon Tony Abbott MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary Assisting the Leader of the Opposition</td>
<td>Senator Cory Bernardi</td>
</tr>
<tr>
<td>Shadow Minister for Foreign Affairs</td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td>Shadow Minister for Trade</td>
<td>(Deputy Leader of the Opposition)</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for International Development Assistance</td>
<td>The Hon Teresa Gambaro MP</td>
</tr>
<tr>
<td>Shadow Minister for Infrastructure and Transport</td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Roads and Regional Transport</td>
<td>Mr Darren Chester MP</td>
</tr>
<tr>
<td>Shadow Minister for Employment and Workplace Relations</td>
<td>Senator the Hon Eric Abetz</td>
</tr>
<tr>
<td>Shadow Attorney-General</td>
<td>(Leader of the Opposition in the Senate)</td>
</tr>
<tr>
<td>Shadow Minister for Employment Participation</td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td>Shadow Minister for the Arts</td>
<td>Senator the Hon George Brandis SC</td>
</tr>
<tr>
<td>Shadow Minister for Justice, Customs and Border Protection</td>
<td>Mr Michael Keenan MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary to the Shadow Attorney-General</td>
<td>Senator Gary Humphries</td>
</tr>
<tr>
<td>Shadow Treasurer</td>
<td>The Hon Joe Hockey MP</td>
</tr>
<tr>
<td>Shadow Assistant Treasurer and Shadow Minister for Financial Services and Superannuation</td>
<td>Senator Mathias Cormann</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Tax Reform</td>
<td>The Hon Tony Smith MP</td>
</tr>
<tr>
<td>Shadow Minister for Education, Apprenticeships and Training</td>
<td>The Hon Christopher Pyne MP</td>
</tr>
<tr>
<td>Shadow Minister for Childcare and Early Childhood Learning</td>
<td>The Hon Sussan Ley MP</td>
</tr>
<tr>
<td>Shadow Minister for Universities and Research</td>
<td>Senator the Hon Brett Mason</td>
</tr>
<tr>
<td>Shadow Minister for Youth and Sport</td>
<td>Mr Luke Hartsuyker MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Education</td>
<td>Senator Fiona Nash</td>
</tr>
<tr>
<td>Shadow Minister for Indigenous Affairs</td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td>Shadow Minister for Indigenous Development and Employment</td>
<td>Senator Marise Payne</td>
</tr>
<tr>
<td>Shadow Minister for Regional Development, Local Government and Water</td>
<td>Senator Barnaby Joyce</td>
</tr>
<tr>
<td>Shadow Minister for Regional Development</td>
<td>The Hon Bob Baldwin MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Northern and Remote Australia</td>
<td>Senator the Hon Ian Macdonald</td>
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<td>Title</td>
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<tr>
<td>Shadow Parliamentary Secretary for Local Government</td>
<td>Shadow Minister</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Murray-Darling Basin</td>
<td>Mr Don Randall MP</td>
</tr>
<tr>
<td>Shadow Minister for Finance, Deregulation and Debt Reduction</td>
<td>Senator Simon Birmingham</td>
</tr>
<tr>
<td>(Chairman, Coalition Policy Development Committee)</td>
<td>The Hon Andrew Robb AO MP</td>
</tr>
<tr>
<td>Shadow Special Minister of State</td>
<td>The Hon Bronwyn Bishop MP</td>
</tr>
<tr>
<td>Shadow Minister for COAG</td>
<td>Senator Mari se Payne</td>
</tr>
<tr>
<td>(Chairman, Scrutiny of Government Waste Committee)</td>
<td>(Mr Jamie Briggs M P)</td>
</tr>
<tr>
<td><strong>Shadow Minister for Energy and Resources</strong></td>
<td>Shadow Minister for Tourism</td>
</tr>
<tr>
<td>Shadow Minister for Energy and Resources</td>
<td>The Hon Ian Macfarlane MP</td>
</tr>
<tr>
<td>Shadow Minister for Tourism</td>
<td>The Hon Bob Baldwin MP</td>
</tr>
<tr>
<td>Shadow Minister for Defence</td>
<td>Senator the Hon David Johnston</td>
</tr>
<tr>
<td>Shadow Minister for Defence Science, Technology and Personnel</td>
<td>Mr Stuart Robert MP</td>
</tr>
<tr>
<td>Shadow Minister for Veterans' Affairs and Shadow Minister Assisting the Leader of the Opposition on the Centenary of ANZAC</td>
<td>Senator the Hon Michael Ronaldson</td>
</tr>
<tr>
<td><strong>Shadow Parliamentary Secretary for Defence Materiel</strong></td>
<td>Senator Gary Humphries</td>
</tr>
<tr>
<td><strong>Shadow Parliamentary Secretary for the Defence Force and Defence Support</strong></td>
<td>Senator the Hon Ian Macdonald</td>
</tr>
<tr>
<td>Shadow Minister for Communications and Broadband</td>
<td>Shadow Minister for Regional Communications</td>
</tr>
<tr>
<td>Shadow Minister for Communications and Broadband</td>
<td>The Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td></td>
<td>Mr Luke Hartsuyker MP</td>
</tr>
<tr>
<td>Shadow Minister for Health and Ageing</td>
<td>Shadow Minister for Ageing</td>
</tr>
<tr>
<td>Shadow Minister for Mental Health</td>
<td>The Hon Peter Dutton MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Primary Healthcare</td>
<td>Senator Concetta Fierravanti-Wells</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Regional Health Services and Indigenous Health</td>
<td>Dr Andrew Southcott MP</td>
</tr>
<tr>
<td></td>
<td>Dr Andrew Laming MP</td>
</tr>
<tr>
<td><strong>Shadow Minister for Families, Housing and Human Services</strong></td>
<td>Shadow Minister for Families, Housing and Human Services</td>
</tr>
<tr>
<td>Shadow Minister for Seniors</td>
<td>The Hon Kevin Andrews MP</td>
</tr>
<tr>
<td>Shadow Minister for Disabilities, Carers and the Voluntary Sector</td>
<td>The Hon Bronwyn Bishop MP</td>
</tr>
<tr>
<td>(Manager of Opposition Business in the Senate)</td>
<td>Senator Mitch Fifield</td>
</tr>
<tr>
<td>Shadow Minister for Housing</td>
<td>Senator Marise Payne</td>
</tr>
<tr>
<td><strong>Shadow Parliamentary Secretary for Supporting Families</strong></td>
<td><strong>Shadow Parliamentary Secretary for the Status of Women</strong></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Supporting Families</td>
<td>Senator Cory Bernardi</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for the Status of Women</td>
<td>Senator Michaelia Cash</td>
</tr>
<tr>
<td><strong>Shadow Minister for Climate Action, Environment and Heritage</strong></td>
<td>Shadow Minister for Climate Action, Environment and Heritage</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Environment</td>
<td>The Hon Greg Hunt MP</td>
</tr>
<tr>
<td><strong>Shadow Minister for Productivity and Population</strong></td>
<td>Shadow Minister for Productivity and Population</td>
</tr>
<tr>
<td>Shadow Minister for Immigration and Citizenship</td>
<td>Senator Simon Birmingham</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Citizenship and Settlement</td>
<td>Mr Scott Morrison MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Immigration</td>
<td>The Hon Teresa Ganbaro MP</td>
</tr>
<tr>
<td></td>
<td>Senator Michaelia Cash</td>
</tr>
<tr>
<td><strong>Shadow Minister for Innovation, Industry and Science</strong></td>
<td><strong>Shadow Minister for Innovation, Industry and Science</strong></td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Innovation, Industry, and Science</td>
<td>Mrs Sophie Mirabella MP</td>
</tr>
<tr>
<td></td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
<tr>
<td>Title</td>
<td>Shadow Minister</td>
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<tr>
<td>----------------------------------------------------------------------</td>
<td>------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Shadow Minister for Agriculture and Food Security</strong></td>
<td>The Hon John Cobb MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Fisheries and Forestry</td>
<td>Senator the Hon Richard Colbeck</td>
</tr>
<tr>
<td><strong>Shadow Minister for Small Business, Competition Policy and Consumer Affairs</strong></td>
<td>The Hon Bruce Billson MP</td>
</tr>
<tr>
<td>Shadow Parliamentary Secretary for Small Business and Fair Competition</td>
<td>Senator Scott Ryan</td>
</tr>
</tbody>
</table>
CONTENTS

THURSDAY, 22 MARCH 2012

Chamber
STATEMENT BY THE SPEAKER—
Supplementary Questions................................................................. 3933

BILLS—
Australian Research Council Amendment Bill 2011—
Financial Framework Legislation Amendment Bill (No. 1) 2012—
Appropriation Bill (No. 3) 2011-2012—
Appropriation Bill (No. 4) 2011-2012—
Returned from Senate........................................................................ 3933
Coastal Trading (Revitalising Australian Shipping) Bill 2012—
First Reading...................................................................................... 3933
Second Reading.................................................................................. 3933
Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012—
First Reading...................................................................................... 3937
Second Reading.................................................................................. 3937
Shipping Registration Amendment (Australian International Shipping Register) Bill 2012—
First Reading...................................................................................... 3938
Second Reading.................................................................................. 3938
Shipping Reform (Tax Incentives) Bill 2012—
First Reading...................................................................................... 3940
Second Reading.................................................................................. 3940
Tax Laws Amendment (Shipping Reform) Bill 2012—
First Reading...................................................................................... 3941
Second Reading.................................................................................. 3941
BUSINESS—
Rearrangement.................................................................................. 3943
BILLS—
Telecommunications Interception and Other Legislation Amendment (State Bodies) Bill 2012—
First Reading...................................................................................... 3943
Second Reading.................................................................................. 3943
Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Bill 2012—
First Reading...................................................................................... 3945
Second Reading.................................................................................. 3945
National Health Reform Amendment (Administrator and National Health Funding Body) Bill 2012—
First Reading...................................................................................... 3948
Second Reading.................................................................................. 3948
Federal Financial Relations Amendment (National Health Reform) Bill 2012—
First Reading...................................................................................... 3952
Second Reading.................................................................................. 3952
Migration Legislation Amendment (Student Visas) Bill 2012—
CONTENTS—continued

First Reading .................................................................................................................. 3952
Second Reading ............................................................................................................. 3952

Environment Protection and Biodiversity Conservation Amendment (Independent Expert
Scientific Committee on Coal Seam Gas and Large Coal Mining Development) Bill
2012—
First Reading .................................................................................................................. 3956
Second Reading ............................................................................................................. 3956

National Vocational Education and Training Regulator (Charges) Bill 2012—
First Reading .................................................................................................................. 3957
Second Reading ............................................................................................................. 3957

Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill 2012—
First Reading .................................................................................................................. 3959
Second Reading ............................................................................................................. 3959

COMMITTEES—
Public Works Committee—
Approval of Work .......................................................................................................... 3960
Reference ........................................................................................................................ 3961

BILLS—
Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011—
First Reading .................................................................................................................. 3962
Reference to Federation Chamber .................................................................................. 3962

COMMITTEES—
Public Works Committee—
Reference—
Economics Committee—
Report ............................................................................................................................ 3963
Report and Reference to Federation Chamber ................................................................. 3964
Publications Committee—
Report ............................................................................................................................ 3965

BILLS—
Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards)
Bill 2012—
Second Reading ............................................................................................................. 3965

REGISTER OF MEMBERS’ INTERESTS ......................................................................... 3971

BILLS—
Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2012—
First Reading .................................................................................................................. 3971
Second Reading ............................................................................................................. 3971
Consideration in Detail ................................................................................................... 3999
Third Reading ................................................................................................................. 4002

Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011—
Report from Federation Chamber ................................................................................. 4003
Third Reading .................................................................................................................. 4003

BUSINESS—
Suspension of Standing and Sessional Orders ............................................................... 4003
CONTENTS—continued

STATEMENTS BY MEMBERS—
  Business ............................................................................................................................. 4004
  Letaille, Mr Jean, OAM ...................................................................................................... 4004
  Sterle, Senator Glenn .......................................................................................................... 4005
  Tetley, Mr Arthur Norman ............................................................................................... 4005
  Federal Grant Funding ...................................................................................................... 4005

QUESTIONS WITHOUT NOTICE—
  Budget .................................................................................................................................. 4006
  Economy ........................................................................................................................... 4007

DISTINGUISHED VISITORS ............................................................................................... 4008

QUESTIONS WITHOUT NOTICE—
  Energy Security Fund ........................................................................................................ 4008
  Economy ........................................................................................................................... 4008
  Government Spending ........................................................................................................ 4009
  Aged Care .......................................................................................................................... 4010
  Automotive Industry ......................................................................................................... 4011
  Veterans ............................................................................................................................. 4012
  Transport Infrastructure ..................................................................................................... 4013
  Carbon Pricing .................................................................................................................. 4013

MOTIONS—
  Carbon Pricing .................................................................................................................. 4016

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS—
  Veterans .............................................................................................................................. 4023

STATEMENTS......................................................................................................................... 4023

PERSONAL EXPLANATIONS.................................................................................................... 4023

DOCUMENTS—
  Presentation ......................................................................................................................... 4025

COMMITTEES—
  Selection Committee—
    Report ............................................................................................................................ 4025

PERSONAL EXPLANATIONS.................................................................................................... 4026

BUSINESS—
  Days and Hours of Meeting ........................................................................................... 4026

MATTERS OF PUBLIC IMPORTANCE—
  Budget ............................................................................................................................... 4027

PERSONAL EXPLANATIONS.................................................................................................... 4039

COMMITTEES—
  Social Policy and Legal Affairs Committee—
    Membership ................................................................................................................... 4039

BILLS—
  Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill
    2011—
  National Health Amendment (Fifth Community Pharmacy Agreement Initiatives) Bill
    2012—
  Education Services for Overseas Students Legislation Amendment (Tuition Protection
    Service and Other Measures) Bill 2011—
CONTENTS—continued

Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Bill 2011— 4040
Education Services for Overseas Students (TPS Levies) Bill 2011— 4040
Tax Laws Amendment (2011 Measures No. 9) Bill 2011— 4040
   Assent........................................................................ 4040
COMMITTEES— 4040
   Parliamentary Joint Committee on Human Rights— 4040
      Membership................................................................ 4040
MATTERS OF PUBLIC IMPORTANCE ......................................................... 4040
BILLS— 4040
   Corporations Amendment (Future of Financial Advice) Bill 2011— 4040
      Report from Federation Chamber .................................. 4040
      Consideration in Detail .................................................. 4042
      Third Reading................................................................ 4056
   Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011— 4056
      Report from Federation Chamber .................................. 4056
      Consideration in Detail .................................................. 4057
      Third Reading................................................................ 4071
   Family Law Amendment (Validation of Certain Orders and Other Measures) Bill 2012— 4071
      Returned from Senate..................................................... 4071
BUSINESS— 4072
   Orders of the Day............................................................. 4072
   Rearrangement................................................................ 4072
PRIVATE MEMBERS’ BUSINESS— 4072
   Orange Juice Concentrate Imports .................................... 4072
   Most Venerable Thich Phuoc Hue OAM............................. 4072
   Australian Year of the Farmer .......................................... 4072
   Apology to the Stolen Generation...................................... 4073
   Fair Work Australia......................................................... 4073
   ANZAC Story and Albany, WA .......................................... 4074
BUSINESS— 4074
   Leave of Absence......................................................... 4074
NOTICES........................................................................ 4074
Federation Chamber
CONSTITUENCY STATEMENTS— 4075
   Coal Seam Gas............................................................... 4075
   Clare, Mr Chris............................................................. 4076
   Casey Electorate: Schools................................................ 4076
   Bass Electorate: Freight Transport..................................... 4077
   Flynn Electorate: United Nations Educational, Scientific and Cultural Organisation Delegation............................... 4078
   Fremantle Electorate: Magellan Powertronics..................... 4078
   Wild Dog Aerial Baiting Trial............................................ 4079
   Ingham Institute for Applied Medical Research..................... 4081
   Queensland State Election............................................... 4081
## CONTENTS—continued

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>International Purple Day</td>
<td>4082</td>
</tr>
<tr>
<td>Tibet</td>
<td>4082</td>
</tr>
<tr>
<td>BILLS</td>
<td></td>
</tr>
<tr>
<td>Corporations Amendment (Future of Financial Advice) Bill 2011—</td>
<td></td>
</tr>
<tr>
<td>Corporations Amendment (Further Future of Financial Advice Measures)</td>
<td></td>
</tr>
<tr>
<td>Bill 2011—</td>
<td>4083</td>
</tr>
<tr>
<td>Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011—</td>
<td></td>
</tr>
<tr>
<td>Second Reading</td>
<td>4099</td>
</tr>
<tr>
<td>STATEMENTS ON INDULGENCE—</td>
<td></td>
</tr>
<tr>
<td>Stynes, Mr Jim</td>
<td>4110</td>
</tr>
<tr>
<td>BUSINESS—</td>
<td></td>
</tr>
<tr>
<td>Rearrangement</td>
<td>4114</td>
</tr>
<tr>
<td>COMMITTEES—</td>
<td></td>
</tr>
<tr>
<td>Law Enforcement Committee—</td>
<td>4115</td>
</tr>
<tr>
<td>Report</td>
<td></td>
</tr>
<tr>
<td>ADJOURNMENT—</td>
<td></td>
</tr>
<tr>
<td>Longman Electorate: Longman Environmental Reference Group</td>
<td>4117</td>
</tr>
<tr>
<td>Dress as a Teenager Day</td>
<td>4118</td>
</tr>
<tr>
<td>Tuggeranong United Football Club</td>
<td>4118</td>
</tr>
<tr>
<td>Fry, Mr Adam</td>
<td>4118</td>
</tr>
<tr>
<td>University of Queensland Research Facilities</td>
<td>4119</td>
</tr>
<tr>
<td>IT Price Discrimination</td>
<td>4121</td>
</tr>
<tr>
<td>Taxation</td>
<td>4122</td>
</tr>
<tr>
<td>China</td>
<td>4123</td>
</tr>
<tr>
<td>Questions In Writing</td>
<td></td>
</tr>
<tr>
<td>Health and Ageing: Portfolio Entities—(Question Nos 821 and 825)</td>
<td>4126</td>
</tr>
</tbody>
</table>
Thursday, 22 March 2012

The SPEAKER (Hon. Peter Slipper) took the chair at 09:00, made an acknowledgement of country and read prayers.

STATEMENT BY THE SPEAKER
Supplementary Questions

The SPEAKER (09:01): On 7 February I informed the House of my desire to make question time more spontaneous by allowing as many as five supplementary questions each day. In setting out the details of my proposal I said the new arrangements would be reviewed at the end of these sittings.

I wish to thank honourable members for their cooperation in the trial of the new arrangements. The ability to ask supplementary questions has introduced a welcome new dynamic into question time. My preliminary conclusion is that the trial has been a success. Nevertheless, before making arrangements for the remainder of the year, I would welcome any comments or suggestions that honourable members may have.

I am considering expanding the number of supplementary questions and also allowing one side to ask supplementary questions to an original question asked by the other side. Honourable members are welcome to contact me in person, by telephone or email. I would very much like to receive any comments by 27 April this year.

BILLS
Australian Research Council Amendment Bill 2011
Financial Framework Legislation Amendment Bill (No. 1) 2012
Appropriation Bill (No. 3) 2011-2012
Appropriation Bill (No. 4) 2011-2012

Returned from Senate
Message received from the Senate returning the bills without amendment or request.

Coastal Trading (Revitalising Australian Shipping) Bill 2012
First Reading
Bill and explanatory memorandum presented by Mr Albanese.
Bill read a first time.

Second Reading
Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (09:03): I move:
That this bill be now read a second time.

We are in the middle of a once-in-a-generation resources boom.

Yet only one-half of one per cent of that trade is carried by Australian flagged vessels.

In the past decade the Australian fleet has gone from 55 ships to 21, with only four operating on international routes.

Our ports manage 10 per cent of the world's entire sea trade.

$200 billion worth of cargo is moved annually.

In a country where 99.9 per cent of our trade is moved by ships, there will soon be no fleet to revitalise.

We need to act now or we will not have an industry left at all.

This is the first of five bills that comprise the government's Stronger Shipping for a Stronger Economy legislative reforms to revitalise the Australian shipping industry.

This package is an integrated suite of reforms which address fiscal, regulatory and
workforce aspects of our nation's shipping industry.

This is the most far-reaching overhaul of the Australian shipping industry since 1912.

These reforms level the playing field and provide the industry with a stable fiscal and regulatory regime to encourage investment and promote our international competitiveness.

Like many industries, Australian shipping is at a critical juncture in its ability to continue to be viable.

The irony of the industry's situation is that it is set against the backdrop of major global change, of which Australia is a major beneficiary.

The double-digit growth of China and India, as well as other developing countries, has driven demand for our resources.

The lack of an Australian shipping industry that can compete in the international marketplace is a lost national opportunity.

There are a number of reasons why Australian shipping has been declining; most of them have directly resulted from policy decisions made by the previous government.

Due to being so far behind our international competitors in terms of fiscal incentives, the last decade or more has seen almost no investment in Australian ships.

One of the consequences of this lack of investment is that the average age of the Australian fleet now sits at almost 20 years against the global average of 12 years.

The age of our fleet has implications for the industry's productivity and environmental performance.

Modern vessels incorporate new technology delivering greater efficiencies.

Without new investment in the fleet, Australian shipping will continue to lag behind world standards.

Falling productivity when compared to other modes has seen shipping's participation in the domestic freight task continue to decline.

But it is not just the age of the fleet that is holding us back.

Like many industries, the maritime sector is also feeling the pressures of an ageing workforce. We must attract new recruits; but we also need to have enough ships so that cadets can gain the required sea time to obtain their qualifications.

In the absence of a domestic shipping capacity we will be unable to train our own seafarers and will be reliant on the international market place to provide us with our maritime safety and environmental regulators.

This government believes that there are compelling economic, environmental and national security reasons to support revitalisation of the Australian shipping industry.

This belief is at the heart of the Gillard government's Stronger Shipping for a Stronger Economy vision.

Let me turn now to the main elements of the Coastal Trading (Revitalisation of Australian Shipping) Bill 2012.

The bill aims to:

• promote a viable shipping industry that contributes to the broader Australian economy;
• facilitate the long term growth of the Australian shipping industry;
• enhance the efficiency and reliability of the Australian shipping industry as part of the national transport system; and
• maximise the use of vessels registered in the Australian General Shipping Register.

I previously stated that this bill is the most significant overhaul of our coastal trading
arrangements since they were introduced early last century.

Back in 1912 when those provisions were debated in the House the role of British-owned shipping companies in the Australian coastal trade was the subject of much discussion.

One hundred years later, the debate has moved on.

We have one of the most liberal coastal trading regimes in the world.

Unlike the United States, Canada or various European Union countries, Australia recognises that there is a legitimate role for foreign flagged vessels in our domestic shipping industry.

Under the provisions of this bill this will not change.

Nothing in this package of bills closes our coast.

However, we are making transparent the decision-making processes which determine a foreign vessel's participation in Australian domestic shipping.

In support of this, a new three-tier licensing system will replace the antiquated system of licenses and permits.

• General license holders, who will be Australian flagged, will have unrestricted access to the coastal trade. These vessels will also have access to the tax incentives, including the income tax exemption. This will address the cost disadvantages that Australian vessels experience when competing against subsidised foreign vessels.

• Temporary licence holders, who may be foreign flagged or registered in the Australian International Shipping Register, will have restricted access to the coastal trade. This access will be provided through an open process, which enables general licensed operators and transitional general licence holders to nominate to carry this trade if they are able to meet the criteria. Third party comments will be accepted as part of the decision-making process.

• Emergency licences will provide restricted access to the coastal trade in terms of major emergencies and natural disasters.

In creating a temporary licence we are moving away from the current system where companies apply on a permit by permit basis.

However, we have maintained the flexibility provided by the permit system, through the creation of a licence variation process.

Temporary licence holders will be able to vary their licence to increase the number of voyages that will be undertaken or to vary the details of those voyages that have already been authorised.

General licence holders will have the opportunity to nominate for these voyages.

Again, this will be an open and transparent decision-making process.

The bill provides for enhanced merits review of decisions, including recourse to the Administrative Appeals Tribunal on a range of matters.

It also provides enhanced penalty provisions that modernise and provide greater scope for action if there are attempts to undermine the objectives of the system.

Transparency is a cornerstone of this new model and the bill provides for strengthened reporting and publishing arrangements, to enable all industry participants to better understand the shipping market and to support more informed decision making.

Commercially sensitive information will not be released.
There has been some debate regarding the industrial arrangements for vessels engaged in the domestic coastal trade.

This government made the decision in 2009 that vessels operating in the coastal trade will be subject to the provisions of the Fair Work Act.

This was implemented through the Fair Work Act Regulations 2010.

It is this government's policy that this scope of coverage will not change.

These vessels are operating in the domestic economy and these seafarers are entitled to be paid Australian wages.

This bill is the key to the regulatory framework—a framework that supports Australian coastal shipping, while allowing for the participation of foreign vessels.

It is a framework that will enhance our participation in international trade and underpin the Australian industry with generous tax concessions that level the playing field between Australian shipping and its international competitors.

However, a ship is only as good as its crew.

That is why a key element of the government's reform package is workforce development.

We must attract, train and retain a skilled seafaring workforce.

There will be no incentive to invest without the right people in the right jobs.

There are challenges of an ageing workforce, costly and complicated training systems and the consequent erosion of skills.

This was strongly identified by the parliamentary inquiry into coastal shipping.

The government has already been doing its bit in this area and I believe industry must also ramp up its efforts in resolving the skills lag.

To encourage this on 1 January 2012 I established the Maritime Workforce Development Forum with experienced people from industry, unions and the training sector.

It is chaired by the former Public Service Commissioner, Ms Lynelle Briggs. I have already met with the forum, and it has begun its work.

The forum is addressing areas that are fundamental to building our skills base.

These will include a workforce plan for the medium term to address issues including the ageing workforce and the most immediate skills gaps.

The forum will be in place for no more than five years and I will review its effectiveness within two years.

The final element of the reform package is labour productivity.

We are committed to aligning Australian productivity practices with the best in the world.

To do this, we will need a compact between industry and unions.

This compact must include changes to work practices, a review of safe manning levels and the use of riding gangs on coastal vessels.

This compact is essential to the reform agenda.

Negotiations between industry and the unions are progressing. Before I close, I would like to thank those in the industry who share our vision for a revitalised Australian shipping industry—the ship owners, unions and shippers who have worked constructively with the government since 2007 to develop this package.

This package of legislation is the product of a long and thorough process of consultation and review.
This process started with a comprehensive review by the House of Representatives committee, which delivered a bipartisan report recommending a policy framework to revitalise the shipping industry.

In 2009, I convened the Shipping Policy Advisory Group comprising shippers, industry and unions to advise me on how best to implement these recommendations.

In 2010, fulfilling our election commitment, a discussion paper was released seeking public comment on the proposed reforms.

In 2011, I established three industry reference groups to work through the detail of the reforms. Again, these groups comprised a cross-section of industry.

We involved representatives from across government, with Treasury chairing the fiscal group.

Exposure drafts of all the bills were released for public comment and a further roundtable, which I addressed, was held in February to enable industry to work through the details with officials.

I thank those officials for their leadership and assistance in shaping the final tax package that is being introduced today.

The commitment and cooperation demonstrated by those who participated in this process is a credit to the industry and I thank them for their efforts. I commend this bill to the House.

Debate adjourned.

Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012
First Reading
Bill—by leave—and explanatory memorandum presented by Mr Albanese.
Bill read a first time.

Second Reading
Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (09:17): I move:

That this bill be now read a second time.

The Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012 will ensure that there is a smooth transition from the current coastal trading arrangements to the new regulatory regime.

I would like to turn first to the proposed transitional general licence, which has been the subject of some public commentary.

Under this bill, a transitional general licence will be created to enable foreign flagged vessels currently operating in the Australian coastal trade under a licence, to continue their operations.

These vessels are currently licensed under part VI of the Navigation Act 1912.

This provision recognises that operators of foreign flagged vessels may not be able to immediately transfer to the Australian register.

This may be due to a range of financial, legal or other commercial constraints.

These vessels are performing an important function in the domestic shipping industry.

A transitional general licence will be valid for up to five years and may be renewed once for an additional five years.

Inclusion of this power for an additional renewal was in response to stakeholder feedback that indicated that a number of these vessels are locked into commercial agreements that go beyond the initial five years and cannot be renegotiated without considerable financial penalty.

Proof of these commercial arrangements will be required to support an application for renewal of a transitional general licence.
In the long term, if these operators wish to continue to have unrestricted access to the Australian coast, they have to register their vessels in the Australian General Shipping Register.

Vessels operating under a transitional general licence will be required to pay wages consistent with the current obligations under the Fair Work Act for vessels operating under licences issued under the Navigation Act.

There will be no increase in the wages payable.

Foreign flagged vessels currently operating under permits will not be allowed to apply for transitional general licences.

To minimise disruption as we move from the old to the new system, this bill provides that permits or licences which are valid immediately before commencement of this bill will continue to be in force until their expiry date or up to four months after 1 July 2012.

Any application submitted on or before 30 June which was not decided by 1 July 2012 will be assessed in accordance with the Navigation Act requirements.

These will be valid for up to a maximum of three months.

These arrangements will provide industry with a level of certainty as we move to the new system.

Consistent with current arrangements, the Occupational Health and Safety (Maritime Industry) Act 1993 will continue to apply to vessels operating under a general licence and foreign vessels operating under a transitional general licence.

This act will also apply to all vessels registered in the Australian International Shipping Register (AISR) irrespective of where these vessels are located.

This is to ensure that AISR vessels maintain high standards of safety.

The Seafarers Rehabilitation and Compensation Act 1992 will not apply to vessels registered in the Australian International Shipping Register when these vessels are operating under a temporary licence.

This will enable AISR vessels to operate on a competitive footing with foreign flagged vessels while engaging in the coastal trade.

A number of consequential amendments are required to existing Commonwealth laws to prevent any potential gaps in these laws as we repeal certain parts of the Navigation Act.

Minor amendments will also be made to the Australian Maritime Safety Act 1990 to ensure that AMSA, the Australian Maritime Safety Authority, is able to share information with Department of Infrastructure and Transport for the administration and enforcement of the requirements of the new legislation on coastal trading. I commend the bill to the House.

Debate adjourned.
opportunity to become part of the international shipping trade.

This bill, the Shipping Registration Amendment (Australian International Shipping Register) Bill 2012, will provide the vehicle to achieve this.

Currently, we have only four Australian flagged vessels participating solely in the international trade.

We need to move up the value chain—not only do we want to mine the iron ore for the world; we should be transporting it to the world as well.

Over the last 20 years, international registers have been embraced by many advanced countries, which, like Australia, have seen a large portion of their fleet register offshore.

International registers offer some of the benefits of open registers, such as the ability to use crew of different nationalities, while ensuring that the ship owner maintains a strong link to the country of registration.

These are not flags of convenience.

All companies with vessels on the international register will need to demonstrate strong links to Australia, ensuring that our maritime safety regulator, the Australian Maritime Safety Authority (AMSA) has the regulatory reach to ensure compliance with our high safety, environmental and occupational health and safety standards.

Consistent with this, the primary objectives of this reform are to:

- facilitate Australian participation in international trade;
- provide an internationally competitive register to facilitate the long term growth of the Australian shipping industry; and
- promote the enhancement and viability of the Australian maritime skills base and the Australian shipping industry.

The bill establishes two shipping registers—the general and the international registers.

Unlike the general register, AMSA will have the discretion to register a vessel on the international register and will have the power to cancel registration.

The bill sets out a range of matters that the registrar may have regard to when making a decision to register a vessel.

This decision is reviewable.

This discretion is important to ensure that we maintain a quality flag.

The crewing and labour provisions are a key element of this bill and go to the core of its competitiveness.

Before I outline these provisions, I would like to thank those in the labour movement who have worked with us on these provisions.

This reform package is not pro-union, it is not pro-business; it is pro-Australian.

Both employers and unions alike have worked constructively with the government to ensure that these reforms are world's best practice and offer the industry the best chance to compete on a level playing field with international shipping.

The bill provides for mixed crews on the Australian international register vessels.

However, international vessels will be required to employ a minimum of two Australian crew members; preferably the master and the chief engineer.

One of the benefits of mixed crewing will be the employment opportunities for seafarers in the Pacific region and I know that the Maritime Union of Australia is working hard on these regional partnerships.
To ensure that the international register is competitive, crews will be employed on international terms and conditions while engaged in international trading.

These employment conditions are in accordance with the Maritime Labour Convention (MLC).

Minimum wages and a number of conditions are set out in the bill.

Unless specifically amended in this bill, the provisions of Chapter 2 in the Navigation Act 1912 will also apply to these seafarers.

This creates a safety net.

The bill provides for collective agreements to be negotiated through a seafarers’ bargaining unit (SBU).

A collective agreement agreed with the SBU will be required for registration in the international register.

The bill also ensures that seafarers who suffer long term injury or death are adequately compensated.

The bill requires that ship owners hold insurance cover that provides for the level of compensation set out in the International Transport Workers' Federation Uniform Total Crew Cost Collective Agreement.

AMSA will have additional powers to ensure vessels comply with the working, living and crewing condition provisions contained in this bill.

A civil penalty and infringement notice regime is also established under the bill.

These measures are important to show there is no derogation of standards.

Greater involvement by Australian companies in international trade will provide the catalyst to reinvigorate our domestic trades.

Consistent with this, vessels registered in the international register will have limited access to the coastal trade.

Operating under temporary licences, these vessels can compete with foreign flagged vessels in the coastal trade.

As I have already made clear, the Fair Work Act 2009 will apply to vessels operating under temporary licences.

To ensure our ships are on a level playing field with foreign flagged vessels, the Seafarers Rehabilitation and Compensation Act 1992 will not apply to international register vessels.

I know there is some concern that some coastal trading vessels may seek to avoid their legal responsibilities by joining the international register.

This will not happen.

The bill includes a requirement that vessels must be predominantly engaged in international trading.

Registration can be cancelled if this requirement ceases to be met.

I commend the bill to the House.

Debate adjourned.

Shipping Reform (Tax Incentives) Bill 2012

First Reading

Bill and explanatory memorandum presented by Mr Albanese.

Bill read a first time.

Second Reading

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (09:29): I move:

That this bill be now read a second time.

The tax reforms are a major component of the government's Stronger Shipping for a Stronger Economy legislative reforms to revitalise the Australian shipping industry.

The purpose of the government's tax reforms is to encourage and support capital investment.
Changes made in 1996 by the previous government have meant a lack of investment in Australia's fleet.

A consequence of this lack of investment, in addition to the slow decline in the number of registered vessels, is that our ships are getting older.

The average age of the Australian fleet now sits at almost 20 years which is around eight years older than the average of those in the world fleet.

Ironically, this imbalance exists despite Australia being a country that prides itself on the safety and environmental outcomes of our shipping.

In addition to being a brake on improving the productivity of our domestic shipping industry; newer vessels are safer, more energy efficient and better meet the needs of modern shipping.

Encouraging new investment is critical if we are to revitalise the industry.

The tax reforms I am introducing today provide a platform for this investment.

The tax reforms comprise two bills:

- This bill which provides the first step for companies seeking to access the various taxation concessions.
- The Tax Laws Amendment (Shipping Reform) Bill 2012, which will give effect to the five tax concessions.

This bill provides for the issue of certificates after the end of the financial year to companies who meet the requirements of the tax concession regime.

It also provides companies applying for these concessions for the first time the opportunity to obtain a 'notice' during the first year of entry.

This will give companies a degree of certainty that their proposed arrangements will meet the requirements of the Shipping Reform (Tax Incentives) Bill 2012.

Additional requirements will apply to companies accessing the income tax exemption.

Companies will need to demonstrate that they have a substantial proportion of commercial, technical or strategic operations as well as crew management based in Australia.

Companies will also be required to comply with a mandatory training requirement.

The details of this training requirement, which are currently being finalised by the Maritime Workforce Development Forum, will be contained in regulations.

These provisions are aimed at ensuring beneficiaries of this best-in-class tax concessions have a tangible connection to Australia and are committed to building the local maritime industry.

The bill also provides the power to collect and collate data in relation to these reforms.

Powers to review decisions are also provided for.

I commend the bill to the House.

Debate adjourned.

Tax Laws Amendment (Shipping Reform) Bill 2012

First Reading

Bill and explanatory memorandum presented by Mr Albanese.

Bill read a first time.

Second Reading

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (09:33): I move:

That this bill be now read a second time.
The purpose of the government's tax reforms is to encourage and support capital investment.

The Tax Laws Amendment (Shipping Reform) Bill 2012 delivers a best-in-class internationally competitive tax reform package.

The tax concessions contained in this bill aim to address the cost disadvantages faced by Australian ship owners and encourage renewal of the ageing Australian fleet.

The bill provides:

- a zero tax rate for Australian shipping companies;
- provision for accelerated depreciation of vessels via a cap of 10 years to the effective life of those vessels;
- rollover relief from income tax on the sale of a vessel;
- an employer refundable tax offset in relation to seafarers; and
- an exemption from royalty withholding tax for payments made for the lease of shipping vessels.

These concessions are available to companies that satisfy the qualifying conditions and hold a valid certificate, as set out in the Shipping Reform (Tax Incentives) Bill 2012.

Turning to each of these concessions:

**Exemption from income tax for ship operators**

International experience in Europe, Asia and South America shows that the introduction of financial support—usually in the form of a tonnage tax and personal tax breaks for seafarers working in the international trade—has had substantial and very positive effects.

The bill I introduce today goes a step further—the government is not introducing a new tax in the form of a tonnage tax—instead it exempts qualifying income from shipping from taxation.

The effect of this provision is that Australian resident companies with vessels registered in Australia, including those on the international register, will not pay company tax.

Furthermore, a generous approach is taken to defining these activities that generate eligible shipping income.

**Accelerated depreciation**

This bill provides ship owners with an accelerated rate of depreciation for their ships.

When introducing the previous bill, I mentioned before Australia has an old fleet compared to international standards.

This is in part due to our depreciation rate for vessels being set at 20 years.

This bill cuts that rate in half.

The new depreciation rate will be 10 years.

This provision has multiple effects.

An economic benefit—the cost of operating a 20-year-old large bulk carrier is at least 40 percent more than for a five-year-old ship.

A safety and environmental benefit—newer vessels incorporate new technology making them safer and more environmentally friendly.

An employment benefit as ship building is encouraged.

**Rollover relief**

The rollover relief concession provides that if a ship is disposed of, ship owners will be able to defer tax due on a balancing adjustment amount by two years.

If a replacement ship is purchased by the end of the two years, the balancing adjustment will be rolled over.
Combined with the accelerated depreciation concession, ship owners will have a greater incentive to invest in more modern and efficient ships. **Refundable Tax Offset**

It makes no sense that an Australian seafarer working on a ship in the Port of London should pay Australian income tax while an Australian working as a bartender in a pub in London does not.

This creates a disincentive for hiring Australian seafarers in international trade.

Consequently, the bill provides for a refundable tax offset for employers of Australian resident seafarers.

The seafarer tax offset provides an incentive for a company to employ Australian seafarers on overseas voyages.

This will also provide Australian seafarers with the opportunity to develop their maritime skills on ships operating in international trade.

For an employer to qualify for the offset, the seafarer must have served on overseas voyages for at least 91 days in the income year on an eligible vessel.

**Royalty Withholding Tax**

Finally, payments made for the lease of shipping vessels from foreign resident lessors will be exempt from royalty withholding tax.

This exemption applies to payments made by Australian resident companies for the lease, on a bareboat basis, of qualifying vessels that are used commercially to ship cargo or passengers.

This element is aimed at reducing the costs for Australian shipping operators of securing vessels from overseas.

Together, these tax arrangements ensure investment in Australian shipping will continue.

Debate adjourned.

**BUSINESS**

**Rearrangement**

Mr STEPHEN SMITH (Perth—Minister for Defence and Deputy Leader of the House) (09:39): I move:

That notice Nos 5 and 7, government business, be postponed until a later hour this day.

Question agreed to.

**BILLS**

**Telecommunications Interception and Other Legislation Amendment (State Bodies) Bill 2012**

**First Reading**

Bill and explanatory memorandum presented by Ms Roxon.

Bill read a first time.

**Second Reading**

Ms ROXON (Gellibrand—Attorney-General and Minister for Emergency Management) (09:39): I move:

That this bill be now read a second time.

The Telecommunications Interception and Other Legislation Amendment (State Bodies) Bill 2012 makes amendments to four Commonwealth acts to facilitate telecommunications interception and access powers for the Victorian Independent Broad-Based Anti-Corruption Commission (IBAC).

The bill will:

- remove the Victorian Office of Police Integrity (the OPI) as an authority eligible to intercept communications;
- enable the Victorian Inspectorate to receive intercepted information as part of its oversight and complaints functions;
- enable the IBAC and the Victorian Inspectorate to use and communicate information for relevant purposes under the Interception Act;
• enable the Victorian Public Interest Monitor (Victorian Monitor) to be provided relevant information and appear at applications for interception warrants by Victorian interception agencies; and
• make amendments to the Taxation Administration Act 1953, Privacy Act 1998 and Crimes Act 1914 to replace references to the OPI with references to the IBAC.

Independent Broad-based Anti-corruption Commission

Victoria will abolish the existing Office of Police Integrity and is establishing the IBAC. The IBAC will become the body responsible for overseeing the Victoria Police.

However, the IBAC will have a broader jurisdiction as it will also be responsible for investigating, exposing and suppressing corruption involving or affecting all public officials in Victoria.

The amendments contained in Schedule 1 are the first pre-condition to be met before the Attorney-General can declare the IBAC to be an interception agency for the purposes of the Interception Act.

The ability to be able to access information under the Interception Act is imperative in investigations of serious corrupt conduct.

People participating in corrupt conduct often do so using clandestine communications methods in a bid to avoid detection by law enforcement.

Accordingly, these powers are critical to ensure that the IBAC is able to access information which proves that corrupt conduct is occurring.

Other States such as New South Wales, Queensland and Western Australia have already established anti-corruption commissions which can access these Interception Act investigative powers. The inclusion of such a commission in Victoria increases the application of the interception and access regime nationally.

The Interception Act already strictly regulates how agencies that receive intercepted information are able to use and communicate that information – this is important in ensuring that privacy and oversight considerations are part of the interception regime. Accordingly, there are detailed provisions which set out the circumstances in which interception agencies can use and communicate intercepted information.

Consequential amendments

Schedule 1 to the bill also contains consequential amendments to the Taxation Administration Act 1953, Privacy Act 1998 and Crimes Act 1914 to replace references to the OPI with references to the IBAC.

The Crimes Act currently allows a constable or Commonwealth officer to make available to OPI documents or seized things, to be used by OPI for specific purposes, including preventing, investigating or prosecuting an offence against a Victorian law. The bill will remove the reference to the OPI and provide the IBAC with access to such documents or seized things, for the same specific purposes.

The amendments to the Taxation Administration Act will allow the Australian Taxation Office to disclose taxpayer protected information to the Vic IBAC for law enforcement purposes, including investigating serious offences and enforcing the law.

The amendments to the Privacy Act will include the Vic IBAC within the definition of 'enforcement body' which is used in the National Privacy Principles in relation to the law enforcement exemptions to the use and disclosure, and access and correction obligations.
Victorian Inspectorate

To oversee the functioning of the IBAC, Victoria has established the Victorian Inspectorate.

Schedule 2 to the bill makes amendments to the Interception Act to ensure that the Victorian Inspectorate is able to receive and use intercepted information in support of its oversight and complaints handling functions.

Victorian Public Interest Monitor

The bill also makes amendments to support the establishment of a Public Interest Monitor in Victoria (Victorian PIM).

This body has been established to represent public interest during applications for a range of covert warrants by Victorian agencies.

This is not the first time that the Commonwealth has recognised the role of a public interest monitor. The Queensland monitor currently has an oversight role for control orders under the Criminal Code and in applications for interception warrants by Queensland interception agencies.

Schedule 3 of the bill will enable the Victorian Monitor to receive information about an application for an interception or surveillance warrant by a Victorian agency so that the Victorian monitor may:

i. appear at an application before a person who is eligible to issue a warrant
ii. make submissions and ask questions, and
iii. require the person issuing a warrant to take the submissions of the PIM into account when considering the application.

Conclusion

This bill is an important step in ensuring that the state body responsible for detecting, investigating and prosecuting serious criminal activity is able to access investigative tools imperative to support their functions.

This bill balances access to communications with appropriate record keeping and independent oversight to ensure the ongoing protection of privacy for individuals. Accordingly, I commend the bill to the House.

Debate adjourned.

Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Bill 2012

First Reading

Bill and explanatory memorandum presented by Ms Macklin

Bill read a first time.

Second Reading

Ms MACKLIN (Jagajaga—Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform) (09:46): I move:

That this bill be now read a second time.

This bill extends the government's Paid Parental Leave scheme to include dad and partner pay, a new payment for eligible working fathers and other eligible partners.

Other amendments made by this bill provide more clarity and consistency to the Paid Parental Leave scheme, and make consequential amendments to the Fair Work legislation.

Last year, Australia caught up with the rest of the developed world when this Labor government introduced and delivered our first national, government funded Paid Parental Leave scheme.

It was this Labor government that asked the Productivity Commission to inquire into the benefits of paid parental leave.

It was this Labor government that delivered Australia's first national scheme.
But it was the thousands of Australian women and men—spanning generations—who fought the battle and won the fight for this fundamental workplace entitlement.

Paid parental leave gives eligible working parents up to 18 weeks parental leave pay at the national minimum wage, currently around $590 a week before tax.

It gives working parents the chance to stay at home to care for and bond with their newborn child in those critical first months of a child's development.

For many low-paid, casual and part-time working women, this is the first time they have had access to this sort of support.

And more than 150,000 families across the country are already benefiting from the Gillard government's Paid Parental Leave scheme.

When you take some time off work to care for your new baby, you want to know that you can focus on the time with your child, without worrying about the household budget.

You want to know that you can take some time off work without losing touch with your workplace.

Because of the Paid Parental Leave scheme, delivered by this Labor government, Australian families no longer have to choose between making ends meet and taking time off to spend with their new baby.

This was a historic reform. It took a Labor government to do it—and today we build on it.

The bill being introduced today delivers on a 2010 election commitment to give Australian dads and other eligible partners the chance to also have some time off from work to support mums and partners in the care of their baby right from the start.

Dad and partner pay will give eligible fathers and partners two weeks pay at the rate of the national minimum wage.

It will be available to eligible fathers and partners, including adopting parents and parents in same-sex couples who care for a child born or adopted from 1 January 2013.

This means that, from next year, eligible families welcoming a new child into the world can access up to 20 weeks payments of parental leave pay and dad and partner pay from the Gillard government.

We know that it is not just new mothers who need that time to form important bonds with a new baby.

Dads and partners need that chance too, so families can be together after the birth of a child.

We know that most fathers do currently take some time off work around the time of the birth but that this time is usually short and most have to use non-parental leave, such as annual leave, to do so.

New fathers and partners often have to balance their responsibilities as the main source of family income after the birth of their child with wanting to spend more time with their new baby and wanting to support their partner.

Some families can face extra challenges in balancing the budget when a child is born. This is especially the case for casual employees without annual leave entitlements and self-employed people such as business owners, tradespeople and people working on the family farm.

Dad and partner pay will change that for thousands of Australian families.

For the first time, thousands of parents will be able to spend time as a family, bonding with their new baby and supporting their partner, in those precious first weeks.
Like paid parental leave, dad and partner pay will be available to eligible full-time, part-time, casual, seasonal, contract and self-employed workers.

The work test and residency requirements for dad and partner pay will be consistent with those for paid parental leave. Dad and partner pay will also have the same income test as for paid parental leave.

Consistent with the recommendations of the Productivity Commission, the payment will be available in addition to any employer-funded paid leave. Eligible fathers and partners must be caring for the child—either as the primary carer or jointly caring with the other parent—and must not be working or on paid leave during the period they receive the payment.

This will encourage dads and other partners to take more time off to care for their newborn in those first few months, confident that they have the financial support to do so.

Eligible fathers and partners will receive dad and partner pay from the Family Assistance Office in the Department of Human Services, and claims for the payment can be made from 1 October this year.

Dad and partner pay will be available to fathers and partners who meet the eligibility requirements, regardless of whether the mother or primary carer has been in paid work or at home before the birth or adoption.

A father may be eligible for dad and partner pay even if a mother is not receiving parental leave pay. Families eligible for dad and partner pay may also continue to receive other family assistance payments such as the baby bonus and family tax benefit.

However, dad and partner pay cannot be transferred to the primary carer (usually the mother) of the child. This 'use it or lose it' provision will encourage fathers and other partners to take more time off work, and signals to employers that a father's role in caring for a new baby is important.

Eligible fathers and partners who are the primary carers of their children will be able to receive both dad and partner pay and any parental leave pay transferred from the mother. To maintain fairness with the maximum parental leave pay entitlement for mothers, fathers and partners will have the same maximum 18-week entitlement under the extended Paid Parental Leave scheme.

Like parental leave pay, the new payment will be available during the first 12 months after the birth or adoption of a child.

Our Paid Parental Leave scheme—now with dad and partner pay—reduces the caring and work pressures on parents when their children are young.

Our scheme encourages the involvement of both parents in the early months of a child's life. Our scheme encourages bonding between fathers and their children, with lasting benefits for a child's development.

Our scheme also meets the challenges of modern family life, letting families make their own choices about what works for them.

Our scheme sends a strong signal that taking time out of the paid workforce to care for a child is part of the usual course of life and work for both parents.

Our scheme for dad and partner pay is also evidence based.

It was recommended by the Productivity Commission, and the plan brought before the chamber today is informed by consultation with employer and employee groups, family and community groups and other interested individuals.

We commenced this consultation on Father's Day last year, and it has been a valuable tool in the development of dad and
partner pay, as has the feedback provided by the Paid Parental Leave Implementation Group.

The government's dad and partner pay—like paid parental leave—is affordable, sustainable and secure.

It is fair for families, and fair for business. Like paid parental leave, dad and partner pay will be funded by the government.

It does not require a new tax on business to pay for it.

Unlike the plan proposed by those opposite, it will not drive up grocery bills.

Dad and partner pay is good for dads, it is good for mums and it gives Australian children the best start in life.

This bill also introduces amendments originally introduced on 3 November 2011 in the Paid Parental Leave and Other Legislation Amendment (Consolidation) Bill 2011. These amendments are being reintroduced as part of this bill to streamline the consideration of current amendments to the legislation underpinning the Paid Parental Leave scheme. These amendments improve clarity and consistency and make consequential amendments to the fair work legislation.

I commend the bill to the House.

Debate adjourned.

**National Health Reform Amendment (Administrator and National Health Funding Body) Bill 2012**

**First Reading**

Bill and explanatory memorandum presented by Ms Plibersek.

Bill read a first time.

**Second Reading**

Ms PLIBERSEK (Sydney—Minister for Health) (09:57): I move:

That this bill be now read a second time.

This bill is the last instalment of the legislation to establish the national health reform bodies to give effect to the historic National Health Reform Agreement concluded by COAG on 2 August last year.

This government has established the Australian Commission on Safety and Quality in Health Care as a permanent body to provide authoritative advice on the safety and quality standards our health services should meet.

We have established the National Health Performance Authority to provide regular reports on the performance of our healthcare system at a local level.

We have established the Independent Hospital Pricing Authority to determine what the efficient price of hospital services is.

And this bill establishes the Administrator of the National Health Funding Pool to introduce the unparalleled transparency into public hospital funding that Australia requires.

For far too long the dialogue between the Commonwealth and the states on public hospital funding has been characterised by mutual blame and recrimination, with accusations of removal of funds by one level of government when additional funds were put in by another.

Under this bill the administrator will report monthly on how much money from which government goes to which local hospital network, and why, and we will then have total transparency.

Under the National Health Reform Agreement the amount of Commonwealth funding to flow to a local hospital network will be calculated by the administrator, multiplying the national efficient price determined by the pricing authority by the expected number of hospital services to be provided to work out how much the
Commonwealth will pay for services funded on the basis of activity. The administrator will also calculate how much Commonwealth funding should be provided for small rural hospitals and other services which are best covered under block funding arrangements.

The administrator will advise the Commonwealth Treasurer, who will pay into the National Health Funding Pool the amounts calculated by the administrator. The states will pay into the pool their contribution for activity funded services, and the administrator will then pay it to the appropriate hospital network.

The states will pay into a separate state managed fund their contribution to block funded services, and the administrator will pay from the funding pool the Commonwealth contribution, which will then be paid by the states to hospital networks. And every month the administrator will produce and publish a report showing how much has flowed into and out of the funding pool and the state managed funds, and the basis of the payments.

While there may still be debate about the adequacy of the funding, there will be no room for dispute about the facts of how much has gone where and why.

I would now like to turn to the specifics of the bill, which amends the National Health Reform Act 2011.

Under the agreement the administrator is to be appointed by the Commonwealth and each state and territory government. The same individual is to occupy nine separate statutory offices.

This position was agreed to address the concerns of some states that only an officer of that state should deal with state money.

The provisions concerning the appointment of the administrator and the functions of the position which will be included in part 5.2 of the amended act will appear in the same terms in legislation to be passed by this parliament and by state and territory parliaments.

They provide for the health minister to appoint the administrator following agreement by the COAG Standing Council on Health on the individual to be appointed.

They also provide for the chair of the council to suspend the administrator from office in all jurisdictions at the request of the Commonwealth minister, or three state or territory ministers. However, the suspension lapses after 60 days unless the council agrees to continue it, or else terminate the appointment of the administrator.

If the council agrees to terminate the appointment, whether following a period of suspension or otherwise, all ministers must act to remove the administrator from office in their jurisdiction.

The administrator may resign in writing to the chair of the council, who must then notify all other council members.

The chair of the council also acts on behalf of all jurisdictions in appointing an acting administrator when required, although the person appointed to act must be drawn from a panel consisting of people agreed by the council.

The functions of the administrator are to calculate the amount of Commonwealth funding under the agreement and advise the Commonwealth Treasurer; oversee payments into state pool accounts within the National Health Funding Pool; make payments from the pool accounts at the direction of the state ministers; and report upon the operations of the pool accounts and the state managed funds.
While state ministers are to direct the administrator to make payments from the funding pool, under the agreement the ministers cannot alter the distribution of Commonwealth funding from that calculated by the administrator. Corresponding state legislation will contain a provision to that effect. Although such a provision cannot be included in Commonwealth legislation for constitutional reasons, Commonwealth funding under the Federal Financial Relations Act will be conditional on states adhering to the requirements of the agreement.

No Commonwealth minister is able to direct the administrator in the performance of his or her functions.

While the staff of the national health funding body are to assist the administrator in carrying out her or his functions, the administrator is not entitled to delegate any functions.

This does not mean that the administrator has to sit with a spreadsheet program calculating the amounts of Commonwealth funding. Rather, it means that funding body staff can carry out calculations, but the administrator must approve the calculations before transmitting them to the Commonwealth minister.

The existing financial management regimes of the Commonwealth or the states will not apply to the administrator. Instead, he or she is required under the amended act to develop and apply appropriate financial management policies and procedures, and keep proper records of the operation of the state pool accounts.

As I noted earlier, the administrator is to prepare monthly reports on payments into and out of state pool accounts and state managed funds, and the basis on which the payments were made.

The administrator is to prepare special purpose financial statements on the operation of each state pool account, which will be audited by state auditors-general, and then included in the administrator's annual report, which will be tabled in this place.

The administrator is to provide state ministers with a copy of her or his advice to the Commonwealth Treasurer on the calculation of Commonwealth payments, and may provide other relevant information to ministers. In addition, the administrator must provide information to ministers at their request.

Division 3 of part 5.2 of the amended act contains a set of provisions intended to ensure the constitutional validity of these arrangements in the light of the judgment of the High Court in the Hughes case in 2000 which dealt with state law imposing duties on Commonwealth officers. Similar provisions appear in legislation supporting other Commonwealth-state schemes, such as the Therapeutic Goods Act.

Part 5.3 of the amended act establishes the national health funding body, with the sole function of assisting the administrator in carrying out his or her functions.

The funding body is to be staffed under the Public Service Act, and together with its CEO will constitute an agency under that act.

The CEO is to be appointed by the minister, but the minister must consult with the administrator in appointing the CEO, and in relation to other matters including termination, acting appointments, approval of outside employment, and determination of terms and conditions.

The government intends to make regulations prescribing the funding body as an interjurisdictional agency under part 6A of the Financial Management and Accountability Act, ensuring that state ministers will have access to information
about the operations of the funding body on the same basis as the Commonwealth minister.

The act currently contains provisions ensuring that information relating to the affairs of a person held by the existing statutory bodies is handled appropriately. These provisions are replicated in part 5.4 of the amended act to apply to the administrator and to officials of the funding body.

I should say that the inclusion of these provisions is essentially precautionary, as it is highly unlikely that the administrator or the funding body will hold information about the affairs of a person.

The bill re-enacts as chapter 6 the existing chapter 5 of the act, which includes a number of miscellaneous provisions. The only amendment of substance in these provisions relates to the regulation-making power, which includes a provision allowing regulations to be made modifying the operation of the Commonwealth administrative law regime as it applies to the administrator or the funding body.

This is necessary to deal with the multijurisdictional nature of the administrator. As an officer of nine jurisdictions, she or he would be subject to nine different freedom of information laws, ombudsman laws and so on.

State legislation establishing the office of the administrator will dis-apply all relevant state laws, and adopt the Commonwealth laws. However, the Commonwealth laws are not suitable to apply as state laws without some modification.

For example, it is not clear that the exemption in section 34 of the FOI Act for cabinet documents would cause damage to relations between the Commonwealth and a state, but does not address potential damage to relations between states. Similarly, the conditional exemption in section 47C of the FOI Act applies to documents which if disclosed would disclose matter in the nature of, or relating to, the deliberative processes involved in the functions of the Commonwealth government, but does not extend to state governments. The regulation making power to be included in the amended act will allow the FOI and other acts to be amended to address these issues. State law will adopt the acts as modified by the regulations, ensuring that there will be a consistent and appropriate regime applying to the Administrator under both Commonwealth and state law.

The regulations may only be made with the agreement of state ministers.

Finally, the bill includes transitional provisions dealing with the situation where not all jurisdictions pass equivalent legislation at the same time. The effect is to allow all jurisdictions to take part in a decision on the appointment of the Administrator, even if legislation has not been passed in all jurisdictions.

This legislation will allow the National Health Reform Agreement to begin operation on 1 July 2012.

The agreement will result in vastly improved transparency about the performance of the health system at a local level, through the operations of the National Health Performance Authority. It provides for Commonwealth hospital funding based on an efficient price for hospital services, developed by the Independent Hospital Pricing Authority at arm's length from the Commonwealth and state governments.

And the legislation I am introducing today will allow for complete transparency about
funding flows from the Commonwealth and the states down to local hospital networks.

As the Prime Minister said when the outline of these changes was agreed at COAG in February last year:

People want to know what is happening with the money that goes in to fund health. They do not want it beyond their line of sight; they do not want to wonder whether when one level of government is stepping up to putting more in, perhaps another level of government is taking some out.

This legislation addresses that problem.

Debate adjourned.

**Federal Financial Relations Amendment (National Health Reform) Bill 2012**

First Reading

Bill and explanatory memorandum presented by Ms Plibersek.

Bill read a first time.

Second Reading

Ms PLIBERSEK (Sydney—Minister for Health) (10:09): I move:

That this bill be now read a second time.

The Federal Financial Relations Amendment (National Health Reform) Bill 2012 delivers a central component of the Gillard government's national health reform. This bill amends the Federal Financial Relations Act 2009 to enable the Commonwealth to make payments into the new national health funding pool in accordance with the National Health Reform Agreement.

The new arrangements will see Commonwealth and state government funding for local hospital networks channelled through a single pool, the national health funding pool, a joint intergovernmental funding authority with transparent reporting of both Commonwealth and state funding to individual local hospital networks.

Under the National Health Reform Agreement local hospital networks will be funded for the services they provide and funding will be transparently reported. In some circumstances such as in rural and remote areas, block funding will be provided through the states to ensure all Australians receive appropriate access to health services.

The bill also provides for the new payment arrangements associated with the transitioning of responsibilities for aged care and disability services.

The bill includes some minor technical amendments to the GST determination.

These changes will not impact on the total amount of revenue paid to the states and territories.

Debate adjourned.

**Migration Legislation Amendment (Student Visas) Bill 2012**

First Reading

Bill and explanatory memorandum presented by Mr Bowen.

Bill read a first time.

Second Reading

Mr BOWEN (McMahon—Minister for Immigration and Citizenship) (10:11): I move:

That this bill be now read a second time.

The purpose of this bill is to cease the automatic cancellation regime currently in place for student visa holders who breach the academic progress or attendance requirements of their student visa. This responds to the 2011 strategic review of the Student Visa Program and concerns raised in the 2011 Australian National Audit Office (ANAO) report, *Management of Student Visas.*
In December 2010, the government appointed the Hon. Michael Knight AO to conduct the first strategic review of the student visa program to help enhance the quality, integrity and competitiveness of the student visa program. Mr Knight reported to the government in June 2011 and on 22 September 2011 both the report and the government response were released. The government supports in principle all of Mr Knight’s recommendations.

A principal focus of the Knight review report is on improved integrity measures in the student visa program. To this end, the Knight review recommended that the automatic cancellation of student visas be abolished and replaced with a more targeted and strategic analysis of noncompliance.

Student visa holders are subject to a number of visa conditions that reflect the intention of the student visa program. Key to the integrity of the program is visa condition 8202 that requires international students to maintain course progress and attendance in class. The ability of a student visa holder to maintain course progress and attendance is considered an indicator of their genuine engagement in studies. Providers are required to monitor the course progress of their international students and their attendance in class under the provisions of the national code, a legal instrument under the Education Services for Overseas Students Act 2000 (ESOS Act). While providers are required to define their own policies in relation to course progress or attendance, at a minimum they must intervene to assist an international student who has failed more than 50 per cent of the units attempted in any one study period or who is at risk of failing to attend between 70 and 80 per cent of total course contact hours. Where a provider assesses the international student as not achieving satisfactory course progress or attendance, they must report them for a breach of condition 8202.

Under the current regime, an education provider is required under section 19 of the ESOS Act to report breaches of student visa condition 8202 to the Secretary of the Department of Innovation, Industry, Science, Research and Tertiary Education. The provider must give the student 20 working days notice in which to access complaints and appeals processes. The provider is then required to notify the student visa holder of the breach under section 20 of the ESOS Act. It is this notification that triggers the application of the automatic cancellation provisions under the Migration Act 1958 (the Migration Act). The notice requires the student visa holder to attend an office of the Department of Immigration and Citizenship (DIAC) within 28 days of the date of the notice to make any submissions about the breach. If the student visa holder does not comply with the notice, their visa is automatically cancelled under the Migration Act by operation of the law at the end of the 28th day after the date of notice. Consequentially, any family dependent visa holders would also have their visas cancelled. International students whose visas are automatically cancelled are subject to an exclusion period for applying for further visas for up to three years.

Both the Knight review and the ANAO have recommended the abolition of the automatic cancellation regime. The Knight review found that the automatic cancellation regime gives education providers extraordinary power over international students. It argued that the increase in automatic cancellations in recent years has been driven, in part, by the emergence of some providers who will use the automatic cancellation mechanism carelessly or even maliciously. It also found that the process is deleterious for some genuine international
students who require help and monitoring rather than having their visas cancelled. Further, it found that the regime was hindering the effective use of compliance resources.

The Knight review also found that the process has attracted continued adverse commentary from the Federal Court, with the majority of automatic cancellations made between May 2001 and December 2009 having been overturned, affecting some 19,000 cases. This factor was echoed in the ANAO report, which noted systematic flaws and vulnerabilities in the regime. The ANAO also shared the views of the Knight Review in respect of the resource-intensive process that the regime requires whereby integrity and compliance units must respond to every education provider report rather than pursue targeted areas of compliance concern.

The Australian community expects there to be consequences if a student visa holder breaches visa conditions. However, the automatic cancellation provision fails to properly account for the severity of the breach, any exceptional circumstances or whether or not a breach actually occurred. The lack of discretion imposes unnecessary administrative costs on international students, education providers and the government. It creates uncertainty and complexity for student visa holders.

For example, while students have the opportunity to stop the automatic cancellation process by attending an office within 28 days of the section 20 notice being sent, where they fail to do so, their visa is automatically cancelled at the end of the 28th day after the date of the notice, regardless of whether or not the breach may have actually occurred. Further, if a student visa holder applies for a revocation of an automatic cancellation, the decision maker can only decide to revoke where it is found that the breach either did not occur or was due to exceptional circumstances. The regime provides no discretion for a decision maker to distinguish between a genuine student visa holder who may be struggling academically and one who deliberately breaches the conditions of their student visa.

Critically, the automatic cancellation regime directs government resources away from pursuing more egregious student visa breaches. In particular, the Knight review found that the automatic cancellation regime was in fact hindering the effective use of student compliance resources within DIAC. It found that up to 80 per cent of DIAC student integrity resources are predominantly allocated to dealing with the automatic cancellation related caseload, including dealing with student visa holders approaching DIAC to stop the automatic cancellation process and managing requests for the revocation of an automatic cancellation. This means that reports for breaches that do not fall within the automatic cancellation regime cannot be prioritised, even though, upon further investigation, some of these reports may be for more serious noncompliance.

This bill would amend the ESOS Act to remove the requirement under section 20 for a registered education provider to send a notice to a student visa holder who breaches condition 8202 of their student visa. It is intended that on or after the day the amendments in this bill commence registered education providers will no longer be required, or able, to send a notice under section 20 of the ESOS Act. As a consequence, student visas will no longer be subject to automatic cancellation under the Migration Act.

Instead, a student visa holder who breaches a visa condition by not achieving satisfactory course progress or not achieving
satisfactory course attendance will be considered under the existing discretionary cancellation framework in the Migration Act. Under this framework, the education provider would still be required to report a breach of a prescribed condition of a student visa under section 19 of the ESOS Act. Details of the reported breach would be considered by DIAC for possible compliance action. The absence of automatic cancellation will not mean that such breaches will be taken any less seriously. In addition to following up on breaches of attendance and course progress, DIAC will be able to better prioritise other reports that may indicate serious noncompliance, including where an international student fails to commence their course. DIAC will be working with the Department of Industry, Innovation, Science, Research and Tertiary Education to develop targeted reports to assist in identifying all types of breaches associated with the student visa program and targeting those that represent the highest risk.

This bill would also make necessary consequential amendments to the ESOS Act to require an education provider to give particulars of any change in contact details or other prescribed details of a student visa holder within 14 days after the provider becomes aware of the change. This is broadly consistent with other obligations on education providers under the ESOS Act—for example, for a provider to report any changes in the identity or duration of a student's course within 14 days after the event occurs.

The amendments would ensure the best possible transition from an automatic to a discretionary cancellation regime without compromising immigration integrity. They would maximise the likelihood of student visa holders receiving information and notification affecting their immigration status. It will also assist in the conduct of any subsequent immigration compliance activity.

It is intended that the amendments in the bill would apply to student visas in effect at the time of commencement unless the international student has been sent a notice by an education provider under section 20 of the ESOS Act before the commencement of this bill. Any student visa holder sent a notice under section 20 of the ESOS Act before the date of commencement would still need to attend a DIAC office within 28 days or face the automatic cancellation of their student visa. However, if it is automatically cancelled, the former student visa holder would still be able to apply for a revocation of the cancellation. Revocation applications would be available until the visa would have ceased if not for the cancellation if the former student visa holder remains onshore, or within 28 days of the cancellation if the former student visa holder has left Australia.

**Conclusion**

Student visa holders will no longer have their visas automatically cancelled. These changes will provide for a fairer, merits based cancellation process and will allow integrity and compliance resources to be more targeted to areas of high risk.

These measures are intended to support the international education sector, which is one of Australia's largest export industries and is important to Australia in supporting bilateral ties with key partner countries, supporting employment in a broad range of occupations throughout the Australian economy, as well as delivering high-value skills to the economy. I commend the bill to the House.

Debate adjourned.
Environment Protection and Biodiversity Conservation Amendment (Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development) Bill 2012

First Reading

Bill and explanatory memorandum presented by Mr Burke.

Bill read a first time.

Second Reading

Mr BURKE (Watson—Minister for Sustainability, Environment, Water, Population and Communities) (10:23): I move:

That this bill be now read a second time.

I rise in support of the Environment Protection and Biodiversity Conservation Amendment (Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development) Bill 2012. On 21 November 2011, the Prime Minister announced the government’s intention to establish an independent expert scientific committee to provide scientific advice to federal, state and territory governments on coal seam gas and large coal mining developments where they have significant impacts on water. The committee is part of a new, science based framework introduced by the government to provide more certainty for regional communities around coal seam gas and large coal mining developments, jobs and investment, and the protection of water resources. The committee will provide independent scientific advice to governments on coal seam gas and large coal mining projects when they consider applications for these types of developments. The establishment of this committee will also provide local communities and other stakeholders with accessible and reliable scientific information that will build confidence in government assessment processes.

In support of this the government is negotiating a national partnership agreement with relevant state and territory governments. Under the agreement, signatory governments are required to seek the independent expert scientific committee’s advice when considering applications for coal seam gas and large coal mining developments that have a significant impact on water resources. Queensland was the first signatory to the national partnership agreement, on 14 February this year, and New South Wales followed, on 6 March. Negotiations with the other states and territories are continuing.

The bill being introduced into parliament today formally establishes the committee and makes it a requirement that the environment minister must seek and take account of the committee’s advice in certain specific circumstances. The bill also establishes a number of functions for the committee. At the request of governments that are signatories to the national partnership agreement, the committee will provide scientific advice on proposed coal seam gas or large coal mining developments that are likely to have a significant impact on water resources. This scientific advice will be provided within two months of the date of the request.

As part of its functions, the committee will also scope and advise on bioregional assessments in areas where coal seam gas and/or large coal mining developments are underway or planned, including priority areas for these assessments. It will advise on research priorities that tackle critical gaps in scientific understanding, including in circumstances where further information is required to assist in regulatory decisions. It will provide advice on ways to improve the
consistency and comparability of research on coal seam gas and/or large coalmining developments, including possible standards for protecting water resources from these impacts. The independent expert scientific committee will be an open committee that will provide regular public updates of its work on a dedicated website and publish its advice and the outcomes of bioregional assessments and commissioned research.

The government considers the establishment of the independent expert scientific committee as important, given the potential impacts associated with the large number of applications for coal seam gas and the large amount of coalmining exploration and number of developments currently in the pipeline. Independent expert scientific advice to provide quality recommendations for the protection of water resources has formed part of the consideration of applications where they have been under national environmental law. To date, this quality independent advice has been limited to the extent of environmental powers in relation to matters of national environmental significance set out under the Environment Protection and Biodiversity Conservation Act 1999.

The work of the committee will provide industry greater guidance on sustainable management of water resources in areas where coal seam gas and coalmining exploration and developments are proposed. An independent assessment process will help build community confidence in coal seam gas and coalmining developments in sensitive areas. These arrangements will provide Australians with greater confidence that projects will be subject to the most rigorous and objective scientific assessment. I commend the amendment bill to the House.

Debate adjourned.

National Vocational Education and Training Regulator (Charges) Bill 2012

First Reading

Bill and explanatory memorandum presented by Ms Bird.

Bill read a first time.

Second Reading

Ms BIRD (Cunningham—Parliamentary Secretary for Higher Education and Skills) (10:29): I move:

That this bill be now read a second time.

The establishment of the National Vocational Education and Training (VET) Regulator on 1 July 2011 was a significant milestone. Fragmented regulation across nine regulators has been streamlined and a more nationally consistent and rigorous approach taken to enforcing standards in the VET sector.

The National VET Regulator, known as the Australian Skills Quality Authority (ASQA) is established under the National Vocational Education and Training Regulation Act 2011 (the NVETR Act). The new regulatory framework was developed in consultation with those who stood to be most affected by the changes. State and territory regulators, industry and RTOs all contributed their ideas and concerns during the consultation period undertaken in 2010.

The Council of Australian Governments (COAG) agreed ASQA would operate on a cost recovery basis and ASQA’s cost recovery arrangements were subject to extensive consultation in 2011. The feedback from those consultations was extremely helpful in designing the final fee and charge structure and ensuring that the new cost arrangements are appropriate for the sector.

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The Council of Australian Governments (COAG) agreed ASQA would operate on a cost recovery basis and ASQA’s cost recovery arrangements were subject to extensive consultation in 2011. The feedback from those consultations was extremely helpful in designing the final fee and charge structure and ensuring that the new cost arrangements are appropriate for the sector.

A cost recovery impact statement covering the period from ASQA’s commencement on 1 July last year to 30 June 2014 has been publicly available on
ASQA's website since April 2011. That statement clearly outlined ASQA's proposed fee and charge structure and the need for the bill I introduce today.

The purpose of the bill I introduce today, the National Vocational Education and Training Regulator (Charges) Bill 2012, is to support ASQA's cost recovery arrangements by enabling it to recover reasonable costs and expenses related to additional compliance activities that are not application based, including compliance audits and complaint investigations. Application based fees are authorised by the NVETR Act.

I now turn to the specifics of the bill.

Object

One of ASQA's key functions is to encourage and monitor provider compliance with registration standards—training providers must be able to demonstrate compliance at all times.

The main method by which ASQA monitors compliance is by conducting compliance audits. ASQA also investigates complaints it receives about the performance of training providers.

This bill will enable ASQA to recover reasonable costs and expenses associated with these additional monitoring activities.

This is in line with Australian government cost recovery policy and part of ASQA's implementation path to full cost recovery by 2014-15.

Compliance audits

It is necessary for ASQA to conduct compliance audits to ensure ongoing compliance with the VET Quality Framework and identify issues relating to the quality of VET.

ASQA conducts a risk assessment on all registered training organisations (RTO) and this risk assessment is used to determine whether to conduct a compliance audit. Providers who have been assessed as high risk will receive more rigorous monitoring by ASQA.

Compliance audits require a significant regulatory effort. This bill provides that, where the ASQA undertakes such an audit, a charge is payable for the audit and—where the audit is conducted outside of Australia—any other reasonable expenses incurred.

Audit compliance charges will represent the resources required to effectively audit a provider.

Complaint investigations

Complaints provide important information about the performance of RTOs and their compliance with standards for registration.

ASQA's process for investigating complaints against an RTO will improve stakeholder confidence in the VET sector. Students, employers, training personnel, parents, industry or any member of the community may lodge a complaint with the National VET Regulator if they are not satisfied with the quality of training delivered by an RTO.

This bill enables the ASQA to charge RTOs for complaint investigations. Charges only apply where the complaint is substantiated by ASQA. In this circumstance, charges will be payable for the costs and expenses of conducting the investigation; any compliance audit conducted as part of the process; and, if the investigation is conducted outside of Australia, any other reasonable expenses incurred.

Conclusion

The National VET Regulator has been established with the powers to examine quality concerns in all areas of the VET sector. It is important that the National VET Regulator is properly resourced in order to conduct its functions thoroughly and deliver
high-quality services. This is needed to ensure more robust regulation which will lead to better training outcomes.

A core function of the National VET Regulator is to encourage and monitor compliance of the VET sector. It is appropriate that the costs of ensuring a quality VET system are borne by the businesses that benefit from the system.

Debate adjourned.

Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill 2012

First Reading

Bill and explanatory memorandum presented by Ms Bird.

Bill read a first time.

Second Reading

Ms BIRD (Cunningham—Parliamentary Secretary for Higher Education and Skills) (10:35): I move:

That this bill be now read a second time.

Introduction

In the 2011-12 budget, the government took important steps to build Australia's future workforce and good jobs for the future. We delivered one of the largest skills packages in our nation's history—a $3 billion investment over six years to ensure that industry has the skilled workers it needs to grow and prosper, and that more Australians than ever before will be able to access training and the life opportunities that come through skills and employment.

To secure Australia's long-term prosperity the government's Building Australia's Future Workforce package provided the framework for a new skills and participation agenda that:

- modernises our apprenticeship system;
- invests in skills to support increased workforce participation; and
- reforms our National Training System so that it responds more effectively to the skills needs of our economy.

The Building Australia's Future Workforce package is built on Labor's already significant investment in Vocational Education and Training (VET). In the three financial years from 2008 to 2010, we invested $11 billion in VET.

A new partnership with industry

In the 2011-12 budget, the government responded to requests from its industry and union partners to improve the linkages between skills funding and industry needs and to increase the focus on workplace productivity in Australia. The Australian Industry Group, the Australian Council of Trade Unions, and the Australian Chamber of Commerce and Industry have all argued for a more integrated approach to tackling Australia's skills and productivity challenges.

In its national workforce development strategy, Australian Workforce Futures, Skills Australia recommended a new partnership approach to workforce development at government, industry and enterprise level. And in its most recent report, Skills for prosperity—a roadmap for vocational education and training, Skills Australia also recognised that, more than any other education sector, the training sector 'connects learning with the labour market, the workplace and community development'.

It was in this context that we announced the creation of a new industry-led national workforce and productivity agency to expand on the successful role of Skills Australia and provide independent advice on the skills and workforce development needs of industry sectors and regions.
I am pleased to introduce the Skills Australia Amendment (Australian Workforce and Productivity Agency) Bill 2012 to implement the government's commitment to establishing this new agency, which replaces Skills Australia from 1 July 2012.

The aim of the new agency is to improve long-term workforce planning and development to address skills and labour shortages, and contribute to improvements in industry and workplace productivity. It will give industry a stronger voice and ensure the government's investment in training delivers the skills that industry and the economy need, in the right place at the right time.

Importantly, the agency will have the ability to advise the government to direct funding to areas of critical industry need, and will be an authority on workforce development policy. It will build on the strengths of Skills Australia, and collaborate with industry associations, industry skills councils, unions and employers to ensure a shared, practical approach which meets sectoral, regional and small business industry needs.

It will also have a key role in advising the government on policy direction and expenditure priorities for the $558 million industry-focused National Workforce Development Fund. This gives industry a place in the driver's seat for a substantial Australian government investment in workforce development. Under the fund, industry will co-invest in the skills our economy needs most, providing around 130,000 training opportunities for job seekers and people who already have jobs but need to learn new skills.

**Description of the bill**

Because of the strong role of Skills Australia in the past, the government has retained in this bill the effective governance structure and legislative framework of that body. The amendments in the bill are therefore simple, but they make important changes to enhance the object and functions of the Skills Australia Act 2008 to reflect the expanded role of the agency from 1 July 2012.

These broadened functions will give the agency a stronger research, analysis and advisory role, and specifically provide for it to address improvements in Australian workforce productivity. They will also ensure the agency can advise the government on the allocation of Commonwealth industry skills funding, including the National Workforce and Development Fund.

The bill provides for an expansion in the size of the agency, compared to the current size of the Skills Australia membership, and a revision and expansion of the current membership criteria. This reflects the transition to a balanced, fully representative union- and industry-led body, and will allow for the agency to meet its significant skills and workforce development agenda from July this year.

This bill represents the Gillard Labor government's commitment to working in partnership with industry and unions to make this nation stronger and more prosperous for all Australians. I commend the bill to the House.

Debate adjourned.

**COMMITTEES**

Public Works Committee

**Approval of Work**

Mr GRAY (Brand—Special Minister of State and Minister for the Public Service and Integrity) (10:41): I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, it is expedient to carry out the following proposed work which was referred to the Parliamentary Standing Committee on Public Works and on
which the committee has duly reported to Parliament: Development and construction of housing for the Department of Defence at Ermington, New South Wales.

Defence Housing Australia proposes to develop a 16.3 hectare 'in-fill broadacre' site in the Sydney suburb of Ermington, New South Wales. The site was formerly a naval stores depot. The proposal will provide an additional 209 dwellings, made up of three- and four-bedroom townhouses, courtyard-style homes and detached homes.

The proposal will also yield nine 'super lots' for the construction of an additional 228 apartments. The 'super lots' will be sold to private developers for private sale, creating a mixed civilian and defence community and reducing DHA's net outlay. The proposal is part of ongoing activity to increase the number of houses in the DHA portfolio in Sydney and reduce the number of ADF personnel living in subsidised private rental accommodation.

The Ermington site is very well located with significant frontage on the Parramatta River and is only 15 kilometres from the Sydney CBD. It will be especially convenient for those ADF members posted to CBD locations such as Fleet Base East and Victoria Barracks.

The project cost of $90.6 million, inclusive of GST but excluding cost of land, will be met by DHA and recovered through the sale of surplus lots and the sale and lease-back program.

In its report, the Public Works Committee has recommended that these works proceed. Subject to parliamentary approval, construction is expected to commence in May 2012 and be completed by December 2015. On behalf of the government, I would like to thank the committee for its support and I commend the motion to the House.

Question agreed to.

Reference

Mr GRAY (Brand—Special Minister of State and Minister for the Public Service and Integrity) (10:44): I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Proposed improvement to fuel storage and supply, Christmas Island, Indian Ocean Territories.

The Department of Regional Australia, Local Government, Arts and Sport proposes to increase the bulk fuel storage capacity and integrate and co-locate storage of diesel, aviation fuel and petrol on Christmas Island, Indian Ocean Territories. All fuel is required to be delivered to Christmas Island by sea. Adverse weather conditions, particularly those prevalent during the 'swell' season, limit and often prevent ships from being unloaded. As a result, bulk deliveries of diesel and petrol are typically scheduled to occur just prior to and immediately following the swell season. The scheduled deliveries can be compromised due to the variances in when the swell season commences and finishes.

The proposed works include:

- increased access to Commonwealth owned bulk diesel storage tanks currently leased to the Indian Ocean Oil Co. and hence increased storage capacity at Smith Point;
- construction of a new bulk fuel installation on Murray Road including bulk petrol storage tanks (relocated from Rock Point), service station (relocated from the settlement area and subject to community consultation); isolatiner storage area for aviation fuel and construction of fixed aviation fuel storage adjacent to the airport;
• construction of a new pipeline and associated infrastructure between Smith Point and the new bulk fuel installation to transfer petrol into bulk storage assets; and
• demolition of redundant facilities and associated site remediation works.

The approved budget is $19.5 million, plus GST, and includes all costs to complete the project works, including contingencies and an allowance for escalation. An increase in the net operating costs of Commonwealth fuel assets is expected due to the construction of new and re-used facilities.

Subject to parliamentary approval, construction is expected to commence in late 2012 and be completed by June 2014. I commend the motion to the House.

Question agreed to.

BILLS
Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011
First Reading
Bill received from the Senate and read a first time.
Ordered that the second reading be made an order of the day for a later hour this day.

Reference to Federation Chamber
Mr GARRETT (Kingsford Smith—Minister for School Education, Early Childhood and Youth) (10:47): by leave—I move:
That the bill be referred to the Federation Chamber for further consideration.
Question agreed to.

COMMITTEES
Public Works Committee
Reference
Mr GRAY (Brand—Special Minister of State and Minister for the Public Service and Integrity) (10:48): I move:

That, in accordance with the provisions of the Public Works Committee Act 1969, the following proposed work be referred to the Parliamentary Standing Committee on Public Works for consideration and report: Proposed fit-out of Commonwealth Parliament Offices at 1 Bligh Street, Sydney, New South Wales.

The Department of Finance and Deregulation proposes to undertake a fit-out of new Commonwealth Parliament Offices (CPO) at 1 Bligh Street, Sydney. The Sydney CPO provides office and meeting facilities for the Prime Minister, cabinet ministers, office holders and visiting senators and members.

The current CPO is located at 70 Phillip Street and, due to the age and condition of the accommodation as well as inherent faults that cannot be overcome by a refit, it is not desirable to enter into a new long-term lease of the premises.

However, a three-year lease has been signed to allow sufficient time to relocate and make good the current premises.

It is also proposed to provide office facilities for the Prime Minister, the current Leader of the Opposition and the operation of cabinet. In the past, the facilities for the Prime Minister and the operation of cabinet have been co-located with the CPO but have been on a separate lease and managed and fitted out by the Department of Prime Minister and Cabinet. This proposal will achieve significant efficiencies and greater flexibility both in the fit-out project and ongoing operation of the facilities.
The Sydney CPO will occupy three levels of 1 Bligh Street, covering a fit-out area of 4,891 square metres.

The Bligh Street address retains the financial business district location with easy access to public transport and to the airport.

The estimated cost of the proposed fit-out is $21 million, plus GST.

A stakeholder reference group has been engaged which will provide regular input into the design of the new CPO.

Subject to parliamentary approval, construction is expected to commence in July 2012 and be completed by December 2012.

I commend the motion to the House.

Question agreed to.

Economics Committee

Report

Ms OWENS (Parramatta) (10:51): On behalf of the Standing Committee on Economics I present the committee’s report entitled Review of the Reserve Bank of Australia Annual Report 2011 (First Report), together with the minutes of proceedings.

In accordance with standing order 39(f) the report was made a parliamentary paper.

Ms OWENS: by leave—Australia continues to enjoy near ideal conditions by every relevant measure of international comparison. Despite the disturbing persistence of uncertainty throughout much of the global economy, especially the eurozone, the fundamentals of the Australian economy remain strong.

Our public debt and unemployment rate are low by international standards. Our underlying inflation is at the midpoint of the inflation target range. We remain an attractive location for a wide range of both foreign and domestic investors. We are well placed to benefit still further from the current historic surge in business investment, particularly in the resources sector. This surge assures Australians of more growth in output and national wealth.

As this report demonstrates, the RBA's central expectation for the next two years is for growth to closely follow the trend and for inflation to be close to the target. But there is evidence of a fundamental realignment within the national economy.

As the bank has testified, the drivers of growth in our economy have changed quite recently. The long-term, structural effects of the export oriented resources boom are now working their way through the nation, across region after region. The resulting investment boom continues to grow in strength. This is expected to last for the foreseeable future, although it has already taken the share of business investment in GDP to its highest level in at least 50 years.

It is now clear that the household behaviour has changed, with Australian households taking advantage of the current conditions to save more and spend less than they have done in the recent past. This will provide Australian families with an enhanced degree of financial resilience.

On behalf of the committee, I would like to express our best wishes to Mr Ric Battellino on the occasion of his retirement as deputy governor and our congratulations to Dr Philip Lowe on his appointment as deputy governor.

Finally, on behalf of the committee, I would like to thank the Governor of the Reserve Bank, Mr Glenn Stevens, and other representatives of the RBA for appearing at the hearing on 24 February 2012. The committee will conduct the next public hearing with the RBA on 24 August 2012 in Canberra. Further details will be circulated in the weeks prior to the hearing.

I commend the report to the House.
Mr CIOBO (Moncrieff) (10:53): by leave—Mr Acting Deputy Speaker Leigh, how apt that you should be in the chair. I rise to second, in many respects, the comments that were made by the chair of the House of Representatives Standing Committee on Economics. Of course, the committee did undertake its most recent review of the annual report of the Reserve Bank, and it was interesting to hear the Reserve Bank governor's testimony in a range of areas.

Unlike the Labor Party, members of the coalition take the view that Australia's good fortune is not a consequence of brilliant economic stewardship by the Labor Party nor a consequence of the fiscal policy settings that the Labor Party has put in place. Rather, it was—in the view of the coalition members, and we sought to verify views on this with respect to economic stewardship—a legacy issue of the former coalition government. That is not to say it has all been bad, but the evidence, very clearly, from the Reserve Bank is that much of Australia's ongoing economic success, much of the resilience of the Australian economy, much of the strength of the Australian economy, flows from the fact of our geographic location more than it does from any brilliance by the current Treasurer.

In that respect, the testimony from the Reserve Bank governor was clear: Australia will continue to have economic challenges in the future as we undertake a very significant period of structural reform across the Australian economy. An inflated Australian dollar, in comparison to the situation historically, will continue for some time. We will continue to see pressures being placed on banks with respect to their funding costs and, in addition, there will need to be continual revisions of interest rates and the official cash rate by the Reserve Bank with respect to trying to get the balance right for Australia going forward and balancing the issue of inflation with, of course, economic growth.

Taking all those matters into account, there was also some questioning by the member for Casey of the Reserve Bank on a couple of outstanding issues with respect to Secuency, and it was good to clarify those matters as other members of the committee have previously.

All in all, the committee members from the coalition side were grateful to the Reserve Bank governor for his continued cooperation with the House of Representatives Standing Committee on Economics. We were grateful, too, to the committee secretariat for all of their assistance and hard work. And like the chairman of the committee, we are certainly pleased to congratulate Dr Philip Lowe on his ascension to the position of deputy governor and to thank Mr Ric Battellino for his contribution over a number of years as he steps down and retires as deputy governor.

The DEPUTY SPEAKER (Dr Leigh): I call the member for Parramatta to move that the House take note of the report.

Ms OWENS (Parramatta) (10:56): I move:

That the House take note of the report.

The DEPUTY SPEAKER: In accordance with standing order 39, the debate is adjourned. The resumption of the debate will be made an order of the day for the next sitting.

Report and Reference to Federation Chamber

Ms OWENS (Parramatta) (10:56): by leave—I move:

That the order of the day be referred to the Federation Chamber for debate.

Question agreed to.
Publications Committee
Report

Mr HAYES (Fowler) (10:57): by leave—I present the report from the Publications Committee sitting in conference with the Publications Committee of the Senate. Copies of the report are being placed on the table.

Report—by leave—agreed to.

BILLS
Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012
Second Reading

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

(Quorum formed)

Mr HOCKEY (North Sydney) (11:00): I am sorry that quorum was caused. But the Minister for Employment and Workplace Relations is simply not on top of his portfolio. He has amendments to his own amendments in relation to FoFA and he is not even here to explain them, and he has amendments to other bills and is not here to explain them either. I have not seen in this place a more incompetent legislative minister.

The DEPUTY SPEAKER (Dr Leigh): The member for North Sydney will direct his remarks to the bill.

Mr HOCKEY: The Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012 represents a number of proposed legislative changes flowing from the government's response to the super system review, commonly known as the Cooper review. In particular, this bill is focused on changes to the governance of superannuation funds and gives the power to APRA to make prudential standards for superannuation. These are important matters. The superannuation industry, in large part, owes its success to government policy. The industry is boosted by the compulsory nature of superannuation contributions, which are currently at nine per cent, and the concessional tax treatment afforded savings in a superannuation fund.

Super funds under management now amount to $1.3 trillion, broadly the annual size of the output of the Australian economy. Superannuation savings are a key form of private sector saving. For many individuals, their funds in superannuation accounts would almost be their only significant savings other than the family home. The increasing size of the superannuation industry and its critical importance as a savings vehicle mean that good governance is of paramount importance to financial stability and to household confidence. It is also of critical importance that the superannuation industry be soundly supervised by an appropriate regulator. The government needs to protect the interests of superannuants just as it needs to protect the interests of depositors in authorised deposit-taking institutions—obviously without the same explicit guarantees for funds under management.

Schedule 1 provides for additional statutory obligations for trustees. These covenants become the default rules for trustee governance and superannuation, and replace existing covenants in the Superannuation Industry (Supervision) Act. For the most part, these seem pretty worthwhile. They are the sorts of duties that trustees should already be performing, but it certainly does not hurt to define these responsibilities more carefully. MySuper trustees must promote the financial interests of beneficiaries, with particular focus on the returns that are earned. The trustees must annually assess sufficiency of scale of the MySuper product. That is known as its scale test. The trustees must include in their
investment strategy an investment return target over 10 years as well as the level of risk for the MySuper product.

There are also obligations for trustees of registrable superannuation entities. These trustees must, among other things, give priority to the interests of beneficiaries where conflicts arise. They must exercise the same degree of care, skill and diligence as a prudent superannuation trustee. They must have regard to valuation information, the expected tax consequences and costs in their investment strategies and they must offer a range of options sufficient to allow members to choose a diversified asset mix. They must have an insurance strategy and must meet additional duties in relation to insurance. They must formulate, regularly review and give effect to a risk management strategy. And they must maintain and manage financial resources to cover operational risk.

Again, many of these requirements are in no way contentious and these duties are really what trustees of registrable superannuation entities should already be doing. The existing covenants that apply to self-managed superannuation funds will continue to apply under the changes and the peak industry body, the Self-Managed Super Fund Professionals Association of Australia, SPAA, sees little or no implications from this legislation.

Schedule 2 of the bill deals with prudential standards for superannuation funds. It gives APRA the power to determine those standards. The standards will be legislative instruments within the meaning of the Legislative Instruments Act 2003 and will be disallowable by parliament. APRA currently has the power to issue prudential standards in relation to authorised deposit-taking institutions, life insurance companies and general insurance companies, but not for superannuation funds. Currently, APRA can issue guidance material on expected standards for superannuation funds, but these materials are not legally binding. The Cooper review recommended APRA be given a standards-making power in relation to superannuation. Bringing superannuation funds within the prudential net of APRA is a good idea and one which will enhance the protections for superannuants.

The coalition has two issues with this bill. The Cooper review into Australia's superannuation system handed down its report in June 2010. It recommended a large range of initiatives in relation to the governance of superannuation. These included: first, that the disclosure of conflicts of interest be mandatory; second, that directors must properly disclose their remuneration in line with the provisions that apply for publicly listed companies; third, that there should be appropriate provision for independent directors on superannuation fund boards; and, fourth, that directors who want to sit on multiple boards must demonstrate to APRA that they do not have any foreseeable conflicts of interest. Unfortunately this bill does not address any of these fundamental issues. This is a wasted opportunity. There is still much work to be done to elevate the corporate governance of superannuation to an acceptable level.

The second issue concerns the 'scale test' for MySuper funds in the new subsection 29VN(b) and (c). This requires trustees to determine on an annual basis that there is sufficient scale, in terms of assets and beneficiaries, such as to not disadvantage the financial interests of beneficiaries relative to the financial interests of beneficiaries in MySuper products in other funds. The explanatory memorandum notes that where a trustee determines that its scale is insufficient, the trustee will be required to take appropriate action to rectify the insufficiency so they continue to meet their
The scale test is based on a presumption that larger funds invariably provide lower fees and higher returns for members. However, there is no evidence to indicate that this presumption is correct in practice. Indeed, it may be the case that smaller funds will be more nimble and better able to quickly exploit market opportunities. In this way they may offer returns superior to those offered by larger less flexible funds. At best this provision of the bill seems redundant and an unnecessary intrusion into the workings of the market.

The scale test may also confer an advantage on the larger industry superannuation funds because they have existing scale. In this sense it may operate as a barrier to entry for new funds. This would reduce competition in superannuation. This concern is shared by many of the stakeholders. As part of the Parliamentary Joint Committee on Corporations and Financial Services inquiry into this bill, a public hearing was held on 2 March 2012. The union controlled Industry Super Network said of the scale test:

We agree that is problematic.

Given that the government takes its instructions from trade unions you would think they would listen to this. The Association of Superannuation Funds of Australia stated:

We believe the current wording of the scale test is problematic.

They further stated that it should be removed. Mercer, a fund with around $16 billion of funds under management and 230,000 Australian clients, commented:

…the scale test is not needed if the trustees have that responsibility to act in the member's best interest.

Mr Danby: Bought and sold for $4 billion dollars.

Mr HOCKEY: If I were you, old sunshine, I would be worried about the Greens.

The Financial Services Council noted:

Our view is that a scale test should not be in law. Not only is it a barrier to entry but the test, as suggested in the current drafting, is very subjective, very open.

Industry stakeholders are largely all on the same page in believing that a scale test is problematic, confusing and redundant.

The government cannot claim to be blind to these issues. Treasury released draft legislation in December 2011 with submissions closing on 13 January 2012. Submissions to the Treasury raised a number of issues relating to the scale of fund requirements, including that the comparison with other funds would lead to a focus on short-term returns. Other concerns of industry participants included that the scale test could become a de facto test of investment outcomes and that there was uncertainty about terms such as 'promote' and 'financial interests'. Predictably, the government failed to resolve these issues in their exposure draft. This is yet another example of Labor pretending to consult, but not listening to the people they expect an opinion from.

I indicate to the House that I will be moving an amendment to remove sections 29VN(b) and (c), which impose the flawed scale test. If our amendment to remove sections 29VN(b) and (c) is successful, we will not oppose the bill in the House.

The coalition have supported 86 per cent of all the bills that have been through this place in this parliamentary term—86 per cent
of the bills, and they like to portray us as negative. It seems to be the government that is negative.

Mr LYONS (Bass) (11:13): I rise to speak on the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012. In December 2010, the Assistant Treasurer and Minister for Financial Services and Superannuation, the Hon. Bill Shorten, announced the Stronger Super reforms. Stronger Super represents the government's response to the review into the governance, efficiency, structure and operation of Australia's superannuation system and the Super System Review. To provide input on the design and implementation of Stronger Super reforms, the government undertook a very extensive consultation program with industry, employers and consumer groups. On 21 September 2011, the government announced its decision on the key design aspects of Stronger Super reforms. This bill is the second part of the legislation implementing the government's MySuper and governance reforms, as part of Stronger Super. The first tranche of legislation was introduced to parliament on 3 November 2011 as the Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2011, known as the MySuper core provisions bill. There have been criticisms of the way we govern superannuation in Australia. As Ross Jones from APRA said:

We have better supervisory controls over a building society in remote NSW or a credit union in the sticks than we do over a multi-billion-dollar super fund.

Also, the Cooper review stated:

… governance in super has not kept up with developments in the industry. There have been difficulties for trustees in understanding what is expected of them and, as the industry consolidates, conflicts of interest and conflicts of duty arise regularly.

In the light of these criticisms the government is now taking logical, important and necessary steps to reform governance of this industry.

This bill addresses these issues by introducing the power for the Australian Prudential Regulation Authority, APRA, to make prudential standards, which is in line with banking and insurance, and amends the Superannuation Industry (Supervision) Act 1993—the SI(S) Act—to expand and enhance the duties of the 4,000 or so trustees of superannuation funds. It is important to note that there are no changes of substance for trustees of self-managed super funds.

In brief, this bill introduces the power for the Australian Prudential Regulation Authority to make prudential standards; amends section 52 of the Superannuation Industry (Supervision) Act 1993 to expand the duties of registrable superannuation entity licensees; applies new trustee duties to RSE licensees of an RSE that offers a MySuper product; and applies duties to the directors of corporate trustees. Trustees that elect to offer a MySuper product will have to meet new obligations, in particular to promote the financial interest of members.

The government has decided to introduce enhanced trustee obligations for trustees of funds that offer MySuper products, recognising that trustees should have increased responsibilities for default members who generally delegate all aspects of their superannuation to them.

APRA must be satisfied that a trustee will comply with the enhanced trustee obligations and that individual directors of corporate trustees will comply with the enhanced director obligations to authorise an RSE licensee to offer MySuper as a product.

Power will be given to APRA to make prudential standards in superannuation. Currently, detailed prudential requirements
expanding on the SI(S) Act requirements are contained in regulations. These are less flexible and are unable to be quickly amended to respond to industry developments. Prudential standards will provide APRA with greater flexibility to effectively adapt to industry developments and the ability to provide regulated entities with clearer and more tailored legal requirements. This is a sensible change.

As we raise the bar in areas such as financial planning, it is also fair that we ensure there are improvements in other areas of our super system, including in the operation of the funds themselves and the conduct of trustees. Twenty years ago the Keating Labor government introduced one of the great economic reforms: nine per cent superannuation for every worker. This year sees the Gillard Labor government progress the next steps: stronger super, by progressively taking the universal compulsory savings rate up from nine to 12 per cent; stronger super, by getting rid of unfair fees and charges, leaving a lot more money in people's balances; and stronger super, by finding lost super, consolidating multiple accounts and improving the duties of trustees.

Thanks to our superannuation system, Australia now has the fourth largest number of privately managed funds in the world—a huge achievement. It is the envy of the Americans and a fiscal protection that our European mates would give their eye teeth for right now.

I would like to take this opportunity to thank Treasurer Swan and Senator Sherry for their work in the area of superannuation, ensuring Australia's future and steering our economy in the right direction. Labor's response to the GFC, led by Treasurer Swan, saved jobs and avoided a recession. We have delivered a strong economy with low taxes, low unemployment and low interest rates.

Our nation faces a choice, as our region of the world becomes the centre of economic growth in this century, as the resources boom and the high Australian dollar transform our economy, as our technology changes, as our society ages and as we tackle climate change. Our nation can choose to either give working people a fair share of the resources boom and today's economic strength or let only a few feel the benefits. We can choose to get ready for the future or stand still. We can choose to face up to the hard decisions now or take the easy way out and leave the hard decisions to our children and our children's children.

As a government, we have made our choices. We stand for supporting working families with a package of policies that helps them through, giving working people a fair share of the resources boom and making the hard decisions that will build a new Australian economy and get us ready for the future. By putting money into superannuation, Australians steadily build up capacity to have lifetime income security and that goal, lifetime income security, is a Labor vision, a Labor goal for the whole nation—not the Liberal way of super just for private or public fat cats. The more of our own money we have in retirement, the less we will have to rely on the age pension. So it is fiscally responsible. It also improves the circumstances decades ahead for our children. The more private savings older people have in their retirement, the less younger workers need to pay in tax to help support those retirees.

Our super reforms mean that, on Treasury estimates, we will be saving $10 billion a year to the budget by easing the pressure on the age pension. It is in the national interest to encourage Australians to save more for
their retirement. But it is also fair that the superannuation industry contributes to higher retirement savings through greater efficiency and lower fees.

Fundamentally, what we are doing here is making super more efficient. The Gillard Labor government believes that every worker should take an active interest in their superannuation accounts. But, let us face it, most of us do not until we are much closer to retirement. The problem is that most superannuation funds charge you fees as though you take a regular, active interest in how your money is invested.

The most important question for federal parliamentarians is the same one as that for most modest, ordinary Australians: what can we do to bring about a better future for our kids? I am so very proud to be part of a government that is making key reforms that will make life easier for our children and their children. We know that the world is changing and that Australia faces challenges and big opportunities in the years ahead. Superannuation is part of the Australian economy. It is the largest source of long-term savings in Australia and after the family home is the second most significant source of wealth for many Australians. By ensuring that the superannuation system is more efficient, these reforms will also improve the productivity of the Australian economy.

The Gillard Labor government understands that cost-of-living pressures extend beyond working life. That is why we are delivering a world-class retirement income system and increasing support for pensioners to meet day-to-day living costs. The Leader of the Opposition is mindlessly negative and opposes everything but has no real plan for building retirement incomes for Australian workers. He acts out of political interest—the interests of the privileged, not the national interest. We all know that the member for Warringah has extreme views on compulsory superannuation. In 1995 he said: Compulsory superannuation is one of the biggest con jobs ever foisted by government on the Australian people.

He obviously still believes this. In his book, Battlelines, he outlines a plan to dismantle it and increase the pension age to 70.

On all of the big calls, the Liberals get it wrong. The only policies the member for Warringah has are the ones he is trying to hide: reintroducing Work Choices, cutting family assistance and pensions, abandoning the action on climate change and abandoning support for industry. When he talks about the economy, he is speaking not for everyday Australians but for the vested interests of big tobacco, mining magnates, climate change deniers and all Liberal Party donors. When the Liberals think about the economy they do not put families and workers first. That is why they opposed Labor's stimulus package, which saved 200,000 jobs.

We understand the cost-of-living pressures on working families. We are easing those pressures through tax cuts, by making family payments fairer and more sustainable, through assistance for child care, through our education tax refund and through Australia's first Paid Parental Leave scheme. We have a proud history when it comes to families and seniors. We are making the hard decisions now, giving working people a fair share of the resources boom and getting our nation ready for the future by building a new Australian economy. We are managing the economy for working people—fighting for jobs, as we did during the GFC and are doing now in the manufacturing and auto industries. Building a new Australian economy means rolling out the NBN, which can be used to make business more productive and deliver better government services; bringing in a mining tax to increase retirement savings, cut small business taxes
and increase the tax-free threshold; and increasing our skills base through trade training centres, workplace skills programs and extending all of the education system from primary to tertiary, equipping Australians for current and future jobs.

The Gillard Labor government is getting things done. Those opposite are holding this country back. Superannuation is a proud Labor government achievement that represents a triumph of the nation over vested interests. We now have a chance to use our past achievements to build a new economy based on clean energy jobs, on technology and on skills. Our super reforms are just another piece of the puzzle. I commend this bill to the House.

Debate adjourned.

REGISTER OF MEMBERS' INTERESTS

Mrs D'ATH (Petrie) (11:25): As required by resolution of the House I table copies of notifications of alterations of interests received during the period 24 November 2011 to 21 March 2012.

BILLs

Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2012

First Reading

Bill received from the Senate and read a first time.

Second Reading

Mr Shorten (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (11:26): I present the explanatory memorandum to this bill and move:

That this bill be now read a second time.

I am privileged to be introducing this legislation into the House of Representatives today.

In public debates here in Canberra, and elsewhere, we tend to hear and talk a lot about mining workers and construction workers, smelter workers or nurses and teachers, community workers, and that is a good thing. But rarely do we hear the stories of those who work in the textile, clothing and footwear sector.

They are amongst some of the most productive, hardworking and vulnerable Australians.

They are predominantly female. They perform insecure work, sometimes with poor English language skills and no great understanding of the laws and practices that should apply in Australian workplaces. Yet they raise their families and they are generating children who grow into adults and become marvellous Australians.

Often, however, they are not represented at work.

I believe firmly that governments should be focussed on helping those who need it the most.

It is hard to think of another group of workers who require the support of our national parliament more than our outworkers do.

In a previous occupation I worked proudly as a union representative in workplaces where the workers all came together in one place to perform their labour, with one employer, and even in those circumstances it can be difficult to ensure that there are proper terms and conditions and a safe workplace.

I cannot imagine how a textile, clothing and footwear outworker, with little grasp of their second language, English, and little awareness of their rights at work, can follow
up on nonpayment for her work, given the multiple hands her work passes through. That is why this government has introduced this legislation.

The Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2011 will provide overdue and enhanced workplace protection for Australia's most vulnerable and productive workers—in particular, outworkers.

**Who is a TCF outworker?**

When I talk about a TCF outworker, a textile, clothing, footwear outworker, I am talking about someone who works in the textile, clothing and footwear manufacturing industry—covering all stages of production of TCF products, from the processing of raw materials through to the production of the final goods that we wear.

Clothing and footwear manufacture, in particular, are labour intensive, with limited scope for mechanisation or automation of significant parts of these processes. That is why outworkers are used to perform so much of this work.

**Existing protections**

The government's Fair Work Act already contains a number of important protections for TCF outworkers—including scope for awards to include targeted 'outworker' terms, and enhanced right of entry arrangements.

Additional entitlements and protections for outworkers are contained in the modern award known as the Textile, Clothing, Footwear and Associated Industries Award.

Where outworkers are entitled to fair minimum conditions, they can have difficulty accessing them.

Even our Fair Work Ombudsman faces difficulties in identifying and assisting outworkers because outwork is, by definition, not performed in traditional workplaces and it can be difficult to identify for whom the work is being performed.

**What is the issue the bill is designed to address?**

There have been any number of reviews over the past 15 years that have raised concerns about the situation of outworkers in the TCF industry.

Recently, a report by the Brotherhood of St Laurence found that outworkers experience poor working conditions and are frequently underpaid, sometimes as little as $2 or $3 an hour.

These reviews have found, and the government accepts, that outworkers in the TCF industry suffer from unique vulnerabilities as a result of their engagement or employment in non-business premises.

It is because of those vulnerabilities that the government recognises that the TCF outworkers require specific regulatory protection in order to control the proven exploitative conditions under which too many find themselves engaged.

I acknowledge that governments of all persuasions and at all levels have recognised the importance of this issue.

Most states have legislation that protects TCF outworkers; however, there are differences in the approaches that they take. For example:

- in New South Wales, Queensland, South Australia and Tasmania, legislation deems contract outworkers to be employees, while more limited deeming applies in Victoria;
- there is provision for the recovery of unpaid amounts up the supply chain in most but not all states; and
- there is a mandatory code of practice in place in New South Wales, Queensland and South Australia.
Key features of this bill

Although most jurisdictions have recognised that special measures for outworkers are required, there is no single uniform approach to regulation across our nation.

That means that outworkers have inconsistent levels of protection across Australia.

That is why our Gillard government is committed to developing arrangements to ensure all TCF outworkers are engaged under secure, safe and fair systems of work.

The government's intention is to achieve this by implementing nationally consistent rights to legal redress and protection.

This bill implements that commitment by:

• ending the artificial distinction by deeming contract outworkers in the TCF industry to be employees, by extending the operation of most provisions of the Fair Work Act;

• providing an effective mechanism to enable TCF outworkers to recover unpaid amounts up the supply chain;

• addressing a limitation that currently exists in relation to right of entry into premises provisions in the TCF industry operating under 'sweatshop' conditions; and

• allowing for a TCF outworker code to be issued.

In relation to the extension of the specific right of entry rules to premises in the TCF industry operating under 'sweatshop' conditions, there will be an exception for the principal place of business of a person with appropriate accreditation.

In such cases, the standard right of entry rules will continue to apply.

The existing power of Fair Work Australia to include outworker terms in awards will not be limited. Additional protection for outworker terms will be provided by ensuring that these important industry wide standards cannot be undercut by the use of flexibility terms in enterprise agreements.

These changes will promote fairness and ensure a consistent approach to the workplace entitlements and protections for a class of workers that are widely recognised as being uniquely vulnerable to exploitation.

Extending the operation of the Fair Work Act

This bill extends the operation of most aspects of the Fair Work Act to TCF contract outworkers.

This ensures that outworkers in the TCF industry have the same terms and conditions, as well as other rights and entitlements, as other workers regardless of their status as employees or contractors. This approach is consistent with the approach that has been taken in many states.

Under the changes proposed in this bill the person who directly engages a TCF contract outworker will be treated as their employer.

The objective of these amendments—clearly stated in the bill—is to ensure that contract outworkers are taken to have the same rights and responsibilities as employees in the same position.

The bill recognises that there may be instances where technical modifications or clarifications are required and allows regulations to be made to ensure the effective application of particular provisions to contract outworkers.

However, the bill makes clear that such regulations can only be made to ensure the effectiveness of, and not to undercut, the extension of the act to contract outworkers.
Recovery of unpaid amounts

The bill provides a mechanism to enable outworkers to recover unpaid amounts up the supply chain.

The Productivity Commission's Review of TCF Assistance (in 2003) reported the findings that outworkers are often not paid for the work they do and that, because the supply chain consists of numerous subcontractors, outworkers may often find it difficult to pursue any unpaid money or entitlements.

Provision for the recovery of unpaid amounts up the supply chain is a feature already of outworker protection legislation in Victoria, New South Wales, Queensland and South Australia, and recognises the fact that TCF outworkers are engaged at the end of a sometimes long and confusing supply chain.

Under the government's bill:

- an outworker may recover an unpaid amount from another entity in the supply chain for whom work is done indirectly;
- the amounts that may be recovered under these provisions include wages or commission as well as other amounts owing in relation to particular work;
- where an outworker reasonably believes an entity to be indirectly liable for an unpaid amount, the outworker can initiate a claim for payment against that entity;
- the entity will then be liable for that payment unless the entity has proved that it is not liable under the provisions to pay the amount claimed, or the amount unpaid is less than that alleged to be owing; and
- if an entity pays an unpaid amount in reliance on the outworker's claim, the entity will be able to recover the payment from the person who was responsible for the payment, plus interest, or offset it against other amounts that they, in turn, may be owed.

These arrangements are designed to supplement existing arrangements—these new provisions do not limit any action that an outworker might otherwise have in relation to unpaid money, including remedies available under state law.

I also want to make the point that this provision does not extend to include retailers who sell goods produced by, or of a kind often produced by, outworkers, where the retailer does not have a right to supervise or otherwise control the performance of the work.

Code of practice

This bill allows an outwork code of practice to be issued dealing with standards of conduct and practice in the TCF industry.

The code may impose reporting or other requirements on employers or other persons engaged in the TCF industry to enhance the transparency of supply chains that result in outwork being performed.

An outwork code will enable arrangements for the performance of TCF work through the supply chain to be monitored.

Provision for a code will assist in ensuring that no economic advantage can be gained by the avoidance of responsibility for a worker's entitlements.

Right of entry

The Fair Work Act already recognises the importance of right of entry to workplaces in securing fair working arrangements, and provides enhanced entry rights in relation to outworkers.

This bill seeks to ensure that protection applies not only to outworker arrangements, but also other exploitative practices in the industry, and in particular sweatshops.

At present, entry to such premises generally requires 24 hours notice of intention to enter. The nature of sweatshop
operations, and the ease with which they can relocate, mean that the current requirements can be easily circumvented.

This bill will extend specific right of entry rules that apply to suspected breaches affecting outworkers (which allow entry without 24 hours notice) to the industry more generally, with an exception for the principal place of business of a person with appropriate ethical standards accreditation.

This proposal recognises that poor practices in the TCF industry are not confined to work conducted in people's homes but also take place in conventional workplaces operating under sweatshop conditions.

The Gillard government believes that strong action on this issue is required, as reports continue of people working in sweatshops in the TCF industry.

Members of the House may have seen reports following a film crew visiting a Melbourne TCF sweatshop in November 2011 and discovering squalid working conditions unimaginable to the ordinary person, unimaginable to exist in our nation.

Members of the House may have read reports in major newspapers last year about sweatshops and outworkers producing school uniforms for as little as $7 an hour (less than half the award rate).

Enhanced right of entry will assist in locating, identifying, remedying and stamping out these exploitative practices.

I note that this element of the bill does not apply to the principal place of business of a person with an appropriate accreditation. In such cases, the standard right of entry rules will continue to apply.

Linking right of entry to accreditation is smart. It is intended to increase the level of scrutiny given to supply chains and encourage improvement in standards in those corners of the TCF industry that do not currently operate appropriately, for the benefit of both workers and businesses in the industry.

**Impact of the changes**

These changes will go a long way to ensuring that vulnerable workers in the TCF industry receive fair and decent working conditions.

These changes will make it easier for the Fair Work Ombudsman to identify businesses that engage outworkers and investigate and enforce breaches of the Fair Work Act and the TCF award.

These changes will improve the ability of the union to identify sweatshops and assist workers working in unacceptable conditions to receive what is justly theirs.

The government recognises that some businesses in the TCF industry may be concerned about these changes, but if a business already complies with the outworker provisions in the TCF award and relevant state legislation then the bill will have a very limited impact on them.

It is only those that flout existing laws—by exploiting outworkers, by forcing them to work in sweatshop conditions, and by taking advantage of the vulnerable position of migrant workers—that should be concerned. It is those with something to hide that should be concerned.

This bill reflects the government's commitment to make life a little easier for some of Australia's most productive yet most vulnerable workers—to make it easier for outworkers to receive their minimum entitlements.

It is also clear that the demand for clothing and footwear that is made ethically and sustainably is growing all the time.
As consumers we are increasingly made aware that the decision to buy is a decision that comes with responsibility.

This bill reflects the future of the Australian sector where consumers are confident that goods are produced ethically, with hardworking workers receiving fair and modest wages and decent conditions.

By improving compliance with the existing provisions across the board and by introducing consistent provisions for outworkers, large retailers and clothing brands will have additional assurance that the garments they sell have been manufactured in an ethical way and that the values of the brand they promote are being upheld throughout the whole supply chain.

Finally, let me make this one important commitment—the Gillard government will continue to work on ways to ensure all those who need the protections outlined in this legislation receive it.

I understand there are outworkers forced to incorporate in attempts to avoid these and other important protections. This is unacceptable. I understand there are supply chains so complex and long that even with the patience of Job no-one could be expected to easily undo it. That is unacceptable. There are a number of ways these challenges can be approached and the Gillard government will work through them. We will persevere to ensure that this the best possible protections for some of Australia's most hardworking, productive yet vulnerable workers are enshrined in law.

I thank the members who have indicated they will support this bill and I encourage all members who are concerned about some of Australia's most hardworking, productive and vulnerable workers to support this important legislation.

Leave granted for second reading debate to continue immediately.
breaches affecting outworkers which allow entry without 24 hours notice to the TCF industry and it enables a TCF outwork code to be issued.

The TCF industry, particularly the garment industry, has become dependent upon and structured around subcontracting, outsourcing and the prolific use of outworkers or home based workers, most often migrant women with limited English skills, forming supply chains of manufactured items with each other for final completion and distribution to retail outlets. That is a fact. The development of supply chain production systems through subcontracting methods has posed unique challenges to the traditional award based and state and territory based occupational health and safety systems and the worker compensation schemes as well. We accept that. However, we do not accept that the situation has not had considerable adjustments to it and that the conditions that once did exist for so-called sweatshop workers do not exist and are in fact against the current provisions of the Fair Work Act.

I only have to go to the minister's second reading speech in the Senate to see that he clearly makes the point that the Fair Work Act already contains a number of important protections for TCF outworkers, including scope for awards to include targeted outworker terms and enhanced right-of-entry arrangements. Additional entitlements and protections for outworkers are already contained in the Textile, Clothing, Footwear and Associated Industries Award. So it is not correct to suggest that if we do not move on this legislation this group of, yes, vulnerable workers are somehow unprotected. They are not.

When we are faced with evidence of endemic and inappropriate conduct in workplaces in a specific industry the coalition are always willing to consider industry-specific legislation that addresses that conduct. It was on this basis that we maintained protections for outworkers in the textile, clothing and footwear industry in various iterations of workplace relations legislation between 1996 and 2007. It was on this basis that the coalition implemented the workplace legislation specific to the building and construction industry so recently wound back by the government. So we do know there are specific provisions in the Fair Work act that protect outworkers and we know that there are equivalent provisions in state and territory legislation.

But the whole point of this is: why does the government feel it necessary to introduce additional amending legislation to the Fair Work Act when the Fair Work Act itself is already the subject of a post-implementation review—a long and exhaustive process? Perhaps it is because the government does not want to see what that review will finally come up with. The reality is that the modern award system is failing in many areas. When I say 'failing', I mean that it is not passing the government's own disadvantage test. It is in fact reducing the wages of a range of lower paid workers in society. So in the middle of a process where the government is reviewing its own Fair Work Act, and spruiking that review with every step it takes, it is inserting this specific piece of legislation about the textile, clothing and footwear industry into that act. We in the coalition say, 'Bring it on when you bring out the review of that act. If there are problems with this, introduce them at that stage.'

I then come back to the rationale for the legislation that we are seeing here today. The minister just now and the minister in the Senate have both mentioned that it relates to two reports. Its justification, as proposed by the minister at the time, Minister Evans, was based on a reference to a 2007 report by the
Brotherhood of St Laurence and a 1996 Senate economics reference committee inquiry. Both these reports had been completed prior to the passage of the fair work bill. If these reports constituted such a strong case for this proposed bill then why has the government waited until now to act? Why did the government not address those concerns as soon as it had its first legislative opportunity, which was the introduction and subsequent passage of the Fair Work Act? I put it to you, Deputy Speaker, and members of the government that there was no problem to correct at that stage, that the protections that were already in place were sufficient.

I want to come now to the concerns that were expressed by those who made submissions to the Senate review of this legislation. The government does not like its legislation being referred to Senate committees because it does not like the truths and the realities that come forward from people who live and do business in the real world. It was reluctant but, yes, we got the Senate inquiry up. However, the inquiry's process was guillotined at the first opportunity and so the Council of Textile and Fashion Industries of Australia—that is, the industry body that represents textile, clothing and footwear—was not even allowed to appear at the Senate inquiry. The Textile, Clothing and Footwear Union of Australia was, and it was entirely appropriate that it was. I appreciate, as the shadow minister reflected in the Senate, that it made a professional and well-written submission and the briefing that it gave to the opposition was both those things as well. That is entirely as it should be. But why would a Senate committee prevent the industry body that looks after this industry coming to talk to senators from all sides of parliament about a piece of legislation that will make such a difference to that industry? What is the government running and hiding from? What are the deficiencies in the existing legal system?

The minister mentioned just now the Channel 9 story on a Melbourne TCF sweatshop. I am sure there were real difficulties to address, but I am sure they were in breach of the current legislation. Why is the minister relying on Channel 9 stories to move such complex legislation? The Sunday Herald Sun report on sweatshops and outworkers producing school uniforms is something else the minister just referred to. Where is the evidence base? Where is the rationale for bringing this legislation to the table if all you can come up with in your second reading speech to the House today is two media reports?

The Council of Textile and Fashion Industries of Australia, while they did not appear before the Senate committee, were nevertheless able to make a submission. They have said that the argument for introducing the legislation is based on research conducted nearly five years ago, not current evidence, and fails to acknowledge the gains made in 10 years of existing legislation and four years of investment by the federal government in Ethical Clothing Australia.

If there was such a strong case for change, why did the now Prime Minister when she introduced the Fair Work Act as minister for education and employment say:

I believe the Fair Work system is right … We worked hard to get the balance right and I believe the Fair Work Act is right.

These amendments were not imagined for this particular industry at that time. So we are led to the inescapable conclusion that the government's motivation for this amendment is more about appeasing the trade union movement in the lead-up to the next federal election. As I said, the review of the Fair Work Act is currently underway and will
pick up any deficiencies that had not been identified when the act was introduced.

I will turn to some of the submissions made by people who work closely with small businesses. They are people who took time to make submissions to the inquiry. They are people who understand the realities of life in a small business environment. I remind the House and those listening to the broadcast today that we are talking about the fashion industry, in large part, and the clothing industry in Australia. Many women, like me, really do look at the labels of the clothes they buy. We seek out labels whose clothing is made in Australia. We love the fact that we have bright young designers here in Australia, but they are threatened by this legislation. Australia has a fabulous fashion industry; we have great home-grown designers: Carla Zampatti, Sass and Bide, Dion Lee, Alannah Hill and Lisa Ho to name a few. The next generation of design superstars is threatened by this legislation.

One submission to the committee came from a young woman who describes herself—I draw directly from her submission—as an emerging Australian fashion designer who is: ‘starting a label from home. The textile, clothing and footwear modern award regime and this associated amendment defines me as an outworker, despite my four-year degree in fashion from Ultimo TAFE. The catch-all modern award has a catch-all definition where anyone working from home in the fashion industry is an outworker. Yes, I can be considered an outworker if I sell to a boutique or a department store.’ With this bill we are stifling the young, innovative and entrepreneurial in this country. This young woman continues:

... as a fashion student/designer, if I hand out work to a ‘maker/outworker’ to sample a design I am obligated by law to employ them casually. Further I am aware that in the final form—of this bill, the parliament will deem—all outworkers to be employees for most purposes of the Fair Work Act 2009 … including the National Employment Standards, Superannuation and unfair dismissal laws. As a start-up business, in the beginning it will be challenging to pay myself, never mind employ a ‘maker/outworker’...

who is knocking up a design on a casual basis so you can put it on the catwalk next weekend. Suddenly, the outworker becomes an employee and the designer becomes subject to all of the draconian—they are not always draconian—aspects of the legislation. It is absolutely unworkable. In trading in such an environment this woman, as she says, faces prosecution in breach of the modern award. She finally states: ‘The risks are too great.’

For ladies—and it is generally ladies—who like to buy fashion labels in Australia, I want to place on the record that it is that activity that is under threat from this legislation. It was not mentioned by the Minister for Employment and Workplace Relations when he gave his second reading speech earlier, and it was not mentioned when this bill was introduced in the Senate, but it is clearly something that would be scooped up by the catch-all provisions of this legislation.

Making a submission to the Senate inquiry was Apl Financial Pty Ltd. They are chartered accountants who deal with small businesses on a day-to-day basis, unlike this government. They have a unique insight into the difficulty of applying some of the fair work legislation to the real world. They state:

The Fairwork outworker legislation is so restrictive and draconian that it is no longer viable and administrative possible to engage outworkers. Why? They state:
The amendment deems outworkers to be employees …
If the amendment is passed then outworkers and the contractors supplying the work will be required to choose between complying with the Income Tax Act and the Fair Work Act.
That is quite a neat point. There are no amendments to the Income Tax Act to take away from the real world situation where you are either an employee or an independent contractor. That is decided under the Income Tax Act. It is a matter of fact, not a matter of interpretation. Their submission is right: it is not possible to comply with both. They state:
The amendment will cause the direct costs of using outworkers to increase … Businesses engaging outworkers will now be liable for unfair dismissal claims.
There is no research to indicate that the exploitation of workers in the clothing industry is greater than other industries.
There is no research which defines the number of outworkers in Australia.
Apl Financial's submission continues:
How can such a situation arise; an industry in crisis, no definite knowledge of whether a problem exists, no definite knowledge of the size of the problem, introduction of draconian legislation which will place further costs on production to be carried by small business which cannot be comply with and will not fix the issue.
Because people who operate outside the law, as I am sure we saw in those media reports that the minister quoted, will continue to operate outside the law. The submission continues:
The major proponent of the legislation is the TCFU(Victoria).
A review of the audited financial statements of the union for the years ended 30 June 2004 to 30 June 2010 shows a 48% fall in membership to 2,617 members.
On current trends by 2015 membership of the TCFU will be nil.
It appears that the reduction in membership income is being replaced by government funding.
For the year ended 30 June 2010 the union received $1.15 million of funding.
The TCFU is fighting for its survival.
Is the exploitation of outworkers issue a ruse run by the union so the government has a reason to keep funding the union?
This is a question that has been raised in submissions to the committee. It is a question that I am not necessarily taking a position on, but is one that needs to be put on the table so that the House can understand all aspects of the situation in relation to this legislation. As Apl Financial said in its submission:
Special provisions in the Act are not required protect outworkers. The general provisions of the Act together with the Contractors Act and the Income Tax Act are adequate to prosecute and shut any business exploiting outworkers.
There are many reasons this legislation will not improve the conditions of outworkers.
That is what we should come back to. As I said at the outset, nobody in the coalition supports sweatshops or the exploitation of vulnerable workers, but we do want to make sure that we do not shut down an industry altogether. Perhaps it will become too difficult—too expensive, too overburdened with paperwork, too unrealistic. The minister mentioned a code of conduct. It sounds good, but my goodness: imagine the paperwork associated with that code of conduct. Some regulations will probably come in later on that will require an enormous amount of bureaucratic compliance to be done by those who work in this industry. Regarding the supply chain recovery of money aspects of this bill, you might be performing quite well in your position in the supply chain of clothing manufacture, but now all of a sudden you can be caught up as a notional
employer and be required to fix one of the 
wrongs that has been done by somebody 
farther down the supply chain whose 
activities you have no knowledge of. That is 
really quite ridiculous.

The clothing industry has lost 13,000 jobs 
in the last 12 months, according to the 
Textile, Clothing and Footwear Union of 
Australia. With the high Australian dollar 
and the global financial crisis, designers and 
Australian manufacturers cannot afford a 
further impost on their production costs. As 
one manufacturer advised, "We will stop 
manufacturing in Australia and just import 
all our garments from Asia." Anyone 
involved in the clothing industry and the 
designer fashion industry has seen that trend 
inescapably over the last 10 to 15 years.

Manufacturers who remain in Australia 
and who endeavour to comply with the 
additional red tape will of course pass part of 
the cost of compliance on to the outworkers, 
thus reducing their income. How 
counterproductive is that? As designers and 
manufacturers move work to Asia there will 
be less work for the outworkers. These 
changes are dramatic and will increase 
production costs substantially, which will 
cause businesses to fail, reducing the work 
available to outworkers. The Fair Work Act 
will create a situation whereby the cost of 
preparing and monitoring the paperwork on 
small, low-volume production runs will be 
greater than the price the designer will be 
prepared to pay to have the garments 
manufactured.

Unethical, unprofessional and disreputable 
businesses that exploit outworkers are not 
concerned with government legislation, 
because, as I said, such businesses will 
always find a way around legislative 
changes. When such businesses are 
prosecuted, as we see all too often, the assets 
are dissipated.

According to the Textile, Clothing and 
Footwear Union of Australia there are now 
sections in the act covering instances where 
an outworker is exploited, the contractor is 
prosecuted and all funds have disappeared. 
Then the organisation or individual 
providing the contract to the contractor is 
liable. Liability continues up the supply 
chain until funds are available to meet the 
underpayment and penalties of up to 
$30,000. If you are a person of high integrity 
and ethical standards with a good reputation 
you would have to consider your position 
now in that supply chain, as well as what you 
might be liable for from those further down 
the supply chain and what that might then do 
to your reputation in this somewhat 
precarious industry.

This legislation is nonsense; it is 
unworkable. It will be impossible to 
determine which entity or individual in the 
production chain should pay the 
underpayment and penalties. Why penalise 
companies and individuals further up the 
supply chain when in fact they have 
complied with all of the legislation?

We want to demonstrate our faith in the 
protection that the parliament, its legislation 
in the Fair Work Act and the albeit flawed 
modern award process should offer to 
Australia's most vulnerable workers. 
Therefore, I foreshadow that I will be 
moving amendments to this legislation that 
focus on quite reasonable things. One of 
these things is the time line within which this 
is introduced. In other words, it should 
actually wait until the post-implementation 
review of the Fair Work Act is completed. 
As I said, anything that arises from a 
situation in the textile, clothing and footwear 
industry as it now exists should be dovetailed 
and fed back into that review and brought to 
the parliament in legislation that brings other 
aspects of the review to the parliament. So
that is one modest amendment that we will be moving.

The other amendment concerns the fact that we actually want to make sure that no-one is worse off after this legislation is passed. We are not interested in contractors being turned into employees to boost union numbers and memberships. We know that is an agenda. What we are really concerned about is the reality for these vulnerable workers. So we will be moving an amendment that focuses on the fact that they actually should not be worse off after this passes through the parliament, if in fact it does. I thank the House.

Ms SMYTH (La Trobe) (12:04): Really I should not be surprised at this point. In the same week that we saw the Tories in this place oppose safe rates and safe working conditions for truck drivers in our country, we now see them exposing vulnerable workers—largely a female workforce—to unfair work practices and working conditions. I am afraid I do not take particularly seriously the somewhat disingenuous concerns that have been expressed by the member for Farrer for some of those vulnerable workers, because at every stage of the development of workplace legislation the opposition have revealed themselves to be completely unconcerned with the rights of working people. Each time we present legislation in this place which aims to make work rights fairer for some of our most vulnerable people across the most vulnerable industries in this country, they stand in this place and indicate their disdain for those working people and for those who represent them.

It is extraordinary that, in addition to opposing safe rates and opposing this legislation, the opposition are trying to claim that they represent small business interests in this place. So much of the rhetoric of the member for Farrer went to the opposition's apparent concerns about the interests of small business and the opportunities presented to small business. I am afraid you really cannot have it both ways. You cannot come into this place and say that you are going to be opposing tax cuts for small business, you cannot come into this place and say that you are going to be opposing the change in the company tax rate to assist business generally in this country, and then pretend to be representing small business. On every count those opposite fail the test of a responsible opposition, fail the test of compassion towards workers and fail the test of reasonableness for industry.

It is extraordinary that the third point the member for Farrer raised—indeed, I am sure members of the opposition generally will raise this in the course of this debate—is that there has not been sufficient opportunity for consultation in relation to the legislation before us, that there is not sufficient opportunity for industry input. Well, one only has to look back at the development of the Fair Work legislation in this country and compare it to the development of Work Choices legislation in this country to see the very stark difference between the approach taken by those of us on this side of the chamber and the opposition. The Work Choices legislation was brought to this place by stealth, with rather limited consultation, and certainly very limited consultation for working people in this country. However, this government, after what was effectively a referendum on workplace rights at the 2007 election—when the Australian people resoundingly rejected the approach taken by the Tories in relation to fair workplaces and workplace rights—undertook a rigorous process of review and consultation and developed its legislation appropriately to reflect a fair balance, a balance which ensures that the rights of working people
across industries, including the TCF industry, are supported and to ensure fairness for all.

The contortions of the opposition, as they come into this place pretending that they are concerned about vulnerable workers and pretending that they are concerned about small business, are extraordinary. Frankly, like most contortionists, they deserve to be in a sideshow—and indeed they are a sideshow. We know that this government stands for ensuring that vulnerable people have appropriate rights in their workplaces, and this legislation is absolutely about that. It is as a result of an ongoing effort by those in the TCF workforce and by those who represent people in the TCF workforce that we are ensuring there is justice in the workplace. So I am very pleased to speak on this legislation today.

The Australian textile, clothing and footwear industry is a major sector of our economy, with industry estimates of over $9 billion in annual sales. It accounts for 10 per cent of manufacturing establishments. Business analysts report that 50 per cent of clothes sold in Australia are manufactured domestically. Manufacturing employment in the industry is characterised by outworkers, and the legislation before us is concerned with them. The Productivity Commission estimates that outworkers comprise 40 per cent of the workforce. While the nature of the industry makes it difficult to be specific, the number of Australians working in the TCF industry is by any measure significant. The Senate Economics Reference Committee's inquiry into outworkers in the garment industry reported in 1996 that at that time the number of outworkers in Australia ranged from 50,000 to over 300,000, with over 140,000 in my state of Victoria.

Despite the size and contribution of this major sector of the economy, the poor working conditions of its outsourced workforce have been of major concern. Many reviews over the past 15 years have identified these issues, so it is appropriate and timely for this legislation to come before the House today. The Senate inquiry found problems with payments and hours of work as well as confusion and misinformation about rights and responsibilities in workplaces. It found that noncompliance with award wages and conditions was so widespread that it was considered normal.

The Industry Commission in 1997 and the Productivity Commission in 2003 found that outworkers received payment and conditions significantly lower than their award or statutory entitlements. A study in 2007 by the Brotherhood of St Laurence reported that outworkers themselves were stating that conditions had worsened over the past 10 years, with continuing poor working conditions and underpayments, sometimes as low as $2 or $3 per hour. One of the outworkers interviewed for this study stated:

If we work eight hours a day, five days a week, we would only earn $100 so it is not enough. It's impossible to work less hours and clear the same as workers in the factory.

Another outworker stated:
We do the sewing: the factory then gives it to (company name) and they say it is all wrong and they don't pay the money. Then the factory does not pay me.

This study also reported the continuing lack of awareness throughout the industry of the need to comply with relevant workplace laws and award conditions for outworkers. The Council of Textile and Fashion Industries of Australia reported to the Senate inquiry that they were 'extremely concerned' about exploitative employment practices in the industry. So it is appropriate, timely and critical for this legislation to come before us today. These reviews have found—and the government certainly accepts—that
outworkers in the TCF industry suffer from unique vulnerabilities as a result of their engagement or employment in non-business premises. These vulnerabilities are made worse by the fact that these workers are often migrants, with poor English language skills and a lack of knowledge of Australia's legal system and employment arrangements.

Since our election in 2007 and the referendum on fair work in Australia, Labor has acted to improve the situation of these workers. The government's Fair Work Act includes a number of important specific protections for outworkers, with additional entitlements and protections contained in the industry award. While a number of states have legislation providing special protections for TCF outworkers, this is far from uniform. Even where these protections have been enacted, outworkers still have difficulty using or enforcing them. The difficulty of identifying employers and work locations throughout the supply chain has also limited the ability of the union representing outworkers—the Textile, Clothing and Footwear Union of Australia—to gain right of entry to explain workplace rights to outworkers and to represent its members. This problem has been highlighted by the Fair Work Ombudsman, who has reported difficulty in identifying and assisting outworkers due to the fact that they do not work in traditional workplaces and that there is inherent difficulty in identifying employers.

For all these reasons, this government is acting. This bill responds to the concerns I have outlined by providing enhanced workplace protection for outworkers. It represents a major step forward for Australia's outworkers, most of whom are women. It extends the operation of most provisions of the Fair Work Act to contract outworkers in this industry, and it provides a mechanism to enable them to recover unpaid amounts up the TCF industry supply chain. It enables a TCF outwork code to be issued. Most importantly, the bill addresses limitations on right of entry provisions to assist in ensuring that workplaces comply with Australian law and award conditions. It will extend outworker-specific right of entry rules to all premises in the TCF industry operating under sweatshop conditions. So it is appropriate and timely that this bill has come before the House today.

I would like to acknowledge the work of two organisations which have long advocated on behalf of Australian outworkers—FairWear, which has brought together a network of community organisations and for many years has advocated the elimination of exploitation of sweatshop workers and home-based outworkers in the Australian clothing industry, and the Textile, Clothing and Footwear Union of Australia, which has been at the forefront of representing the industrial interests of outworkers and raising awareness of their legitimate rights and entitlements.

I finish with the words of Mr John Ryan from the Australian Catholic Commission for Employment Relations, who said in 2006:

A measure of our humanity is how we assist the vulnerable. Outworkers need fair pay and conditions to support their families and to live with dignity. The safety nets for outworkers, and other industrially weak workers, need to be maintained.

These are vulnerable Australians who deserve the support of this parliament and they certainly have the support of those on this side of the parliament. I commend the bill to the House.

Mrs ANDREWS (McPherson) (12:15): I rise today to speak on the Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2011. The bill is set to extend more provisions of the Fair Work Act to outworkers in the textile, clothing and
footwear industry by deeming them employees. The bill will also extend right of entry provisions to circumstances in which suspected breaches affect TCF outworkers so that the provisions may apply to the industry broadly, with an exception for normal right of entry rules to apply for the principal place of business of a person who possesses appropriate accreditation. Other changes will allow TCF outworkers to recover unpaid amounts up the supply chain, a restriction of the flexibility clauses in enterprise agreements that deal with TCF provisions, and the ability for a TCF outworker code to be issued.

Currently, the Fair Work Act describes an outworker in the textile, clothing and footwear industry as an individual who performs work in the textile, clothing and footwear industry for the purposes of a contract for the provision of services but does so at a residential premise or another premise that would not conventionally be regarded as being a business premise. The bill, however, will amend the act to allow for contracted TCF outworkers to be considered as employees if they directly or indirectly perform work for an employer considered to be a Commonwealth outworker entity, which includes corporations and the Commonwealth itself.

Here we see Labor again trying to define more independent contractors as employees in its fair work regime, as this bill has the potential to cover many independent contractors in the TCF industry, to their disadvantage. Only a couple of weeks ago, I spoke in this place on the Road Safety Remuneration Bill, in which the government is trying to cover independent contractors and owner-drivers under new provisions that bear the mark of the fair work regime. I think it might actually have been last week. The bill being debated today will extend the scope of the provisions in the current act. It means that upcoming designers with university degrees who do not want to be bound by an employee-employer relationship will nonetheless be treated as employees. Further, the changes will act as a disincentive for businesses, who will not want to hire outworkers because they will have to adhere to the same conditions as they have to for normal employees.

The Council of Textile and Fashion Industries of Australia noted in its submission that, due to the definitions of what an outworker is and what TCF work is in this bill, many outworkers who do not display the characteristics of vulnerability due to their possession of qualifications, knowledge and skills will be treated in the same manner as those who do bear those characteristics. This bill assumes that all outworkers do not want to be outworkers, and that is simply not the case.

The current Fair Work Act allows for employees and their employer to create an individual flexibility arrangement based on the genuine needs of both parties. This can be done via the modern award or through an enterprise agreement. Even though this bill will classify outworkers as employees in many cases, the bill points out that, if the enterprise agreements include terms that would be considered outworker terms in the modern award, the flexibility term of that enterprise agreement 'must not allow the effect of those outworker terms to be varied'. Yet this provision may deny outworkers, whether they be TCF outworkers or not, the ability to attain an IFA, despite the better overall test, which ensures that outworker terms are not able to be undercut by IFAs or other enterprise agreement terms. As the Council of Textile and Fashion Industries of Australia put it:

If this proves to be the case, the intention to provide nationally consistent rights for those
outworkers, regardless of whether they are employees or contractors, may not be achieved.

In the majority report from the Senate Standing Committee on Education, Employment and Workplace Relations, the Labor members stated:

...the committee was struck by the words of Deputy President Riordan of the Australian Conciliation and Arbitration Commission, who presided over a case in 1987 ...

The comments expressed by the then deputy president that the committee referred to were in relation to the plight of outdoor workers, or outworkers, who he considered were an unorganised section of the workforce. It was true that, at that time, outworkers were largely an unorganised section of the workforce. There was little union organisation of that sector at the workplace, and that situation continues to a large extent today.

I have a lot of respect for Deputy President Riordan, who went on to be Senior Deputy President Riordan, whom I appeared before on numerous occasions. But I believe the comments he made in relation to outworkers, which the Senate committee has put so much weight on, must be viewed in the context of what was happening in the TCF industries at that time. We are talking about the late 1980s through until the early 1990s. The TCF industries in Australia were undergoing unprecedented change. The industry had been receiving high levels of assistance though tariffs and quotas, but this was being reduced. I do not intend to discuss the merits or otherwise of tariffs and quotas right now—I may well do so at a later date—but it is important to recognise that these issues had a significant impact on TCF industries from the late 1980s and that this continues today. In the late 1980s and early 1990s in particular, many textile, clothing and footwear manufacturers found themselves competing with countries such as China which had, and continue to have, much lower labour costs. There were three main areas that employers focused on at that time. First was implementing total quality management principles to increase the quality of their products and also to maximise output from their production processes. Second was downsizing their production capacity or closing altogether. Third was reducing labour costs through reductions in overtime and casual work in the first instance but later through reducing the working week from five to four days. There were many enterprise agreements entered into and certified by the commission that provided for a four-day working week in order to secure as much employment as was possible.

This was especially the case in the footwear industry. Ultimately, and very sadly, this was a relatively short-term solution as factory after factory closed. Many workers in the industry were migrants, and it was fairly common for the male in the household to work in the textiles or footwear industries and for the female in the household to work in the clothing industry as an outworker from home, where she would also care for children or older family members. It was absolutely devastating for those families when one lost work and it was often the female outworker who had the responsibility for earning the income for her family. For many of those women, working in a factory environment would not have been an acceptable option. They needed and wanted to continue to work as outworkers.

Were their conditions poor in the 1980s? For some that was undoubtedly the case. Have circumstances and provisions for outworkers improved since the time of Senior Deputy President Riordan's statement? Most certainly they have. Should there be an opportunity for people to
continue as outworkers? Absolutely. Outwork provides many opportunities for increased workforce participation, and we have a responsibility to take appropriate action to ensure that workforce participation is maximised, particularly for women, who are already underrepresented.

I listened to the member for La Trobe speak on this bill and I was disappointed with her level of negativity, particularly in her opening remarks. If, as the member for La Trobe said, the government are all about workers and fairness then why will they not vote for an amendment that no worker or contractor be worse off as a result of this bill? I question the motives behind the government introducing these bills now.

Mr Mitchell: That's because you don't care about workers!

Mrs ANDREWS: I do care about the workers and I have had a lot more to do with them then you have.

Why did the government not seek to make these changes when it brought in the Fair Work Act 2009? Further, why has the government waited—

Mr Mitchell: How many years did you spend in the TCF industry?

The DEPUTY SPEAKER (Mr Murphy): Order! The member will be heard in silence.

Mrs ANDREWS: Further, why have the government waited all this time to bring this legislation forward if they knew the issues were not thoroughly dealt with when the Fair Work Act was first passed? The Council of Textile and Fashion Industries of Australia and the Australian Chamber of Commerce and Industry both expressed concerns over the references used to justify the bill and the fact that there is a failure here to acknowledge the gains made in recent years.

I believe that this casts doubts over the judgment of the Prime Minister, who said back when she was the Minister for Education, Employment and Workplace Relations in the Rudd government: I believe the Fair Work system is right.

... ... ...

We worked hard to get the balance right and I believe that the Fair Work act is right.

If the Fair Work Act is right, as the Prime Minister claimed, then why is it necessary to make these amendments today?

The coalition recognised when it was in government that there was a need to provide the TCF industry with additional protections, which were granted. At about the same time, the coalition government established the Office of the Australian Building and Construction Commissioner, recognising that the building and construction industry required additional protections as well. The Office of the Australian Building and Construction Commissioner worked. In 2010-11, the ABCC found 900 contraventions of Commonwealth workplace relations law. It conducted 401 investigations and successfully prosecuted 74 cases. It saw a drop in the number of working days lost per thousand employees and saw a 10 per cent increase in productivity in the building and construction industry. Yet the Prime Minister—the same person who claimed that the Fair Work Act was right, the same person who claims to want a robust industrial relations framework—is taking the sledgehammer to the ABCC and all the headway it has made in making the building and construction industry stable again.

Mr Mitchell: What's this got to do with the TCF?

Mrs ANDREWS: If you had actually been here at the beginning of the speech, you might have understood.
The DEPUTY SPEAKER: Order! The member will fail to respond to interjections. The member will be heard in silence.

Mrs ANDREWS: The government claims to be removing the ABCC because it discriminates against certain workers, and because industrial relations in this country should be determined by a one-size-fits-all approach. However, the government comes to this place today with this bill that will affect only the TCF industry and outworkers. In short, this bill clearly contradicts Labor’s view with regard to the ABCC and workplace relations as a whole.

It is no surprise that this government is of two minds about workplace relations. The Prime Minister herself was of two minds when it came to the carbon tax: one month she did not want it; the next month it was back on the agenda. Australians have certainly come to expect this two sided approach to policy from Labor and we are, quite frankly, sick of it. I note that at the present time the government is conducting a review into the Fair Work Act. I think the Prime Minister and the Minister for Employment and Workplace Relations need to explain why this bill and its provisions have not been made a part of that review as they should have been in the first place.

The most disturbing part of this bill is the effect it will have on businesses. With a harder export market due to the higher Australian dollar, rising operating costs and higher labour costs compared to other countries such as China, TCF businesses across the country would struggle under these changes, especially considering the latest industry figures show that there are only 1,701 clothing businesses in Australia that earn more than $200,000.

This bill should have been part of the Fair Work Act review being conducted rather than brought before the House. This would have allowed for a thorough review of this country's workplace relations scheme and what it is currently lacking. By bringing the bill before the House today, the government is running away from scrutiny and kicking the union movement a free goal. Further, many up-and-coming designers will be disadvantaged by these changes, and that is not good enough. Rather than providing a disincentive for this, we need to provide encouragement to those people. We need to maximise workforce participation, and the government should not be putting obstacles in the way of achieving this.

Patterns of work have changed over the years and need to continue to do so. Manufacturing industries are critical to the future of Australia, and we need to be proactive and forward thinking to make sure that we maintain at least as broad a base of manufacturing as we have now. The government has failed to provide evidence that its changes are in the best interests of the industry and those who work in it, whatever their capacity. This bill should not be passed.

Mr HAYES (Fowler) (12:30): I rise in strong support of the Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill. This bill seeks to amend the Fair Work Act to ensure appropriate protection and rights for contract outworkers in the textile, clothing and footwear industry. The three major areas of change include: recognising TCF contract outworkers as employees under the Fair Work Act; creating a system that would allow outworkers to go up the supply chain to recover any overdue payments; and adjusting the rules of entry to allow inspection of sweatshops and other potentially suspicious places of employment with little notice or without notice.

Because outworkers are employed in non-business enterprises they often suffer unique challenges. These challenges are exacerbated
by poor language skills and a lack of knowledge of their rights under the Australian legal system, as most outworkers are recent arrivals to this country. There is a general lack of knowledge of workplace relations.

I get to see firsthand the good work that people such as Hung Nguyen, an organiser with the TCFUA, do to address the issues of outworkers in my electorate of Fowler. Given that 30 per cent of my electorate is made up of Asians, many of whom are refugees, particularly from Vietnam and Cambodia, there is certainly a market for exploiting those who are most vulnerable, particularly women outworkers. So I personally praise the efforts of Hung and the TCFUA in advocating for the protection of outworkers and for the application of industry-wide standards that will not be undercut by exploiting outworkers.

Earlier this week I had the opportunity to attend an event organised by the union, led by the National Secretary, Michele O'Neil, who is in the gallery here today. This was a joint effort by the TCFUA and FairWear, with their spokesperson Shelley Marshall, and a number of women from Asian Women at Work, including the organisation coordinator, Lina Cabaero. FairWear is a coalition of organisations, including Asian Women at Work and the union as well as a number of churches and other organisations that are committed to fighting exploitation of workers, particularly women, in the clothing industry. So when those opposite want to bang on about unions, I wonder whether they take the same stick to those churches and other organisations also working against exploitation—

Mr Briggs: We bang on about union bosses, mate, not unions.

Mr HAYES: Well, the member for Mayo will have an opportunity to add to that.

I was particularly touched by some of the guest speakers from Asian Women at Work. This organisation works to inform and empower migrant women who work in disadvantaged working conditions in places such as sweatshops. The main speaker on behalf of the outworkers came from the suburb of Cabramatta, right smack bang in the middle of my electorate. Nguyet Vu brought her autistic daughter, Anna, with her to Canberra, where she spoke of her experiences and the challenges of being an outworker working in poor conditions. Ms Vu had many challenges in her life. She was dealt a very hard hand and is raising a daughter with autism. Nevertheless, she worked, and worked hard, for her family. She drew attention to the unique circumstances that often limit choice and the balance of power when it comes to predominantly migrant based employment conditions.

Another Vietnamese lady from Cabramatta, Kim Thanh, in front of us all sewed a picnic blanket on which she embroidered the words 'Justice for outworkers in 2012'. That was very powerful imagery of the work that many of these people do in conditions that we certainly not want for our families. The main message from this event, titled 'A Fair Deal for Outworkers and their Families', was that it is time for our nation to take steps to ensure fairness and equality for all its citizens, especially those in disadvantaged living and working conditions.

A number of reviews and investigations have taken place in recent years, including the Senate Economics References Committee inquiry in 1996. A Brotherhood of St Laurence investigation in 2007 found that outworkers had appalling working conditions. The investigation made findings on a number of issues connected to working hours and extremely low, delayed or missing
payments. Not even the opposition would want to criticise the Brotherhood of St Laurence for its charitable works. It found that outworkers were being paid as little as $3 or $4 an hour. These people pay the same amount for their groceries and household necessities as we do. Indeed, they pay the same rate of GST on the goods and services they need to support their families. Such extreme breaches of workers' rights should not happen in Australia in this day and age. We have come so far in the area of workers' rights and we cannot leave a large number of fellow Australians behind.

In fact, 40 per cent of all factory based employment in the TCF sector consists of outworkers. Numerically, that means about 20,000 workers in total. The review I mentioned also found widespread lack of knowledge regarding the rights and responsibilities of workers in this country. The majority of outworkers are migrants with poor language skills. Long working hours and exhaustion as well as domestic commitments often prevent these workers, many of them women, from gaining an education and acquiring and developing greater language skills. This in itself creates a vicious cycle of a lack of knowledge and a need to remain in less than satisfactory working conditions without the prospect of advancement to better-paid work.

I previously mentioned Asian Women at Work, a wonderful organisation advocating on behalf of migrant working women. This organisation has a significant presence in my electorate. As members here know, 50 per cent of my electorate was born overseas. Another interesting statistic is that 30 per cent of my electorate is Asian. Many individuals find themselves in poor working conditions with poor knowledge of their rights and their ability to get out. Asian Women at Work has been empowering migrant women in these conditions since 1993. The organisation offers a wide range of programs designed to inform, empower and support migrant women in low-paid employment. Asian Women at Work works hard to increase the confidence levels of migrant working women, who are generally isolated from information and support services due to long hours, as well as being forced to work in what many of us would refer to as conditions of exploitation.

The current system of monitoring the recovery of payments in the TCF outworker sector is very difficult. It is hard for individual outworkers to work their way up the supply chain in order to identify the source of the payments, let alone recover those payments. This is why this bill is critical. It is doing the right thing for people who are at risk of being left behind. This bill will encourage fairness and ensure consistency in the protection of the types of workers who can clearly be seen to have unique challenges and disadvantage throughout their workplaces. I commend this bill to the House. This is a bill which all Labor members should be proud of.

Mr BRIGGS (Mayo) (12:40): I also rise to speak on the Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2012. It is a bill which is basically a long note to the parliament to admit failure, because this bill says that the much heralded so-called Fair Work Act has failed. It has completely failed this group of workers, presumably, because if the so-called Fair Work Act is so good and works so well why are we back here adding additional protections for another group of workers? I think the Prime Minister is on the record as saying:

I believe the Fair Work system is right.

.......

We worked hard to get the balance right and I believe the Fair Work Act is right.
If the Fair Work Act was drafted well by the current Prime Minister and by members opposite, what are we doing today before this House adding additional protections? Why are we here?

We are here because they failed. They failed completely. They have misled the country. We are seeing it day in and day out. We are seeing strikes shut down coalmining in Queensland. We see strikes shut down wharves. We see strikes shut down airlines. We are seeing small businesses dragged through the good old days of ‘go-away money’ with adverse action claims and unfair dismissal claims. And now we are seeing this group of workers apparently being ripped off under the very system that members opposite claim is protecting the country so well and protecting the working people so well.

We know that to be true because those members opposite are not about protecting workers; they are about protecting their mates. They are about protecting their vested interests. They are about ensuring that their privileged position in the bargaining process continues, that they are legislated in, because they know most workers want to be out, and the stats tell you that story every day of the week. We know why workers are walking away from the trade union bosses in droves. Why wouldn’t they, when people who are members of unions such as the HSU see their money, from their hard work, used up against the wall for the personal benefit of certain members—

Mr Mitchell: Mr Deputy Speaker, on a point of order—

The DEPUTY SPEAKER (Hon. DGH Adams): Order!

Mr BRIGGS: and certain senior members of the union leadership.

The DEPUTY SPEAKER: Order!

Mr BRIGGS: You should be ashamed, Rob. You should be ashamed of the treatment of these workers.

The DEPUTY SPEAKER: Order! I ask the honourable member for Mayo to resume his seat. I think I understand the honourable member for McEwen’s point of order, so I ask him to resume his seat. I ask the member for Mayo to come back to the bill and to address the matters before the parliament. Thank you.

Mr BRIGGS: I will indeed continue to talk about the failure of the Fair Work Act and the reason that we are here. The reason we are here is the workers at the bottom end who genuinely need the protection of a union movement that is focused on protecting their rights and obligations under the system, because if people are being ripped off they should have recourse, they should have legal protection and they should have people who are willing to represent them. And there are many good unionists out there who work very hard to ensure that people have their rights pursued in an appropriate way.

In fact, the coalition, when in government, had specific provisions in this area because this area is obviously one which has had, in the past, difficulties. Therefore we believed that, like the building industry, this needed industry-specific legislation. I note the difference in approach by this government, which says you do not need industry-specific legislation for one group of workers when it comes to the building industry but you do when it comes to this industry and you do when it comes to their TWU mates. You need it in two industries, but not in the building industry. I ask you, Mr Deputy Speaker, why is it that Labor members, the proud union officials that they are, have not spoken up about the disgraceful misuse of HSU credit cards? The Health Services
Union represents the lowest-paid workers in our society. I ask you that question.

Mr Mitchell: Mr Deputy Speaker, direct relevance is one point of order, but I certainly think that the imputation that he is making against members of this House—and I would suggest that you listen very carefully to the accusation that he is making—is wrong. Of course, he is cowardly in doing so in here because he would not have the guts to do it outside.

The DEPUTY SPEAKER: The honourable member's point of order is taken. I ask the honourable member for Mayo to come back to the bill before the House and to address his remarks that way.

Mr BRIGGS: We know that the member for McEwen has been so strong in his outrage about the treatment of those poor workers and their hard-earned money by people whose behaviour is undoubtedly the most questionable in the history of the trade union movement—and there is a fair bit more to come on this one. Ultimately, what we see with this legislation is an admission of failure by a government that does not know what it is doing. The commander at the table, the Parliamentary Secretary to the Treasurer, knows it. He has been brought in to try and add some heavyweight gravitas to the ministry. I do not think the commander at the table actually comes from a union official background. I think he was a Labor mayor. So I am not sure that he will be 'bucketed up' with those who should be defending the HSU workers. In any event, what we see here is a bill that will ultimately put this industry at risk. That is the problem with this bill, and it is not just us but people in the industry who are saying that.

I draw the attention of the House to some concerns that have been expressed by people who work in this industry, who run these small businesses and who are trying to make their way. I will quote, with the indulgence of the House, from a letter by one of these people:

I am an emerging Australian Fashion Designer starting a label from home.

And good on her for being an entrepreneur. She continues:

I would like to draw to your attention the Fair Work Act and the Textile, Clothing, Footwear and Associated Industries 2010 (the TCFAI Award), Modern Award regime which defines me as an outworker, despite my 4 year degree in fashion from Ultimo TAFE. The current TCFAI Modern Award definition has a "catch all" definition where anyone working from home in the fashion industry is an OUTWORKER … yes, I can be considered an OUTWORKER if I sell to a boutique or a department store, because of the deeming provisions of the award.

This legislation is about ensuring that entrepreneurs do not exist, that independent contractors do not exist. They are all workers. They are all employees as defined by the law so they can, of course, be targeted by and brought into the union movement. That is what this legislation is about. We saw the same with the TWU bill that was debated in the House last week. This legislation is being brought in under the guise of safety and protection but it is really about getting rid of the definition of 'independent contractor', because the Labor Party has always hated it. They have always hated the independent contractor. They voted against the specific legislation in 2005. They have moved bill after bill in this place to continue to get rid of the definition of independent contractor in this place and in our country. We know that because this bill, putting aside that it is admitting that there is failure in the Fair Work Act, is designed to do exactly that.

I will continue with the letter from this hardworking entrepreneur, who is working
from home trying to make her way in this industry. She says—

Mr Mitchell: Name them.

Mr BRIGGS: I will name them. If you want me to name them, I will name them when you name all those workers who have to pay Craig Thomson's bills. I will name them then. In the letter she says she is aware that the final form of the legislation deems all outworkers to be employees, 'including the National Employment Standards, superannuation and unfair dismissal laws'. She says:

As a start-up business, in the beginning it will be challenging to pay myself, never mind employ a 'maker/outworker' on a regular basis, and pay all these entitlements. Again this is unworkable and in trading in such an environment, I face prosecution in breach of the TCFAI Modern Award 2010. The risks are too great.

She continues:

I would like you and your government to consider this letter and make the necessary changes to allow me and other graduating & emerging Australian Fashion Designers making samples and small orders (with business turning over less than $100,000 per year) to apply for exemption to this onerous and impractical regime, as part of the Modern Awards Review 2012.

This is the problem. It all sounds great in theory to add additional protections, drag all these people in, get rid of the independent contractor label and make them all employees, but in doing so you will destroy the industry. You will destroy opportunities for these people to make their own way and to create their own opportunities in our economy. These people—the entrepreneurs and the small business people, people who are wanting to employ other Australians—should be encouraged to make the best of their opportunities. But the Labor Party will not hear of it, because that runs against how they want society to be, which is that you are all employees, you are all members of the union, even though people are walking away from it. Why wouldn't they walk away when they see the behaviour of senior union officials in this country, when they see the utter and absolute abuse of their money by senior leaders in this country? This bill should be opposed—

Mr Stephen Jones: Mr Deputy Speaker, I rise on a point of order. I distinctly heard you on a number of occasions attempt to draw the member for Mayo back to the legislation which we are debating. The point of order is relevance. He is debating legislation from somewhere else, I am sure, but not the matters that are before the House. So I would ask you, if you could, to draw the member back to the legislation before the House.

The DEPUTY SPEAKER: The honourable member for Mayo will come back to the bill and address the matters before the House.

Mr BRIGGS: I have been. Indeed, I am very surprised that the member for Throsby has now entered the chamber, not knowing what has gone on in here for the last 15 minutes of a genuine contribution to this bill. We say to you, Mr Deputy Speaker, to the House and to the Australian people: this bill is just another admission of failure by a government who likes to talk a lot but who has not delivered anywhere near its rhetoric. The Prime Minister said: 'I believe the fair work system is right. We worked hard to get the balance right and I believe the Fair Work Act is right.' If we had a fair work system operating as the Prime Minister said, we would not be debating this bill in this place today. We would be debating more substantial legislation dealing with genuine problems, such as Labor's deficit and Labor's mistreatment of our economy. This is a bad bill. It will add to the record of this government. They pretend to represent
workers when all they do is represent the filthy trade union officials who are ripping off workers in our economy.

Mr MITCHELL (McEwen) (12:52): I once called the member for Mayo 'the Barbara Cartland of Australian politics' because of his romantic novel writing on the subject, but today we could call him 'the trash mag writer', because he basically spent 15 minutes growing his nose and telling stories that were not true. Remember, this is the member who complained that the TWU was soiling his clothes when he was writing the Work Choices act. That is where he goes back to. Going back to Work Choices is all he considers.

I have to confess that I know a little bit about outworkers. My mother was one. I was also a member of the footwear industry, very proudly, for five years. Those opposite have absolutely no idea about that industry and no idea about the working conditions of outworkers, because, I am tipping, they have never, ever seen one, let alone seen the work of making shoes and understood what has to be done and the hours that people get put on.

I am sure the member for Mayo is going back to have another glass of champagne, but I hope that the speaker is on in his office and that he can listen to the truth. The only time in the history of this country that those opposite ever stood up for workers was at National Textiles. 'What's National Textiles?' you might say. 'Who owned National Textiles?' Of course, it was the brother of John Howard, Stan Howard. That was the only time, when a company went out the door, that the coalition stood up for the workers of that company. Every other time, they wiped their hands. They have absolutely no interest in what happens to workers when companies go broke, unless of course it is the company of the brother of the former Prime Minister John Howard.

As I was listening today, there were two different emotions going through my head. There was laughter at the stories that were being told by the opposition and there was anger at the inability of the opposition to understand what they were talking about. We heard the member for McPherson. The biggest point she made was about the effect on businesses—not one concern for the people who are actually working in them.

Ms O'Dwyer interjecting—

Mr MITCHELL: I'm sure you've never worked a day in your life either!

They admit that they look for labels and they do this and they do that, but they never show concern about how the items are made. They are never concerned about the people sitting at home working on them. The member for Higgins is over there yapping away. It is mainly women working in these industries, mainly those with English as a second language, with poor English skills—

Ms O'Dwyer: That's you!

Mr MITCHELL: Oh please, Mr Ed, please!

The DEPUTY SPEAKER (Hon. DGH Adams): Order! The honourable member for McEwen will not respond to interjections. I will deal with the interjections.

Mr MITCHELL: I will do my best, but it is sometimes awkward.

The opposition do not understand that most of the outworkers in the TCF industry are women with English as a second language and they work extremely hard. When I worked at Koala Shoes—it is getting to be a bit long ago now, when I think back to it—there were a large number of people who worked there who had just arrived in Australia. That was back in the days when we welcomed people to come to Australia. That would have been their first job. Quite
often such people were treated very shabbily in those sorts of workplaces. I think back to when I was a kid and my mum was an outworker and she was packing shoes and a whole range of other things. She worked for a large automotive component manufacturer and her job was to put needles on speedos—and, let me tell you, that was the most boring thing you could ever do in your life. But that is the kind of thing people do, and they do it for very minimal pay and they work extremely hard.

This legislation is about protecting them, so they know that when they go to work they will get what we would consider a fair and reasonable value—a fair day’s pay for a fair day’s work. It is not something that we should be mucking around with. We should be ensuring that people get paid properly for the work they do and the contribution they make to the Australian economy. This legislation protects some of our most vulnerable workers. It applies special provisions for TCF workers which ensure that outworkers employed are engaged under a secure, safe and fair system of work. Those words should be on everyone’s lips. Our main goal should be to make sure that people have safe workplaces. The member for Mayo was rabbiting on about attacks on truck drivers, because he does not believe that they and their families should be entitled to a fair day’s work in a safe and secure workplace. It is absolutely amazing, when the opposition put their silver spoons to the side of their mouths, what they start spouting about. They have never actually experienced these conditions.

There is a large textile and clothing place in Wangaratta. A quick discussion today revealed that the local member had never actually been there. Four hundred people are employed there and she has never walked in the door. Probably for them that is a great thing because they do not get to know her, but it is a sad thing that, while the members opposite spout how much they care and how much they worry about things, they do not go to places and see the people that make things. They are quite happy to sit there in their labels and spout off about their lovely shirts and shoes, but none of them have ever looked at how these things are made, the people that put them together and the conditions they work in. That is why we are very thankful to have people like the TCFU out there protecting people and making sure that their workplaces are safe and making sure that they get a fair day’s pay for a fair day’s work.

This is an important bill that we should pass very speedily. We should not be mucking around with this. We should get this through and ensure that people who earn as little as $3 to $5 get protected so that, when they do the work and the goods get picked up by a supply chain of subcontractors, they can be assured that they will get paid. That is another big issue that seems to escape those opposite: the people who are doing the work are getting ripped off by not being paid. Usually, if they have got low English skills and they are working from home, it is very difficult to chase that up. They should be given the opportunity to ensure that when they do the work they get paid. That is one of the most important things out there. I am not by any stretch of the imagination saying that all employers are bad. There are many, many good companies that pay their workers fairly and should reap the benefits, but we have always got to make sure that those that do the wrong thing are followed up and workers are protected from them. As we know, with the Liberal government not everyone is a Stan Howard. That is a rare one—National Textiles. That is one of the most important things to remember: when it comes to protection of workers these guys opposite have absolutely
no care, no idea and no plan to help them apart from bringing back their Work Choices, the great fabled god they look at when they think about stripping away the wages and conditions of people and trying to make us compete with China. Well, it is not going to happen, because our living standards are higher—and they should be higher. We should ensure that people are paid properly and that they have a safe workplace. With those few comments, I wish this bill a speedy passage.

Ms O’DWYER (Higgins) (13:00): Unfortunately, I had to listen to the contribution by the member for McEwen. I would encourage him to stay in the chamber and listen to my contribution. He mentioned just before that he wanted to understand what impact this legislation would have on individual workers. I will outline the circumstances and the impact that it will have. As somebody who is very concerned about jobs and about having a productive economy, I believe it is incumbent upon us in this place to argue for good policy.

Unfortunately, however, the Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill 2012 is not such a case. This bill is simply an expression by this government that the Fair Work Act that it brought into place has failed. By their own admission, in bringing forward this bill they have said that the Fair Work Act has failed, that it is deficient, that they are required to bring forward this bill. They do so because they have been waging a war against independent contractors. This is something that is deep within the marrow of the bones of those who sit opposite. They do not support independent contractors and they are progressively trying to legislate them away.

We have already seen in this place that the government has brought forward legislation which was passed recently with respect to independent contractors in the transport industry. This was, again, an expression of how the Fair Work Act is not working. They brought this forward and it was designed to bring independent contractors under the purview of the union movement by classing them as employees. That is what this bill will do as well to so many people in the textile, clothing and footwear industry.

What will this bill do? It will extend the operation of most provisions of the Fair Work Act to contract outworkers in the textile, clothing and footwear industry, deeming all outworkers to be employees. Why is it a problem to deem independent contractors as employees? The government says that this in some miraculous way is going to eliminate sweatshops and safeguard those who are supposed to be vulnerable. Yet the evidence does not bear this out. A person in the industry who will be affected by this bill, Rita Tu Lan Ly, recently submitted a letter to the Senate Standing Committee on Employment, Education and Workplace Relations. She said:

I am a very capable, professional machinist who is running a successful, flexible, profitable business from my own home, which allows me to be with my children and meet my family commitments as well as do the work in my own time and to be paid well. I see myself very much as a contractor not an outworker. I feel I have the support and capability to run my own business just as IT specialists, hairdressers, bookkeepers and all tradespeople along with many consultants such as psychologists, accountants, business and educational advisers do. I am feeling there is an issue of discrimination in this particular case as my profession—and that is what it is; it is a profession—as a machinist isolates my role away from all others who are allowed to work from home. I believe the amendments to the Fair Work Act currently under discussion are unbalanced, inconsistent and extremely unfair.

She goes on to say:
I am currently paid above the award and work for ethical companies and like my current conditions. I do not wish to be an employee. I want to remain an independent contractor just as many other professionals are allowed under the same act. Why is it that only the people working in the textile, clothing and footwear industry are discriminated against? I have serious concerns that these new amendments will harm me greatly. It will restrict my ability to operate as an independent and autonomous business. I will not be able to claim business expenses for my phone, electricity, depreciation of machinery etc—it's unfair. I have my own ABN and pay my taxes. I negotiate my own hours and have built professional and ethical relationships with companies I feel happy to work with and for.

If the amendments as suggested by Fair Work Australia in relation to our industry are passed, I would be unemployed and this would then be a further burden on the government as I would have no choice but to apply for assistance through Centrelink.

For the member for McEwen, those are the words of somebody who works in this industry, who currently has a job and who is making a contribution to our country, paying their taxes and going about their business lawfully. In her own words, she says that this bill will discriminate against her and her business and put her out of business. Why is it that this government is so determined to talk the talk of jobs and yet discriminate against independent contractors?

These people want to protect vulnerable people from those who would exploit them. Make no mistake: we on this side of the chamber do not condone abuse of power or exploitation of vulnerable working people. On this we can all agree: that is not what is being brought before the House today. The government says that the bill will have a fairly limited impact, that it is really just going to affect and attack those people who are doing the wrong thing, but this is not the case. I quote from another submission to the Senate committee by Richard Thomas, who said:

Limited impact is a massive understatement. Concern stems from the fact that a complete and unworkable company restructure is required to treat independent contractors as employees, failure to do so will result in legal action instigated by the TCFUA. The only viable option that remains is to close down. This will leave many, whom are not vulnerable and happy with their chosen arrangements, without work. In order to protect vulnerable outworkers, the legislation will destroy the lives of all the outworkers, vulnerable or not.

Even if factories can somehow comply with the laws in treating outworks as employees—sweatshops will hence be unaffected. In instances where people are exploited nothing will change. The 'middleman' outworker will be paid as an employee rather than a company and then continue to exploit the vulnerable as before. The people who choose to do the wrong thing will continue to do the wrong thing. We know that. This legislation will do nothing to fix that but it will penalise a number of people who are lawfully and correctly going about their business in their small businesses and making a contribution to this country.

The government recently made a lot of arguments in this place about how they did not want to see special treatment for particular industries. That is why they said the Australian building and construction commission needed to be abolished. They demanded that everyone be treated the same and that the ABCC be abolished. They said there should be a one-size-fits-all approach on the issue of industrial relations. They said that those in the construction industry were discriminated against. Yet they have brought forward legislation in this place that will discriminate against people in the clothing, footwear and textile industries. The hypocrisy of this government knows no bounds.
This legislation also fails to understand the seasonal and fashion nature of the industry. It does not understand that there needs to be flexibility in the industry and that so many in this industry rely on a pool of very specialised contractors. By classifying them all as employees, flexibility will be removed, flexibility that is so critical to this industry. Another submission to the Senate inquiry from a company which employs a number of people in this industry said:

Due to the wide variety of Fabrics many different machines and machinists are required to complete the sewing of a garment. One contractor will specialize in certain garments and using certain machines only. Therefore a pool of many contractors is required to complete various orders. Many contractors will work for a number of factories to generate their required turnover. One factory alone will not be able to provide consistent work.

Further to this the fashion industry is highly seasonal, within a year there can be many quiet and busy times, determined by the clients, not the factories. A factory has no guaranteed work, therefore to provide minimum hours to contractors on a weekly basis or up to 5 weeks notice of termination … is not possible.

There is a fundamental lack of understanding of the nature of this industry but that does not concern this government. They are too busy waging an ideological battle against independent contractors so that they may bring them within the reach of the union movement in order that the contractors, too, can pay their union dues which can then contribute to the expense accounts and credit card payments made by those officials, some of whom currently sit in this place.

Dr Leigh: Mr Speaker, on a point of order: the honourable member is straying far from the bill and casting unwarranted imputations on other members of the chamber. If she wants to do that there are substantive motions through which she is able to do so.

The DEPUTY SPEAKER (Hon. DGH Adams): The honourable member for Higgins will address the matters before the House.

Ms O'DWYER: I was addressing the matters before the House, Mr Deputy Speaker. I know it is very uncomfortable for those opposite to be reminded that union leaders have a responsibility to their members. It is a responsibility they should take seriously.

If you want to talk about the abuse of individuals who are vulnerable and who pay their dues you need look no further than the HSU. Yet we have heard nothing from the government stating that they have any problem whatsoever with how this has occurred. I simply restate in the remaining time available to me on this bill that this is yet another expression by the government to show that their Fair Work Act has failed. This is an expression by this government that they are going to continue to wage a war against independent contractors. This is a government that is not concerned about jobs unless they are the jobs of their union mates. It is very unfortunate that we have a government so concerned with their own vested interests that they would put those before the national interest.

We believe that it is important for people to be paid properly for the work that they do. We believe that it is important for people, in whatever industry they are involved in, to have a safe, secure and fair working environment. But this bill certainly does not achieve that. It will enforce a discrimination against those who are independent contractors, people who are making a significant contribution to our country. It is yet again a demonstration of the multiple failures of the Labor government.

Mr BANDT (Melbourne) (13:15): It is with a great deal of pleasure that I rise to
support the Fair Work Amendment (Textile, Clothing and Footwear Industry) Bill. The government is to be commended for introducing this legislation. I have a great deal of personal experience with this sector, having brought actions on behalf of the Textile Workers Union and many underpaid outworkers before the Federal Court over many years. After doing that for over a decade I can say with some certainty that pretty much every supposed factual comment made in the contributions from those on the opposition benches was wrong.

It is all well and good to talk about independent contractors but I have lost count of the number of times that I have encountered a worker who has been told that they will not get any work unless they get an NBN and pass themselves as an independent contractor. They can talk about people working up at the high end, but it is not at all uncommon to see a shirt that cost $200 selling in Burke Street and find that the person who made it was paid $2. With all that context, what is the worker going to do? The worker often finds themselves at the mercy of a middleman. If they stand up for their rights they simply do not get work in the future. I must say that in all my time working in this sector I never once saw a Howard government inspector ever set foot inside an outworker's home where they were doing work to ensure that that worker was getting super, work cover and annual leave.

We heard some outstanding comments about how this is going to destroy not only the industry but also outworkers. I will hold the member for Higgins and the member for Mayo to that. I think that we will find that it will not destroy the sector. But we will see ethical clothing made in this country. I will let the remarks that I have made many times before, both here and elsewhere, speak for my strong support for this bill. I commend the union, the church groups, the ethical clothing groups and the brave home workers who have had the courage to campaign for many years to bring this bill into being. With that, I commend the bill to the House.

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (13:17): I would like to thank all the members for their contributions in this debate.

Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Ms LEY (Farrer) (13:19): by leave—I move opposition amendments (1) and (2):

(1) Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1 1 January 2013 1 January 2013

(2) Schedule 1, item 61, page 25 (after line 10), after section 789EA, insert:

789EB TCF outworkers not to be worse off

(1) This Part applies in relation to a TCF outworker only to the extent to which, in a particular respect, the outworker would not be worse off.

(2) A reference in subsection (1) to this Part includes a reference to any regulations made for the purposes of this Part.

(3) The regulations may prescribe:

(a) what a particular respect is for the purposes of subsection (1); or

(b) the circumstances in which a TCF outworker would or would not be worse off for the purposes of subsection (1).

The first amendment relates to no worker being worse off. While we understand that there are numerous agendas—especially union agendas—being incorporated into this legislation, I restate the point that if amendments are required to the Fair Work Act they should be included with the review
of the implementation of the Fair Work Act, something that is ongoing, something that is presumably quite comprehensive because it has been ongoing for a while and something that, when it comes back to this parliament, will include any problems that may exist as a result of this bill.

The amendment that no worker be worse off addresses the concerns of many outworkers—and I refer the government to the submissions that have been made to the inquiry that they so callously guillotined—that they will be worse off as a result of this amendment. The then Minister for Employment and Workplace Relations, Julia Gillard, now Prime Minister, promised that no worker would be worse off as a result of the Fair Work Act. Given that this is an amendment to the Fair Work Act we in the coalition are seeking to enshrine that promise within the bill. But we also wish to allay the concerns that have been raised with the coalition and also with the Senate Education, Employment and Workplace Relations Legislation Committee about the fact that workers may very well be worse off after this legislation is implemented. I remind members of the House of that promise that no worker would be worse off after this legislation is implemented. I remind members of the House of that promise that no worker would be worse off. Literally thousands of Australian workers are now being ripped off under the so-called modern awards. The flaws are being made obvious daily despite the ironclad promise from Labor that no worker would be worse off.

I ask the minister and the government to show some courage on this matter and accept that, in responding so energetically to the union agenda around the dwindling number of members of the Textile, Clothing and Footwear Union, and in seeking to characterise people who actually are independent contractors as employees—something that offends the principles of the tax act, offends the principles of natural justice and is nonsense when considered in the context of this bill—the perverse outcome might very well be that workers will be worse off.

We stand by the most vulnerable and marginalised workers, who may be working in workplaces that have been described in the context of this bill. Those workers and their circumstances should never become a political football in this place. Those workers and their circumstances should be protected. Women who take an interest in the fashion supply chain in this country certainly understand that we want the clothes that we wear with pride—because they are made in Australia—not to be manufactured under conditions that have been described in media outlets from time to time, and which are entirely offensive.

I remind people in this place that the examples brought to the table in the context of this debate are already out of order and illegal, and are against state and federal legislation and the Fair Work Act itself. We stand by those workers and we will be moving an amendment that no worker will be worse off.

The second amendment concerns the time frame. If the government wants to jump into the process of examining and possibly amending its own Fair Work Act—and on the surface of it you would think was a sensible thing to do because if you implement an act and make major and extraordinary changes to it you should review how those changes are playing out in the system—then the government should incorporate the changes it thinks are so necessary that it has brought this legislation into the review process of the modern awards and into the review of the Fair Work Act. We therefore say that we want to delay the commencement of any legislation passed today that allows for the completion of the review into the Fair Work Act, and the
government's response, prior to the commencement of this legislation. We believe the provisions of this bill should be considered only as part of that review, along with any changes proposed in any final and publicly available report resulting from that review, prior to commencement. *(Time expired)*

**The SPEAKER:** The question is that opposition amendments (1) and (2) be agreed to.

The House divided. [13:29]

(The Speaker—Hon. Peter Slipper)

Ayes.....................67
Noes.....................74
Majority...................7

**AYES**

Abbott, AJ
Andrews, KJ
Billson, BF
Bishop, JI
Broadbent, RE
Chester, D
Ciobo, SM
Coulton, M (teller)
Entsch, WG
Forrest, JA
Gash, J
Haase, BW
Hockey, JB
Irons, SJ
Jones, ET
Kelly, C
Ley, SP
Marino, NB
Matheson, RG
Mirabella, S
Moylan, JE
O'Dowd, KD
Prentice, J
Ramsey, RE
Robb, AJ
Roy, WB
Schultz, AJ
Secker, PD (teller)
Smith, ADH
Stone, SN
Truss, WE
Turnbull, MB
Vasta, RX

Wyatt, KG

**NOES**

Adams, DGH
Bandt, AP
Bowen, CE
Brodman, G
Burke, AS
Byrne, AM
Cheeseman, DL
Collins, JM
Crean, SF
Danby, M
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Katter, RC
King, CF
Livermore, KF
Macklin, JL
McClelland, RB
Mitchell, RG
Neumann, SK
O'Connell, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Saffin, JA
Sidebottom, PS
Snowdon, WE
Symon, MS
Vamvakou, M
Windsor, AHC

**PAIRS**

Baldwin, RC
Gambaro, T
Hawke, AG
Somlyay, AM

**AYES**

Adams, DGH
Bandt, AP
Bowen, CE
Brodman, G
Burke, AS
Byrne, AM
Cheeseman, DL
Collins, JM
Crean, SF
Danby, M
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Katter, RC
King, CF
Livermore, KF
Macklin, JL
McClelland, RB
Mitchell, RG
Neumann, SK
O'Connell, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Saffin, JA
Sidebottom, PS
Snowdon, WE
Symon, MS
Vamvakou, M
Windsor, AHC

Question negatived.

**The SPEAKER (13:36):** The question is that the bill be agreed to.
The House divided. [13:36]

(The Speaker—Hon. Peter Slipper)

Ayes....................74
Noes.....................66
Majority..............8

AYES
Adams, DGH
Bandt, AP
Bowen, CE
Brodtmann, G
Burke, AS
Byrne, AM
Cheeseman, DL
Collins, JM
Crean, SF
Danby, M
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Katter, RC
King, CF
Livermore, KF
Macklin, JL
McClelland, RB
Mitchell, RG
Neumann, SK
O’Connor, B PJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Saffin, JA
Sidebottom, PS
Snowdon, WE
Symon, MS
Vanvakinou, M
Windsor, AHC

NOES
Coulton, M (teller)
Entsch, WG
Forrest, JA
Gash, J
Haase, BW
Hockey, JB
Irons, SJ
Jones, ET
Kelly, C
Ley, SP
Markus, LE
McCormack, MF
Morrison, SJ
Neville, PC
O’Dwyer, KM
Pyne, CM
Randall, DJ
Robert, SR
Ruddock, PM
Scott, BC
Simpkins, LXL
Southcott, AJ
Tehan, DT
Tudge, AE
Van Manen, AJ
Washer, MJ

NOES
Abbott, AJ
Andrews, KJ
Billson, BF
Bishop, JI
Broadbent, RE
Chester, D
Ciobo, SM

Coulton, M (teller)
Entsch, WG
Forrest, JA
Gash, J
Haase, BW
Hockey, JB
Irons, SJ
Jones, ET
Kelly, C
Ley, SP
Markus, LE
McCormack, MF
Morrison, SJ
Neville, PC
O’Dwyer, KM
Pyne, CM
Randall, DJ
Robert, SR
Ruddock, PM
Scott, BC
Simpkins, LXL
Southcott, AJ
Tehan, DT
Tudge, AE
Van Manen, AJ
Washer, MJ

DAVIS: My question relates to Item 4 on the Order of Business: ‘The Speaker put the Question’, which was carried. Following on from the previous Question agreed to, I move that this bill be read a third time.

Question agreed to.

Bill read a third time.

Justice for the Right to Life Petitioners

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (13:41): by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.
Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011

Report from Federation Chamber

Bill returned from Federation Chamber without amendment; certified copy of bill presented.

Ordered that this bill be considered immediately.

Bill agreed to.

Third Reading

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (13:42): by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Suspension of Standing and Sessional Orders

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (13:43): I move:

That standing order 31 (automatic adjournment of the House) and standing order 33 (limit on business) be suspended for the sitting on Thursday, 22 March 2012.

The SPEAKER: The question before the chair is that the motion moved by the honourable Leader of the House relating to a suspension of standing orders be agreed to.

The House divided. [13:48]

(The Speaker—Hon. Peter Slipper)

Ayes......................72
Noes.....................69
Majority..............3

AYES

Byrne, AM
Cheeseman, DL
Collins, JM
Crean, SF
D’Ath, YM
Elliot, MJ
Ferguson, LDT
Fitzgibbon, JA
Georganas, S
Gillard, JE
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Livermore, KF
Macklin, JL
McClelland, RB
Mitchell, RG
Neumann, SK
O’Connor, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Saffin, JA
Sidebottom, PS
Snowdon, WE
Symon, MS
Vamvakinou, M
Windsor, AHC

AYES

Champion, ND
Clare, JD
Combet, GI
Danby, M
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Kelly, MJ
Leigh, AK
Lyons, GR
Marles, RD
Mellam, D
Murphy, JP
Oakeshott, RJM
O’Neill, DM
Parke, M
Plibersek, TJ
Rishworth, AL
Rudd, KM
Shorten, WR
Smyth, L
Swan, WM
Thomson, KJ
Wilkie, AD
Zappia, A

NOES

Abbott, AJ
Andrews, KJ
Billson, BF
Bishop, JI
Bishop, JK
Briggs, JE
Broadbent, RE
Chester, D
Ciobo, SM
Coulton, M (teller)
Dutton, PC
Fletcher, PW
Frydenberg, JA
Griggs, NL
Hartsuyker, L
Hunt, GA
Jensen, DG
Katter, RC
Kelly, C
Ley, SP
Marino, NB

NOES

Alexander, JG
Andrews, KL
Bishop, BK
Briggs, JE
Buchholz, S
Christensen, GR
Cobb, JK
Crook, AJ
Entsch, WG
Forrest, JA
Gash, J
Haase, BW
Hockey, JB
Irons, SJ
Jones, ET
Keenan, M
Laming, A
Macfarlane, IE
Markus, LE

CHAMBER
Question agreed to.

STATEMENTS BY MEMBERS

Business

Mr BUCHHOLZ (Wright) (13:22): I wish to voice my disappointment and concern at the way this government has trivialised the importance of successful businesspeople in this country, particularly Gina Rinehart, Clive Palmer and Twiggy Forrest. It is as if being successful in this country is open to being scorned, that success in this country will only invite the pettiness of Labor governments to trivialise these achievements. Well, to you I say: shame! It is as if being successful in this country means that this Labor government automatically has the right to attack what is beyond its capacity. It is easy to attack and ridicule what can never be yours—a profitable, sizable business. You detest it because you detest success. The ALP scorns success because you have never tasted it yourself. You have always relied on the sector to provide employment, from which Labor prospers. Australia needs modern-day business pioneers, just as we needed Blaxland, Wentworth and Lawson. We need modern-day pioneers to invest in this nation and we need to recognise them. If you take anything from my statements today, take this: Labor's crippling taxes and cost-of-living pressures are hurting families and businesses in my electorate of Wright. You scorn what you do not understand, and you do not understand this economy and the pressures that exists for businesses out there at the moment. When will you learn that you cannot tax and legislate a nation into prosperity?

The DEPUTY SPEAKER: Don't use the word 'you', for future reference.

Letaille, Mr Jean, OAM

Mr GRIFFIN (Bruce) (13:55): I rise today to bring to the attention of the House the passing of Mr Jean Letaille OAM, who passed away recently in Bullecourt, France. Some members who have travelled to France are aware of the activities of Jean and his also deceased wife, Denise, with respect to the Bullecourt Museum, which commemorates the bloody battles that occurred there in 1917 when more than 10,000 Australians were killed or wounded. Jean passed away at the age of 83. He was a man who was dedicated to commemorating what took place at that time in that part of France. He had established in his farmhouse, in the barn, a museum to which, as Minister for Veterans' Affairs, I was very pleased to commit support for its refurbishment. I note that that refurbishment will lead to the reopening of the museum in a few weeks time, somewhere around Anzac Day.

Jean was a great Frenchman and a great Australian honours holder. He and his wife dedicated themselves over the last few years to commemorating the Australian
involvement in that area, the courage and the sacrifice of those who lost their lives or were wounded at that time so long ago. I honour their memory and I respect their contribution.

Sterle, Senator Glenn

Dr JENSEN (Tangney) (13:56): I wish to bring up an unfortunate incident that occurred at Canberra airport on Sunday night. I was not going to bring it up but a newspaper report yesterday into an incident that occurred in the Senate made clear that this is serial behaviour. What happened was that Senator Sterle said to another member that he would have been able to get the TWU to bring certain equipment across.

The DEPUTY SPEAKER (Ms AE Burke): The member for Tangney is straying into imputation, so I will warn him as he proceeds.

Dr JENSEN: I replied with a bit of a joke, saying, 'Well, you know, after last week he would say that.' Senator Sterle then physically threatened me in front of two of my young staffers and this threat was repeated on quite a few occasions, basically saying he would meet me at any truck stop anywhere in Australia anytime, as well as using foul language. I suggest that Senator Sterle send me, but more particularly my two young staff members, an apology.

Tetley, Mr Arthur Norman

Ms SMYTH (La Trobe) (13:57): As we approach Anzac Day I would like to reflect on and honour the story of one Anzac from my electorate of La Trobe who died in the service of this country. Berwick local Arthur Norman Tetley enlisted on 16 September 1914 as a trooper with the rank of private in B squadron of the 8th Australian Light Horse and was subsequently promoted to lance corporal. Arthur received gunshot wounds to the right knee and abdomen at Lone Pine, Gallipoli. How Arthur received his wounds is recorded in a letter from Sergeant WA McConnon:

He was wounded in the Light Horse charge at Anzac on 7th August. A line of machine-gun bullets caught him just above the knee. Though the wound was bad, it was reckoned he could recover.

Sergeant McConnon was right: Arthur's wounds were indeed serious. He died on 8 August 1915 at the age of 26 while being transported aboard the hospital ship Delta from Gallipoli to Lemnos. His eagerness to stay with his unit was evident. Despite being reported sick before the Suvla landings he had returned to his regiment only a few days before he was wounded. As Sergeant McConnon wrote:

He was far from right at the time but dodged sick parade so that he could play his part in our advance.

Arthur fell at one of the most memorable attacks in Australian military history. The 8th formed the first two waves of the 3rd Light Horse Brigade's tragic attack on the Neck at dawn on 7 August and they suffered heavily. Arthur was buried at sea on 8 August 1915 between Anzac Cove and Lemnos. It is recorded that his personal effects amounted to his prayer book and his horsewhip. He was awarded the 1914-15 Star, the British War Medal and the Victory Medal. I honour his memory.

Federal Grant Funding

Mr FRYDENBERG (Kooyong) (13:59): I rise to shine a light on the government's shameful lack of transparency and accountability in the administration of federal grant funding. In July 2009 in a document titled Commonwealth grant guidelines this government set out a framework to efficiently, effectively and ethically administer grant funding. Specifically in section 3.2 the guidelines specify that when a minister makes a grant to
their own electorate they are required to write to the finance minister. So what are we now meant to make of the Auditor-General’s damning finding that the government's ministers have failed on 33 occasions to declare grants worth millions of dollars to their own electorates?

The SPEAKER: Order! The time for members’ statements has concluded.

QUESTIONS WITHOUT NOTICE

Budget

Mr HOCKEY (North Sydney) (14:00): My question is to the Treasurer. At the time of the last budget the Treasurer promised Australians that the deficit would be $23 billion. It is now expected to be at least $37 billion, a deterioration of $14 billion. At the last budget the Treasurer promised the government's net debt would peak at $107 billion. It is now expected to be at least $136 billion, a deterioration of at least $29 billion. Why should we believe that this year's promises on budget night will be any more believable than last year's promises?

The SPEAKER: I am reflecting on whether the question is in order. Although I am troubled by it, I will allow it.

Mr SWAN (Lilley—Deputy Prime Minister and Treasurer) (14:01): I would like to make a couple of points. We have a AAA credit rating from the three major financial credit rating agencies globally for the first time in our history. We came through the global financial crisis in better shape than any other advanced economy. We have a strong economy. But, of course, as a consequence of the global financial crisis, the floods in Queensland and events in Europe, there has been a dramatic impact on our budget bottom line.

Those opposite come into this House and talk down our economy and pretend that the global financial crisis and the global recession never happened. That is what they pretend. They pretend that there has been no impact on our budget revenues, which have been written down by $140 billion over five years. They want the public of Australia to somehow believe that that never happened. Well, the fact is that it did happen.

The SPEAKER: Order! The Treasurer will return to the substance of the question.

Mr SWAN: The consequence of that is that we have been running a deficit. But we have been putting in place strict fiscal discipline to come back to surplus. This has been recognised by the OECD and most particularly by the IMF, who have said that the Australian government's fiscal discipline it is an example for the rest of the world. While the IMF, the OECD, the World Bank and other agencies recognise that in the circumstances no other government in the Western world has done a better job than Australia, those opposite come into this House and trash our economy and our public finances with questions like the one we have heard today.

The SPEAKER: Order! The Treasurer will return to the substance of the question asked by the honourable member for North Sydney.

Mr SWAN: I am coming to the substance of the question. The reason we have a deficit is that revenues have been written down. It is not because, as those opposite allege, we are somehow out there on a spending spree. We have supported employment and small business in our economy. We have done it with a responsible fiscal policy that has given us an economy that is the envy of the world. Everybody on this side of the House is proud of our employment performance and is sick of the trash talking about our economy.

(Time expired)
Mr ABBOTT (Warringah—Leader of the Opposition) (14:04): Mr Speaker, I ask a supplementary question. As the Treasurer referred to the budget, I ask him: will he rule out new or increased taxes or reduced rebates in the upcoming budget?

The SPEAKER: The supplementary question is not in order. I rule it out of order.

Mr Pyne: Mr Speaker, I rise on a point of order. I would ask you to clarify how that supplementary question could be out of order given it referred to a statement the Treasurer made in his primary answer and is about the budget.

The SPEAKER: The Manager of Opposition Business will resume his seat.

Economy

Mr SYMON (Deakin) (14:04): My question is to the Prime Minister. How is the government managing the economy in the interests of working people and getting things done for the many, not the few?

Ms GILLARD (Lalor—Prime Minister) (14:05): I thank the member for Deakin for his question. It gives me the opportunity to inform the House that today I and the Minister for—

Mr Pyne: Mr Speaker, I rise on a point of order. The question asked, 'What is it like governing for the many and not the few?' How on earth could that question be in order given the new standards you are applying to be stricter on questions? Surely that is hypothetical. How could she possibly answer that question?

The SPEAKER: I will ask the member for Deakin to repeat his question and I will listen to it forensically.

Mr Symon: I said: 'My question is to the Prime Minister. How is the government managing the economy in the interests of working people and getting things done for the many, not the few?'

The SPEAKER: The question is in order.

Ms GILLARD: I understand that neither the question nor the answer will be of interest to those in this parliament who believe that their job is to represent the few. But those of us on this side of the parliament believe our job is to represent the many and want to see the House informed that today I had the opportunity, with the Minister for Industry and Innovation—

Mr Chester interjecting—

The SPEAKER: The honourable member for Gippsland will leave the chamber under the provisions of standing order 94(a).

The member for Gippsland then left the chamber.

Ms GILLARD: the Premier of South Australia, Premier Weatherill, and the representative of the relevant union, Ian Jones, to announce that we are co-investing in the future of Holden in our nation. Holden is an Australian icon. People have known about Holden cars for all of the time that Holden has been here in our nation manufacturing motor vehicles. It is part of the Australian identity.

In January this year we faced a circumstance where it was possible that there would be no more Holden car manufacturing in this nation. That was a real risk because of changing global conditions and economic circumstances, including, in particular, the impact of the high Australian dollar on manufacturing, including car making. It gives me great pleasure to be able to say to the House that we have worked together with Holden and we have secured Holden to manufacture cars in Australia for the next decade. Holden will be manufacturing two new-generation motor vehicles here in Australia for the next decade. This is a great example of how you can manage your
economy to meet the needs of the many, not the few, for the million Australians who rely on manufacturing for their living and who understand how much of a body blow it would be to Australian manufacturing if we lost the car-making industry.

At the start of this parliamentary session the Leader of the Opposition said he wanted to debate the economy. On this side, during the parliamentary session, we have continued to work on the economy, securing the future for Holden, getting the mining tax through the parliament, passing the means testing of the private health insurance rebate and securing ACCC approval for the structural separation of Telstra. New figures show 150,000 families are benefiting from paid parental leave and 27 per cent more students are at uni. There are new plans for HECS for skills. We are determined to keep managing the economy in the interests of working people; all we see on the other side is division and negativity as they pursue the interests of a privileged few. *(Time expired)*

**DISTINGUISHED VISITORS**

The SPEAKER (14:09): I welcome to the gallery the Premier of South Australia, the Hon. Jay Weatherill MP. Sir, on behalf of all honourable members I extend to you a particularly warm welcome.

Honourable members: Hear, Hear!

**QUESTIONS WITHOUT NOTICE**

**Energy Security Fund**

Mr TRUSS (Wide Bay—Leader of The Nationals) (14:09): My question is to the Treasurer. I refer the Treasurer to the Energy Security Fund program, which has been allocated funding of $1 billion in 2011, over $1 billion in 2013 and $1 billion again in 2014, but only $1 million in 2012. How does the Treasurer explain this astonishing decrease in expenditure for the program in the 2012-13 financial year? Does this confirm that the surplus in 2012-13 is just a clayton's surplus?

The SPEAKER: The Leader of the Nationals should be careful not to include argument in his question, but I will allow it.

Mr SWAN (Lilley—Deputy Prime Minister and Treasurer) (14:10): What it confirms is that the government has put in place responsible arrangements to bring the budget back to surplus in 2012-13. The irony of getting a question about the surplus and a profile of spending from a crew that have a $70 billion crater in their budget bottom line!

The SPEAKER: The Treasurer is aware that he is not being relevant. He will become relevant.

Mr SWAN: Mr Speaker, it was a question about our surplus and it was a question about the profile of a particular piece of expenditure across the forward estimates. What I am saying is that we have strict fiscal discipline, which is bringing our budget back to surplus. That stands in stark contrast to those opposite, who have a $70 billion crater in their budget bottom line. To fill that crater they want to put up company taxes by 1½ per cent.

The SPEAKER: The Treasurer is not to contrast; he has to focus on the substance of the question. The Treasurer has concluded.

**Economy**

Ms BURKE (Chisholm—Deputy Speaker) (14:11): My question is to the Treasurer. How is the government getting the big reforms done to support our economy and jobs?

Mr SWAN (Lilley—Deputy Prime Minister and Treasurer) (14:11): I thank the member for Chisholm for that very important question. We on this side of the House have made jobs our No. 1 priority from day one. The heart and soul of any Labor government is making jobs the No. 1 priority. It is why
we acted to support jobs in the face of the global financial crisis and the global recession and it is why we avoided recession in this country: to save hundreds of thousands of jobs in Australia, to save people from the unemployment scrap heap and, importantly, to keep open the doors of small business. Since we came to office there are an extra 700,000 jobs in this country. Just think about this for a minute: unemployment in Australia is at 5.2 percent—there is barely a developed economy in the world that can say that unemployment is at that level. It is at twice that level right throughout Europe and is massively higher in the United States.

If those opposite had had their way Australia would have gone into recession, unemployment would be far higher and we would have seen business closures. We on this side of the House understand the importance of jobs and we understand the importance of the changes that are underway in the global economy—the movement in global economic power from West to East, which is bringing to this country a huge investment pipeline, particularly in resources. We on this side of the House will make sure that the opportunities from that investment pipeline are spread right across our country. That is why we are putting in place the big economic reforms to ensure prosperity for the future. That is why we on this side of the House want to cut company tax by one per cent and those opposite want to check it out by 1½ per cent. That is why we on this side of the House are supporting a significant tax break for 2.7 million small businesses through the $6,500 instant asset write-off and, in particular, supporting the boost to superannuation savings, particularly for young people in our community. If you are a young worker on average wages you will get an extra $100,000 when you retire because of these arrangements. There is a very clear choice, when it comes to jobs in this country, between a government that will go into bat for workers and small business and a wrecking-ball opposition who have a $70 billion crater in their bottom line.

**Government Spending**

Mr ROBB (Goldstein) (14:14): My question is to the Treasurer. Given the unprecedented levels of waste, debt and deficit we have seen from this government, does the Treasurer think it appropriate that the government is spending $145,000 to study sleeping snails; $340,000 to see if climate change is affecting fiddler crabs; $314,000 to see if birds are shrinking; and, last but not least, $578,000 to research an ignored credit interest instrument in Florentine economic, social and religious life from the 1500s?

*Opposition members interjecting—*

The SPEAKER: The Treasurer will not commence and the clock will not start until there is silence.

Mr Swan: If that is the opposition's full understanding of the economic challenges facing our nation—

The SPEAKER: The Treasurer will wait until there is silence. The Treasurer has the call.

Mr SWAN (Lilley—Deputy Prime Minister and Treasurer) (14:15): We in this country have a $1.4 trillion economy, we have an unemployment rate of 5.1 per cent, we have a level of public debt lower than just about any other developed economy, and we have an investment pipeline in this country of $455 billion that is coming into this country to ensure that people are in employment and that our economic prospects are bright. At the height of the global financial crisis and the global recession we acted to support our economy—

The SPEAKER: The Treasurer will return to the question.
Mr SWAN: Now we are putting in place very big economic reforms to make sure prosperity continues. And the opposition come into this House and ask questions like that. It just demonstrates what little appreciation they have of the economic challenges facing our nation.

Aged Care

Mr WINDSOR (New England) (14:17): My question is to the Minister for Mental Health and Ageing. Minister, do you acknowledge that aged-care workers are paid significantly less than aged-care workers in the public health system and that nurses are paid up to $300 per week less? Furthermore, Minister, do you recognise that there are no minimum staffing levels in any aged-care facility in Australia?

Mr BUTLER (Port Adelaide—Minister for Social Inclusion, Minister for Mental Health and Ageing and Minister Assisting the Prime Minister on Mental Health Reform) (14:17): I thank the member for New England for his question and his ongoing interest in aged-care matters. In this place we might from time to time end up at different policy destinations, but I think we all start at the same basic proposition: that one of the truest tests of a decent society is how we treat our seniors—those citizens who for years have worked hard, paid taxes and raised their families and who in retirement might need some care and support in return from the community that they helped to build.

While our aged-care sector has served the nation very, very well over the years, we understand on this side of the House—and I imagine on the other side as well—that it is a sector that requires very real reform. That is why we asked the Productivity Commission in 2010 to conduct a comprehensive inquiry to the future aged-care needs of the nation. As the member knows, the Prime Minister and I released that report in August last year and since that time I have been engaging very closely with the sector, with all stakeholders—provider interests, trade unions and consumer interests, very importantly—to develop a meaningful response to that report.

I have also had the opportunity to talk directly with more than 4,000 older Australians at a series of two-hour forums conducted across the country to hear their experiences and their expectations of aged care. As the member knows, we conducted a session of that type in Tamworth, which was very well attended, late last year. At the same time the member for New England was able to arrange a meeting between myself and registered nurses in the electorate of New England, where they talked to me about the pay gap between public hospital nurses and aged-care nurses. I also know that the member for New England handed to me a petition this week with, I think, around 4,000 signatures from the electorate of New England, drawing the government's attention to this issue.

Those consultations have confirmed the Productivity Commission's findings that the supply of a well-trained, properly remunerated and dedicated workforce is perhaps the key supply constraint on our aged-care sector. I also note that a survey of members of National Seniors Australia released last week confirmed that members of that organisation saw that these workforce issues were the major concern that they had about aged care into the future.

As the member knows, the commission did consider the issues outlined in the member's question—the adequacy of wages and also staffing levels in aged-care facilities—and we are obviously very deeply considering those recommendations along with the 58 other recommendations made by
the Productivity Commission. The Prime Minister committed her government last year to starting the process of aged-care reform in this term of government and we remain committed to that commitment. (Time expired)

Automotive Industry

Mr CHAMPION (Wakefield) (14:20): My question is to the Minister for Industry and Innovation and Minister for Climate Change and Energy Efficiency. How will the government's co-investment with Holden benefit the quarter of a million Australians whose jobs depend on the automotive industry? Why is it important to get this reform done, and what are the obstacles to it?

Mr COMBET (Charlton—Minister for Industry and Innovation and Minister for Climate Change and Energy Efficiency) (14:21): I thank the member for Wakefield, who has an extremely direct interest in this issue. This is a Labor government and we stand up for working people. We manage the economy in the interests of working people and in the interests of the manufacturing industry. That is why today we have announced, as the Prime Minister indicated earlier, a $275 million co-investment with General Motors which will secure Holden's Australian car manufacturing operations for a decade.

The reality is that without this co-investment GM Holden would have closed its Australian manufacturing operations, and that would have cost thousands of highly skilled manufacturing workers' jobs. It would have also meant the loss of vital design and engineering capabilities and would have put other parts of the automotive manufacturing industry in this country under extreme pressure. Instead, the government has secured a commitment from General Motors to keep making cars in Australia until at least 2022. This is a major achievement. This co-investment is part of a total investment package by Holden, by General Motors, in excess of $1 billion and, very importantly, the package is designed to ensure that Holden's operations are competitive while the Australian dollar is around parity with the US dollar. This will be a significant improvement in the competitiveness and productivity of Holden's operations and it will support tens of thousands of jobs throughout the economy. It will also build important business opportunities for car component manufacturers to take part in global supply chains.

When Labor says we support manufacturing, we mean it. When we say we support workers and their families, we mean it and we act upon it. Instead, the opposition leader pretends to be a friend of manufacturing workers, but what happens when that is put to the test? Those on the other side of this parliament have a policy to take $1.5 billion out of Labor's new car plan which funded the government commitment outlined in today's announcement with Holden. Before the ink was dry on this morning's announcement the coalition rushed out to oppose it. The coalition's position would put tens of thousands of people out of work in this important manufacturing industry. This coalition is full of hypocrisy on issues of this nature.

Mr Pyne: Mr Speaker—

The SPEAKER: Order! The Manager of Opposition Business will resume his seat. The minister will withdraw the accusation of hypocrisy.

Mr COMBET: I withdraw, Mr Speaker. (Time expired)

Mr Pyne: Mr Speaker, the Minister should also withdraw the false claim that the coalition is opposing this co-investment. It is a false claim and he should withdraw it.
The SPEAKER: The Manager of Opposition Business has access to other forms of the House to address that matter.

Veterans

Mr MATHESON (Macarthur) (14:25): My question is to the Prime Minister. I refer the Prime Minister to the case of 84-year-old war veteran Mr Alan Collis, who before Christmas needed major surgery on his face. His veteran's transport failed to collect him from his place of residence to undergo urgent tests, because the government has reduced the minimum payment for contractors transporting veterans to and from medical appointments. Are these cuts the inevitable consequences of her government racking up $167 billion in budget deficits?

Ms GILLARD (Lalor—Prime Minister) (14:25): I would obviously be very pleased to get from the member the details of the incident he refers to and I will investigate it fully. I am very happy to do that. On the broad assertion made by the member, perhaps the member should recognise that the world has been through a global financial crisis, the biggest economic event since the Great Depression of last century. As a result of that global financial crisis hitting economies around the world, including our own, the amount of revenue coming to the government has been fundamentally reduced. That is understandable. You see economic activity reduce, you see businesses under pressure and you therefore see revenue coming to the government also reduced. So the global financial crisis certainly did hit into the government's budget by way of billions and billions and billions of dollars of reduced revenues. It was also hitting into our real economy, which meant that we could have seen thousands and thousands of people lose their jobs, become unemployed—young people who did not get—

Mr Pyne: Mr Speaker, I rise on a point of order. The Prime Minister was asked about the priority her government gives to aged and infirm war veterans, and she is straying very far from the question she was asked.

The SPEAKER: The Prime Minister said that she would take on notice the specifics of the question asked by the honourable member. I think she was indicating why it might be necessary for there to be some cuts. The Prime Minister is straying and she will return to the question.

Ms GILLARD: Thank you very much, Mr Speaker. The second part of the question reflected on the government's budget management and so I am explaining circumstances in relation to the budget. Of course, when you look at the budget you have to look at money coming in and money going out and, whilst those opposite refuse to recognise it, because of the global financial crisis there was a reduction in revenues flowing into the government. Until the opposition recognise that, they should be viewed as a hopeless joke in the economic debate because that is transparent to anyone who has high school economics or even less.

The SPEAKER: The Prime Minister will be directly relevant.

Ms GILLARD: Faced with those budget circumstances we have done a couple of things. We have moved to stimulate the economy to keep people in work. We as a Labor government think jobs are important; those on the other side could not care less about working people having jobs.

The SPEAKER: The Prime Minister will return to being directly relevant.

Ms GILLARD: Mr Speaker, in order to have prudent budget management we of course have worked hard to make sure that across the government's budget we are taking an efficient approach to government
expenditure. I will certainly respond to the individual example raised if the member gives me the full details. Generally you can rely on the government to run the government’s budget in the interests of working people. It is a very stark contrast to the privileged few billionaires who are always on top of the Leader of the Opposition’s list.

Transport Infrastructure

Ms PARKE (Fremantle) (14:29): My question is to the Minister for Infrastructure and Transport. Will the minister update the House on how the government is getting the job done when it comes to long-term reforms in transport and delivering record investment in infrastructure? How has the government overcome considerable challenges to do this?

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (14:29): I thank the member for Fremantle for her question. Indeed it is the case that, at the start of this parliamentary session, both the Prime Minister and the Leader of the Opposition said that they wanted to engage in an economic debate. There is nothing more important in an economic debate than nation-building infrastructure. What we have done on the side of the chamber is engage in nation building on behalf of the Australian people in the long-term interests of our economy. We have the rolling out of a $37 billion capital works program, the doubling of the roads budget, an increase in rail investment by tenfold—the work we are doing to commit more money to urban public transport since 2007 than all governments combined, from Federation right through to 2007.

Just last week I convened the first meeting of the Urban Policy Forum, getting together about the implementation of how we build better cities, how we build productivity and how we improve liveability and sustainability in our cities. Of course, we did not have a very high bar in terms of urban public transport, given that not one cent was spent on urban public transport by the former federal government. What we have been doing is running around the country opening projects like the Ballina Bypass, the upgrades of the Hume Highway, the Pacific Highway, Port Botany rail, the Western Ring Road and the Calder Freeway.

Those works have been taking place. We have also been getting the big policy decisions done through this chamber. The safe rates legislation went through, which will deliver safety for truckies and will have an impact not just on truckies but on all who share the roads with our truck drivers. That was important legislation. The legislation supporting the Regional Infrastructure Fund has gone through, providing infrastructure important to those communities under pressure due to the mining boom, and this morning we had the important delivery of our legislation to revitalise Australian shipping. We make no apologies for wanting to see the Australian flag on the backs of our ships, of replacing ships of shame with the Australian flag in the interests of our national economy, in the interests of our environment and in the interests of our national security. When we came to office, we were ranked 20th out of 25 OECD countries when it came to investing in public infrastructure as a proportion of national income. We have made a difference. We will continue to engage in this economic debate while those opposite in the 'no-alition' just say no, no, no to all of these reforms.

Carbon Pricing

Mr ABBOTT (Warringah—Leader of the Opposition) (14:32): My question is to the Prime Minister. I again remind her that every council, sports club, charity and community
group across Queensland will soon be paying higher power bills under her carbon tax and that if every group applied for the government's compensation they would receive just $550. Prime Minister, how will this help the RACQ CareFlight service, for instance, which faces a carbon tax hit of over $150,000 a year, and rising?

Ms GILLARD (Lalor—Prime Minister) (14:33): As I have explained to this parliament before, I think in response to a very similar question, we do have some measures in the carbon pricing package to assist not-for-profit organisations. Let me also explain more broadly that, whether it is in Queensland or in any other part of Australia, we have worked through the carbon pricing package to provide support to families and to pensioners so that they will have more money in their hands. Whether it is those workers who are getting a tax cut of $300, whether it is workers who earn less than $80,000, whether it is people getting increases in family payments or whether it is pensioners, we have worked so that nine out of 10 households will receive assistance, and there will be millions of households that will receive more assistance than the average carbon price impact on them. We have also worked in the carbon pricing package—

Mr Abbott: Mr Speaker, I raise a point of order. CareFlight has a $150,000 increase in its bills because of the carbon tax. That was the question and the Prime Minister should be directly relevant.

The SPEAKER: The Prime Minister will return to the substance of the question.

Ms GILLARD: I was about to point out that we do have a special stream of funds to assist not-for-profit organisations. Of course, because the Leader of the Opposition broadly raised other entities, I am explaining the household assistance package and the fact that people who are members of those organisations will receive money in the form of tax cuts, family payments or pension increases, and there are billions of dollars of support for jobs.

Specifically on the flights he raises, I draw his attention to the dedicated funding stream under the Low Carbon Communities Program to provide payments to charities to offset the carbon costs they will face for—and these are important words—aviation and maritime transport fuel to assist them. That has specifically been done because we do not want vital services like medical air services to face additional fuel costs from the introduction of a carbon price. So the Leader of the Opposition has raised with me a broad set of circumstances. That is the set of circumstances in relation to not-for-profit organisations and care flights, for example. The set of circumstances for members of sporting clubs is about tax cuts, family payment increases and pension increases, and there are also billions of dollars in support for jobs through the Jobs and Competitiveness Program. This is all a very sharp contrast to the plan of the Leader of the Opposition, which is ill thought out, which would be incredibly costly to the economy and would impose on each family a bill of $1,300.

The SPEAKER: Order! I have removed the honourable member for Gippsland from the chamber for one hour. I notice that he is in the gallery in contravention of standing order 94(e); I therefore name the honourable member for Gippsland.

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (14:36): I move that the member be excused from the services of the House.

The SPEAKER: The question before the chair is that the honourable member for Gippsland be excused from the services of the House. Before I put that question, I will
give the courtesy to the Manager of Opposition Business of listening to him. I put the question:

That the honourable member for Gippsland be suspended from the service of the House.

Mr Pyne: Mr Speaker, with the greatest of respect, I would imagine the member for Gippsland was entirely ignorant of the fact that he could not be in the gallery. On this occasion, now that he knows and everyone else knows, I ask you to show him some leniency and perhaps ask him to apologise, if necessary, but certainly not name him.

The SPEAKER: I am sure that the honourable member for Gippsland will not repeat the offence.

A division having been called and the bells having been rung—

The SPEAKER: It has been pointed out to me that the honourable member was having his photograph taken. He has now left the gallery and the chamber is dealing with the motion moved by the honourable the Leader of the House. The question is that the honourable member for Gippsland be suspended from the service of the House.

The House divided. [14:41]

(The Speaker—Hon. Peter Slipper)

Ayes..........................73
Noes.........................68
Majority....................5

AYES

Gillard, JE
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Livermore, KF
Macklin, JL
McClelland, RB
Mitchell, RG
Neumann, SK
O'Connor, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Saffin, JA
Sidobottom, PS
Smyth, L
Swan, WM
Thomson, KJ
Wilkie, AD
Zappia, A

AYES

Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Kelly, MJ
Leigh, AK
Lyons, GR
Marles, RD
Melham, D
Murphy, JP
Oakeshott, RJM
O'Neill, DM
Parke, M
Plibersek, TJ
Rishworth, AL
Rudd, KM
Shorten, WR
Smith, SF
Snowdon, WE
Symon, MS
Vamvakinos, M
Windsor, AHC

NOES

Abbott, AJ
Andrews, KJ
Baldwin, RC
Bishop, BK
Briggs, JE
Buchholz, S
Ciobo, SM
Coulton, M (teller)
Dutton, PC
Fletcher, PW
Frydenberg, JA
Griggs, NL
Hartsuyker, L
Hockey, JB
Irons, SJ
Jones, ET
Kelly, C
Ley, SP
Markus, L
McCormack, MF
Moylan, JE
O'Dowd, KD
Prentice, J
Ramsey, RE
Robb, AJ
Roy, WB
Schultz, AJ

CHAMBER

Adams, DGH
Bandt, AP
Bowen, CE
Brodie, G
Burke, AS
Byrne, AM
Cheesman, DL
Collins, JM
Crean, SF
D'Alton, YM
Elliot, MJ
Ferguson, LDT
Fitzgibbon, JA
Geoghegan, S

Albanese, AN
Bird, SL
Bradbury, DJ
Burke, AE
Butler, MC
Champion, ND
Clare, JD
Combat, GI
Danby, M
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW

CHAMBER
Mr ABBOTT (Warringah—Leader of the Opposition) (14:47): I move:

That so much of the standing and sessional orders be suspended as would prevent the Member for Warringah moving immediately—That this House calls on the Prime Minister to apologise because in breaking her promise not to introduce a carbon tax she is compounding the world’s highest electricity prices with the world’s biggest carbon tax.

Standing orders must be suspended because the election in Queensland on Saturday will be a referendum on the Prime Minister’s carbon tax. It will be a referendum on political leaders who do not tell the truth. It will be a referendum on political leaders without honour and principle. That is why standing orders should be suspended. This Prime Minister should not scurry out of the chamber to hide in the whip’s office. She should face this chamber; she should face this motion. The voters of Queensland will be passing judgment on her tax and her government as well as on Premier Bligh and the Queensland government. This is why standing orders should be suspended.

Standing orders should be suspended because Australians pay the world’s highest power prices already. Our power prices are 70 per cent higher than those in the United States. They are 130 per cent higher than those in Canada. And it is going to get much worse under the Prime Minister’s carbon tax, which she will not defend in this parliament. She scurried out to hide in the whip’s office rather than stay to defend her carbon tax in this parliament on the eve of the Queensland election.

The Energy Users Association—and this is why standing orders must be suspended—told us this week that power prices had already risen by 40 per cent. They are your constituents, Madam Deputy Speaker, and they have paid 40 per cent more on the power bills every quarter since this government came into office. Now those bills are going to rise by another 20 per cent under the carbon tax thanks to this Prime Minister, who is too frightened to face the parliament on this subject. That is why standing orders should be suspended.

This Prime Minister is making a bad situation worse with a carbon tax based on a lie. The voters of Queensland know that six days before the last election this Prime Minister said, ‘There will be no carbon tax under the government I lead.’ The voters of Queensland know that. They have not forgotten; they remember. And this Prime Minister has not forgotten, either—that is why she is hiding out in the whip’s office rather than facing this motion for the suspension of standing orders, which should take priority over all other business in this House.

The situation of the consumers of Queensland is getting desperate and it will only get worse because of this government’s carbon tax. Already the consumers of Queensland pay power prices that are higher than those in every single country in the European Union. The consumers of
Queensland pay power prices that are higher than those in every single state of the United States. And it is going to get much worse under the carbon tax which this Prime Minister said would never happen under the government that she leads. That is why standing orders should be suspended.

The Prime Minister says that it is all right, because people want a clean energy future. Tell that to the pensioners of Queensland facing a 20 per cent increase in their power bills. Tell that to the people who ride the bus, who are facing an increase in their fares. Tell that to the ratepayers of Queensland facing an increase in their rates. Supposedly, it is all about a clean energy future. It is not. If you look at the government’s modelling, under the government’s carbon tax, our emissions are 578 million tonnes a year and are projected to be 621 million tonnes a year with the carbon tax. So electricity prices go up by 20 per cent and emissions go up too. What a completely fraudulent statement that is from the Prime Minister. That is why standing orders must be suspended.

It is all very well for the Prime Minister to come into this parliament and play the class war card. The people of Queensland want real answers and they want good policies. They want to get rid of this carbon tax and that is why standing orders must be suspended. The Prime Minister comes into this parliament and, yes, we know her words attack billionaires—people who succeed—but her policies attack the decent, ordinary families of Queensland. Her policies attack the forgotten families of Queensland and aren’t they waiting to pass judgment? Their baseball bats are not there for Anna Bligh; their baseball bats are there for the Prime Minister hiding out in the whips office. That is why standing orders must be suspended.

The DEPUTY SPEAKER: The Leader of the Opposition will return to the suspension.

Mr ABBOTT: The voters of Queensland are not mugs.

The DEPUTY SPEAKER: The Leader of the Opposition will return to the suspension before the House.

Mr ABBOTT: We need to suspend standing orders to give the Prime Minister a chance to explain, on the eve of the election in Queensland, just what she meant when she told the member for Griffith that she was not going to challenge him. We have a Prime Minister who was not straight with the member for Griffith about the prime ministership, she was not straight with the people about the carbon tax, she was not straight with the member for Denison about pokies and she was not straight with this parliament about Senator Carr. Standing orders need to be suspended because this Prime Minister is suffering. I think she really is suffering. I am trying to be charitable. I think she has a new form of clinical disorder—TDD: truth deficit disorder—but there is a cure. This is why standing orders should be suspended.

The DEPUTY SPEAKER: The Leader of the Opposition will be silent. The Leader of the Opposition will sit down. If you are not going to let me be heard, you will sit down. I am in the chair and I am trying to get your attention. I am going to ask you to withdraw and return to the suspension.

Mr ABBOTT: I am happy to withdraw. There is a cure and this is why standing orders must be suspended.

The DEPUTY SPEAKER: The Leader of the Opposition will go to the suspension and will get off this attack, or I will sit him down.
Mr ABBOTT: It is very important that we suspend standing orders, because this Prime Minister needs to make amends to this parliament, to the people of Australia and to the people of Queensland for her words before the last election:

There will be no carbon tax under the government I lead.

She needs to make amends and that is what my motion gives her the chance to do. Imagine if the Prime Minister had gone to the last election saying, 'Yes, there will be a carbon tax under the government I lead.' Imagine if Premier Bligh had gone to the last election saying, 'Yes, there will be privatisation under the government I lead,' and, 'Yes, there will be a petrol tax under the government I lead.'

This is why standing orders must be suspended. The Prime Minister needs to be given the chance to atone for this breach of faith with the Australian people, because—

Mr Danby interjecting—

The SPEAKER: The honourable member for Melbourne Ports will remove himself from the chamber under the provisions of standing order 94(a).

The member for Melbourne Ports then left the chamber.

Mr ABBOTT: I am trying to give this Prime Minister a chance, belatedly, to apologise. That is why standing orders ought to be suspended. If she does not take this chance, if she does not apologise, the people of Queensland and Australia will not just conclude that you cannot trust this Prime Minister, they will conclude that the Labor brand is toxic right around this country.

Standing orders must be suspended. The Prime Minister must stop hiding out in the whips office. She must come into this chamber and explain herself.

The people of Australia are waiting to pass their verdict. We do not have a federal election but we certainly do have a state election. And isn't the whole of Australia waiting for this!

The SPEAKER: The Leader of the Opposition will return to the substance.

Mr ABBOTT: This is why standing orders must be suspended. We do not have a federal election but we have a Queensland one and the voters of Queensland will not miss. This Prime Minister and this— (Time expired)

The SPEAKER: Is the motion seconded?

Mr PYNE (Sturt—Manager of Opposition Business) (14:57): I second the motion. To remind the House, the motion is that the standing orders be suspended so that the following motion can be passed:

That this House calls on the Prime Minister to apologise because in breaking her promise not to introduce a carbon tax she is compounding the world's highest electricity prices with the world's biggest carbon tax.

It is important that standing and sessional orders be suspended because the most central promise that the Prime Minister made in the last election was, 'There will be no carbon tax under the government I lead.' Then, within weeks of the election—not months, not years, but weeks—she broke that promise. For that reason she must apologise. She said one thing to get elected, to fool the Australian people, and she chose to do the opposite to save her political skin.

This Prime Minister's epitaph will be, 'Here lies Julia Gillard, lying to the end.' Or: 'Here lies Julia Gillard. She chose to mislead when the truth would do.'

Mr Melham: I rise on a point of order. The member should be required to withdraw in relation to those matters. He is using a mechanism to undermine the existing
standing orders, to disparage a member of this House, the current Prime Minister. It is unparliamentary.

The SPEAKER: Order! We are debating a motion to suspend standing and sessional orders. The comments made were inappropriate. The honourable member will withdraw.

Mr PYNE: Mr Speaker, I withdraw any imputation from the word I used, but I was not using it in the way that has been suggested by the member. But I withdraw.

The SPEAKER: The honourable member will withdraw unreservedly.

Mr PYNE: I withdraw unreservedly, Mr Speaker. Mr Speaker, do you know what the Prime Minister also had the gall to say before the last election? She said 'The Labor Party is the party of truth telling.' We go out into the electorate and make promises. Do you know what we would do in government? We gave our word to the Australian people in the election—and this is a government that prides itself on delivering election promises.

The SPEAKER: Order! The Manager of Opposition Business will return to the substance of the motion moved by the Leader of the Opposition.

Mr PYNE: Exactly, Mr Speaker, and that is why standing orders must be suspended, to allow the Prime Minister to apologise to the House for making these promises before the last election and then breaking them when she got elected. In fact, she not only broke them but trumpets them as great successes. She told the press gallery on Tuesday that they had said she would never get a carbon tax in, but she had done it. She now wants to be congratulated by being triumphed through the streets of Canberra for breaking this promise and introducing a carbon tax.

The SPEAKER: Order! The Manager of Opposition Business will withdraw his accusation of untruthfulness.

Mr PYNE: I withdraw, Mr Speaker. I am sure the Australian people think this Prime Minister tells the truth on a daily basis. What concerns me and why the suspension of standing orders should be carried is how can the Prime Minister simply disown her words? How can she calmly and so ruthlessly and without any regret simply refuse to accept the statement that she made before the election and that she has broken? When her own unambiguous words are put to her, she personally denigrates the questioner. That is why the Australian people have no faith in this Prime Minister. It no longer matters what this Prime Minister says—

The SPEAKER: The Manager of Opposition Business will return to the substance of the motion to suspend standing orders.

Mr PYNE: Mr Speaker, standing orders must be suspended, because the Prime Minister should apologise. We now have a situation in this country where, whatever the Prime Minister says, whatever she tells the Australian people, they simply do not believe her. She has no credibility—she has betrayed the trust of the Australian people and, on Saturday, the verdict the Queensland people will deliver will be a verdict on this Prime Minister and this carbon tax. (Time expired)

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and
We have just seen, if we needed any reminder, why the Leader of the Opposition is simply not up to the highest office in this land. What we saw when the Leader of the Opposition said across the chamber that the Prime Minister and I had targets on our foreheads—from the political party that quite proudly introduced John Howard’s gun laws—was an outrage. Earlier on today we saw a Mark Riley moment from the Leader of the Opposition directed at the chair. Day after day we see that he simply does not have the temperament required of a Prime Minister.

That is why we should not suspend standing orders, because we in this chamber have some big tasks ahead of us. There are challenges ahead—the economy, the environment and social policy. There are a range of issues that we could discuss and that we should be discussing. Yet what we have had, on 50 separate occasions, is the Leader of the Opposition having a premeditated suspension of standing orders attempt, shutting down question time. That is telling the Australian people that he is not interested in trying to hold the government to account on the issues of the day.

The Leader of the Opposition is not interested in debating the economy or jobs. Did we have a single question today about the announcement by Holden, which is significant not just for manufacturing jobs but for all those who depend upon the manufacturing industry? There was not a word. The opposition shut down question time after six questions. In the 43rd Parliament we have already lost 27 hours of question time as a result of their shutting down question time. That is enough time to watch all the Harry Potter movies—all 18 hours—and the Lord of the Rings trilogy as well—another nine hours. It is enough time to fly to Los Angeles and back and it is enough time to complete a course in basic Spanish or Italian. Those opposite have wasted 27 hours and more than 230 questions have been abandoned. No other opposition since Federation have said: ‘We don’t care about question time. We’ll move motions to suspend standing orders day after day, because we’re not interested in holding the government to account, we’re not interested in debating the economy, we’re not interested in debating jobs and we’re not interested in debating climate change.’

They are condemned by their own actions, because it is all about the politics. That is what this motion today is about and that is why we should reject it. It is all about cheap political point-scoring and there is no line that is uncrossable by the Leader of the Opposition, as shown by his comment ‘targets on foreheads’.

We know there are consequences behind that sort of language. We saw it in the United States last year. We should not hear, from the Leader of the Opposition, the sort of provocative language used by extremists. But, once again, there is no line incapable of being crossed. Perhaps we should not be too harsh, because he is struggling. He said himself, about losing office: ‘We all need grief counselling. It’s like a bereavement. Not as bad as losing a child or a spouse, but up there with losing a parent.’

The SPEAKER: The Leader of the House will return to the substance of the motion for suspension.

Mr Pyne: Mr Speaker, I rise on a point of order. During the Leader of the Opposition’s contribution, and my contribution, a great deal of time was used by the government to take up our time—

The SPEAKER: The member will explain his point of order.

Mr Pyne: We were asked to withdraw statements which I would not have regarded as offensive, but I was happy to withdraw
them. The Leader of the House has made a quite unpleasant imputation against the Leader of the Opposition and therefore he should be asked to withdraw it.

The SPEAKER: The Manager of Opposition Business will resume his seat; otherwise, he will join his colleague outside.

Mr ALBANESE: What we see in here day after day is motions for suspension of standing orders based on spurious reasons. Today we have it yet again. *House of Representatives Practice* makes it very clear that suspensions of standing orders happen when there is an urgent item before the parliament, when there is some momentum—not worked out at eight o'clock in the morning, typed out, presigned and brought in here day after day. In the past fortnight we have had this motion for suspension, motions for suspensions demanding a royal commission and motions for suspensions over police investigations and over issues of guns on the streets of New South Wales. We have had all sorts of bizarre attempts at suspension. I am only surprised that we did not get a motion for suspension blaming the government for Ian Thorpe's failure to make the London Olympics! We have had everything else because everything is the responsibility of the government and the responsibility of the carbon price—or perhaps the CIA and the connection between the two.

In these motions to suspend standing orders we have an attempt to distract from their failure to engage in the real debates, their failure to engage in debates on the economy, their failure to debate issues of climate change and its substance. We saw today the Leader of the Opposition trying to distance himself from some of the rhetoric of those who were demonstrating outside—not a demonstration against the carbon price but a demonstration called the 'global warming hoax rally'. They were the same people who demonstrated outside my electorate office.

The SPEAKER: The Leader of the House will return to the motion.

Mr ALBANESE: The reason we should not support this motion is that we might have got a question about that from those opposite. They might have asked, 'Why didn't the minister for climate change go outside and have a chat with the global warming hoax people?' He might have been able to get a question. We might have asked him if they did not.

We are quite happy to debate issues of substance and not to engage in this nonsense day after day, because when you get into issues of substance you actually see how little those opposite stand for. You see the extreme rhetoric that we saw today. You see the connections that they have with the bizarre behaviour of those outside—Clive Palmer and the CIA-Greens conspiracy that is going on. You see the associations with Lord Monckton, Mick Patel and others like them. That is why standing orders should not be suspended.

What we want to debate in this House is issues of substance. Earlier today we had a vote trying to shut down the parliament rather than deal with issues of financial advisers. A standard procedural motion was put on the blues that we move at the end of every session. Never before has it been divided upon by those opposite. Never before has it been voted against. I have been in this place for 16 years and it has never been voted against. But of course there is nothing that those opposite are not prepared to say no to.

At the start of this session the Prime Minister and the Leader of the Opposition said we would have an economic debate. We should not suspend standing orders—so that we can continue to engage in these economic
issues, including the financial advisers bill, which is up—

The SPEAKER: Order! The time allotted for this debate has expired.

Mr Albanese interjecting—

The SPEAKER: No. The Leader of the House will be able to seek indulgence after the question has been put. The time allotted for this debate has expired. Indulgence is not given. The question is that the motion moved by the Leader of the Opposition for the suspension of standing and sessional orders be agreed to.

The House divided. [15:17]

The Speaker—Hon. Peter Slipper

Ayes........................67
Noes..........................70
Majority......................3

AYES

Abbott, AJ
Andrews, KJ
Baldwin, RC
Bishop, BK
Briggs, JE
Buchholz, S
Cibon, SM
Crook, AJ
Eatsch, WG
Forrest, JA
Gash, J
Haase, BW
Hawke, AG
Hunt, GA
Jensen, DG
Keenan, M
Laming, A
Macfarlane, IE
Markus, LE
McCormack, MF
Neville, PC
O’Dwyer, KM
Pyne, CM
Randall, DJ
Robert, SR
Ruddock, PM
Scott, BC
Simpkins, LXL
Somlyay, AM
Stone, SN

AYES

Truss, WE
Turnbull, MB
Vasta, RX
Wyatt, KG

AYES

Adams, DGH
Bandt, AP
Bowen, CE
Brodie, G
Burke, AS
Byrne, AM
Cheeseman, DL
Collins, JM
Cree, SF
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Kelly, MJ
Leigh, AK
Lyons, GR
Marles, RD
Murphy, JP
Oakeshott, RJM
O’Neill, DM
Parke, M
Plibersek, TJ
Rishworth, AL
Rudd, KM
Shorten, WR
Smith, SF
Snowdon, WE
Symon, MS
Vamvakoumis, M
Windsor, AHC

NOES

Albanese, AN
Bird, SL
Bradby, DJ
Butler, MC
Champion, ND
Clare, JD
Combet, GI
D’Ath, YM
Elliot, MJ
Ferguson, LDT
Fitzgibbon, JA
Georganas, S
Gillard, JE
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Livermore, KF
Macklin, JL
Mitchell, RG
Neumann, SK
O’Connor, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Saffin, JA
Sidebottom, PS
Smyth, L
Swan, WM
Thomson, KJ
Wilkie, AD
Zappia, A

PAIRS

Cobb, JK
Gambaro, T
Mirabella, S
Moylan, JE

Question negatived
Ms Gillard: Mr Speaker, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS
Veterans
Ms Gillard (Lalor—Prime Minister) (15:22): In response to the question I received from the member for Macarthur, I can advise him and the House that there has been no cut to the funding for transport services for eligible veterans, war widows and their dependants. During 2011, the Department of Veterans' Affairs conducted an open tender process for booked car arrangements when travelling for approved medical treatment. Over 250 preferred tenderers were selected and these were announced during February. The number of contracted taxi and hire car providers has, in fact, been increased. I would invite the member for Macarthur to contact the Minister for Veterans' Affairs, who will arrange for the specific matter he raised to be investigated.

STATEMENTS
Mr Abbott (Warringah—Leader of the Opposition) (15:23): On indulgence, Mr Speaker: at the close of my contribution to the suspension of standing orders debate I said something across the table which I should not have. I used a metaphor that I regret, and I withdraw and I apologise.

PERSONAL EXPLANATIONS
Ms Macklin (Jagajaga—Minister for Families, Community Services and Indigenous Affairs and Minister for Disability Reform) (15:23): Mr Speaker, I wish to make a personal explanation.

The SPEAKER: Does the honourable member claimed to have been misrepresented?

Ms Macklin: I do, Mr Speaker.

The SPEAKER: The honourable member may proceed.

Ms Macklin: Yesterday the Joint Committee of Public Accounts and Audit released a letter from the Auditor-General alleging that I had contravened the Commonwealth's grant guidelines by failing to notify the Minister for Finance and Deregulation that I had approved 10 grants to organisations in my electorate. These claims were also reported in today's media.

One of these was to the Children's Protection Society, a child welfare organisation that provides support and counselling to children in crisis and their families.

Opposition members interjecting—

The SPEAKER: The minister will be heard in silence. She must direct her attention to where she is personally misrepresented, and I am listening carefully.

Ms Macklin: At the time I made the decision on this grant my department overlooked its reporting to the finance minister—

Opposition members interjecting—

The SPEAKER: Order! I have just said that the minister will be heard in silence. She will be as expeditious as possible.

Ms Macklin: The oversight was reported as soon as it was realised, in July last year. The other nine grants referred to in the report relate—

Mr Pyne: Mr Speaker, I raise a point of order. For the minister's personal explanation to be in order, she needs to be showing how the Auditor-General's report has misrepresented her, and she has not even addressed the Auditor-General's report.

The SPEAKER: I have listened carefully to the minister. She will continue her
personal explanation and she will show where she has been personally misrepresented.

Ms MACKLIN: As I said in my opening remarks, the Joint Committee of Public Accounts and Audit released a letter from the Auditor-General alleging that I had contravened the Commonwealth grant guidelines and this was reported in the media as well. As I was going on to say, the other nine grants referred to in the report relate to emergency relief funding which is provided to community organisations to help families in crisis. At least one of the organisations listed is not even in my electorate. In relation to the others, I was not the decision maker in making these grants; that responsibility was delegated to the relevant state manager of my department. Therefore I did not approve the funding. There is no requirement to report to the minister for finance. Any suggestion otherwise is entirely inaccurate.

The Department of Finance and Deregulation has confirmed—

Opposition members interjecting—

Ms MACKLIN: These are serious allegations which I am refuting.

Mr Pyne: Mr Speaker, I raise a point of order. Personal explanations are designed to be brief, to show where a person has been personally misrepresented and then take their seat. If she wants to make a ministerial statement, we will give her leave to do so.

The SPEAKER: The minister is entirely in order. When a number of allegations have been made they have to be dealt with one by one. The minister has the call, but she will be as expeditious as possible.

Ms MACKLIN: The department of finance has confirmed with my department today that, given that I was not the decision maker in this instance, I was not required to report to the minister for finance. I have written to the Auditor-General today following the release of his report asking for these inaccuracies to be reviewed and corrected.

Mr BURKE (Watson—Minister for Sustainability, Environment, Water, Population and Communities) (15:27): Mr Speaker, I wish to make a personal explanation.

The SPEAKER: Does the honourable member claimed to have been misrepresented?

Mr BURKE: I do.

The SPEAKER: The honourable member may proceed.

Mr BURKE: In the same Auditor-General's report that was just referred to by the minister for community services, there was a claim that I made grants specific to my own electorate. There are two grants, one of which was made jointly by myself and Minister Garrett. The other was made by myself alone. The one that was made jointly by myself and Minister Garrett was a grant to the Sydney Metropolitan Catchment Management Authority, which actually covers all 26 electorates in Sydney and affects my electorate to the extent that my electorate is contained within Sydney, and no further.

The second grant, which is one which I made personally, is a grant which was when as agriculture minister I established 56 regional Landcare facilitators—

Mr Pyne: Mr Speaker, I raise a point of order. The minister is clearly debating the issue. He is now debating the matter. The Auditor-General gave a finding. It was that these ministers were in breach. Each time a minister approves a grant in respect of their own electorate—
The SPEAKER: The minister will address where he has personally been misrepresented.

Mr BURKE: With the second grant I go specifically to the point of the extent to which this is a grant specific to my own electorate. The 56 natural resource management regions cover the entirety of Australia. Australia is divided up into 56 regions. Every one of these regions received a facilitator and that facilitator was funded. There was an advantage to my electorate to the extent that my electorate is contained within Australia, and no more.

DOCUMENTS
Presentation

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (15:29): Documents are presented as listed in the schedule circulated to honourable members. Details of the documents will be recorded in the Votes and Proceedings and I move:

That the House take note of the following documents:


Foreign Affairs, Defence and Trade—Joint Standing Committee—Inquiry into Australia’s relationship with the countries of Africa—Government response.

Gene Technology Regulator—Quarterly report for the period 1 October to 31 December 2011

Debate adjourned.

COMMITTEES
Selection Committee
Report

The SPEAKER (15:30): I present report No. 49 of the Selection Committee relating to the consideration of bills. The report will be printed in today’s Hansard. Copies of the report have been placed on the table.

The report read as follows—

Report relating to private Members’ business and the consideration of bills introduced 19 to 22 March 2012
1. The committee met in private session on 21 and 22 March 2012.
2. The committee determined that the following referrals of bills to committees be made—

Standing Committee on Agriculture, Resources, Fisheries and Forestry:

• Wheat Export Marketing Amendment Bill 2012.

REASONS FOR REFERRAL/PRINCIPAL ISSUES FOR CONSIDERATION: Concern that Australia will lose its place as the premium supplier of wheat to our two biggest competitor countries Canada and the USA, both of which have quality assurance processors with exports.

Joint Standing Committee on Foreign Affairs, Defence and Trade:

• Illegal Logging Prohibition Bill 2011.

REASONS FOR REFERRAL/PRINCIPAL ISSUES FOR CONSIDERATION: Concern over the international implications of the bill which have been expressed by Canada, Indonesia, Malaysia, New Zealand and Papua New Guinea in their submissions to the Senate Rural and Regional Affairs and Transport Legislation Committee inquiry.

Standing Committee on Infrastructure and Communications:

• Shipping Reform (Tax Incentives) Bill 2012;
• Shipping Registration Amendment (Australian International Shipping Register) Bill 2012;
• Coastal Trading (Revitalising Australian Shipping) Bill 2012;
• Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Bill 2012; and
• Tax Laws Amendment (Shipping Reform) Bill 2012.

REASONS FOR REFERRAL/PRINCIPAL ISSUES FOR CONSIDERATION: An initial draft of the Coastal Trading Bill was available for comment just prior to Christmas. Serious
deficiencies were found with the original bill so a second draft was released for comment, together with the other bills in the package, in March. An extremely short consultation period was proposed. Two weeks later the bill has been introduced so it is unlikely that any of the concerns raised in the consultation process would have been incorporated into the bill. As such, the committee should consider the impact of the bills on the Australian shipping industry to determine whether they will have their desired effect, that is, to revitalise the Australian shipping industry and increase the number of Australian flagged vessels. Additionally, if the package is deficient the Coalition may look to formulating amendments.

3. The committee recommends that the following items of private Members' business listed on the Notice Paper be voted on:

Orders of the Day—

Delay of the consideration of the Wild Rivers (Environmental Management) Bill 2011 (Mr Abbott)

Wind turbine planning policies (Mrs Moylan)

World Plumbing Day (Mr Hunt)

Careers in agriculture (Dr Stone)

ANZAC story and Albany WA (Mr Crook)

Sovereign wealth fund (Mr Bandt).

PERSONAL EXPLANATIONS

Mr LAURIE FERGUSON (Werriwa) (15:30): I wish to make a personal explanation.

The SPEAKER: Does the honourable member claim to have been misrepresented?

Mr LAURIE FERGUSON: Yes.

The SPEAKER: The honourable member may proceed.

Mr LAURIE FERGUSON: It has been reported in the media that as the then parliamentary secretary for immigration and citizenship I approved 12 grants for my then electorate of Reid worth $2.2 million without alerting the Minister for Finance and Deregulation. I would note that as parliamentary secretary I was neither the decision maker with regard to grants nor the person responsible for approving grants. The minister, Senator Evans, was the decision maker and approved all grants. Under the provisions of the Commonwealth Grant Guidelines, Senator Evans as a member of the Senate was not required to report on grants he was approving. As I was not the decision maker for the Settlement Grants Program, I was not required to inform the minister for finance. It is important to acknowledge that grants approved under the Settlement Grants Program followed recommendations made by the Department of Immigration and Citizenship.

BUSINESS

Days and Hours of Meeting

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (15:31): On indulgence, I will update the House on the day's proceedings. The government will be dealing with a financial bill before we rise this evening. We will go to the matter of public importance that has been submitted and approved. The government has offered to cut short the number of speakers on that for the convenience of the House. It is up to the opposition whether they choose to take up that offer. The bill will be dealt with by the House and then people can make their travel arrangements. With regard to the timing of the day's end, I would ask that a bit of common sense apply so that people can make arrangements re their travel from Canberra, hopefully, this evening. I see no reason at all why we could not finish around the normal time of five o'clock. But it is really in the hands of the opposition how long this debate goes for.
MATTERS OF PUBLIC IMPORTANCE

Budget

The SPEAKER (15:33): I have received letters from the honourable member for Chifley and the honourable member for North Sydney proposing that definite matters of public importance be submitted to the House for discussion today. As required by standing order 46, I have selected the matter which, in my opinion, is the most urgent and important; that is, that proposed by the honourable member for Chifley, namely:

The urgent need for responsible fiscal management in the upcoming budget to deliver real reforms for working people.

I call upon those members who approve of the proposed discussion to rise in their places.

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

Mr HUSIC (Chifley—Government Whip) (15:34): I am pleased that we are discussing this matter of public importance today because it is critical for a whole range of reasons. We at this point in time are gearing up and the next time we come back here we will be discussing the federal budget. That federal budget will be delivered at a time when there is global uncertainty about the state of the economy. A few years ago, as a nation we were confronted by one of the worst economic circumstances in 75 years in the shape of the global financial crisis, where economies around the world were freezing up as a result of financial systems and where people simply did not trust each other with money. They did not trust each other in terms of lending money. As the banking system started to feel the reverberations of that, we saw in our case—particularly, for example, in the construction industry—projects faltering and not going ahead, and a serious concern about what would happen with jobs.

But, despite all that, as a result of the quick, thorough moves taken by this government that ensured that jobs would not be lost, we have now come out of it with solid growth. The economy is on track to grow at trend this year. We have an unemployment rate that is the envy of the world. It is 5.2 per cent here compared to about 10.7 per cent in Europe. In some parts of the world there is up to 20 per cent unemployment and large numbers of youth particularly, who are seeing the best years of their lives waste away because they are simply unable to find work. Here we have been able to bottle inflation, with underlying inflation sitting squarely in the Reserve Bank's target band and a cash rate sitting at 4.25 per cent, which is incredible when you consider in the 11 years that those opposite were in government how long they were able to even get that cash rate. It was about six months. Six months of 11 years is about as good as it got for those opposite. We have 4.25 per cent.

The Treasurer mentioned today—and it has been mentioned on a number of occasions—that when you look at how much investment is in the pipeline you will see that there is $455 billion in resources alone. The other great thing is that we have very low net debt. It is less than a 10th of the levels across major advanced economies. We will return the budget to surplus while keeping the tax to GDP ratio lower than the level that it reached at its peak when those opposite were on this side of the House. It is probably worth noting again that, when those opposite were sitting here, tax as a percentage of GDP was about 24 per cent; now, under us, it is down to 21 per cent.
Mr Fletcher: Why don't you look at expenditure as a percentage of GDP? That's a different story!

Mr Husic: Despite the impact of the ongoing turbulence that I mentioned earlier, our public finance is the strongest in the world. Let us go back to net debt. I heard the member for Bradfield interject. If you compare net debt and expenditure—let us look at net debt.

Mr Ruddock interjecting—

The DEPUTY SPEAKER (Ms AE Burke): The member for Berowra and the member for Bradfield ought to know better.

Mr Husic: Net debt is expected to peak at 8.9 per cent of GDP in 2011-12. That, as I said, is less than one-tenth of the average net debt of major advanced economies, which is some 92.9 per cent of GDP. We will return to surplus light years ahead of major advanced economies.

Let us look at expenditure: through MYEFO we delivered a further $11.5 billion in new savings through spending cuts, building further on the $100 billion of savings across four budgets. Again, our record of fiscal discipline is there to be seen and has been endorsed by the international community. Our discipline has seen us get AAA credit ratings from all three global ratings agencies. That was never achieved by those opposite. They would have loved to have got it, but they never achieved it.

The IMF, the RBA and the global ratings agencies continue to back the strength of our position, that we will be getting back to surplus in 2012-13. Our fiscal settings have been endorsed by the IMF. Jorg Decressin, of the IMF, told ABC Radio National: ‘where you have these strong investment plans in the pipeline, where the growth prospects are still quite good, this strikes me as appropriate.’ That is the result of our being able to navigate our way through the worst economic circumstances in 75 years. We have seen jobs grow at a faster rate than anywhere else in the world, our overall growth rate is fantastic, we have bottled inflation and we have got net debt lower. We see the benefits.

What does that mean for my neck of the woods? Look at the types of things we have been able to achieve for my community in the course of the last few years. In my electorate unemployment is still stubbornly high and has been for years. There are a number of reasons for that: there are students who leave school way earlier than they should. They have decided that they will not go to university and so drop out of school. They get a job quickly, but are among the first to suffer whenever there are economic contractions. We are trying to build in students a personal bank of skills and we are doing that in a number of ways. I have been proud to see a number of trade training centres open up in my neck of the woods. Trade training centres open up education pathways for students who are necessarily interested in staying longer at school and who might otherwise have placed themselves in a vulnerable position for the future.

Earlier this year, we announced the investment of $1 million into a new trade training centre in Mount Druitt for Chifley College Senior Campus. This is part of an overall $2.5 billion program to help build schools and upgrade trade training facilities and comes on top of the $15 million spent in the Chifley electorate alone on a trade training centre for Doonside and Evans high schools, which, I was pleased to see, was opened by the Deputy Prime Minister and Treasurer. A trade training centre was opened last year at Tyndale Christian school. Loyola Senior High School, in Mount Druitt, has always had a strong tradition of providing students who do not want to go on to university with opportunities to learn a
trade. The trade training centre at the school, which I toured recently, and which the member for Kingsford Smith came out and saw, is very close to being opened. It will include an automotive centre and cater for electrical apprenticeships, hospitality and hairdressing.

These centres match skills that are required in the local area, as advised, for example, by industry groups such as the National Electrical Contractors Association. These groups are working hand in glove with schools such as Loyola to make sure that we have schools that can train people up for jobs that are waiting for them. You cannot do that if your budget finances are not in order. You cannot do it if your values do not look at what will best help people on the ground, particularly in Western Sydney. That is the case whether it be through building trade training centres or, for example, setting up homes for vulnerable Australians who live in my area.

We have built 259 new homes under the Social Housing Initiative; they are providing safe and secure accommodation for my community's most vulnerable people. These are people who sleep in cars, with friends or with family. Over the course of the last few years we have been able to build new homes for these vulnerable people. We have also ensured that about 30,000 people in my electorate who earn under $37,000 a year will pay no tax on superannuation. That will help hardworking people such as mums who might be working part time, contract cleaners, shop assistants, childcare workers, hairdressers and aged-care and disability workers. All these people on low incomes, because of the low-income superannuation contribution, will not pay tax on their superannuation. If they currently pay up to $500 a year in tax, they will save more for their retirement. Again, these are good things that are a result of the financial management and fiscal discipline that we have demonstrated.

On top of that, we have been able to see 1,000 former students take up places in 2012 to work as GP registrars in hospitals and doctors' surgeries in urban and rural areas across the country. The Minister for Health visited the Chifley electorate recently to announce that initiative. In an area where we experience workplace shortages, where people sometimes have to wait an hour to see a GP, we are bringing on line more doctors to make sure that we can cut those times and make sure that people can get to see a doctor. That is on top of the $20 million we have invested in Blacktown hospital, which services the electorates of Greenway, Chifley and Parramatta, to make sure we train in Western Sydney doctors who will stay in Western Sydney. You cannot do that if you do not have the fiscal discipline necessary to ensure that you can deliver those types of programs.

Again, on our side of the fence we have demonstrated the ability to manage our finances and get triple-A credit ratings from all three major agencies. We have been able to achieve higher growth, lower unemployment and inflation contained. We are in a minority government and the pressure is on for both sides to demonstrate their ability to manage finances. I have outlined already what we have been able to do. Those opposite do not have a proud record in demonstrating how they would manage their finances.

You may recall that yesterday I referred to the fact that, when the razor gang of those opposite were meeting in August of last year, a figure had to be put to them for the savings they would need to find. The figure was different for all of the principals in that meeting. That was deliberately done, not in the interests of economic policy but in the
interests of finding out who, on their side of the fence, was leaking. A figure of $70 billion was deliberately put out there. As a result of that, we have a situation where those opposite—who could not even last year find $6 billion in savings because they claimed we did not need a flood levy in response to the worst natural disasters that Queensland had faced in living memory—were unable to find savings of their own, but now think that they can find $70 billion in savings.

As I pointed out yesterday, they have been working very hard and long, late at night, to try and find those savings. The member for Goldstein, I think, proudly announced—and I will stand corrected if I am wrong—that in terms of trying to find that $70 billion in savings they had reached for what always gets reached for when you are trying to discover some sort of waste or mismanagement: they found $50 million in government consultancies. Fantastic work that! $50 million in consultancies—

**Mr Hockey:** It was $500 million!

**Mr Husic:** It was $500 million? You know what, Member for North Sydney? I will give that to you. So that is $69.5 billion to go in finding savings. What does $70 billion mean? As we have previously said, that is like stopping Medicare payments for four years, aged pensions for two years, assistance to people with disabilities for three years, or family tax benefit payments for three years. It requires savings equivalent to 1½ times GST revenue for a year.

**Mr Hockey:** Come on, Ed—you're better than this!

**Mr Husic:** Member for North Sydney, I would be interested to find out where you are able to find those savings. The member the North Sydney interjects and says that I am better than this. But, Member for North Sydney, we do not run our ERC on the basis of entrapment! You deliberately hand out different figures amongst yourselves to see who the leaker is. Who manages an economy that way? If in opposition they behave that way, how do you expect them to manage a $1.4 trillion economy? That is what they have to do. They have been unable to demonstrate that level of discipline.

I think the biggest thing, too, that needs to be explained is getting $4 million in support from one particular person and then pushing as hard as you can to get rid of all the revenue gained out of the minerals resource rent tax. You have another serious problem there. You have Clive Palmer effectively helping run the coalition's economic policy when you have the biggest—

**The DEPUTY SPEAKER:** The member for Chifley will resume his seat! I was almost going to say, at the end of his speech, that he had stayed within the reference rules. Member for North Sydney, are you seeking the call?

**Mr Hockey:** No, I was just having a wander, actually.

**The DEPUTY SPEAKER:** You were 'just having a wander!' You have upset me. I have sat him down. Member for Chifley, go, but relevancy would be good.

**Mr Husic:** He has to walk around. He is always walking around trying to find savings!

**The DEPUTY SPEAKER:** Don't go to the dispatch box, though!

**Mr Husic:** He has a big job and I want him to be fit, because he is going to have a hard job finding $70 billion in savings. *(Time expired)*

**Mr Hockey** (North Sydney) (15:49): Thank you, Member for Chifley, for caring about my good health! I am delighted the member for Chifley has chosen to debate the
need for responsible fiscal management. I could not have chosen a more appropriate topic on the last sitting day before the presentation of the 2012-13 budget.

The main focus of the coalition in this budget will be on whether the government actually can deliver an underlying cash surplus in 2012-13—not whether they promise a surplus but whether they can actually deliver a surplus—and we will not know that until September 2013.

Australians would be wise to subject the budget's numbers to particularly close scrutiny, as we will do. The bottom line is that the budget numbers, no matter what they are, simply cannot be believed. The government has an appalling record in forecasting its budget and economic numbers. There has been a massive error in forecasting this year's budget deficit. The 2010-11 MYEFO forecast a deficit of $12 billion. Six months later the forecast budget deficit was $23 billion. Six months after that, the forecast budget deficit was $37 billion. That is a blow-out of over 200 per cent in a budget deficit in just 12 months. And the Treasurer says, "Well, this is all the GFC." In fact, there is a whole lot of expenditure going towards increasing the budget deficit, such as the expenditure associated with the carbon tax and the money the government is choosing to spend this financial year rather than next financial year.

The end result may be even worse. The current estimate of a surplus next year is based on a massive increase in tax receipts for the Commonwealth. In fact, the Commonwealth currently projects a $38 billion increase in receipts between this year and next year. That is based in part on ongoing high commodity prices. This is now looking unrealistic. Economic commentator David Uren has observed that, if company tax receipts perform as poorly in the June half year as they did in December, the government could face a deficit of $50 billion in this current year—$50 billion! That would be the second-highest deficit on record, exceeded only by Labor's previous spectacular effort—a $55 billion deficit in 2009-10.

The economic growth numbers on which the budget is based have also been all over the place. The 2010 budget forecast real GDP growth at an above-trend four per cent in 2011-12. Six months later in the MYEFO it was revised down to 3 ¾ per cent. Six months after that, the growth figure was revised back up to four per cent, and the latest forecast is that it is back down—this time to 3 ¼ per cent. So up down, up down, up down—they are the economic growth forecasts from this government over the last two years. Now, even that estimate looks too high. Growth has averaged under 2½ per cent for the first two quarters of this financial year, and it will take a mighty rebound to get anywhere near the forecast growth figure.

The most damaging example of Labor's budgetary incompetence and bungles is of course the mining tax. This has now been through five versions. The original RSPT was predicted to raise $12 billion over four years. The compromise negotiated by the real Three Stooges—the Prime Minister, the Minister for Resources and Energy and the Treasurer—was forecast to be $10.5 billion. Then we had the 2010-11 MYEFO, which said it was $7.4 billion. The 2011-12 budget said it went back up, to $11.1 billion. Then, the last MYEFO said it was back down to $10.6 billion. Even these numbers seem dodgy, because the government has not taken into account the nearly $1 billion impact of the increase in mining royalties from the New South Wales government.

This government claimed that it had not been informed of the change in the royalty
regime in New South Wales. The only thing is, it was in the New South Wales budget papers. It was released in the New South Wales budget. There was a press release from the New South Wales government. But this government chooses to ignore all that and says they just were not told about this increase in royalties. Therefore their numbers, according to them, stand. We had the extraordinary situation earlier this week with the Treasurer saying on Radio National that the difference between the first mining tax and the second mining tax was not $60 billion and that a 10-year estimate was never produced by Treasury, and within four hours we released to the Treasurer his own Treasury document that said there was a $60 billion hole and that there were 10-year estimates. The Treasurer had that on his own website, and he denied that it existed. Not only have the invention, creation, development and implementation of the mining tax been a shambles but I can assure the House that, when the budget comes around and we try to find the revenue figures actually delivered by the mining tax, there will be yet another Labor Party black hole.

Labor continues to boast about spending commitments worth tens of billions of dollars, but they are unfunded or not included in the budget bottom line. This includes the $50 billion National Broadband Network and the $10 billion Clean Energy Finance Corporation. These programs are funded by additional borrowed money which will take the Commonwealth gross debt position to over $250 billion. In addition, the government has refused to explain where the money is coming from for 12 new submarines, costing $36 billion; the Commonwealth's 30 per cent share of the Gonski education plan, starting at $5 billion a year; up to $6½ billion each year for the National Disability Insurance Scheme; or for its promise to the Greens to have a dental program, which could cost $4 billion a year. On top of this there are structural holes, as I have pointed out many times, in the carbon and mining taxes which amount to more than $6 billion over the next three years.

It is only the Labor Party that could introduce new taxes and leave the budget worse off. They are the only people capable of introducing new taxes, increasing taxes, and somehow making the budget worse off, with a bigger deficit. This unfunded hole is now well over $100 billion. In addition, future governments—I suspect we will be one of them—will have to find $136 billion to repay just the principal on Labor's debt. Labor's debt is going to cost Australians $8 billion a year in interest alone. On current numbers, it will take 63 years to repay this government's $136 billion of net debt. Where is the member for Longman? He will be getting a letter from King William on the occasion of his 100th birthday when Labor finally gets this debt paid off.

Labor has also been moving money around in the budget. My colleague the shadow finance minister provided last Friday a full account of the trickery engaged in by the government, and I will mention just a few examples. Labor will spend just over $1 billion this year to support energy markets through its Energy Security Fund. It will also spend just over $1 billion on guaranteeing our energy security in 2013-14 and $1 billion in 2014-15. But there is a big gap. It is a billion dollars on energy security this year; next year it is not a billion dollars—they have deleted the 'b' and put in an 'm': it is a million dollars. But, then, the year after it is a billion dollars and the year after that it is a billion dollars. So what is the deep, dark valley that represents a billion-dollar hole in the Energy Security Fund in 2012-13? It must be going towards their so-called surplus. But it is not real. It is unbelievable. There is a billion dollars this year, a million
dollars the next year, and a billion dollars in each of the two years after that, and that represents accounting trickery.

Another example is that Labor's coal sector jobs package will spend $222 million this year, $10 million next year, $247 million the year after and $257 million the year after that. So this year it is a quarter of a billion dollars, next year it will cost only $10 million but the year after that it is a quarter of a billion and the year after that is a quarter of a billion.

Mr Ruddock: They're not cooking the books, are they?

Mr Hockey: I do not believe they are cooking the books; I think they have cooked the books. They are not cooking; they have been burned in the microwave. It is amazing! The government brought forward the disaster relief payments for Queensland at $1.4 billion. That means it is spent this year, and the deficit gets worse this year. They have brought forward $1.4 billion on infrastructure spending for New South Wales, Queensland, Victoria and South Australia. It was meant to be next year but it is now this year, and they have been engaging in other tricks in other areas.

This chicanery all adds up. This trickery all adds up. What it means is that the government is trying to make this year's deficit worse. Next year, they are going to claim to have a surplus, but the problem is that they have built in structural expenditure. In the year after and the year after that and all the years after that the spending gets larger and the debt burden gets higher. All they are trying to do is trick the Australian people into believing that they will have a sustainable surplus next year when the truth is that they are building tricks into the budget.

The other thing we will be looking for on budget night is new or increased taxes. I know it is hard to believe, but the Labor Party loves new taxes. They love increased taxes—in fact they have had 20 of them since they were elected in 2007. Of the $22 billion in announced saving measures in the last budget, a third were from new or increased taxes. As I have said before, the $38 billion surge towards a surplus in the coming year is overwhelmingly higher taxes.

We will also be looking for waste. Where in its $370 billion of expenditure is the government finding the savings and cutting back? We all know the story: a $1.7 billion blow-out on school halls, $2.4 billion wasted on pink batts, $900 cheques going to dead people or to people living overseas, a $1.4 billion blow-out in laptops in schools, an $850 million blow-out in the solar homes program, $300 million wasted in green loans programs and they are giving set-top boxes to people at up to $1,500 each when Gerry Harvey said that he would personally go around and install them for $170. Only this government would do it.

There is the broadband costing of $50 billion with no business plan, and what about $40 million for bike paths? Leo McLeay would have loved having a proper and decent bike path, wouldn't he? As we heard in question time, the government is spending $145,000 to study sleeping snails; $340,000 to see whether climate change is affecting the fiddler crabs; and $314,000 to see whether birds are shrinking—they are certainly not Ingham's chickens. They are not shrinking, are they? They are all on the 'roids'. No, they are not. Last but not least, there is $578,000 to research an ignored credit instrument in Florentine economic, social and religious life in the 1500s.

This is the Labor way: waste of taxpayers' money and absolute disregard for the hard work and effort of everyday Australians who have to pay that tax. This is the Labor way:
chicanery and trickery in the budget numbers in order to try to fiddle the surplus promised for the next financial year by moving money around—but at the end of the day there is the structural expenditure. This is the Labor way: to make promises that are not delivered—and the promises that are made are never kept. It is the Labor way to be dishonest with the Australian people not just about the carbon tax, not just about the events on Australia Day this year involving the tent embassy and not just about the member for Dobell; it is the Labor way to be dishonest about the state of the nation's accounts. What that leaves is a nation bewildered by its incompetent government, a nation that does not understand the lack of direction out of Canberra and a nation that does not have the confidence to grow as its destiny determines. (Time expired)

Mr STEPHEN JONES (Throsby) (16:04): I am very grateful to the member for Chifley for raising this matter of public importance in the parliament today because, after a very long parliamentary session, we have found it very difficult to find a matter of public importance raised by the other side. It falls to Labor and this side of the House to talk about the issues that are important to the Australian people, that should be debated in this parliament. The Leader of the House demonstrated forcefully today the number of hours that have been wasted by those opposite on spurious suspensions of standing orders so that the Leader of the Opposition could get up, day-in and day-out, and sometimes twice a day, to raise his stunts, to absolutely no effect—wasting the time of the parliament. If you want to talk about waste of taxpayers' dollars, just think about the amount of waste that has been caused by the Leader of the Opposition and the Manager of Opposition Business in the House coming in here day after day, wasting important parliamentary time, suspending standing orders and preventing us from talking about the issues that really are the matters of public importance in this House. So I am very grateful to my friend the member for Chifley for raising this matter of public importance—ensuring that we have fiscal responsibility as we approach the 2012-13 budget.

While the opposition is spending their time on stunts, the government is getting on with the important business of government. If there were a week in this parliamentary schedule when that could not have been more clear it is the week we have just gone through. The government has introduced and seen through this parliament some spectacularly important legislation, all of it opposed by those opposite because it is in their DNA is to say no to everything.

They said no to safe rates. They said no to ensuring that, when we and our families and friends get in our cars and share the roads with heavy vehicles, we have a safe motoring and a safe trucking industry. They say they cannot see the link between the number of hours a truck driver has to spend on the road and how safe the working conditions are for that truck driver. They beggar belief. That legislation was supported by this side of the House and all right-thinking Australians but was opposed by those opposite. We saw introduced into the House this week important maritime legislation. There, in the 11 years of government—

Mr Van Manen: I rise on a point of order. Looking at the wording of this matter of public importance—

The DEPUTY SPEAKER (Ms AE Burke): The member for Forde will resume his seat. Although the issue of relevance does apply, MPIs are always wide-ranging debates.
Mr STEPHEN JONES: I am simply making the point that when we are discussing matters of public importance—the importance of ensuring that we have responsible fiscal management—it should be seen in the light of the broader context of what we are trying to do on this side of the House and in the light of the frippery and the stunts which seem to dominate the obsession of those on the other side of the House.

It is seen in their attitude to the important maritime legislation, including the changes in taxation arrangements which will form part of the 2012-13 budget, which was introduced by the Leader of the House, the Minister for Infrastructure and Transport, this week. No doubt, that will be opposed by those on the other side of the House, because their idea of a maritime policy was to pull on a damaging one-month strike and confrontation with the maritime union. That strike had us in the High Court and had the nation's ports crammed up and jammed for several months. That is their idea of a maritime policy, while on this side of the House we believe that it is in the national interest to have a shipping line—to have Australian owned and operated ships—and that it is in the national interest that we have a trained domestic workforce that is able to work on those ships.

That is why in this budget and in the legislation before the House today we are putting in place tax incentives and other measures to ensure that we have an Australian shipping industry and that we have Australian workers working on those Australian ships. Those on the other side of the House put in place tax arrangements and other laws which encouraged foreign ships with foreign workers to ply the coastal trade around our great trading nation.

With regard to superannuation, we on this side of the House are introducing laws to ensure that workers get a real shift in their superannuation from nine per cent to 12 per cent. Those on the other side of the House are voting against that. They have form: in their 11 years in government the ordinary Australian men and women—wage and salary earners—never saw an increase in their superannuation as a result of any laws passed by those on the other side of the House, because they are opposed to dignity in retirement and retirement savings for ordinary Australian men and women.

I will move, now, to tax cuts. As a result of the legislation that we are moving in the House you will see 2.7 million small businesses in this country enjoying a tax cut—a tax cut opposed by those on the other side of the House. The reason that it is important that we have responsible fiscal management is that we can do things for pensioners. We have made historic reforms to the indexation of the pension system. That was something that was neglected by those on the other side of the House. In their 11 years in government they had a blind spot for the pensioners of this country.

When the economy was raining gold bars, do you think they could find it their dark hearts to properly index the pension systems in this country? It was beyond them. They opposed that. We on this side of the House are seeing through their stunts and their frippery and introducing important reforms, including the National Broadband Network. It is opposed by all of those members of the other side of the House when they are here in Canberra, but when they get back to their electorates they cannot love it enough. Liberal and National Party member after Liberal and National Party member are rushing back to their electorates and signing off letters to the minister. They are giving great speeches in their electorates about how they are working hard to ensure that they get
the National Broadband Network in their electorates.

They talk a lot about deficits on that side of the House, but here is one deficit that you will not hear them talk about—that is, the $60 billion infrastructure deficit that we inherited when we came to government in 2007. You would think that the members opposite who represent rural and regional electorates would get this issue. You would think that in 11 years of government those National Party members would have found their voices and said, 'What are we doing while the economy is raining gold bars? Why aren't we spending money on the ports and on the rail and road networks of this country?' They could not find their voices. They were silenced in the coalition. They have found their voices now, but in the 11 years of government there was not a whisper, not a squeak, from the rural and regional members of the coalition parties.

We will bring the budget back into surplus. Labor will introduce a budget in May this year, which will be back in surplus. We will do that because we have put in place tight fiscal rules—tight fiscal discipline—in a way that was unknown to those on the other side of the House when they were in government. When it was raining gold bars they could not send the money out the door quickly enough. In fact, if you listen to those on the other side of the House, you hear that they say, 'We have a philosophy of introducing surpluses. Irrespective of the economic conditions, we will introduce surpluses.'

Pause for a moment and think about what that means. It means that the philosophy on that side of the House is that they are committed to taxing Australians more than the government actually needs to. That is why the tax-to-GDP ratio while we have been in government has decreased from the high of 24.2 per cent when those opposite were in government to 21.2 per cent now that we are in government.

So I thank the member for Chifley for bringing this important matter of public importance before the House, because it is in stark contrast to what we have seen from them all week and all year.

Mr BUCHHOLZ (Wright) (16:14): The MPI that I speak on today is the urgent need for responsible fiscal management in the upcoming budget to deliver real reforms for working people. We should change the title of this segment from MPI to 'The Comedy Hour', because what we heard from the member for Throsby was absolutely comical. Before coming to this place I was a successful transport operator in Queensland. Prior to that, I was a banker. Being part of the Liberal family on this side of the House, every day I welcome the opportunity to debate the fiscal management of this country and I welcome the opportunity to let Australians hear not the spin that Labor would have you believe but the real facts about how this economy could be run better.

Before I speak about a couple of things I want to pick up one of the points that was made by the member for Chifley about Australia's AAA credit rating. This is interesting for people to get their heads around. Why do we have a AAA credit rating today than we had then? I will tell you why: Standard and Poor's and Moody's have what are called comparative credit ratings. Australia is compared to the rest of the
world. As the major economies around the globe have softened—they have basically gone to hell in a hand basket—that has increased Australia's comparative position. That is why we have a AAA credit rating. I can assure you that the false hypnotic phrases that come from this government in reference to their fiscal management are a joke.

I would also like to bring your attention to the comment made earlier this week by the member for Chifley. He said that Labor will have the fastest fiscal consolidation in four decades. That is all this government can do: talk about what is going to happen; the old 'gunna', 'what we will do'. They cannot talk about their track record, because their track record is pretty ordinary. And I will get to the amount of debt and deficits, because I know that the member for Throsby is interested to know about some of the records that his government has been in charge of: record debt and record deficit.

When it comes to the fastest fiscal consolidation in four decades, I want to break down for you what fiscal consolidation is: it is the capacity for a government to pay back debt. With reference to Labor and its out-of-control spending, one can draw an analogy that their fastest fiscal consolidation—which may happen sometime in the future—is similar to a contestant going on The Biggest Loser after jamming 50 kilos on in order to rip it off quicker. A fast fiscal consolidation by this Labor government will only be a result of the enormous blow-out in their spending.

Let us talk about the suggestion that they will have the capacity to make these changes or have a surplus down the track. In order to understand whether they have the capacity to forecast such things and whether they have integrity—in order for us to be able to take what they say at face value—we need to go back and have a look at their track record of forecasting. Let us go back just over 12 months to the MYEFO books—and for those people who are here in the gallery, MYEFO stands for Mid-Year Economic and Fiscal Outlook. These guys should get a copy of it from time to time.

Mr Stephen Jones: Madam Deputy Speaker, I rise on a point of order. The member for Wright should address his comments through the chair.

The DEPUTY SPEAKER: The member for Wright should address his comments through the chair, because I do not think that I have been doing the things that he is talking about and the use of the word 'you' is not accepted. By now, all new members should be aware of that. The member for Wright has the call.

Mr BUCHHOLZ: I can understand wholeheartedly why the member for Throsby would feel a little ruffled by the comments that he is hearing at the moment. The Labor Party, 12 to 18 months ago, forecast that their budget deficit—the one that is coming up real soon; in a couple of weeks—was going to be $12 billion. These people want us to believe that they have the capacity to forecast. They said that it was going to be $12 billion. Six months later, in the budget figures it was $12.6 billion. That is just a lazy $600 million—they got it wrong by that much.

But that is not all; there are steak knives with this deal as well. In the recent MYEFO documents, that $12.6 billion went to $22 billion. And now it is at $37 billion. That is the capacity of this government, which wants to stand on a stage and talk about fiscal responsibility, to forecast over a period of just over 12 months. They cannot hit the side of a barn when it comes to forecasting deficits.
We have seen in the last parliamentary sitting period three common traits in the bills that have come before the House. Firstly, the majority of the bills that have come before the House somehow end up giving more power to their union mates; secondly, they take money out of the pockets of mums and dads and small businesses, and I will explain to you how they do that; and, thirdly, somewhere woven into the bill is more bureaucracy and more compliance measures—you can bet on that. The Australian Labor Party do not get it. They do not understand the business pressures out there at the moment.

I want to bring your attention to the mining tax and some of the benefits that the Labor Party are boasting about, such as the changes to the company tax rate. I am glad that you are here, Billy. What is your seat?

Mr Shorten: Minister!

Mr BUCHHOLZ: Minister Bill.

The DEPUTY SPEAKER: Member for Wright.

Mr BUCHHOLZ: I am glad that the Minister for Financial Services and Superannuation is in the House to hear these comments. The company tax rate is going to go from 30 per cent to 29 per cent, a one per cent decrease. We have taken a bit of heat over opposing that. I want to share with you why we oppose that. I asked the guys in my office to ring some of the businesses within a couple of kilometres of my office. These are actual figures and I want you to get your head around them. A bloke who has a building supply business has a payroll of $570,000. Last year his taxable income was $40,000. What that means is that he will get a company tax cut of $400 but will potentially be facing a $17,100 increase in his superannuation liability. This government would have you think that they are paying for that superannuation increase. I can assure you that it will be coming out of the pockets of the small businesses and the hardworking mums, dads and families of my electorate of Wright. Then we went around the other corner and found the motor mechanic. He has a payroll of $500,000 and a taxable income of $75,000. What is his benefit? The hand goes into the pocket and he gets his $750, but the potential super liability out of the other pocket is $15,000. Do the maths: over the six-year period that comes to $15,000. You cannot have a three per cent increase and not have it cost anything. It has got to cost something.

Government members interjecting—

The DEPUTY SPEAKER: The member for Wright will return to the MPI and stop encouraging misbehaviour in the chamber.

Honourable members interjecting—

Mr BUCHHOLZ: I am the junior here! I am getting bashed up! I thought you would be my saviour!

Do not just take my word for it when it comes to the management of the fiscal policy of this nation. You do not have to look any further than this morning's Australian Financial Review. We have the government saying how wonderful their fiscal responsibility is, how diligent their economic management is and what a wonderful state our nation is in. Well, one of the jewels in the crown of Australian retail, David Jones, is mentioned in headlines this morning on the front page of the Australian Financial Review. The headline reads 'DJs in fight for survival'. It says a lot when you get comments like that coming from David Jones, which is a true indicator of the real retail sector in this nation. Mr Paul Zahra, CEO, said:

These are the toughest retail conditions that I've ever seen in my career and I've been in retailing for 30 years.
How is it that we have a Labor government insisting that things are just a bed of roses, but some of the biggest retailers are struggling to keep their heads above water. David Jones has forecast a downgrading of profits to the tune of 40 per cent.

This government's capacity to forecast is nothing short of outstanding when you have a look at their capacity back through MYEFO and the budget! Now the government will get up and continue to 'spin, spin, spin', but they have continually failed to forecast the stats— *(Time expired)*

The DEPUTY SPEAKER: The discussion is now concluded.

**PERSONAL EXPLANATIONS**

Mr Garrett (Kingsford Smith—Minister for School Education, Early Childhood and Youth) (16:24): I wish to make a personal explanation.

The DEPUTY SPEAKER: Does the honourable member claim to have been misrepresented?

Mr Garrett: Yes.

The DEPUTY SPEAKER: Please proceed.

Mr Garrett: Various media reports have stated that I approved grants in my electorate of Kingsford Smith without notifying the finance minister. The finance minister today has released advice confirming that her department has examined all instances identified in the ANAO report and that there do not appear to be any issues.

The grant in question was allocated to the Sydney Metropolitan Catchment Management Authority for a range of works, including a water quality monitoring network with stations in the electorates of Grayndler, Barton and Cook, across the Botany Bay catchment—some 1,165 square kilometres. Subsequently, the authority provided grants to a number of Sydney councils but not to Botany or Randwick councils, which serve my electorate.

**COMMITTEES**

**Social Policy and Legal Affairs Committee**

**Membership**

The DEPUTY SPEAKER (Ms AE Burke) (16:25): Mr Speaker has received advice from the Chief Government Whip nominating a member to be a supplementary member of the Standing Committee on Social Policy and Legal Affairs for the purpose of the committee's inquiry into the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012 and the Courts Legislation Amendment (Judicial Complaints) Bill 2012.

Dr Mike Kelly (Eden-Monaro—Parliamentary Secretary for Defence) (16:25): by leave—I move:

That Mr Ruddock be appointed a supplementary member of the Standing Committee on Social Policy and Legal Affairs for the purpose of the committee’s inquiry into the Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012 and its inquiry into the Courts Legislation Amendment (Judicial Complaints) Bill 2012.

Question agreed to.

**BILLS**

**Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011**

**National Health Amendment (Fifth Community Pharmacy Agreement Initiatives) Bill 2012**

**Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011**
Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Bill 2011
Education Services for Overseas Students (TPS Levies) Bill 2011
Tax Laws Amendment (2011 Measures No. 9) Bill 2011

Assent

Messages from the Governor-General reported informing the House of assent to the bills.

COMMITTEES
Parliamentary Joint Committee on Human Rights

Membership
The DEPUTY SPEAKER (Ms AE Burke) (16:26): Mr Speaker has received a message from the Senate, in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011, acquainting the House with the fact that Senator Wright has been appointed a member of the Parliamentary Joint Committee on Human Rights.

MATTERS OF PUBLIC IMPORTANCE

Dr SOUTHCOTT (Boothby) (16:27): I seek clarification from you, Madam Deputy Speaker, on why you decided that the discussion has concluded when there were still members who wished to speak on the MPI.

The DEPUTY SPEAKER: I apologise. I did not see anyone stand. It was to our side, and I did not see anyone stand. I apologise if I have made that wrong call.

Dr Southcott interjecting—

The DEPUTY SPEAKER: It was to our side. I did not see anyone seeking the call. I moved to progress the business.

Mr Hockey: It was the call to the government.

The DEPUTY SPEAKER: I apologise, it was to the government side.

Dr Southcott: I understand that the member for Bradfield was keen to speak next.

The DEPUTY SPEAKER: My absolute apologies. I did not see him stand.

Opposition members interjecting—

The DEPUTY SPEAKER: The member for Boothby may be right. I did not see him stand. The minister had sought to make a personal explanation. As there was nobody on my side—

An opposition member: On the government side.

The DEPUTY SPEAKER: On the government side. I apologise. It has been a very long week. On the government side, nobody had sought the call and so I put the question. If the opposition had chosen to put some people up on the Speaker's panel we might not be in this situation all the time.

Opposition members interjecting—

The DEPUTY SPEAKER: I am not implying anything. But there are implications—I am saying 'my side' and I should not be. All I am saying is that as is usual in a normal parliament there are various speakers from various parties and it evens out the contention of the House. That would be my conclusion.

BILLS

Corporations Amendment (Future of Financial Advice) Bill 2011

Report from Federation Chamber

Bill returned from the Federal Chamber with an unresolved question; certified copy of the bill and schedule of the unresolved question presented.
Ordered that this bill be considered immediately.

Unresolved question—

That the amendment be agreed to:

That all words after “That” be omitted with a view to substituting the following words: “the House declines to give further consideration of the bill and of the Corporations Amendment (Further Future of Financial Advice) Bill 2011 until after the Government has tabled for the bills a Regulatory Impact Statement which has been assessed by the Office of Best Practice Regulation as compliant with its requirements.

The SPEAKER: The question before the chair is the unresolved question from the Federation Chamber that the amendment be agreed to.

The House divided. [16:34]

(The Speaker—Hon. Peter Slipper)

Ayes...............61
Noes.................66
Majority.............5

AYES

Alexander, JG
Andrews, KJ
Billson, BF
Baldwin, RC
Broadbent, RE
Christensen, GR
Coulton, M (teller)
Fletcher, PW
Frydenberg, JA
Griggs, NL
Hartsuyker, L
Hockey, JB
Irons, SJ
Jones, ET
Kelly, C
Ley, SP
Markus, LE
McCormack, MF
McNeive, PC
O'Dwyer, KM
Pyne, CM
Robb, AJ
Roy, WB
Schultz, AJ
Secker, PD (teller)
Smith, ADH
Southcott, AJ
Tehan, DT
Tudge, AE
Vasta, RX
Wyatt, KG

AYES

Adams, DGH
Bandt, AP
Bowen, CE
Brodie, NS
Butler, MC
Champion, ND
Clare, JD
Combet, GI
D’ Ath, YM
Elliot, MJ
Ferguson, LDT
Garrett, PR
Gibbons, SW
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Livermore, KF
Macklin, JL
Melham, D
Murphy, JP
Oakeshott, RJM
O’Neill, DM
Parke, M
Piibersek, TJ
Rishworth, AL
Saffin, JA
Sidebottom, PS
Snowdon, WE
Symon, MS
Vamvakou, M
Windsor, AHC

AYES

Stone, SN
Truss, WE
Van Manen, AJ
Washer, MJ

NOES

Albanese, AN
Bird, SL
Bradbury, DJ
Burke, AS
Byrne, AM
Cheeseman, DL
Collins, JM
Creen, SF
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Georganas, S
Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Kelly, MJ
Leigh, AK
Lyons, GR
Marles, RD
Mitchell, RG
Neumann, SK
O'Connor, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Shorten, WR
Smyth, L
Swan, WM
Thomson, KJ
Wilkie, AD
Zappia, A

PAIRS

Abbott, AJ
Cobb, JK
Dutton, PC
Entsch, WG
Gambaro, T
Macfarlane, IE
Mirabella, S
Moylan, JE
Randall, DJ

PAIRS

Gillard, JE
Burke, AE
Danby, M
Emerson, CA
Fitzgibbon, JA
McClelland, RB
Rowland, MA
Rudd, KM
Smith, SF
Question negatived.

The SPEAKER (16:45): The question now is that this bill be read a second time.

The House divided. [16:45]

(The Speaker—Hon. Peter Slipper)

Ayes.....................66
Noes.....................61
Majority...............5

AYES

Adams, DGH
Bandt, AP
B Bowen, CE
Brodie, G
Butler, MC
Champion, ND
Clare, JD
Combet, GI
D'Ath, YM
Elliot, MJ
Ferguson, LDT
Garrett, PR
Gibbons, SW
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Lyons, GR
Marles, RD
Mitchell, RG
Neumann, SK
O'Connor, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Shorten, WR
Smith, SF
Snowdon, WE
Symon, MS
Vamvakou, M
Windsor, AHC

NOES

Bishop, JI
Broadbent, RE
Christensen, GR
Coan, M (teller)
Fletcher, PW
Frydenberg, JA
Griggs, NL
Hartsuyker, L
Hockey, JB
Irons, SJ
Jones, ET
Kelly, C
Ley, SP
Markus, LE
McCormack, MF
Neville, PC
O'Dwyer, KM
Pyne, CM
Robb, AJ
Roy, WB
Schultz, AJ
Secker, PD (teller)
Smith, ADH
Southcott, AJ
Teban, DT
Tudge, AE
Vasta, RX
Wyatt, KG

NOES

Briggs, JE
Buchholz, S
Ciobo, SM
Crook, AJ
Forrest, JA
Gash, J
Haase, BW
Hawke, AG
Hunt, GA
Jensen, DG
Keenan, M
Laming, A
Marino, NB
Matheson, RG
Morrison, SJ
O'Dowd, KD
Prentice, J
Ramsey, RE
Robert, SR
Ruddock, PM
Scott, BC
Simpkins, LXL
Somlyay, AM
Stone, SN
Truss, WE
Van Manen, AJ
Washer, MJ

PAIRS

Turnbull, MB
Thomson, CR

Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (16:51): by leave—I present a supplementary explanatory

PAIRS

Burke, AE
Danby, M
Emerson, CA
Fitzgibbon, JA
Gillard, JE
Livermore, KF
McClelland, RB
Rowland, MA
Rudd, KM
Thomson, CR

Cobb, JK
Dutton, PC
Entsch, WG
Gambaro, T
Abbott, AJ
Randall, DJ
Macfarlane, IE
Mirabella, S
Moylan, JE
Turnbull, MB
memorandum to the bill and I move
government amendments (1) to (17) on sheet
BG223 and (1) on sheet ZA284 together.
(1) Schedule 1, item 10, page 6 (lines 23 and 24),
omit "a period of 12 months or more", substitute
"a period of more than 12 months".
(2) Schedule 1, item 10, page 6 (lines 32 and 33),
omit "a period of 12 months or more", substitute
"a period of more than 12 months".
(3) Schedule 1, item 10, page 9 (line 33), omit
"within a period of 30 days", substitute "before
the end of a period of 30 days".
(4) Schedule 1, item 10, page 10 (lines 6 to 8),
omit subsection 962H(1), substitute:
(1) A fee disclosure statement, in relation to
an ongoing fee arrangement, is a statement in
writing that:
(a) includes the information required under
this section; and
(b) relates to:
(i) a period of 12 months (the previous year)
that ends on a day that is no more than 30 days
before that on which the statement is given; and
(ii) any other period prescribed by the
regulations.
(5) Schedule 1, item 10, page 10 (lines 13 and 14),
omit "the 12 months immediately preceding
the disclosure day", substitute "the previous year".
(6) Schedule 1, item 10, page 10 (lines 16 to 20),
omit paragraph 962H(2)(b).
(7) Schedule 1, item 10, page 10 (line 21), omit
"details of", substitute "information about".
(8) Schedule 1, item 10, page 10 (lines 23 and 24),
omit "the 12 months immediately preceding
the disclosure day", substitute "the previous year".
(9) Schedule 1, item 10, page 10 (line 25), omit
"details of", substitute "information about".
(10) Schedule 1, item 10, page 10 (line 27), omit
"the 12 months immediately preceding the
disclosure day", substitute "the previous year".
(11) Schedule 1, item 10, page 10 (lines 28 to 30),
omit paragraph 962H(2)(e).
(12) Schedule 1, item 10, page 10 (lines 31 to 35),
omit paragraphs 962H(2)(f) and (g), substitute:
(f) information about any other prescribed
matters, including information that relates to a
period that begins after the previous year.
(13) Schedule 1, item 10, page 11 (lines 12 to 16),
omit paragraph 962J(b), substitute:
(b) if a fee disclosure statement in relation to the
arrangement has been given to the client since the
arrangement was entered into—the anniversary of
the day immediately after the end of the earliest
period of 12 months to which the last fee
disclosure statement given to the client related.
(14) Schedule 1, item 10, page 11 (line 19), omit
"within a period of 30 days", substitute "before
the end of a period of 30 days".
(15) Schedule 1, item 10, page 11 (line 20), omit
"send", substitute "give".
(16) Schedule 1, item 10, page 13 (line 28), omit
"A person", substitute "(1) Subject to subsection
(2), a person".
(17) Schedule 1, item 10, page 14 (after line 11),
at the end of section 965, add:
962CA Exemption from application of opt-
in requirement
(1) ASIC may exempt a person, or a class of
persons, from section 962K (the opt-in
requirement), if ASIC is satisfied that the person
is, or persons of that class are, bound by a code of
conduct approved by ASIC for the purposes of
this section.
(2) A code of conduct is approved by ASIC for
the purposes of this section if:
(a) the code of conduct is approved by ASIC
under section 1101A; and
(b) ASIC is satisfied that the code of conduct obviates the need for persons bound by the code to be bound by the opt-in requirement; and

c) ASIC is satisfied of any other matters prescribed by the regulations.

(3) The exemption must be in writing and ASIC must publish notice of it in the Gazette.

Today I move amendments to the Corporations Amendment (Future of Financial Advice) Bill 2011 to ensure that the key Future of Financial Advice reform measures work as intended. The amendments respond to recommendations of the Parliamentary Joint Committee on Corporations and Financial Services inquiry into the bills released on 29 February 2012.

Amendments (1) to (15) respond to a range of concerns by industry about the technical operation of the ongoing fee arrangement disclosure and renewal provisions. Amendments (1) to (5), (8), (10), (13) and (14) make technical changes to time frames around fee disclosure statements to ensure that the provisions can operate more in line with the current reporting periods of financial advice businesses and to make the various disclosure obligations more practical to discharge. Amendment (6) responds to concerns from industry about the practical difficulties of disclosing certain information about fees that have yet to be incurred. As a result, the amendment removes the requirement for a financial adviser to anticipate the amount their client will pay in the forthcoming year. Fee information for the year immediately passed will still be required.

Amendments (7) and (9) respond to concerns from industry that fee disclosure requirements might require more information than is practically necessary when disclosing details of services the client received or was entitled to receive in the previous 12 months. To make it clear that such disclosure need only be sufficient, rather than comprehensive, the amendments replace the words 'details of' with 'information about'. This will not diminish the client's practical understanding of the services they received or are entitled to receive from their adviser. Amendments (11) and (12) respond to the concerns from industry about the practical difficulties of disclosing certain information about services that have yet to be provided to the client. As a result, the amendments remove the requirement of a financial adviser to anticipate the services the client is entitled to receive or will receive in the forthcoming year. Information for the year immediately passed will still be required.

Amendment (15) is a technical change to ensure consistency of terminology in the opt-in provisions by replacing the word 'send' with the word 'give'. This also clarifies that an adviser does not have to send, for example, via mail the opt-in renewal notice to the client but can provide the notice in a number of alternative ways. Amendments (16) and (17) respond to concerns that the anti-avoidance provisions of the bill operate so broadly that they might acquire property on other than just terms. The amendment clarifies that the anti-avoidance provisions do not apply to the extent the operation of the subsection would result in an unjust acquisition of property within the meaning of paragraph 51 (xxxi) of the Constitution.

Returning to the other amendment about opt-in, the government is making some additional changes to the opt-in aspects of the FoFA bill to provide greater flexibility to industry while ensuring consumer protection is maintained. I am indebted in particular to the work of the member for Lyne in terms of the formulation of this amendment. The opt-in obligation requires financial advisers to renew their client's agreement to ongoing fees every two years. While this is an important protection to ensure clients do not pay open-ended ongoing fees while receiving
little or no service, some parts of industry have argued this requirement is unnecessary where advisers are members of professional bodies or professional codes which obviate the need for opt-in; for example, if a code requires advisers to provide an ongoing service to clients if they charge an ongoing fee.

Mr HOCKEY (North Sydney) (16:56): To expedite the debate, I want to be perfectly clear about the coalition's position. In relation to amendments (1) and (2), we will not oppose those amendments, where it is specifically about a period of 12 months or more. In relation to amendment (3), which is a slight change in the wording of 30-day period for the annual fee disclosure statement, we will support that. Amendments (4), (5), (8) and (10) in relation to the period to which a fee disclosure statement relates we will support. Amendments (6), (7) and (9), an argument about easier compliance by industry with the information required to be provided in fee disclosure statements, we will support.

Amendment (11), which removes paragraph 962H(2)(e), we will support. We will also support amendment (12), which removes paragraphs 962H(2)(f) and (g) the same way as our amendment (13) does to the extent that it is a catch-all regulation making the clause slightly wider than the existing clause. We will support improved wording on disclosure day in amendment (13).

We are opposing amendment (14), which changes the wording in section 962K, the opt-in clause, because we do not agree with opt in. The minister has clearly stated today that opt-in still exists—red tape. Amendment (15) changes the wording in section 962K opt-in clause to make it consistent. Similarly we oppose that. On amendments (16) and (17), our amendments are clearly better. This changes the anti-avoidance provision in the bill to potentially exempt arrangements in existence before the commencement of the bill from the anti-avoidance provisions but the way the amendment is drafted unquestionably creates uncertainty and leaves it to the courts to decide what is permitted and what is not permitted.
We are, without qualification, strongly opposed to the government’s amendment to opt-in because we get rid of it. This is the key amendment, as identified by the minister, on ZA284: ASIC may exempt a person or class of persons from section 962K. This is going to kill small businesses. Have no doubt about it: this is going to have a very significant impact on small businesses. We have had the Independents talk about transparency, we had the government talk about letting the light in. How was this negotiated? Maybe the member for Lyne, who is given credit for this, can explain to the Australian people and the parliament how this was negotiated. It does not remove opt-in from the bill. It does not sort out the problems with the best interest duty. It does not provide certainty around the provision of scaled advice. It does not legislate the one-year extension for the implementation of FoFA that the government has promised. It does not fix a whole lot of outstanding issues with FoFA. But, specifically, this is going to increase unnecessary red tape.

Red tape is the bane of the life of small business. Red tape is what makes it so hard to undertake small business. Yet, here we have the minister negotiating exclusively with the member for New England and the member for Lyne a deal to keep opt-in in place, which is going to pile the red tape on. They could say, 'It is a class of people that will be subject to a code of conduct.' What code of conduct? A code of conduct has to go to the ACCC. A code of conduct has to engage all the businesses. Businesses all of a sudden have to have these new codes of conduct that they have to comply with. If it is a mandatory code, of course the ACCC needs to approve it. Then, 'If we haven’t worked with one regulator, let’s go to another regulator.' ASIC needs to approve it. This is small business. This could be a single financial planner in a country town who needs to comply with a new code of conduct for his industry, and that has to go to the ACCC, and that will take months and months to negotiate. It will take months and months to negotiate a new code of conduct for a particular class of advisers. (Time expired)

Mr OAKESHOTT (Lyne) (17:01): I will be brief as well. I am very aware of all members’ time. I am really only speaking on government amendment (1), the insertion of proposed clause 962CA, 'Exemption from application of opt-in requirement'. The key word is 'exemption'. This has been a long and protracted negotiation. What we have now done, through negotiation, is achieve a path of choice for those in small business and those in both the financial planning and the financial advice market.

By 2015 there will be a very simple choice for anyone who is providing financial advice or financial planning services to clients who are mostly looking for security with their retirement savings. But this covers the full range of financial products. That choice for financial planners and financial advisers is either to participate in the opt-in process or to participate in accreditation under an industry code of practice. That will be developed over the next three years under ASIC rules, with full consultation with the industry. Clearly, as the amendment suggests, there is an exemption from the opt-in requirement.

The previous speaker, the member for North Sydney, was correct: there was and is a great deal of concern around the opt-in provisions. For over a year I personally have—and I know other members of this chamber have—been raising those concerns about the dead hand of government regulation in requiring a financial planner or a financial adviser to round up their clients...
every couple of years and re-sign them to their books.

Regarding other changes coming through in this FoFA legislation, importantly for me the keys are the fiduciary duty of the best interest test and really making the focus client-first. There are still some minor issues in that regard that we will all watch closely. But fundamentally that best interest rule is long overdue for making sure that financial advisers and planners do put their clients interests' first.

The second aspect of importance is the annual full fee disclosure. Again, while there are some issues there, where I personally would have liked to have seen stronger disclosure requirements, such as prospective disclosure—basically a quote for work for the coming year—I am happy to accept some negotiations around that to make sure there is an alternative pathway to the dead hand of government in and around opt-in. An industry code of practice in most professions is a bit of a no-brainer. If this is about cultural change and making sure we professionalise financial planning and financial advice and ensure clients' money gets the best service possible, then it may surprise many in this chamber that an industry code of practice is not already in place.

As an alternative to the opt-in path I think a code of practice is a sensible cultural move. It will encourage greater professional standards. It does so in a way that engages various planners, providers and their organisations and it does allow for a choice, in a voluntary way, to participate in the market under the code of practice. If that is all too hard and for some reason that does not work for you, then quite rightly there are opt-in provisions to make sure you participate in the cultural change and the professionalisation, making sure that we have financial products and financial advice delivered to the standard that I hope this House expects.

I appreciate the negotiations. They have been long and protracted, with all the various groups. I appreciate the minister and his office accepting and working on this amendment. It does now provide choice within financial markets and I think it is a sensible choice. (Time expired)

Mr HOCKEY (North Sydney) (17:06): Given that the member for Lyne said he had negotiated this and he is responsible for this initiative, can he tell me whether the Financial Planning Association Code of Professional Practice will satisfy ASIC?

The SPEAKER: The question is that the amendments be agreed to.

Mr Hockey: If there is no answer, I'll ask him a further series of questions.

The SPEAKER: No. What happened was that the member for North Sydney sat down. If he wants to seek the call he is perfectly entitled to. On a separate call, the honourable member for North Sydney is given the call.

Mr HOCKEY (North Sydney) (17:07): I suspect that the member for Lyne did not negotiate in good faith. I expect that he simply, as he does on so many things, negotiated as effectively a Labor Independent, because we do not know what the purpose is of this ASIC exemption from the application of the opt-in requirement. The minister has insisted throughout the FoFA process that opt-in is a critical requirement. What has occurred to make the minister change his mind to provide an exemption? What is the information? What is the evidence? Where is the convincing argument? The financial planners already have a code of practice. What about the others? Are they going to satisfy an ASIC test? How is ASIC going to—
The SPEAKER: The honourable member for North Sydney should address his remarks through the chair.

Mr HOCKEY: How is ASIC, Mr Speaker, going to determine whether a code of practice is acceptable or not? Is it going to be a code of conduct? Is it going to be a voluntary code of conduct that needs to be signed off by the ACCC, or is it going to be a mandatory code of conduct that again needs to go through the ACCC? What are going to be the requirements for people who have to comply with the code of conduct?

Effectively what you will have is two sets of laws. You will have the code of practice or the code of conduct that now the member for Lyne takes great pride in imposing on the entire financial services industry, and then you are going to have the laws themselves. If the code of conduct is accepted by ASIC then all those industries that are out there are going to have to change their software, change their application forms, change their processes and go through the education and training. What do they do all of a sudden? Do they stop? Because opt-in is meant to start.

When does opt-in start—1 July 2013; is that right? Or 1 July 2012? When does opt-in actually start? And, if it starts on 1 July 2014, how are people meant to go about getting their codes approved by ASIC and potentially the ACCC in the process and set up compliance mechanisms for the codes prior to getting that approved by ASIC? And, when it is approved by ASIC, does that mean they do not have to go with opt-in at all? Under this sham arrangement, it may well be the case, but it means that they have the red tape of compliance all the way. For a single financial planner in a country town, they have just been knifed by the Labor Independent member for Lyne and the Labor Independent member for New England.

Is it not correct to say that vast numbers of groups in the financial services sector were not even consulted about this amendment? The minister can tell us which major groups were involved in negotiation on this. When is it anticipated that ASIC will actually make the class order exemption? Will the exemption be made before or after the commencement date of FoFA? Is it likely that the industry will need to implement, as I said, significant and costly changes to be opt-in and then to be opt-out afterwards? Has there been any cost-benefit analysis of this additional red tape for the industry?

We do know that ASIC is going to approve, or not approve, the code of conduct, but what form will the code of conduct take? There are no explanations there either. What we have got out of all this is that the government is just loading more red tape on individuals and more red tape on financial planners and financial advisers. How will consumers be able to determine whether their financial adviser is subject to opt-in or not subject to opt-in? How will that be disclosed to a customer? How will the exemption operate in practice? If someone agrees to contract to the financial adviser at a time when the financial adviser is subject to opt-in, will the opt-in arrangements continue to apply if at a later date the financial adviser becomes exempt from the requirements?

Is the code of conduct likely to be determined by some other non-government body? If so, which non-government body? Will ASIC be able to approve more than one code of conduct in relation to the exemption for individual players? Will the code of conduct mandate or impose any continuing professional education requirements?

These are questions that are not answered. All we have had is a shonky deal between two Labor Independents and the Labor Party to get opt-in through. And the member for

CHAMBER
Lyne is going to go back to his electorate and he is going to say to them, 'Don't worry, guys; I defended your interests,' and not tell them the fact that they are going to be burdened with a vast amount of new red tape thanks to the government and the Labor Independents.

**Mr FLETCHER** (Bradfield) (17:12): The question of opt-in has been one of the most contentious in the approach to the Future of Financial Advice for the whole period that this package of reforms has been under consideration by the government and by the parliament. Financial advisers all around Australia have been anxiously approaching their members of parliament, saying that this is a fundamental challenge to the way they conduct their business and it is also a fundamental restriction on the freedom of both financial planners and their clients to contract, because an extraordinary proposition is being put into the law here.

The extraordinary proposition is that, if you as a client want to go to an adviser and say, 'I wish to retain your services indefinitely; I wish to retain your services until such time as I no longer wish to retain your services,' you are now prevented from doing that by law because of the opt-in requirement. It is now a requirement in the law, subject only to the amendment the sketchy details of which have just been provided to the House, that you may not contract without limit even if you, as a citizen seeking advice, believe that you are perfectly within your rights and capability to do so. So there are very good reasons why both the financial advisory industry and people seeking financial advice have been very concerned about opt-in.

We are now told at very late notice that a deal has been done between the government and the member for Lyne which sorts it out. It sorts it out, no problem—no problem at all!

It may still be the case that as a matter of black letter law the statutes of this country will say: 'You are not free to contract with your financial adviser for more than two years. But don't worry, there'll be a code of conduct which will sort it out.' What details do we have about this code of conduct? They have not been provided to the House. In fact, as a matter of law we are simply being asked to take it on trust from the government that the government will cause ASIC to approve a code of conduct which will allow these arrangements to proceed and that it will grant relief. Mr Speaker, I put it to you that that is a deeply unsatisfactory way in which to proceed. We are not being given the detailed information that this House has a right to expect if it is to give consideration to the substance of this deal, which we are told addresses this problem. And I think the minister ought to give a much more comprehensive explanation of what is proposed than he has done so far.

**Mr SHORTEN** (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (17:15): I thank the member for Bradfield for his invitation. First things first: I have just listened to an unsubstantiated attack on the member for Lyne. I make it very clear that in relation to amendment ZA284—that is, opt-in or a code of conduct—the only reason this government has diverged from just demanding opt-in compulsorily, full stop, is because of the member for Lyne, because of the Financial Planning Association of Australia and because of the application. He has stood up for financial planners and he has made a cogent case.
Mr SHORTEN: I actually wish that those opposite would sometimes sit down and engage in constructive discussion with us and stop leaving the heavy lifting of compromise, negotiation and conciliation to the cross-benchers. It is interesting—and I do reflect that I listened very carefully to what the shadow Treasurer had to say—that, of the other set of government amendments numbered (1) to (17), we are in agreement on the first 13, which is good. This does show that sometimes we can reach the same conclusion, which is positive.

In terms of some of the questions that were raised, I want to go to some of the bigger picture points and then perhaps address some of the more specific issues which were raised in order to be of assistance, because I thought there were some legitimate questions. Firstly, the FoFA opt-in arrangement does provide certainty. The system which triggers opt-in will commence on 1 July 2013. But advisers have a choice: opt-in or an industry code. The consumer will have the certainty that they will be protected by opt-in or an ASIC approved industry code. Indeed, I wish that perhaps earlier governments had stamped out some of the problems with commissions when they were in power, instead of leaving it to the current government to do it.

There was also a reference to best interest duty, exposing advisers and having no legal certainty. It is true that in the financial services industry some stakeholders want a tick-a-box approach to the provision of advice. I do not believe this is what the consumers want. I do not believe that this is what many financial planners want. Nor do I believe that it is consistent with government policy. A tick-a-box approach is not what will change the culture of financial planning. I have said time and time again that I believe the vast majority of financial planners do an excellent job, but anyone who says that there have not been problems in terms of financial services in this country in recent years must have their head in the sand and certainly have not met some of the victims of Storm, Opes Prime or indeed, more recently, Trio. Our amendments provide more certainty with the provision of scaled advice, including protection around the full fact find. This is not enough for some in the industry but, at some point, I believe that one has to stop quibbling about the words and just simply embrace change.

There is an argument being run that somehow improving confidence in the financial planning system will undermine the job security of thousands of people in the financial planning industry. Well, welcome to nine to 12 per cent superannuation. It is this government who has increased compulsory superannuation from nine to 12 per cent this week, and it will be implemented over the next seven years. We are enlarging the opportunity for the wealth management industry in this country. We are not shrinking it; we are enlarging it.

There were some specific questions raised by those opposite, which I might just go to in order to provide some persuasive clarity, which might indeed engage them in a road to Damascus conversion on some of the amendments. In terms of the ASIC exemption from the application of opt-in, we believe that consumers are provided with certainty, that a code obviates the need for opt-in. Some say that we should have just stuck with opt-in solely. We believe that the ASIC code will allow a choice for consumers and for planners.

In terms of why we believe that opt-in is important—and we could accept the propositions put by many in the financial planning industry and consumer groups—is that we believe that we should provide flexibility—
Mr Briggs interjecting—

The SPEAKER: The honourable member for Mayo will not interject from outside his seat.

Mr SHORTEN: We did listen to people in the industry. That is why we have tried to provide this alternative to opt-in. In terms of our consultation—and the issue of who had been consulted was raised—in the last year and a bit, we have met with all of the groups on a consistent basis, with individual companies and planners. I have also met with some of the victims of unfortunate financial planning operations. We believe that ASIC is the right organisation to work the code. (Extension of time granted) We believe that ASIC is capable of working through with the industry stakeholders and consumers to develop this code. We have committed to providing the resolution about the code before 1 July 2015. So we do believe that there is plenty of time for ASIC to do the work that is required. We believe that it is the industry who has to be consulted in developing that code. We believe that this will provide an enhancement to the provision of financial advice in this country.

Mr HOCKEY (North Sydney) (17:21): Minister, can you give us an assurance that there will not be just one code?

Mr Shorten interjecting—

Mr HOCKEY: Come on, mate! There was a negotiation—

The SPEAKER: The shadow minister will address his remarks through the chair.

Mr HOCKEY: There was a negotiation with the Financial Planning Association. They had a code of practice. I want to know on behalf of all the other industries that that is not going to be the only acceptable code. And it is very important because—

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (17:21): Yes, I can give the undertaking sought by the member for North Sydney.

The SPEAKER: The question before the chair is that the amendments be agreed to.

The House divided. [17:26]

(The Speaker—Hon. Peter Slipper)

Ayes .................64
Noes .................59
Majority ............5

AYES


Albanese, AN  Bird, SL  Bradbury, DJ  Burke, AS  Byrne, AM  Clare, JD  Combet, GL  D’Ath, YM  Elliot, MJ  Ferguson, LDT  Fitzgibbon, JA  Georganas, S  Gray, G  Griffin, AP  Hayes, CP  Jenkins, HA  Kelly, MJ  Leigh, AK  Macklin, JL  Melham, D  Neumann, SK  O’Connor, BPJ  Owens, J  Perrett, GD  Ripoll, BF  Roxon, NL  Shorten, WR  Smyth, L  Swan, WM  Thomson, KJ  Wilkie, AD  Zappia, A

NOES


CHAMBER
Question agreed to.

Mr HOCKEY (North Sydney) (17:31): by leave—I move opposition amendments (1) to (8) and (15) to (21) together:

(1) Clause 2, page 2 (table item 2), omit the item, substitute:

2. Schedule 1, 1 July 2013 — 1 July 2013

(2) Schedule 1, item 10, page 5 (line 15), omit the definition of renewal notice day.

(3) Schedule 1, item 10, page 5 (line 16), omit the definition of renewal period.

(4) Schedule 1, item 10, page 5 (line 17), omit "Termination, disclosure and renewal", substitute "Termination and disclosure".

(5) Schedule 1, item 10, page 8 (line 20), omit "Termination, disclosure and renewal", substitute "Termination and disclosure".

(6) Schedule 1, item 10, page 9 (line 17), omit "or section 962K (the renewal notice obligation)".

(7) Schedule 1, item 10, page 9 (lines 23 and 24), omit "or section 962K".

(8) Schedule 1, item 10, page 9 (line 26), omit "or section 962K".

(15) Schedule 1, item 10, page 11 (line 17) to page 12 (line 29), omit sections 962K to 962N.

(16) Schedule 1, item 10, page 13 (lines 13 to 25), omit Subdivision C.

(17) Schedule 1, item 10, page 13 (line 28), before "A person", insert "(1)".

(18) Schedule 1, item 10, page 14 (after line 11), at the end of section 965, add:

2 Subsection (1) does not apply in relation to a scheme if any part of the scheme was entered into, begun to be carried out, or carried out before the day on which this Part commences.

(19) Schedule 1, item 11, page 14 (lines 16 and 17), omit paragraph (jaad).

(20) Schedule 1, item 12, page 14 (lines 29 and 30), omit subparagraph (1E)(b)(ii).

(21) Schedule 1, item 12, page 14 (line 34), omit "or (ii)".

Amendment (1) ensures that the commencement date of FoFA will be delayed until 1 July 2013, consistent with the proposed start date of the MySuper changes. The current implementation date of 1 July 2012 is plainly ridiculous. It is plainly ridiculous to start it in four months. It has not even gone through the Senate yet. Given FoFA and MySuper involve major changes for the same financial services providers, it would make sense to implement them simultaneously. It is symptomatic of the government's chaotic approach to this area and its lack of understanding of practical
business realities that it seeks to impose two different implementation dates involving significant and costly system changes in very quick succession. The minister has informally flagged for some time now that he will agree to a delay of the implementation. Well, he can take this amendment. It is time that he formalises it and gives certainty to the industry. The government should be supporting this amendment.

In relation to amendments (2), (3), (4), (5), (6), (7), (8) and (15), these amendments remove the opt-in provisions from the legislation. Opt-in provisions impose a mandatory requirement on consumers to resign contracts with their financial advisers every two years. It was not part of the original Ripoll inquiry recommendations. Where is he? Where is the member for Oxley? There he is. Sorry, I overlooked him—just like the Prime Minister has on a couple of occasions. Out of 407 submissions to the original Ripoll inquiry, only one—the submission from the government's friends in the Industry Super Network—called for the introduction of opt-in provisions. Opt-in provisions impose a significant and unnecessary increase in red tape and costs on both small business financial advisers and consumers. Of course, the member for Lyne does not care about that and nor does the 'member for Tamworth'. They love that red tape for small business and they are going to be party to it.

The government has been unable to point to another example anywhere in the world where a government has sought to impose a mandatory requirement for consumers to resign contracts with their financial advisers on a regular basis. As such, by pressing ahead with opt-in provisions at the behest of his friends in the union dominated industry super fund movement, it would appear that the minister is intent on making Australia a world leader in red tape. With the best interests duty in place, appropriate transparency for fees charged and the ongoing capacity for clients of financial advisers to opt out of any advice relationship at any stage, there is adequate consumer protection without the need to impose additional costs and red tape on both businesses and consumers.

My amendments (16), (19), (20) and (21), consistent with the government's approach in its exposure draft released in August last year, ensure that the annual fee disclosure requirements will apply prospectively only and will not apply retrospectively. The Ripoll inquiry made no recommendation to introduce an additional annual fee disclosure statement over and above the current regular statements provided by the financial service product providers to their clients. To impose these additional annual fee disclosure requirements retrospectively to all existing as well as new clients increases costs for no or only little additional consumer protection. Those additional costs will ultimately have to be borne by the consumer and are obviously not proportionate to any questionable additional protection benefit.

In the FoFA consultation sessions, it was the industry's clear understanding that the government's proposal to impose an additional annual fee disclosure statement be prospective only. That is, it would apply to only new clients and not existing clients. That was also the position advanced by the government in its exposure draft of this legislation released only two or so months earlier. The Financial Services Council estimates that implementation of the fee disclosure requirement will cost approximately $54 per client prospectively—that is for new clients—and $98 per client retrospectively for existing clients. So this is yet another example of the very poor and deeply flawed consultation process engaged in by the government in relation to this.
Finally, my proposed amendments (17) and (18) ensure that the antiavoidance provision in the legislation applies prospectively only and does not unintentionally apply the antiavoidance provision retrospectively. The existing provision was introduced with little or no consultation. The coalition amendments correct the issues relating to grandfathering and will ensure that the provisions apply prospectively to avoid any unintended consequences to retrospective—

(Time expired)

The SPEAKER: The question is that the amendments be agreed to. I call the honourable the minister but before he speaks the honourable member who is obscured by the member he is talking to—I believe it is the honourable member for Hughes—is inappropriately attired. He will leave the chamber.

The member for Hughes then left the chamber.

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (17:38): I thank the shadow Treasurer for his remarks. The reason the government is not supporting the opposition amendments in their current form is that we believe they would weaken the reforms we are trying to introduce. I will state again that we see the 'drop dead' date for implementation of FoFA being 1 July 2013 but we do believe that putting in the date of 1 July 2012 encourages early movers to take advantage of these reforms.

The SPEAKER: The question is that the amendments moved by the honourable member for North Sydney be agreed to.

The House divided. [17:43]

(The Speaker—Hon. Peter Slipper)

Ayes.......................59
Noes.......................64
Majority.................5

AYES
Alexander, JG
Andrews, KL
Billson, BF
Bishop, JI
Broadbent, RE
Christensen, GR
Coulton, M (teller)
Entsch, WG
Forrest, JA
Griggs, NL
Hartsuyker, L
Hockey, JB
Jensen, DG
Keenan, M
Laming, A
Marino, NB
Matheson, RG
Morrison, SJ
O'Dowd, KD
Prentice, J
Ramsey, RE
Roy, WB
Schultz, AJ
Secker, PD (teller)
Smith, ADH
Southcott, AJ
Tehan, DT
Tudge, AE
Vasta, RX
Wyatt, KG

NOES
Adams, DGH
Bandt, AP
Bowen, CE
Brodmann, G
Butler, MC
Cheeseman, DL
Collins, JM
Crean, SF
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Lyons, GR
Marles, RD

Australians for Open Government

Adams, AN
Albanese, AN
Bandt, AP
Bird, SL
Bowen, CE
Bradbury, DJ
Brodmann, G
Burke, AS
Butler, MC
Byrne, AM
Cheeseman, DL
Clare, JD
Collins, JM
Combet, GI
Crean, SF
D'Ath, YM
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Lyons, GR
Marles, RD

AYES
Andrews, KJ
Albanese, AN
Bandt, AP
Billson, BF
Bishop, BK
Briggs, JE
Broadbent, RE
Buchholz, S
Christensen, GR
Coulton, M
Coulton, M (teller)
Coulton, S
Entsch, WG
Forrest, JA
Griggs, NL
Hartsuyker, L
Hockey, JB
Jensen, DG
Keenan, M
Laming, A
Marino, NB
Matheson, RG
Morrison, SJ
O'Dowd, KD
Prentice, J
Ramsey, RE
Roy, WB
Schultz, AJ
Secker, PD (teller)
Smith, ADH
Southcott, AJ
Tehan, DT
Tudge, AE
Vasta, RX
Wyatt, KG

NOES
Adams, DGH
Albanese, AN
Bandt, AP
Bird, SL
Bowen, CE
Bradbury, DJ
Brodmann, G
Burke, AS
Butler, MC
Byrne, AM
Cheeseman, DL
Clare, JD
Collins, JM
Combet, GI
Crean, SF
D'Ath, YM
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Lyons, GR
Marles, RD

Australians for Open Government

Adams, AN
Albanese, AN
Bandt, AP
Billson, BF
Bishop, BK
Briggs, JE
Broadbent, RE
Buchholz, S
Christensen, GR
Coulton, M
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Prentice, J
Ramsey, RE
Roy, WB
Schultz, AJ
Secker, PD (teller)
Smith, ADH
Southcott, AJ
Tehan, DT
Tudge, AE
Vasta, RX
Wyatt, KG

CHAMBER
Thursday, 22 March 2012  HOUSE OF REPRESENTATIVES  4055

NOES
Murphy, JP  Neumann, SK
Oakeshott, RJM  O’Connor, B PJ
O’Neill, DM  Owens, J
Parke, M  Perrett, GD
Plibersek, TJ  Ripoll, BF
Rishworth, AL  Roxon, NL
Saffin, JA  Shorten, WR
Sidebottom, PS  Smyth, L
Snowdon, WE  Swan, WM
Symon, MS  Thomson, RJM
Vannvakinou, M  Wilkie, AD
Windsor, AHC  Zappia, A

NOES
Abbott, AJ  Gillard, JE
Cobb, JK  Emerson, CA
Dutton, PC  Danby, M
Gambaro, T  Rowland, MA
Gash, J  Melham, D
Hunt, GA  Champion, ND
Macfarlane, IE  Rudd, KM
Moylan, JE  Thomson, CR
Randall, DJ  Smith, SF
Robb, AJ  McClleland, RB
Turnbull, MB  Livermore, KF

PAIRS
Gibbons, SW  Gray, G
Grierson, SJ  Griffin, AP
Hall, JG (teller)  Hayes, CP
Husic, EN (teller)  Jenkins, HA
Jones, SP  Kelly, MJ
King, CF  Leigh, AK
Lyons, GR  Macklin, JL
Marles, RD  Mitchell, RG
Murphy, JP  Neumann, SK
Oakeshott, RJM  O’Connor, B PJ
O’Neill, DM  Owens, J
Parke, M  Perrett, GD
Plibersek, TJ  Ripoll, BF
Rishworth, AL  Roxon, NL
Saffin, JA  Shorten, WR
Sidebottom, PS  Smyth, L
Snowdon, WE  Swan, WM
Symon, MS  Thomson, KJ
Vannvakinou, M  Wilkie, AD
Windsor, AHC  Zappia, A

AYES
Alexander, JG  Andrews, KJ
Andrews, KL  Baldwin, RC
Billson, BF  Bishop, BK
Bishop, JI  Briggs, JE
Broadbent, RE  Buchholz, S
Christensen, GR  Crook, AJ
Coulton, M (teller)  Frydenberg, JA
Entsch, WG  Haase, BW
Forrest, JA  Hawke, AG
Griggs, NL  Irons, SJ
Hartsuyker, L  Jones, ET
Hockey, JB  Kelly, C
Jensen, DG  Ley, SP
Keenan, M  Markus, LE
Laming, A  McCormack, MF
Marino, NB  Neville, PC
Matheson, RG  O’Dwyer, KM
Morrison, SJ  Pyne, CM
O’Dowd, KD  Robert, SR
Prentice, J  Ruddock, PM
Ramsey, RE  Scott, BC
Roy, WB  Simpkins, LXL
Schultz, AJ  Somlyay, AM
Secker, PD (teller)  Stone, SN
Smith, ADH  Truss, WE
Southcott, AJ  Van Manen, AJ
Tehan, DT  Vasta, RX
Tudge, AE  Wyatt, KG

AYES
Adams, DGH  Albanese, AN
Bandt, AP  Bird, SL
Bowen, CE  Bradbury, DJ
Brodtmann, G  Burke, AS
Butler, MC  Byrne, AM
Cheeseeman, DL  Clare, JD
Collins, JM  Combet, GI
Crean, SF  D’Ath, YM
Dreyfus, MA  Elliot, MJ
Ellis, KM  Ferguson, LDT
Ferguson, MJ  Fitzgibbon, JA
Garrett, PR  Georganas, S

CHAMBER
Question agreed to.

Bill, as amended, agreed to.

Third Reading

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (17:52): by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011

Report from Federation Chamber

Bill returned from Federation Chamber without amendment; certified copy of the bill presented.

Ordered that this bill be considered immediately.

The SPEAKER: The question now is that the bill be read a second time.

The House divided, [17:55]

(The Speaker—The Hon. Peter Slipper)

Ayes....................64
Noes....................59
Majority..............5

AYES

Adams, DGH
Bandt, AP
Bowen, CE
Brodhman, G
Butler, MC
Cheeseman, DL
Collins, JM
Crean, SF
Dreyfus, MA
Ellis, KM
Ferguson, MJ
Garrett, PR
Gibbons, SW
Grierson, SJ
Hall, JG (teller)
Husic, EN (teller)
Jones, SP
King, CF
Lyons, GR
Murphy, JP
Oakeshott, RJM
O'neill, DM
Parke, M
Piibersek, TJ
Rishworth, AL
Saffin, JA
Sidebottom, PS
Snowdon, WE
Symon, MS
Vamvakrounou, M
Windsor, AHC

NOES

Alexander, JG
Andrews, KL
Billson, BF
Bishop, JI
Broadbent, RE
Christensen, GR
Coulton, M (teller)
Entsch, WG
Forrest, JA
Griggs, NL
Hartman, L
Hockey, JB
Jensen, DG
Keenan, M
Laming, A
Marino, NB
Matheson, RG
Morrison, SJ

AYES

Albanese, AN
Bird, SL
Bradby, DJ
Burke, AS
Byrne, AM
Clare, JD
Combet, GI
D'Ath, YM
Elliot, MJ
Ferguson, LDT
Fitzgibbon, JA
Georgonas, S
Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Kelly, MJ
Leigh, AK
Macklin, JL
Mitchell, RG
Neumann, SK
O'connor, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Shorten, WR
Smyth, L
Swan, WM
Thomson, KJ
Wilkie, AD
Zappia, A
Question agreed to.

Bill read a second time.

Consideration in Detail

Bill—by leave—taken as a whole.

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (17:57): by leave—I present a supplementary explanatory memorandum to the bill and move government amendments (1) to (6):

(1) Schedule 1, item 23, page 7 (line 31), after "taken any other step that", insert ", at the time the advice is provided,".

(2) Schedule 1, item 24, page 16 (line 25), after "by the licensee or representative", insert "in the 12 months immediately before the benefit is given".

(3) Schedule 1, item 24, page 16 (after line 33), at the end of subsection 961B(2), add:

Note: The matters that must be proved under subsection (2) relate to the subject matter of the advice sought by the client and the circumstances of the client relevant to that subject matter (the client's relevant circumstances). That subject matter and the client's relevant circumstances may be broad or narrow, and so the subsection anticipates that a client may seek scaled advice and that the inquiries made by the provider will be tailored to the advice sought.

(4) Schedule 1, item 33, page 29 (line 12), substitute "subsection (2)", substitute "subsections (2) and (3)"

(5) Schedule 1, item 33, page 29 (lines 19 to 27), omit subsections 1528(2) and (3), substitute:

(2) The regulations may prescribe circumstances in which that Division applies, or does not apply, to a benefit given to a financial services licensee or a representative of a financial services licensee.

(3) Despite subsection (1), that Division does not apply to a benefit given to a financial services licensee, or a representative of a financial services licensee, to the extent that the operation of that Division would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph of the Constitution).

(6) Schedule 1, item 33, page 30 (line 7), omit ", 1528(3)"

Amendment (1) responds to concerns raised by industry that in discharging the best interests duty it might not be clear at what point in time the financial adviser would have taken any other step that would have been reasonably regarded as being in the best interests of the client. The amendment clarifies that this requirement applies at the time the financial advice is provided to the client. This was always the intent of the bill but this amendment puts the issue beyond doubt for industry.

Amendment (2) responds to concerns by industry about the capacity of financial advice to be scalable in light of the new best
interests duty. The amendment includes a note clarifying that a client may seek scaled advice and that the inquiries to be made by the financial adviser into the client's relevant circumstances will be tailored to the advice sought.

The SPEAKER: Order! Would those male members not wearing jackets please leave the chamber.

Mr SHORTEN: Amendment (3) responds to concerns from industry that the carve-out from the ban on conflicted remuneration for execution-only services does not work as intended. The carve-out is intended to apply where there is no advice provided to the client in relation to a particular sale of a product, but the current bill notes that to use the carve-out no advice should have been provided to the client in relation to the product or class of product. The amendment requires that in order for the carve-out to apply, no advice should have been given to the client in the preceding 12 months—a time frame which is more practical for industry to monitor. Amendments (4) to (6) give proper effect to the grandfathering provisions of the bill in relation to the bans on conflicted remuneration. These ensure that the regulation-making power to prescribe other circumstances in which the conflicted remuneration division applies is effective. The amendments also clarify that the conflicted remuneration division does not apply to the extent that the operation of the division would result in an unjust acquisition of property within the meaning of paragraph 51(xxxi) of the Constitution.

Mr HOCKEY (North Sydney) (18:00): Amendment (1) changes the wording of the catch-all provision in the best-interest-duty paragraph—paragraph 961B(2)(g). However, this amendment is not sufficient to provide an appropriate reasonable-steps defence. Therefore we oppose amendment (1). Our coalition amendment (6) seeks removal of paragraph 961B(2)(g), which will provide certainty for the industry by ensuring that there is a reasonable-steps defence. The government amendment is, of course, redundant if they support ours—but ours is not being dealt with first.

Amendment (2) we do not oppose. It adds a note at the end of paragraph 961B(2) to indicate that best interest duty would allow for scaled advice to be provided.

Amendment (3) we will not oppose but, again, ours is a better amendment. This is an attempt to ensure that there is a causal link between the advice provided and the ban on conflicted remuneration, which is what coalition amendment (10) does. It is aimed at execution services such as stockbroking. However, rather than provide for a causal link, this government amendment sets a 12-month period, which does not create the right link. This may become a genuine problem if a client has sought financial advice from a bank as a financial advice client and then, within a 12-month period, seeks completely independent execution-only stockbroking from the stockbroking arm of the same bank.

So, just to provide absolute clarity, this is going to create confusion for those people who, for example, bank with the Commonwealth Bank, get financial advice and then go separately and engage in trading with CommSec. Coalition amendment (10) cures the actual problem in the bill. It should be supported, because it does not set a time period. It sets an actual causal link between the advice provided and the later investment decision. That is why we are insisting on our amendment.

Amendments (4), (5) and (6) we do not oppose—but, again, ours are better amendments. These amendments tend to clarify that all existing arrangements entered
into prior to the commencement of the FoFA legislation will be grandfathered. However, the amendment leaves it up to the courts to decide what is allowed and what is not. So now small businesses are going to go to court to determine what is in and what is not. Our coalition amendments (26) and (27) provide for certainty by grandfathering all existing arrangements without the need for costly, time-consuming and uncertain legal action.

Again, I emphasise to this House that if it passes these amendments it will regret its actions. Those people who support these amendments will rue their actions. This means more red tape for small business and more red tape for consumers. It is not only anti productivity; it is yet another example of dumb amendments to a dumb bill.

The SPEAKER: The question is that the amendments be agreed to.

The House divided. [18:08]

(The Speaker—Hon. Peter Slipper)

AYES

Adams, DGH
Bandt, AP
Bowen, CE
Brodtmann, G
Butler, MC
Cheeseman, DL
Collins, JM
Crean, SF
Dreyfus, MA
Ferguson, LDT
Fitzgibbon, JA
Georganas, S
Gray, G
Griffin, AP
Hayes, CP
Jenkins, HA
Kelly, MJ
Leigh, AK
Macklin, JL
Mitchell, RG
Neumann, SK

O'Connor, BPJ
Owens, J
Perrett, GD
Ripoll, BF
Roxon, NL
Shorten, WR
Smyth, L
Thomson, KJ
Wilkie, AD
Zappia, A

AYES

Alexander, JG
Andrews, KL
Bishop, BK
Briggs, JE
Buchholz, S
Ciobo, SM
Crook, AJ
Fletcher, PW
Frydenberg, JA
Haase, BW
Hawke, AG
Irons, SJ
Jones, ET
Kelly, C
Ley, SP
Markus, LE
McCormack, MF
O'Dowd, KD
Prentice, J
Ramsey, RE
Roy, WB
Schultz, AJ
Secker, PD (teller)
Smith, ADH
Southcott, AJ
Truss, WE
Van Manen, AJ
Washer, MJ

NOES

Andrews, KJ
Baldwin, RC
Bishop, BK
Briggs, JE
Christensen, GR
Coulton, M (teller)
Entsch, WG
Forrest, JA
Griggs, NL
Hartsuyker, L
Hockey, JB
Jensen, DG
Keenan, M
Laming, A
Marino, NB
Matheson, RG
Neville, PC
O'Dwyer, KM
Pyne, CM
Robert, SR
Ruddock, PM
Scott, BC
Simpkins, LXL
Somlyay, AM
Stone, SN
Tudge, AE
Vasta, RX
Wyatt, KG

PAIRS

Burke, AE
Champion, ND
Danby, M
Ellis, KM
Emerson, CA
Gillard, JE
Livermore, KF
McClelland, RB
Melham, D

Moylan, JE
Hunt, GA
Dutton, PC
Tehan, DT
Cobb, JK
Abbott, AJ
Turnbull, MB
Robb, AJ
Gash, J
Mr HOCKEY (North Sydney) (18:13): by leave—I move amendments (1) to (30) as circulated in my name:

(1) Schedule 1, items 14 and 15, page 4 (lines 14 to 21), omit the items, substitute:

14 Section 960
Insert:
life risk insurance superannuation product has the meaning given by subsection 963B(2).

15 Section 960
Insert:
MySuper product has the meaning given by subsection 963B(3).

(2) Schedule 1, page 4 (after line 21), after item 15, insert:

15A Section 960
Insert:
personal intra-fund superannuation advice has the meaning given by section 964N.

(3) Schedule 1, item 21, page 5 (lines 18 and 19), omit "a meaning affected by section 964A", substitute "the meaning given by subsection 964A(2)".

(4) Schedule 1, item 23, page 7 (line 6), after "identified", insert "through instructions, so far as is reasonably possible in the circumstances".

(5) Schedule 1, item 23, page 7 (line 30), omit "circumstances;", substitute "circumstances.".

(6) Schedule 1, item 23, page 7 (lines 31 to 33), omit paragraph 961B(2)(g).

(7) Schedule 1, item 23, page 9 (lines 13 to 20), omit section 961E.

(8) Schedule 1, item 24, page 16 (after line 10), before paragraph 963B(1)(a), insert:

(aa) the benefit is given to the licensee or representative solely in relation to the provision of general advice;

(9) Schedule 1, item 24, page 16 (lines 13 to 18), omit paragraph 963B(1)(b), substitute:

(b) the benefit is given to the licensee or representative solely in relation to a life risk insurance product, other than a life risk insurance superannuation product (see subsection (2));

(ba) each of the following is satisfied:

(i) the benefit is given to the licensee or representative solely in relation to a life risk insurance superannuation product;

(ii) the product is not issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, in relation to a MySuper product (see subsection (3));

(iii) the benefit is given by, or on behalf of, a person to whom the licensee or representative provided advice in relation to the life risk insurance superannuation product;

(10) Schedule 1, item 24, page 16 (lines 23 to 25), omit subparagraph 963B(1)(c)(ii), substitute:

(ii) the benefit is not for financial product advice in relation to the product, or products of that class, given to the person as a retail client by that licensee or representative;

(11) Schedule 1, item 24, page 16 (after line 31), after paragraph 963B(1)(d), insert:

(da) the benefit is given to the licensee or representative by an authorised representative of the licensee (the purchaser) in relation to the sale of a financial services business by the licensee to the purchaser;

(12) Schedule 1, item 24, page 16 (line 34) to page 17 (line 18), omit subsections 963B(2) and (3), substitute:

(2) A life risk insurance product is a life risk insurance superannuation product if the product is issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, for the benefit of a class of members of the entity or for one or more members of the entity.

(3) Schedule 1, item 24, page 16 (lines 18 to 20), omit subsections 963B(2) and (3), substitute:

(2) A life risk insurance product is a life risk insurance superannuation product if the product is issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, for the benefit of a class of members of the entity or for one or more members of the entity.
(3) MySuper product has the same meaning as in the Superannuation Industry (Supervision) Act 1993, as in force on and after the commencement of item 6 of Schedule 1 to the Superannuation Legislation Amendment (MySuper Core Provisions) Act 2012.

(13) Schedule 1, item 24, page 17 (lines 34 and 35), omit "the provision of financial product advice to persons as retail clients", substitute "carrying on a financial services business".

(14) Schedule 1, item 24, page 17 (line 37), at the end of subparagraph 963C(c)(iii), add ", which must not require the benefit, or the education or training, to be provided in Australia".

(15) Schedule 1, item 24, page 18 (lines 4 to 6), omit all the words from and including "in relation to".

(16) Schedule 1, item 24, page 18 (after line 14), after paragraph 963C(c), insert:

(17) Schedule 1, item 24, page 21 (line 21), omit "a financial services licensee or an RSE licensee", substitute "the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product".

(18) Schedule 1, item 24, page 22 (lines 11 to 29), omit subsections 964A(2) and (3), substitute:

(2) A volume-based shelf-space fee is a monetary product access payment which is not administrative in nature paid by a funds manager to the platform operator.

(3) To the extent that the benefit is not a volume-based shelf-space fee, a platform operator may accept an investment management fee scale discount on an amount payable or a rebate of an amount paid to the funds manager.

(19) Schedule 1, item 24, page 25 (after line 7), at the end of Division 5, add:

Subdivision C—Fees for personal intra-fund superannuation advice

964J Application to a financial services licensee acting as an authorised representative

If a financial services licensee is acting as an authorised representative of another financial services licensee in relation to the provision of personal intra-fund superannuation advice, this Subdivision applies to the first licensee in relation to the advice in that licensee's capacity as an authorised representative (rather than in the capacity of licensee).

964K Financial services licensees must not accept fees for personal intra-fund superannuation advice other than from member to whom advice provided

(1) A financial services licensee that is a trustee of a regulated superannuation fund must not accept a fee in relation to the provision of personal intra-fund superannuation advice to a member of the fund, other than from that member.

Note: This subsection is a civil penalty provision (see section 1317E).

(2) A financial services licensee contravenes this subsection if:

(a) the licensee is a trustee of a regulated superannuation fund; and

(b) a representative, other than an authorised representative, of the licensee accepts a fee in relation to the provision of personal intra-fund superannuation advice to a member of the fund, other than from that member; and

(c) the licensee is the, or a, responsible licensee in relation to the contravention.

Note: This subsection is a civil penalty provision (see section 1317E).

(3) The regulations may provide that subsections (1) and (2) do not apply in prescribed circumstances.

964L Licensee must ensure compliance

A financial services licensee that is a trustee of a regulated superannuation fund must take reasonable steps to ensure that representatives of the licensee do not accept a fee in relation to the provision of personal intra-fund superannuation advice to a member of the fund, other than from that member.

Note: This subsection is a civil penalty provision (see section 1317E).

964M Authorised representatives must not accept fees for personal intra-fund superannuation
advice other than from member to whom advice provided

(1) An authorised representative, of a financial services licensee that is a trustee of a regulated superannuation fund, must not accept a fee in relation to the provision of personal intra-fund superannuation advice to a member of the fund, other than from that member.

Note: This subsection is a civil penalty provision (see section 1317E).

(2) The regulations may provide that subsection (1) does not apply in prescribed circumstances.

964N What is personal intra-fund superannuation advice?

(1) Advice is personal intra-fund superannuation advice if:

(a) the advice is personal advice; and

(b) the advice is provided by a trustee of a regulated superannuation fund, or an authorised representative of the trustee, to a member of the fund as a retail client; and

(c) the trustee holds an Australian financial services licence that covers the provision of personal advice in relation to superannuation products; and

(d) the advice relates to the member's interest in the fund and does not also relate to:

(i) any other financial product (except eligible insurance (see subsection (2)) in relation to the member's interest in the fund); or

(ii) anything mentioned in subsection 765A(1) that would be a financial product but for that subsection (except eligible insurance in relation to the member's interest in the fund); or

(iii) any other matter specified in the regulations for the purposes of this subparagraph; and

(e) the fund is not a self-managed superannuation fund (within the meaning of section 17A of the Superannuation Industry (Supervision) Act 1993).

(2) For the purposes of subparagraphs (1)(d)(i) and (ii), eligible insurance is insurance of a kind that the trustee maintains in relation to the members of the fund for the purpose of financing benefits to the members that are within the scope of the Superannuation Industry (Supervision) Act 1993.

964P Meaning of trustee and member of a regulated superannuation fund

The following expressions have the same meaning when used in this Subdivision as they have in the Superannuation Industry (Supervision) Act 1993:

(a) member;

(b) regulated superannuation fund;

(c) trustee.

(20) Schedule 1, item 28, page 26 (lines 7 and 8), omit paragraph (jaah).

(21) Schedule 1, item 28, page 26 (after line 26), after paragraph (jaap), insert:

(jaapa) subsections 964K(1) and (2) (financial services licensee responsible for breach of fees accepted for personal intra-fund superannuation advice);

(jaapb) section 964L (financial services licensee to ensure compliance with duty about accepting fees for personal intra-fund superannuation advice);

(jaapc) subsection 964M(1) (authorised representative must not accept fee for personal intra-fund superannuation advice other than from relevant member);

(22) Schedule 1, item 30, page 27 (lines 12 and 13), omit subparagraph (1E)(b)(v).

(23) Schedule 1, item 30, page 27 (after line 30), after subparagraph (1E)(b)(xiii), insert:

(xiiia) subsections 964K(1) and (2) (financial services licensee responsible for breach of fees accepted for personal intra-fund superannuation advice);

(xiiib) section 964L (financial services licensee to ensure compliance with duty about accepting fees for personal intra-fund superannuation advice);

(xiiic) subsection 964M(1) (authorised representative must not accept fee for personal intra-fund superannuation advice other than from relevant member);

(24) Schedule 1, item 30, page 27 (line 34), omit "or (v)".
(25) Schedule 1, item 30, page 28 (line 3), omit "or (v)".

(26) Schedule 1, item 33, page 29 (lines 15 to 18), omit all the words from and including "if:“, substitute "if the benefit is given under an arrangement entered into before the day on which that item commences”.

(27) Schedule 1, item 33, page 29 (lines 21 to 24), omit all the words from and including "where:“, substitute "where the benefit is given under an arrangement entered into before the day on which that item commences”.

(28) Schedule 1, item 33, page 29 (lines 32 and 33), omit "a financial services licensee, or an RSE licensee", substitute "the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product”.

(29) Schedule 1, item 33, page 30 (lines 2 and 3), omit "a financial services licensee, or an RSE licensee", substitute "the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product”.

(30) Schedule 1, item 33, page 30 (after line 26), at the end of Part 10.18, add:

1532 Application of ban on other remuneration—fees for personal intra-fund superannuation advice

(1) Subdivision C of Division 5 of Part 7.7A, as inserted by item 24 of Schedule 1 to the amending Act, applies in relation to the provision of personal intra-fund superannuation advice on or after the day on which that item commences (whether or not the advice was sought before that day).

(2) Despite subsection (1), that Subdivision does not apply in relation to the provision of personal intra-fund superannuation advice to the extent that the operation of that Subdivision would result in an acquisition of property (within the meaning of paragraph 51(1)(xxxii) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph of the Constitution).

The Ripoll inquiry did not make any recommendation to ban commissions paid for risk insurance products. Where is the member for Oxley? The government's position on this matter has been confused and I must say that it is ever changing. In April 2011, Minister Shorten stated: 'The government has decided to ban upfront and trailing commissions and like payments for both individual and group risk within superannuation from 1 July 2013.' The coalition do not agree with this position, because we do not agree with Labor's assertion that commissions on risk insurance are in themselves a conflicted remuneration structure. Banning commissions on risk insurance will increase costs for consumers, remove choice and leave many people worse off, particularly small business people who self-manage their super.

We already have a problem of underinsurance in Australia, and this proposed ban would only make that worse, because it increases the upfront cost of taking out adequate risk insurance. To treat commissions on all risk insurance inside super differently from insurance outside super will also create inappropriate distortions, which would not be in the best interests of consumers. We agree that those Australians who receive automatic risk insurance within their super fund without accessing any advice should not be required to pay commissions. However, those Australians who require and seek advice to ensure adequate risk cover, whether inside or outside of their super fund, should have the same opportunity to choose the most appropriate remuneration arrangement for them.

In August 2011, Minister Shorten seemed to adopt the coalition's sensible position and agreed to limit any ban on commissions to automatic risk insurance arrangements within super where fund members do not access any advice. However, many submissions to the PJC inquiry on these bills expressed concern that the government's proposals as contained in the legislation
before the committee would not achieve the stated aims and might lead to unintended consequences. Much of the industry concern centres on the government's decision to ban commissions on risk insurance advice considered to be group risk, which catches not only the default option of automatic insurance provided in a superannuation fund with no advice provided but also any advanced risk insurance that is selected and purchased by a fund member after receiving specifically tailored individual advice if that risk insurance was covered by the group policy held by the fund.

The coalition amendments will ensure that commissions will not be paid on life risk insurance inside MySuper products or within superannuation if the cover is automatic cover. However, if a consumer seeks specific advice on life risk insurance, whether outside super or within a choice super environment, there will be a level playing field for remuneration and there will be no change to existing remuneration structures. The amendments give effect to what was the government's stated policy back in August 2011.

I now want to speak to my amendments (2), (19), (21), (23) and (30). (Extension of time granted) Intrafund advice is the provision of financial advice by superannuation funds to their members. Such advice provided by various superannuation funds can vary widely from very general advice to product specific advice to advice on retirement options to even more specific or individualised holistic financial advice. Today, intrafund advice only exists by an ASIC class order exemption—and I bet that you did not know that, Mr Speaker. Despite intrafund advice clearly being a type of financial advice, there is no definition or scope of such advice provided in the FoFA legislation. There is no limitation on what may constitute intrafund advice and there are no provisions determining who should pay for that advice.

Coalition members of the Parliamentary Joint Committee on Corporations and Financial Services found that, if intrafund advice were to continue to be provided in the future, it should be provided under the same legislative and regulatory framework as all other financial advice. They also found that the complete lack of consideration, definition or restriction of intrafund advice within the FoFA legislation is a serious omission on the part of the government that exposes consumers to the sorts of risks the government says that it wants to remove with FoFA.

In particular, intrafund advice would not be subject to any best interest duty. Industry super funds bundle the cost of such advice into the overall administration fee, which means that it is not transparent. All members of the fund pay for the advice provided to some, irrespective of whether or not they access such advice themselves. That is, fund members are put in a position such that they have to pay for advice that they do not receive without any requirement to opt in and without any capacity to opt out. This is quite hypocritical and a further illustration of the minister's bias towards union dominated—

Mr Shorten: That's terrible.

Mr HOCKEY: You do not know what I am saying the bias is toward. This further illustrates the minister's bias towards union dominated industry super funds. The minister is clearly conflicted and it shows. This is just more one example. Given the reliance of many industry super funds on the provision of intrafund advice for marketing advantage and the attraction of new members, we are concerned that the government has avoided defining and limiting the scope of intrafund advice.
because it has bowed to the interests of the union dominated super funds.

These coalition amendments ensure that all super funds will be able to continue to offer intrafund advice. Where this is advice is general in nature rather than personal and specific there will no change to existing arrangements. However, these amendments ensure a level playing field in the provision of financial advice whenever that advice is provided. The amendments achieve this by providing a new definition for personal intrafund superannuation advice. Such advice will be the subject to the best interest duty and all of the other consumer protections in the FoFA legislation. This will ensure that people who access such personal advice through their super fund will be afforded the same protections and safeguards as all other consumers of financial advice. Importantly, the amendments also ensure that the person who is accessing such advice will pay for the advice they receive, just like every other consumer of financial advice has to do. This will ensure that such advice is not cross-subsidised by other superannuation fund members who choose not to access advice through their super fund.

I now move on to amendments (3), (17), (18), (28) and (29). The coalition supports the ban on conflicted remuneration, which has the potential to influence the provision of advice. However, the wording of the FoFA legislation creates confusion, with the varied payments and the term ‘volume based shelf-space fees’. Unlike a supermarket analogy, dollar based shelf-space fees are not paid for preferential placement on a menu but rather, for the administration of the fund manager’s investment option, on the platform menu. The platform generally charges the same fee for each investment option on the menu.

In recent years volume based shelf-space fees may have been charged by some platforms of fund managers of preferential programs. There is broad consensus and agreement that these volume based shelf-space fees should be banned. However, volume based rebates have been consumed in the proposed legislation under the same definition as volume based shelf-space fees. Not only is this erroneous, but to simply ban these or to make the burden of proof in receipt of these rebates so arduous that it is hard to prove that they should not be banned is to potentially legislate preference for certain types of fund management structures over others. (Extension of time granted) We believe that this will lead to further undesirable consolidation and concentration in the financial services industry and will lessen competition—and the minister at the table knows that. Consequently, the end result of this bias will be a profound impact on the structure of the funds management industry and on the cost of investments for many Australians, particularly through their superannuation.

The coalition amendments are based on the recommendations made by the hardworking coalition members of the PJC and have the strong support of the financial services industry. Importantly, they give effect to the government's stated policy intention. We are doing the heavy lifting for the government, and they do not want to take it. We are providing the industry with a practical, clear and certain pathway forward as they implement some very dramatic changes to their business models to give effect to the policy intention in relation to volume based fees.

The amendments clarify the definitions of a fund manager, ensure that dollar based fees are not caught up in the ban on volume based shelf-space fees and permit rebates from fund managers to provider platforms in line with government announcements to ensure
system neutrality in a retained consumer scale-benefit discount.

I now refer to amendment (4). One way of ensuring that consumers are able to access affordable and appropriate financial advice would be to allow advisers and their clients to limit the scope of the advice to a series of discrete areas identified by the client, rather than to mandate a full financial plan in every case. This concept of focusing advice to areas specifically identified by a client has become widely known as scalable advice. Numerous submissions to the PJC inquiry expressed concern that the wording of the best interest provisions in the proposed legislation does not allow for scaled advice to be provided. The government has acknowledged that the bill in its current form would prohibit scalable advice and it has proposed an amendment to the explanatory memorandum. This is typical. It is clumsy and it is confusing. Changing the explanatory memorandum instead of changing the legislation is ridiculous.

However, the coalition amendment explicitly allows scalable advice to be permitted within the legislation itself rather than the explanatory memorandum. This amendment will enable more Australians to access affordable and appropriate high-quality financial advice.

I now refer to amendments (5), (6) and (7). The coalition considers that a properly drafted best interest duty would enhance and improve the consumer protections afforded to clients of financial advisers in Australia by enshrining the principle that financial advisers must place their clients' interests ahead of their own when providing financial advice. However, we are concerned that the catch-all provision contained in section 961B(2)(g) would create uncertainty for both clients and their advisers and leave the legislation subject to potentially protracted legal arguments. This amendment removes section 961B(2)(g) to remove uncertainty about the practical operation of the best interest duty.

I now refer to amendment (8). This amendment addresses concerns expressed at the PJC inquiry by the Law Council of Australia, the Australian Bankers Association and other groups that the current drafting of the ban on conflicted remuneration is too broad and it is not limited to personal advice. The amendment expressly exempts general advice, such as the advice provided by bank staff on basic banking products, from the operation of the conflicted remuneration provisions. It is consistent with the government's policy intention that conflicted remuneration provisions under this legislation should only apply to the provision of personal advice.

I refer now to amendment (10). This amendment ensures that for a payment to be banned as conflicted remuneration there must be a causal link between the payment and the provision of financial advice. The amendment corrects yet another unintended consequence identified by coalition members of the PJC.

I refer now to amendment (11). This is another amendment correcting another anomaly identified during the PJC inquiry. It ensures that a financial advice business can be sold to employees of the business without the sale proceeds being caught up in the conflicted remuneration provisions. This is commonsense stuff. It enables proper succession planning by financial advisers and allows good employees to be rewarded with an equity share in a business without triggering the ban on conflicted remuneration. So this is saying to a small business financial adviser, 'If you want to sell your business to your staff here is an easy way of doing it.' But, no, FoFA catches
them up and creates a triggered ban on conflicted remuneration. (Extension of time granted)

I now turn to amendments (13), (14) and (15). These amendments also arise from issues identified during the PJC inquiry. The current provisions of the bill allow training to be provided only in relation to the provision of financial product advice. It therefore seems to preclude other important and essential training, such as training on how to run a business, how to use software and issues such as equal opportunity and occupational health and safety. The proposed coalition amendments (12) and (14) would allow such broader but more important training to be conducted without triggering the conflicted remuneration provisions.

The current provisions in the proposed new regulations would restrict training to be provided only in Australia and New Zealand. As was pointed out during the PJC inquiry, this would be counterproductive as it would prevent Australian financial planners from attending events that would broaden their knowledge and keep them up to date with international developments. It would hinder our attempts to become a regional financial services hub. Come on! These guys on the government side have been talking about the Asian century; now they are saying that anyone who goes to a conference outside Australia and New Zealand does not get anywhere—it does not work; it does not satisfy the training requirements. No other profession in Australia is prevented from attending overseas. So our amendment (13) would ensure that these counterproductive geographical limits are removed from the legislation and would ensure that our financial service industry can remain world class in a world training environment.

Amendment (16) covers benefits to employees. This amendment clarifies that the limitation of a non-monetary benefit applies on a per-employee basis and addresses concerns expressed at the PJC inquiry that the current wording would impose a $300 limit across the whole of a financial advice business, irrespective of the number of employees the business might have.

I hope the Independents are listening to these. These are commonsense practical amendments that are fixing up the fundamental flaws. But it seems that they are, as I said before, Labor Independents.

Amendments (20), (22), (24) and (25) are consequential amendments that relate to making annual fee disclosure statements prospective. They remove the penalty provisions that apply to the sections proposed to be omitted by the third set of amendments.

I move now to amendments (26) and (27). The coalition considers that it is a fundamental expectation of any legislative reform that existing contractual arrangements should be recognised and grandfathered to preserve existing property rights. The financial services industry expressed strong concerns during the PJC inquiry that the grandfathering provisions relating to the ban on conflicted remuneration did not achieve this aim and that the wording in the provisions would create uncertainty for many of these existing property rights, in particular payments made by platform providers to dealer groups. These amendments to the grandfathering provisions of the bill recognise and preserve existing and longstanding property rights and ensure the commission payments from platform providers are not banned retrospectively.

Given that I have one minute, and that I am not sure that I will be on my feet again, I will take the opportunity to thank my colleague Senator Mathias Cormann and his
office—Peter Katsambanis in particular—for their outstanding work. This is an extremely complicated bill that has been further complicated by the fact that there have been a raft of amendments in and out of the equation. They have done an outstanding job. It is a great credit to Senator Cormann, not only because he kept up with all of this but, importantly, because he was able to consult widely with industry. That leaf should be taken out of his book by the government—consult widely, not narrowly.

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (18:33): Reluctant, as I am, to take up further time of parliament I am a little concerned that Hans Christian Andersen has been writing some of the shadow Treasurer's comments. I think there are some points which need to be made but I will try to keep it fairly brief.

First of all, the shadow Treasurer accused me of conflict and bias. I am agnostic about which form of superannuation people invest in but I certainly do not accept the standard coalition attack on industry funds as being union dominated. They have independent directors and they have equal representation with employers. To accuse people like Peter Collins, former leader of the Liberal Party in New South Wales, as being some sort of union stooge I think is unfair in the extreme.

Mr Hockey interjecting—

Mr SHORTEN: Well General Peter Cosgrove is on it.

The SPEAKER: The minister will return to the question of the amendments before the chair.

Mr SHORTEN: Furthermore, there were some other comments made which belong more in the fairytale books than in reality. The Cooper review did recommend opting in. There were some comments made about execution-only stockbroker services. They will not be caught up in FoFA in the manner in which the member for North Sydney said.

I will go now to the opposition's specific amendments (1), (2), (19), (21) and (30). The opposition amendments would significantly reduce the availability of simple personal advice to superannuation fund members by no longer allowing the cost of this advice to be collectively charged. This would narrow the existing arrangements for advice to superannuation fund members. Instead we intend to implement the recommendations of the Cooper review in relation to the provision of intrafund advice. This position ensures that all members of a superannuation fund can easily access advice about their entitlements. This is critical, given the mandatory nature of superannuation in Australia. The government will consult on the implementation of these recommendations as part of the development on the stronger super reforms.

Coalition amendments (4), (5), (6) and (7) would introduce a formulation of the best-interest duty that could be complied with by following a tick-a-box approach. This significantly weakens the application of the duty and lessens the level of protection offered to consumers.

Opposition amendment (8) would significantly weaken the ban on conflicted remuneration and allow it to be easily circumvented. General advice can involve recommendations to clients and as such clients receiving general advice need similar levels of protection to those receiving personal advice.

Coalition amendments (9) and (12) would result in the erosion of retirement benefits for superannuation members that are beneficiaries of group insurance policies outside of MySuper. These policies are not tailored to the needs of individual members
so it is appropriate to ban commissions on these products. This position is consistent with the recommendation of the Cooper review.

With regard to coalition amendment (10), the government's formulation of the carve-out for execution-only services provides a much clearer and, from industry's perspective, much more certain application of the carve-out because it excludes any situation where advice had been provided to the client in the last 12 months. The opposition amendment, by introducing the need for ASIC to establish a causal link between the benefit and the advice, makes it easier for the carve-out to be used to circumvent the application of the ban on conflicted remuneration.

Coalition amendment (11) is not necessary as payments associated with the sale of a business would not be considered conflicted remuneration under the legislation. Opposition amendment (13) seeks to undermine the government ban on soft-dollar benefits by extending the existing exemption for training beyond training for the provision of financial advice. Coalition amendment (14) is simply not necessary. The government has already moved away from the Australia-New Zealand requirement for the training exemption as reflected in the replacement explanatory memorandum I am about to table.

Opposition amendment (16) seeks to undermine the government's ban on soft-dollar benefits by carving out any non-monetary benefits paid to an employee by an employer. This would significantly weaken the ban, particularly for vertically integrated advice providers.

Opposition amendments (17), (28) and (29) seek to narrow the definition of fund manager used for the purpose of the ban on volume-based shelf space fees. This would weaken the ban and allow for the continued provision of these fees by some fund managers. Opposition amendment (18) seeks to define these fees in a way that may not reflect their economic substance. That would weaken the ban. Opposition amendments (20), (22), (24) and (25) are consequential amendments to the removal of fee disclosure statements. Amendments (26) and (27) by the opposition would allow for the grandfathering of all volume benefits paid by platform provisions to advice providers. This would significantly weaken the ban on conflicted remuneration as it would allow platforms to enter into open-ended arrangements prior to the commencement of FoFA. The government has already announced its position in relation to the grandfathering of these payments and will be implementing this through regulations in the coming weeks.

May I use the remaining four seconds to thank Treasury staff for all the hard work have done in all these preparations. (Time expired)

Mr FLETCHER (Bradfield) (18:38): I would just like to get some clarification from the minister. The minister has just informed the House that the Cooper review recommended opt in. I would like to ask the minister to specify exactly which recommendation of the Cooper review recommended opt in, given that the Cooper review did not deal with the question of financial advice but with the question of superannuation.

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (18:38): I will talk to the member for Bradfield off line. I present a replacement explanatory memorandum to this bill and a replacement explanatory memorandum to the Corporations
Amendment (Future of Financial Advice)
Bill 2011.

The SPEAKER: The question is that opposition amendments (1) to (30) moved by the member for North Sydney be agreed to.

The House divided. [18:43]

(The Speaker—Hon. Peter Slipper)

Ayes..........................56
Noes..........................61
Majority.....................5

AYES

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Zappia, A

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O'Neil, DM
Parke, M
Plibersek, TJ
Rishworth, AL
Saffin, JA
Sidebottom, PS
Snowdon, WE
Vamvakinou, M
Windsor, AHC

Abbott, AJ
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Dutton, PC
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Tehan, DT
Turnbull, MB

Gillard, JE
Symon, MS
Emerson, CA
Danby, M
Rowland, MA
Melham, D
Champion, ND
Rudd, KM
Thomson, CR
Swan, WM
Burke, AE
Smith, SF
McClelland, RB
Ellis, KM
Livermore, KF

Question negatived.

The SPEAKER (18:48): The question is that this bill, as amended, be agreed to.

The House divided. [18:48]

(The Speaker—Hon. Peter Slipper)

Ayes .....................60
Noes .....................61
Majority ............... 4
Thursday, 22 March 2012

HOUSE OF REPRESENTATIVES

AYES

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Question agreed to.
Bill, as amended, agreed to.

Third Reading

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (18:53): by leave—I move:
That this bill be read a third time.
Question agreed to.
Bill read a third time.

Family Law Amendment (Validation of Certain Orders and Other Measures) Bill 2012

Returned from Senate

Message received from the Senate returning the bill without amendment or request.
BUSINESS
Orders of the Day

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (18:54): I move:

That Federation Chamber orders of the day, private Members' business, be returned to the House for further consideration and the resumption of each debate made an order of the day for a later hour this day:
ANZAC story and Albany, Western Australia;
Fair Work Australia investigation;
Apology to the Stolen Generations; and
Australian Year of the Farmer.
Question agreed to.

Rearrangement

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (18:56): by leave—I move:

That so much of the standing and sessional orders be suspended as would prevent the following items of private Members' business being called on, and considered immediately in the following order:
Orange juice concentrate imports—Order of the day No. 21;
Most Venerable Thich Phuoc Hue OAM—Order of the day No. 22;
Australian Year of the Farmer—Order of the day;
Apology to the Stolen Generations—Order of the day;
Fair Work Australia investigation—Order of the day; and
ANZAC story and Albany, Western Australia—Order of the day.
Question agreed to.

PRIVATE MEMBERS' BUSINESS

Orange Juice Concentrate Imports

Debate resumed on the motion by Mr Secker:

That this House:
(1) notes that:
(a) Australia currently permits the import of orange juice concentrate from Brazil;
(b) the United States has moved to ban imports of Brazilian orange juice concentrate due to traces of the fungicide Carbendazim being found in some juice concentrates from Brazil;
(c) in January 2010, the Australian Pesticides and Veterinary Medicines Authority (APVMA) suspended some agricultural production uses of Carbendazim, including use on all citrus fruits;
(d) in 2011 the APVMA completed its preliminary review finding of Carbendazim which has proposed removing many uses of this chemical; and
(e) the APVMA has proposed a change to remove the Maximum Residue Limits in the Australia New Zealand Food Standards Code that permits Carbendazim residues in some foods, including citrus products; and
(2) calls on the Government to instruct the Australian Quarantine and Inspection Service to increase the testing on imported juice concentrate to ensure Carbendazim is not present at levels which risk public health.
Question agreed to.

Most Venerable Thich Phuoc Hue OAM

Debate resumed on the motion by Mr Ruddock:

That this House:
(1) express its deep regret at the death on 28 January 2012 of the late Most Venerable Thich Phuoc Hue OAM, the Spiritual Leader of the Phuoc Hue Buddhist Monastery and leader of the Vietnamese Buddhist community in Australia;
(2) places on record its appreciation of his long and meritorious public service; and
(3) tenders its profound sympathy to the Vietnamese Buddhist community in its bereavement.
Question agreed to.

Australian Year of the Farmer

Debate resumed on motion by Mr Scott:
That this House:
(1) notes that:
   (a) the Australian Year of the Farmer 2012 provides an opportunity to celebrate such achievements and to further strengthen the connections between rural and urban Australia;
   (b) Australian farming families play a vital role in our society and it is important that we all recognise how much farming affects our lives;
   (c) Australian farmers have a central role in delivering domestic and global food security;
   (d) Australian farming families and the associated agricultural industries are involved in producing, processing, handling and selling products from 136,000 farms across the country; and
   (e) Australian farms and the industries that support them generate more than $405 billion each year; and

(2) calls on members of the House to recognise:
   (a) the Australian Year of the Farmer and the vital role that Australian farming families and their associated agricultural industries play in keeping our nation fed, clothed and sheltered; and
   (b) the significant contribution that Australian agriculture makes to the nation's economy.

Question agreed to.

Apology to the Stolen Generation

Debate resumed on motion by Ms Saffin:

That this House:

(1) recognises, on 13 February 2012, the fourth anniversary of the apology to the Stolen Generations;
(2) affirms the sentiment expressed by this House on 13 February 2008, as a significant step to build a new relationship between Indigenous and non-Indigenous Australians and recognise the suffering caused by past injustices;
(3) expresses its support for members of the Stolen Generations and for the activities happening across Australia on 13 February to mark the anniversary of the apology;
(4) recognises the significant efforts of groups including the National Stolen Generations Alliance and the National Sorry Day Committee to support and work for the interests of members of the Stolen Generations;
(5) notes the new special collection that will be established in the Parliamentary Library of historical documents presented by the National Sorry Day Committee, which documents our nation's shared journey toward reconciliation and the ongoing process of healing and justice for members of the Stolen Generations.

Question agreed to.

Fair Work Australia

Debate resumed on motion by Mr Abbott:

That this House:

(1) notes that:
   (a) the Fair Work Australia investigation into the Health Services Union and Member for Dobell commenced in 2009;
   (b) the investigation started with the Industrial Registrar in January 2009 and was taken over by Fair Work Australia when it commenced operation in June 2009;
   (c) Fair Work Australia representatives said the investigation would be completed by the end of 2011, with Fair Work Australia Director Terry Nassios telling a Senate Estimates committee in May 2011 that the investigation should be completed by 'the latter half of this year' and Bernadette O'Neill, the Acting General Manager, saying in October 2011 that 'Mr Nassios has advised me that he still expects to complete his investigations by the end of this year';
   (d) the investigation remains ongoing despite an employee of the Australian Government Solicitor, Craig Rawson, being provided with a letter containing 'proposed findings' in December 2010; and
   (e) the investigation into the Health Services Union and the Member for Dobell has taken more than three years and is yet to be completed; and

(2) calls on the Government to provide an assurance that there has been no political interference in the Fair Work Australia investigation into the Health Services Union and the Member for Dobell.

Question agreed to.
ANZAC Story and Albany, WA

Debate resumed on motion by Mr Crook:

That this House:

(1) recognises the role played by Albany in the ANZAC story, as the gathering place of the ANZAC First Fleet and the final departure point for many Australian and New Zealand soldiers leaving Australia in November and December 1914;

(2) acknowledges the work undertaken by the Albany Centenary ANZAC Alliance in promoting Albany's rich ANZAC heritage;

(3) notes the recommendations from the National Commission on the Commemoration of the ANZAC Centenary calling for Albany to play a focal role in the 2014 ANZAC Centenary, including the recommendation:

(a) for a re-enactment of the convoy of vessels to gather in King George Sound; and

(b) to establish an ANZAC Interpretive Centre on the contours of Mount Adelaide; and

(4) calls on the Government to commit support and funding to ensure that Albany is able to deliver a nationally significant event in commemoration of the ANZAC Centenary in 2014.

Question agreed to.

BUSINESS

Leave of Absence

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (18:59): I move:

That leave of absence be given to every Member of the House of Representatives from the determination of this sitting of the House to the date of its next sitting.

Question agreed to.

House adjourned at 19:01

NOTICES

The following notice was given:

Dr Leigh to move:

That this House:

(1) recognises that:

(a) 23 June is the United Nations Public Service Day;

(b) democracy and successful governance are built on the foundation of a competent, career-based public service; and

(c) the day recognises the key values of teamwork, innovation and responsiveness to the public; and

(2) commends the Australian Public Service on continuing to be an international model of best-practice public service and providing outstanding services to the Australian community.
The DEPUTY SPEAKER (Ms D'Ath) took the chair at 9:30.

CONSTITUENCY STATEMENTS

Coal Seam Gas

Mr BRUCE SCOTT (Maranoa—Second Deputy Speaker) (09:30): I want to talk this morning about the new wealth that has been generated in regional Queensland, particularly in my own electorate of Maranoa as well as the electorate of Flynn. I have referred to the Galilee Basin coal and coal seam gas developments. The same situation is occurring in the Surat Basin. Coal seam gas is bringing new wealth to the community, great wealth to the state of Queensland and of course great wealth for all Australians. But the development of coal seam methane gas has been controversial in my constituency and in New South Wales as well. Part of the problem has been the failure of the Queensland Labor government to put the regulations in place to ensure that people have confidence in this industry and to make sure that it is sustainable, that it will not harm the environment and that the coexistence issues between the landholder and the mining company are open and transparent.

Only through the voice of protest of my colleagues the LNP members Howard Hobbs, Ray Hopper and Lawrence Springborg as well as the member for Flynn, the member for Gregory—Vaughan Johnson—and myself as the member for Maranoa have we seen some changes to the Queensland regulations covering coal seam methane gas, access to land and the issue of water. In the beginning they were scandalous regulations, and it has only been through the voice of protest that we brought about changes that are going to see, I think, more sustainable industry.

This weekend we will see a change of government in Queensland to an LNP government that understands the issue. They will have to make sure there is more transparency in relation to the issue of compensation to landholders. Access to landholders' properties has got to be more transparent and open. There has to be better compensation for landholders as well, because when they get the compensation they will spend that money in their community. And of course they have to address the issue of housing affordability in the towns where these industries are developing, because it is becoming quite apparent that the two-speed economy in my electorate and in the seat of Flynn is almost out of control for the older industries.

They also have to address the issue of infrastructure. The Warrego Highway is like a city highway now, with congestion that was never imagined in the past. We have to make sure that this new wealth brings wealth to all, not just to some. The growth must be managed. To give you some idea of the sort of growth we have seen, in my own home town of Roma we have 1,000 new houses coming. Unemployment is under one per cent. We used to have one flight a day of a Dash 8 from Brisbane to Roma; we now have six. In the last 12 months we had 60,000 passengers through the air terminal in Roma and have just opened the new $15 million air terminal. It is going to rise to 100,000 passengers in the next 12 months. That gives you some idea of the extraordinary growth. It has to be better managed, and the LNP government—(Time expired)
Mr GRAY (Brand—Special Minister of State and Minister for the Public Service and Integrity) (09:33): I rise to note the passing earlier this year of Chris Clare, the former CEO of Warmun. Chris was born in 1942 and raised in Chatswood, Sydney. He was an excellent athlete with a love of Rugby League and cricket, sports he continued to play long after leaving school. Chris started out as a patrol officer in the then Welfare Branch, later becoming the Department of Aboriginal Affairs in the Northern Territory. In the late 1960s Chris was posted to Yeundumu, where he was superintendent. Chris was then advanced to senior positions within the Department of Aboriginal Affairs in the Northern Territory and New South Wales. In 1976 Chris took a role as one of six experienced field area officers in New South Wales, responsible for the strip of coastal land east of the great divide from Queensland's border to the Hawkesbury River. Chris moved to Darwin in the late 1970s to work for the Department of Aboriginal Affairs. In the 1980s he began as one of the early general managers of the Northern Land Council. It was there that I first met Chris. Chris eventually became the regional—that is, state—director for the Department of Aboriginal Affairs in New South Wales and then the general manager for Aboriginal arts and crafts.

Chris was always a passionate, practical man, and these characteristics eventually took him back into the field in Warmun in the East Kimberley in 2006. Chris and I would again cross paths when I began to spend time in the East Kimberley in 2008. Chris's experience throughout Australia would later be of significant benefit to the people of Warmun. Chris always had a great respect for traditional Aboriginal culture. He was a believer in the importance of ceremony and spiritual belief and was a supporter of two-way learning as a central tenet of reconciliation. Chris also had skills so often lacking in remote communities: his strong administrative capacity in managing program funding for the benefit of the community. This skill underpinned his successful leadership in Warmun in recent years.

Over his period in Warmun, Chris was to use the experience gained in over 40 years of work in Aboriginal affairs to re-establish Warmun as a source of pride to the Aboriginal community located there. He was a principled advocate for social justice and made sure that the people of Warmun were afforded as many opportunities as were available to them. The way he responded to the flash flood crisis in Warmun last year, 2½ years into his battle with cancer, epitomised the man. At this community's darkest hour, Chris was there to make sure everyone evacuated safely.

Chris will be missed by his wife, Cherrelle. His wise counsel and advocacy, cherished by the people of Warmun, will be sadly missed.

Casey Electorate: Schools

Mr TONY SMITH (Casey) (09:35): On Saturday I had the pleasure of attending the Manchester Primary School fete in the suburban part of the Casey electorate. I want to pay tribute to the teachers and the dedicated group of parents who volunteered so much of their time in the weeks leading up to that, and of course on the day, to make that such a successful community event and fundraising event for the school. I pay tribute to the principal, Peter Jenkins, and to the assistant principal and one of the main organisers of the fete, Philippa Adgemis, along with, as I said, a group of parents on the organising committee. The school raised around $5,000. There was a raffle and a silent auction. I was happy to donate some items and also to draw the silent auction. It was a wonderful day at the Manchester Primary
School, with a number of stalls of produce and plants. It was great to see so many of the parents manning the stalls and doing everything they could to raise some money in a fine community spirit at Manchester Primary School.

The next day, in the rural part of Casey, I had the pleasure of attending the Wandin North Primary School harvest market. The principal, Hetty Thomas, and organisers Rachael Edwards and Megan Gibbons, plus a very dedicated committee of many other individuals, too many to mention, organised this annual harvest market. It has been a major fundraiser for the school. It raised over $18,000 this year at what was their 11th annual harvest market in the last decade. The school community through this harvest market has raised in excess of $100,000, and that money has been used to purchase air conditioners, gas heaters, library books, playground equipment, interactive whiteboards and desktop computers. The market attracts visitors from right around the Yarra Valley.

I was very pleased to drop in with my family during the day and have a chance to meet many of the parents while they had chance to do the same and also buy many of the items from the stalls that were there. My young sons, Thomas and Angus, had an enjoyable time and—as you will understand, Madam Deputy Speaker—insisted that we leave with not one but two inflatable Nemo balloons.

**Bass Electorate: Freight Transport**

Mr Lyons (Bass) (09:38): I rise today to again talk about an important issue in my electorate of Bass in Northern Tasmania, that being the current state of container shipping from the port of Bell Bay. Last year, the previous international container-shipping company ceased their operations out of the Bell Bay port. This has resulted in containers now being transported by road to Burnie for shipping out of the state to Melbourne. As a result of this, dramatically increasing costs have occurred for northern bound freight to both mainland and international ports. On top of this, the Liberal state government in Victoria has imposed a port tax. The Liberals’ tax is $74 million imposed on Tasmania, which is exacerbating the hardship that Tasmanian exporters are currently experiencing. I call on Will Hodgman, the Liberal leader in Tasmania, to get his Liberal colleagues in Victoria to remove this Liberal tax on Tasmanians. I have had discussions with business and industry representatives in Bass on this important matter. Consequently I, together with my federal Tasmanian parliamentary colleagues, have raised the urgency of this situation with the federal ministers. A suitable solution to this situation must be found as a matter of urgency to ensure that continued exporting of quality Northern Tasmanian products to the mainland and internationally continues.

While being an island state brings its benefits and advantages, it also has its shortfalls. There are already high costs of shipping, without added costs of transport by road to Burnie for the industrial hub of Bell Bay. The cost of moving freight to Burnie is contributing to the demise of manufacturing in Tasmania. The people and businesses of the north of Tasmania are hardworking and innovative. In order to remain resilient into the future, obstacles such as unacceptable freight costs and the unavailability of international shipping out of Bell Bay port are causing a level of economic uncertainty.

I and my federal Tasmanian Labor colleagues are determined in our collective efforts to ensure a fair and equitable outcome to the current container-shipping costs of Northern Tasmania. Tasmanian exporters are incurring unacceptable freight costs for their products and
also incurring additional road costs. The road transporting of containers through the Frankford Highway to the Burnie port will cause unacceptable wear and tear on roads that were never designed for such high-level heavy vehicle movements, which is a burden to all Tasmanians which must be rectified. I call on all parties to find a fix for this burden in Tasmanian freight so that Tasmania continues to be an exporter of quality products.

**Flynn Electorate: United Nations Educational, Scientific and Cultural Organisation Delegation**

**Mr O'DOWD (Flynn) (09:41):** Recently a UNESCO delegation visited my electorate, inspecting the conditions and development of the Gladstone Harbour and the Great Barrier Reef. The delegation met with many stakeholders. These included the Fitzroy Basin Association, the Capricorn Conservation Council, the Gladstone Local Marine Advisory Committee, recreational and commercial fishermen, Gladstone's Indigenous groups, the Gladstone port authority, various mining and gas industry representatives, and other environmental groups. It disturbs me somewhat that it was only at the eleventh hour and after some behind-the-scenes effort that I and the state member for Gladstone, Mrs Liz Cunningham, were to meet with the delegation.

This UNESCO mission is to hand down a report that will be an embarrassment to the state and federal governments on the handling particularly of the Gladstone port authority. Therefore I ask: was the delegation expected to gain complete perspectives of the situation without hearing the views and concerns of the broader community—that is, the people that Liz Cunningham and I represent? Fortunately, the delegation was more than happy to hear from our communities' elected representatives, but I would argue that 30 minutes was nowhere near long enough to convey the thoughts of all the people of our electorates.

Since this visit I have been alarmed by the short-sighted decision by the Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke, in regard to the proposed expansion of the Rio Tinto bauxite operations in North Queensland. I am told that he has made this decision based on a one-page submission by the World Wildlife Foundation, based on disinformation about the shipping activities throughout the reef. Doesn't Mr Burke realise that these operations have been taking place for over 40 years, that these operations employ some 3,000 people and that the government collects $10 million in royalties from these operations? Would it be possible that the minister is trying to appease UNESCO ahead of the delivery of the report, which will inevitably highlight the state and federal governments' mismanagement of the Gladstone port?

The fact that UNESCO has sent this mission highlights how important Central Queensland is to the welfare of Australia at at least these two levels: our mining and resource development is a fundamental part of the national economy, and our environmental assets, including the Great Barrier Reef, are a vital part of our past, present and future. Achieving a balance between these two is not impossible and should remain a high priority as we plan for the future.

**Fremantle Electorate: Magellan Powertronics**

**Ms PARKE (Fremantle) (09:44):** I rise today with the exciting story of an innovative power electronics engineering enterprise, Magellan Powertronics, operating in the burgeoning
commercial-industrial district of Bibra Lake, one of the fastest growing in the nation, right in the heart of the Fremantle electorate.

Since 1992 Magellan Powertronics has been supplying power electronic systems. An ac-dc converter is the most typical such device and related equipment to support many sectors, among them defence, power generation, mining, renewable energy, oil and gas, petrochemical, health, transport and marine. It has won contracts for some of Australia's largest development projects such as FMG's Cloudbreak and BHP's Hay Point expansion in Queensland.

In 2011, Magellan placed within the final four companies in the WA state government's Innovator of the Year Awards and within the top 15 for WA in the federal government's Ethnic Business Awards. Established and owned by Mr Masoud Abshar, this small Australian company is planting its own seeds and tending them through every phase from research, development and design to commercial manufacture, supply and service. All of this work takes place at the company's two Bibra Lake locations where 55 talented people, many of them local graduates, are employed. Magellan's intent is to grow and encourage Australian talent. Key to that aim is keeping the design and manufacture of its products in Western Australia and winning local tenders ahead of overseas imports.

The Australian government, through its Commercialisation Australia Program, is supporting the development of Magellan's latest innovation, a grid power support system, or GPSS, with this $248,000 proof-of-concept government investment. Magellan's team is perfecting the GPSS by making it lighter and more compact, a critical evolution for commercialisation.

Magellan's GPSS will regulate and improve the power quality for homes and businesses in rural areas served by the single wire earth return or SWER networks installed to electrify rural Australia in the 1940s. SWER have worked well, but with increasing demand has come an overall decrease in power reliability, especially during heavy load periods. When fully commercialised, GPSS stand-alone equipment will provide energy suppliers with a highly cost-effective alternative to upgrading the SWER network and will increase overall power capacity by making use of renewable energy to support rural and remote communities.

Another application of the GPSS is to stabilise the grid system, which becomes increasingly unstable as more solar power is injected into it, by levelling demand and supply. This equipment levels out the power demand on the grid by extracting the solar component on the grid and saving it in batteries at peak solar availability. It then releases the power in accordance with consumer demand.

Commercialisation Australia is a fantastic initiative. It is assisting more than 110 Australian companies, universities and other organisations. It is a competitive merit based assistance program of the Australian government offering funding and resources to accelerate the business-building process for Australian companies, entrepreneurs, researchers and inventors like Masoud Abshar and his team at Magellan Powertronics. (Time expired)

**Wild Dog Aerial Baiting Trial**

Mr CHESTER (Gippsland) (09:47): I would like to take the opportunity today to respond to media reports in Victoria that a proposed wild dog aerial baiting trial has been put on hold.
because it has not been approved under the Commonwealth's Environment Protection and Biodiversity Conservation Act.

A federal government spokesman is quoted in the media reports as saying the major concern was the potential significant impact on quolls. The report goes on to indicate that the federal environment department has sent a request back to the Victorian government requesting more research and information. In fairness to the Minister for Sustainability, Environment, Water, Population and Communities, he has not rejected the application but this delaying tactic by the department is effectively a death warrant for native species and valuable livestock. Without immediate Commonwealth approval, the window of opportunity will close to undertake an autumn aerial baiting program in Victoria.

The aerial baiting trial was due to start in May and was timed to hit the young dogs as they are on the prowl and seeking a good feed before the leaner winter months. It is unlikely the Victorian government will be able to meet the autumn baiting season as the federal government's environment department continues to exercise its extraordinary power over activities which many in regional areas find excessive and contrary to the sustainable and practical management of the environment.

The green tape of the EPBC is tying regional Victorians in knots. We have seen it with the ban on the alpine grazing trial. We see it with ridiculous rulings which prevent roadsides being used for the purpose of building roads. We see it with the flying foxes impinging on communities like Bairnsdale and now we are seeing it with the wild dogs aerial baiting trial.

Of greatest concern to me is the simple fact that research work has been done in the past. A report has been presented by the New South Wales government which found:

… that aerial baiting had a minimal impact on the quoll populations …

The report goes on to say:

… this research suggests that aerial baiting is unlikely to have an impact on quoll populations as a whole. In fact, aerial baiting which suppresses local fox and dog populations may benefit quolls in an area.

This research work has been done in both Queensland and New South Wales when aerial baiting has been permitted in the past.

On behalf of the farmers in Victoria, I urge the minister to intervene in this matter as a matter of urgency. His department is off on a green-tape frolic that is unsupported by the research and will harm the economy and the environment. Every day that we stop this aerial baiting trial in Victoria is another day that wild dogs will feast on native wildlife and kill livestock in my community.

A report into the cost of wild dog attacks put the economic impact at $18 million per year in Victoria alone, but there is no doubt that the true cost is much higher. To its credit, the Victorian coalition government has committed to a more holistic approach to wild dog control measures. After years of inaction by the previous Labor administration, the current government is looking to use every tool at its disposal to reduce the impact of wild dogs. It has introduced a wild dog and fox bounty and has given more resources to trappers and to aerial baiting programs intended to complement these efforts.

Naturally, landholders have an important role to play, to invest in fencing, and we need a genuine partnership approach involving multiple levels of government, paid trappers and our
local community. The federal department's intervention is unhelpful and sends a terrible message to my community. The federal environment department should get out of the way and let the Victorian government implement its trial, which will have social, economic and environmental benefits in regional Victoria.

Ingham Institute for Applied Medical Research

Mr HAYES (Fowler) (09:50): Recently I had the opportunity to visit the construction site of what will become the most advanced medical research facility in Australia, and quite possibly in the world, the Ingham Institute for Applied Medical Research in Liverpool. The Ingham Institute will provide a base for 200 research staff who are currently working in various hospitals across Western Sydney. Thanks to a $49 million grant from the federal government, the construction is likely to be finalised in mid-June, with the opening scheduled to be in October this year.

Established in 1996, the Ingham Institute is a unique collaboration between the health services of south-west Sydney, the University of New South Wales and the University of Western Sydney. It is one of the few medical institutes in Australia that brings together two strong university partners while linking to a major general hospital, being the newly refurbished Liverpool Hospital.

The Ingham Institute for Applied Medical Research is a charitable organisation that facilitates cutting edge research on a range of diseases affecting the local community. Core research areas for the institute include cancer, injury, population health, brain science and mental health, cardiovascular disease, infectious and inflammatory diseases and early years. The focus on translating findings into practical clinical outcomes is paramount. The researchers working throughout Western Sydney will now be able to come together under one roof and enjoy first-class facilities and equipment.

I walked through the construction site with the Ingham Institute chairman, Terry Goldacre; institute directors John Hexton and Arnold Vitocco; the research director, Professor Michael Barton OAM; and the institute's chief operating officer, Associate Professor Greg Kaplan. The site will have open access to enable a team based collaborative working environment for all its medical researchers. One of the exciting things is that the new facility will have a clinical skills and simulator centre and a research bunker. The research bunker will include the much anticipated cancer therapy MRI coupled linac accelerator, which recently received a significant $5.7 million program grant from the National Health and Medical Research Council.

Having this facility in Liverpool will undoubtedly shine a positive light on south-west Sydney and will impact on medical research in Australia and undoubtedly internationally as well.

Queensland State Election

Mr ROBERT (Fadden) (09:53): Saturday 24 March is, of course, the day when Queensland goes to the polls after an extraordinarily long period of campaigning, with an announcement prior to the cessation of parliament in extraordinary circumstances. In my seat of Fadden there are numerous state seats but what I want to focus on this morning is the seat of Broadwater. I want to bring to the attention of the House some of the pressing issues in this seat and some of the issues that have been overlooked by a very tired, very longstanding and
out-of-date Labor government. The seat of Broadwater is named because it actually straddles the Broadwater—a Broadwater that is now so clogged, so silted up and so urgently in need of dredging that economic benefits are now being lost in abundance.

We saw a GHD report come out a few years ago which the government commissioned but failed to release. That GHD report was subsequently leaked and showed that there are hundreds of millions of dollars in direct benefits that will come out of dredging of the Broadwater, which has not occurred under the current Labor government and under the stewardship of the current state member for Broadwater, Ms Peta-Kaye Croft MLA. We have seen a request for tender for a superyacht terminal on the Gold Coast, which would bring enormous net worth in terms of the number of superyachts that would arrive and their spend per person and per boat. We saw a tender process put out publicly—a number of people put forward their tenders. One was selected, it was then scrapped. A second tender process came out. Only one group was invited to tender of which they tendered. Then the government scrapped the process to the point where those economic benefits are now being lost.

We have seen the marine precinct at the end of the Cooma River which has now gone from literally 3,000 to less than 1,000 employees as a direct result of not only the GFC but the failure to dredge the Broadwater and provide opportunities for vessels to use the Cooma River and use the refit facilities at the marine precinct.

It is a crying indictment of what the state Labor government has not done. When this government came into power there was a Broadwater authority—a group of informed, concerned resident locals that oversaw the Broadwater, its management, its diversity and its economic potential. That Broadwater authority, of course, was scrapped. All revenues raised from boat registrations, of which the Gold Coast in this area is the highest per capita in the country, have just gone into consolidated revenue.

There is no question: it is time for a change in the Broadwater. We need a candidate of the likes of Verity Barton, who is running for the Liberal National party in the area, who will focus on the core needs of the community and the economic potential of the community, and ensure that Broadwater is dredged—the river is dredged—so that we can receive and use the benefits that will come from those activities.

International Purple Day

Tibet

Ms SAFFIN (Page) (09:56): I want to note in this place that this Sunday 26 March is International Purple Day supporting epilepsy around the world—a day to raise epilepsy awareness. We have been asked by Epilepsy Action Australia to wear purple today, Thursday, 22 March, to show our support. I note also that my colleague and friend the honourable member for Shortland through the parliamentary group demonstrates the support of the parliament, and I know there are many others as well.

In my seat of Page, a local woman, Tracy Doherty, has organised for this Sunday a barefoot bowls day at the South Lismore Bowling Club at 11 am to raise awareness for much needed funds for research. Tracy's beautiful daughter Emily has been diagnosed with non-specific epilepsy, and Tracy is thanking people for supporting such a great cause. I may not be able to attend but I have given support. My office manager, Carmel Cook, also has epilepsy.
and is a bowler, so she and her husband Ian, also a bowler, are going to attend on Sunday. I want to commend Tracy for her efforts in organising such an event for Sunday.

Another issue of importance in my electorate is that a significant number of local people have asked me to meet the Tibetan delegation who visited parliament this week. A formal request came through the Australian Tibet Council. Their presence was welcomed here, but unfortunately I could not meet simply due to the parliamentary responsibilities and clashes of times, but my apologies were given. I am a member of the Parliamentary Friends of Tibet—a group headed by Mr Michael Danby MP and Mr Peter Slipper MP. I thank them for their good work in this area.

I also welcome the foreign minister's comments in the Senate that he asked the People's Republic of China for permission to send Australia's ambassador in Beijing to Tibet to investigate religious protests by self-immolation and that he was asking permission to allow a group of parliamentarians to investigate the grievance that had given rise to these extreme and distressing forms of protest.

My office also took delivery of a letter signed by 201 Yamba residents handed over by local Yamba resident nurse and artist Jill Bradshaw with a whole package of salient material that detailed human rights abuses. I know that they are having a function in Yamba at the Star of the Sea Convent on Tuesday night, 3 April, with monks performing. A lot of people have been asked to attend that.

BILLS

Corporations Amendment (Future of Financial Advice) Bill 2011
Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011

Second Reading

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

to which the following amendment was moved:

That all words after “That” be omitted with a view to substituting the following words: “the House declines to give further consideration of the bill and of the Corporations Amendment (Further Future of Financial Advice) Bill 2011 until after the Government has tabled for the bills a Regulatory Impact Statement which has been assessed by the Office of Best Practice Regulation as compliant with its requirements”.

The DEPUTY SPEAKER (Mrs D'Ath): The immediate question is that the amendment be agreed to.

Mr IRONS (Swan) (10:00): I welcome this opportunity to speak on the Corporations Amendment (Future of Financial Advice) Bill 2011 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011. I welcome in particular the opportunity to represent the financial advisers in my electorate of Swan, many of whom have serious concerns about this bill and the process that the government has undertaken to this point. There are a lot of people employed as financial advisers across the electorate of Swan, and I quite often get approached by people from this sector at events I attend. I have held a
meeting with a representative group in my office, and it is important that the House realises how concerned these organisations are with the direction the government is taking with this legislation. It is unbelievable how many groups this government has managed to put offside simply through its management and processes.

In this chamber on 23 June 2011 I raised concerns with the way the government was proceeding with this legislation and spoke about some of the concerns that have been raised by financial advisers in my electorate of Swan. They were extremely unhappy with the way the government was proceeding with legislation. Unfortunately, nine months later the government has failed to take on-board points raised by the industry and coalition, and that has led to the situation where we cannot support these bills in their current form.

This behaviour of ignoring advice is typical of this government, which has taken to ignoring good advice from the coalition and from industry on not only this legislation but also multiple pieces of legislation that have gone through this place since 2007.

After a consultation with industry, and careful consideration, the coalition will be moving a series of amendments to these bills, and we ask that Minister Shorten and crossbench members consider them seriously and support them. The amendments can be summarised as follows: the government be required by parliament to table a regulatory impact statement on FoFA assessed as compliant by the government Office of Best Practice Regulation; opt-in be removed from FoFA; the retrospective application of the additional annual fee disclosure requirement also be removed; the drafting of the best interest duty be improved; the ban on commissions on risk insurance inside super be further refined; and implementation of FoFA be delayed to 1 July 2013 to align it with MySuper.

I will talk in more detail on these amendments later, but it is first worth considering the background to this legislation and the background to the industry. The financial sector industry is a vital industry not only to the wellbeing of the Australian economy but also to many small- to medium-sized investors in Australia. The role the industry plays is to give the best possible advice to investors and of course up-to-date advice that will enable the investor to improve their financial positions. Areas that advisers might assist with include life insurance, superannuation, mortgages, pension planning and so on. These are important areas and in the Liberal Party we see it as a real positive when people choose to organise their financial affairs—their pensions, the superannuation and their mortgages—because this takes pressure off the government and the public service. This is why this legislation is so important today. The last thing we want to be doing as a parliament is making it more difficult for people to access local financial advisers in the community. However, this is what this bill is going to do.

It is worth going back to understand the history of the legislation and the implementation of it. As the shadow minister said, in the wake of the global financial crisis, there were a number of high-profile collapses of financial service providers across Australia in particular the collapses of Storm Financial, Trio and Westpoint. The federal government felt that it had to do something and commissioned an inquiry into financial services, which became known as the Ripoll inquiry named after the chair of that committee, the member for Oxley. As I have said before, I have some sympathy for the member for Oxley because he put some effort into his inquiry only for the government to completely ignore his recommendations. It is a shame
because the Ripoll inquiry provided a blueprint that the government could have adopted with bipartisan support.

One of the key observations of the Ripoll inquiry was that:

…the committee is of the general view that the situations where investors lose their entire savings because of poor financial advice are more often a problem of enforcing existing regulations, rather than being due to regulatory inadequacy. Where financial advisers are operating outside regulatory parameters, the consequences of those actions should not necessarily be attributed to the content of the regulations.

The reforms referred to were the 2001 legislative changes which provided a strong regulatory foundation for the financial services industry. It would have been ideal to move in a bipartisan manner based on the Ripoll inquiry not just between the parties in the parliament but also between those in the financial services industry. The inquiry reported back in November 2009. Think of the progress that could have been made since that time. However, instead the government embarked on a different path that has led to this legislation today, 22 March 2012, in which it managed to put offside just about every financial adviser in the country. Even at this point though there was an opportunity for the government to see sense, start listening, and produce some good legislation through an inquiry by the Parliamentary Joint Committee on Corporations and Financial Services into the bills. However, they did not listen, which was disappointing for many who have made submissions to the inquiry. I received an email from one of my constituents, who is an authorised representative of a financial group, who wanted to bring the response from the industry to my attention as soon as possible. The press statement he sent to us said:

Industry bodies have expressed their disappointment at the findings of the Parliamentary Joint Committee's (PJC) review into the Future of Financial Advice (FoFA) Bills.

A report outlining findings of the review was tabled in Parliament today. However, the PJC was unable to reach a consensus in relation to the proposed legislation, with the Coalition Committee members issuing a dissenting report.

The Financial Planning Association (FPA) said the PJC had missed an opportunity to deliver the benefits that FoFA was originally intended to bring.

I will also read out some comments that my constituent brought to my attention. These are comments that were posted on a financial blog after the news of the committee report came through. One comment said:

It has been quite clear from the beginning that this government pretends to consult and then does what it wants to do pandering to vested interests. Labor MPs have no say in the matter. Nothing will happen unless the government is changed.

In another comment from that particular website Alistair said:

The PJC fails in delivery is not really a surprise given this governments approach in ALL it has so called achieved to date. This government whose ministers are nothing short of self interest incompetants who cannot run a canteen let alone a country have once again demonstrated that they are only willing to support the cause of self interest for themselves and their union mates. Enough is enough. As members of this industry, we should rally to a call not only to save this industry but also the nations by asking clients to petition the coalition to block supply and call an election. Its time for this bunch of arrogant morons to go. They do not deserve to be in office.
That is an indication of how much passion there is around this particular bill, particularly from the industry. Another comment posted by Steve said:

One of the most glaring examples of the government pandering to the unions is the acknowledgement by Swan and Shorten that while they will stop volume rebates payments from platforms to independant advisers, they will not stop union super funds’ secretly subsidising their advisers because it’s too hard!

I want to use the time that I have left to make a couple of specific points on the legislation as it stands and in particular the amendments that the coalition are putting up.

Over the past two years there have been constant and completely unexpected changes to the proposed regulatory arrangements under FoFA right up until the introduction of the current legislation. Invariably, this was done without proper appreciation or assessment of the costs involved of any unintended consequences or other implications flowing from the proposed changes. Important financial advice reforms have been delayed by more than two years so that the government can press ahead with a number of contentious issues.

In my speech of 23 June 2011 I raised, on behalf of my constituent, an issue related to the opt-in proposal, which is now a component of this legislation. Opt-in imposes a mandatory requirement on consumers to keep re-signing contracts with their financial advisers on a regular basis. This imposes an additional level of red tape on the industry. Last week I spoke about red tape in business and the 12,835 new regulations the government has introduced in comparison to the 58 it has repealed, despite the Kevin 07 one-in one-out promise. This legislation would surely add to this tally. As the shadow minister said, it would make Australia world champions in financial services red tape.

During the Senate estimates process it was revealed that the average small business financial advisory firm would face additional costs of $50,000 per annum. It is interesting—this week particularly—to see how the government has portrayed itself as a friend of small business. I, for one, who have run a small business for 25 years and employed 16 people, understand what it means to run a small business. I have experienced the cost of compliance and red tape implemented by government. Unfortunately, yesterday on the doors we saw a poor effort by a so-called small business woman who is now in parliament. The member for Canberra was trying to explain the new superannuation situation and who would pay. We all know—all business knows—that businesses will pay. It will not be as a result of the MRRT; small business will pay the new three per cent levy. This cost will easily wipe out the so-called benefit to small business of the one per cent tax cut.

It is surprising that the government is pursuing the opt-in proposal, not least because there was only one submission to the Ripoll inquiry arguing in favour of opt-in. The measures in place—which already include best interest duty, appropriate transparency of fees charged and ongoing capacity for financial advisers to opt out of any advice relationship at any stage—provide for consumer protection without the need to impose additional costs and red tape on both businesses and consumers. The coalition has a clear position on this—that is, opt-in should be removed altogether.

On a logistical and operational point, I make a few comments on the time frame for implementation of this legislation. The current implementation date of 1 July 2012 is completely unrealistic given that it is only four months away. Considering the red tape concerns I have just spoken about, four months is not sufficient time to prepare for these changes. The fact that the government thinks that this is possible shows, again, the...
government's lack of understanding of business realities. I repeat: it is disappointing that there is virtually no-one on the Labor side with any real experience of running small business. As such, the coalition will move an amendment for the opt-in to be removed from FoFA. I hope that this attracts the support of the Independents.

In my speech of 23 June last year I mentioned that the proposed ban on commissions on risk insurance was perhaps the most controversial aspect of the legislation among industry. The government's position on this matter has been confusing and ever-changing. Banning commissions on risk insurance will increase costs for consumers, remove choice and leave many people worse off, particularly the small business people who self-manage their future. There is already a problem of underinsurance in Australia. A ban would exacerbate this. What is more, recent experience in the UK showed that a ban does not work, which is why the UK reversed its decision.

The coalition's position is clear: we agree that Australians who receive automatic risk insurance within their super fund without accessing any advice should not be required to pay commissions. However, those Australians who require and seek advice to ensure adequate risk cover, whether inside or outside their super fund, should have the same opportunity to choose the most appropriate remuneration arrangement for them.

In conclusion, as the member for Swan and someone who has had some experience dealing with small business, I cannot support this legislation in its current form. It is a result of a messy process, it has no support in the community and it puts the financial services industry at risk. The Ripoll review could have taken us forward in a bipartisan way in 2009. But now, three years on, we have been presented with this poor piece of legislation. I support the coalition amendments, which will be moved at the conclusion of this debate.

Mr RAMSEY (Grey) (10:14): I rise to address these two bills. Retirement investment has become very, very important in Australia, and I think it is something to do with our age grouping. Many of us are classified as baby boomers and, as the baby boomer generation has come through, they have benefitted from a great growth in Australia's economic fortunes in that time. Over that period they have been able to designate, in many cases, shorter working lives and be able to make decisions for their future, where slowly the emphasis on providing for our retirement has shifted from government to the individual.

In many cases some of these individuals will be retired for a very long time—possibly 30 years and in some cases 35 years. That means great care has to be taken in one's working life to make sure we have those nest eggs available to us to sustain us in the manner to which we have become accustomed.

In that light, successive governments have made a number of legislative changes which have encouraged people to put money into superannuation type products. Even at the moment we have the ability not only to take the superannuation paid by employers but to top up, even though I was disappointed in the last parliament when the government actually reduced the amount that people could put voluntarily into super.

This general reorganisation of our lives has led to a great escalation in the financial services sector. There is of course general investing, where people buy shares and invest in bank type products, long-term bonds and property. But then there has been a great growth in superannuation type products, both fully managed and self-managed. In the light of some
occurrences in the last three years, which actually brought about the Ripoll inquiry, it is this
great growth in self-managed superannuation funds that I think will give people pause to have
a bit of a think about the way they do business because they have proven to be the most at-
risk product and the one with no fall back.

Investors generally place their trust in financial advisers, and this is a good thing. Even
though they generally are thorough, honest and professional in the advice they give, there are
always those who are not and there are those who make genuine mistakes—in fact, we all
make genuine mistakes in life. Financial advisers place a great deal of trust in the
organisations that regulate them, including ASIC.

One of ASIC’s jobs is to register companies, and register and manage investment schemes.
I think there are a number of financial advisers out there, and many people out there, who
place a great deal of trust in this registration process and believe that those companies
offering services that are registered under ASIC’s approval will be robust and be able to meet
their commitments as they go forward. Unfortunately, the events of the last few years when
we saw the collapse of Storm, Trio and Westpoint provide that this is not sufficient protection
and people cannot be fully confident in ASIC’s ability to register those companies that have
true integrity.

While we are right to focus on the role of local advisers, we should also be having an
objective look at the way ASIC license companies into this arena and allow them to operate
and offer products. The government commissioned the Ripoll inquiry as a reaction to the
collapse of those three companies, and quite rightly. They have done the right thing. I have
had private meetings with Bernie Ripoll and I believe that that committee attacked their chore
with great vigour and a clear focus on what they needed to achieve. That is why it is
important that the government and all of us be careful with the recommendations—the
results—that came out of the Ripoll inquiry. The first rule of government, in my humble
opinion, let me say, should be to cause as little harm as possible. These bills vary in a number
of ways from the unanimous recommendations of the Ripoll inquiry and that is why the
opposition will be moving amendments, and that is why we are somewhat wary of what is
being proposed here. It is why I am somewhat wary.

I have had an enormous amount of contact on this issue. My friends who are accountants
and financial advisers are not normally the most demonstrative of people within our
community. But in this particular case they have been properly fired up, and I have had an
enormous amount of contact. I have met with a number of financial advisers. I must place on
the record that the electorate of Grey was one of the two most affected electorates by the
collapse of the Trio Group. There was over $100 million invested in the Trio Group from
within my electorate. That came from one medium to large financial advisers group that had
recommended their clients invest in this area. Over that period I have had many contacts with
constituents who are extremely concerned about their life savings. Not only were they worried
about their security but they were worried about the fact that their funds were locked up for a
period of almost three years. The ability to run their lives without a secure form of income
coming in became very stressful for them. In the end, they were enormously grateful and
relieved that the insurance, that is, the levy on the industry, underwrote the risk that they had,
and they received their money back. But some still lost significantly, and they were those who
were in the self-managed super funds I first mentioned. I believe the loss from Trio Group capital is around $60 million in self-managed super investment funds Australia wide.

To return to the contact that I have had from financial advisers in the industry, the biggest concern without a doubt is the opt-in package that has been brought forward in these bills. That means that once every 12 months the financial adviser has to sit down with their client and reassess the suitability of the package for them and in many cases just collect a signature. That is going to be quite an impost for anybody within the industry to achieve—to have to bring their clients in once every 12 months. You have to make time in your working day. That will require weekend work to try to work around people's schedules. But in the country, it is always different. In the country things are done differently. With insurance agents and financial services deliverers, many of their contacts are made on a personal basis. If you live in a rural setting that means a visit to the farm. In any given day you might get to four or six clients. If you have a couple of hundred clients on your books, that is going to take around 40 days of your time. There is no way that these financial services deliverers will not have to pass those costs onto the people. It takes a bit of time to visit someone in their house. It is all very well to have someone into your office for 20 minutes. But in the rural and regional way we have of doing business, a visit involves time to sit down and have a cup of tea and talk about how the children are going. A little bit of time evaporates. So that is where a large amount of this extra cost will be. The industry estimates it will be $700 million to implement and then a further $350 million per annum to operate. Opt-in was not one of the Ripoll committee's recommendations. That is why I said at the outset that governments should always cause the least harm possible. I am not sure—in fact I am far from convinced on these bills—that that is the government's underwriting guide at all.

You have to ask yourself why; why is the government so intent on thrusting this extra cost on? I understand the argument that they want more security for the consumers. I understand that. But it is far from clear that many of these changes are going to give extra security. It is interesting to note in the evidence that the one group that asked for opt-in were the industry super funds.

This is a recurring theme in this parliament: this alliance, this close relationship, between the government and the Australian Labor Party and industry super funds, which are controlled by their partners in politics, the Australian union movement.

Mr Husic interjecting—

Mr RAMSEY: The reason is that we only have to look at the payments from the unions to support the ALP in their electoral quest to understand why the relationship is so close. There has been a lot of noise made in the last few days about some prominent individuals in the Australian community who choose to support the Liberal Party. It is this behind-the-scenes manoeuvring which underwrites the future of the ALP. It was not part—

Mr Husic: That's rubbish!

Mr RAMSEY: I am in the Federation Chamber, Mr Deputy Speaker, and I would ask that you would ask the member to remain silent.

Mr Husic: He is making an outrageous accusation!

The DEPUTY SPEAKER (Mr Windsor): Order!
Mr RAMSEY: If it was not part of the recommendations, in that light, it should be eschewed. The time frame is a concern; the industry is very worried about the time frame. It took three months and 10 days to get this enormous change, this enormous new raft of financial regulation, into the Australian financial services sector. It is far too short. In fact, the government has shown in the last few years that they cannot organise a piece of legislation to get through this place in under about two years, and they expect the financial services industry to adapt to these changes which are not yet through parliament in less than three months. That is far too short; it should not be allowed.

As I draw towards the close I would like to focus on some of the words that came from the Ripoll inquiry. This is a quote:

The committee is of the general view that situations where investors lose their entire savings because of poor financial advice are more often a problem of enforcing existing regulations, rather than being due to regulatory inadequacy.

That is an amazing statement. The committee that the government set up, dominated by government members, has said that the framework is not too bad, but what is happening here is that it is not properly enforced. But they have come back now and presented a pair of bills which are about laying a whole new layer of regulation over this industry. This is a recurring theme with the government.

Last week we had new regulation in the transport industry. We are having new regulation, obviously, in the carbon area where companies are going to have to actually invent new accounting methods to those they have used traditionally. Red tape is the number one issue that my constituents come to me about. They say, 'We are drowning in it'—and here we have just another raft of red tape which is going to tie the industry up. Even the government Office of Best Practice Regulation says that the government did not have adequate information before it to assess the impact of these bills.

On the balance we cannot possibly support these bills. We will be moving some amendments which will be more in line with what the Ripoll inquiry recommended. That was the point of the inquiry and it was the point of the announced decision, and now we are being asked to support something which is entirely different. I will be opposing these bills unless, of course, the government is to take on our amendments and allow us to achieve good quantitative change.

Mr TONY SMITH (Casey) (10:29): I join with my colleagues in speaking on the Corporations Amendment (Future of Financial Advice) Bill 2011, being debated cognately with the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011, and in opposing the bills in their present form. I start by pointing out to the House that what we are witnessing here today from the government, amazingly, is yet another episode in legislative rush, which we have seen has led to grief in so many other portfolio areas over their period in government. This shines a light on this government's incompetent legislative processes. The way they go about trying to legislate in this area is so similar to what we have seen in other areas where there has been policy failure and policy catastrophe.

As speakers on our side of the House have outlined over the past 24 hours, the legislation in its present form cannot be supported. A range of reasons for that have been articulated throughout the course of the debate, but also over many weeks and months. Despite this, the government will stubbornly press ahead. They will do so while many on their back bench
know full well that this is flawed legislation and that, as my colleague who spoke before me pointed out, it will cost jobs and choice. If this legislation succeeds it will make Australia the world champions of red tape in the financial services industry.

It is a shame because, despite the incompetence of the ministers bringing this legislation forward, those on Labor's back bench in their party room—or their caucus, as they call it—would know that this is damaging legislation. Yet they are prepared to support it. It is not just a reflection on the failure of senior ministers—and what a failure it has been, as speakers on our side of the House have outlined—but it is also a massive reflection on the failure of those in the caucus. Some have been very involved, for a number of years, in the parliamentary inquiry that I have been on. They have seen this legislation evolve in the past few weeks and they would know full well, as the previous speaker pointed out, that it will cost jobs, that it will cost choice, that it will increase red tape and that it will be bad legislation.

Our side of the House has outlined that we will move a number of amendments. If these amendments were to be supported, this legislation would be what it should be. But, at present, as we have outlined, it is unnecessarily complex. It will, as I have just said, cost jobs. It will enshrine an unlevel playing field amongst providers and favour a government-friendly business model. As just pointed out, it will cost $700 million to implement and $350 million a year to comply with—and those are conservative industry estimates. I point out at the outset that the criticisms the coalition brings forward are echoed right throughout the industry by so many of those within it. That is why the coalition has put forward its views on amendments. Those views have not just been put forward throughout the course of this debate. Importantly, what these amendments embody has been very much part of the public discussion throughout the course of inquiries, including the inquiry by the joint committee of which I am a member. Unfortunately the government has done what it has done on so many occasions when it is seeking to bring in a change: it has refused to listen and it is stubbornly pressing ahead.

I want to briefly take some of the House's time to outline the areas in which we are seeking critical amendment on this legislation. Firstly—and you would think it would be an uncontested fact—the government should be required by parliament to table a regulatory impact statement on these reforms as compiled by the government's own Office of Best Practice Regulation. That is contestable. It in itself says so much about the government's approach. According to the government's own office the government did not have adequate information before it to assess the impact of these changes on business and consumers and to assess the cost-benefit of any proposed changes. That is not an assessment that coalition members and senators made; that is an assessment that the government's own Office of Best Practice Regulation has made.

Secondly, the government's proposal for an opt-in is an illustration of the chaotic policymaking on that side. Back in 2009, I think it was—and Mr Deputy Speaker Windsor, you would recall this, because I know you follow these issues—we had the Ripoll inquiry. It was a significant inquiry into financial services. If this legislation passes, the proposal for opt-in imposes a mandatory requirement on consumers to re-sign contracts with their financial advisers on a regular basis.

Mr Ramsey: You can get your drivers licence for 10 years.

Mr TONY SMITH: That is right. And they have to go through that process each year—having to sign a form every single year. You would think that after the government had had
the Ripoll inquiry they would take notice of that proposal in this legislation. It was never part of the initial Ripoll inquiry recommendations, and here it is in this legislation.

Thirdly, we have here a retrospective application of additional annual fee disclosure requirements. We think that should be removed. We think the drafting of the best-interest test should be improved, and speakers on our side have outlined that in some detail. This legislation's treatment of the issue of risk insurance inside superannuation has been a confused and ever-changing position on the part of the government that again reflects their chaotic decision making in so many ways. We think that needs to be refined. Again, the Ripoll inquiry did not make any recommendations to ban commissions paid for risk insurance products. Coalition committee members support the banning of conflicted remuneration structures—I was one of those—such as product commissions et cetera. But again, the fact that they had the Ripoll inquiry, the fact they have ignored and gone down another route, you have to ask yourself why? I think the previous speaker on our side, the member for Grey, hit the nail on the head and it was a sensitive point with the member opposite, point which is why it needs to be hammered home: the opt-in provision which I spoke of earlier. The opt-in was not part of the initial Ripoll inquiry recommendations, and in this context it is important to note that the industry super network provided the only submission to the original Ripoll inquiry arguing in favour of opt-in.

Each of these areas I have run through is illustrative of the government's change of position in so many respects and it leads to the final area of proposed amendment and that is the simple proposition, you would think for those who are rushing: that the timetable for implementation is clearly unrealistic in the legislation. Members have argued on this side of the House that the government should have at least aligned the implementation of any changes it proposes to make. We would still hope, as faded a hope it is, that just once after so many policy catastrophes in so many areas on that side of the House, just once, common sense might prevail. If this happens, you would think government backbenchers would say, 'Hey, we are rushing into another policy train wreck here and what we should do is'—and hopefully they would accept our amendments. If you are going to implement major change, and our amendments would improve that, have a realistic time frame and align it with the proposed MySuper changes and implement it in July next year, rather than this year.

What I predict is that the government, after stubbornly ignoring every argument that has been put forward, at the last minute will propose some of their own amendments. That seems to be the way. My colleague the member for Cowper next to me has experienced this so many times. Here we are on that last day of sitting before budget day. The House will sit until 5 pm today, and the government is madly rushing to ram through significant changes that it has not thought through properly—and we will assume the minister responsible is ignorant; but I would not make the claim. I would never make the claim that every single member of the Labor caucus is ignorant. Let me just state for the record that the member opposite said he is ignorant. But, even to help him out, I will disagree with him.

I would not say that every single member of the Labor caucus is ignorant, and they are culpable. Today they will vote for something many of them know will be bad legislation. They will vote for it today and rush it through before budget day. They will do so in the full knowledge that they are following in the footsteps of so many other bad decisions by this...
government. But we have hope, slight hope, that one thing might happen inside the Labor caucus and that is that someone stands up and says, 'Let's get a policy right'.

Mr HARTSUYKER (Cowper) (10:44): I commend the contribution of the member for Casey on the Corporations Amendment (Future of Financial Advice) Bill 2011 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011. I also rise to make a contribution on these bills. This legislation is just another example of this government being out of touch with an industry which is so important to the Australian economy. Instead of proposing legislative changes that will make the industry more transparent and improve the service provided to clients, the government has tabled changes which could have a devastating impact on the financial services and advice sector. As some of my coalition colleagues have already noted, the future of financial advice bills in their current form will, firstly, create huge layers of additional complexity; secondly, cause increased unemployment within the industry; thirdly, create an unlevel playing field among advice providers by favouring those businesses which are more government friendly; and, fourthly, cost somewhere around $700 million to implement and a further $350 million per year to comply with. They are really huge numbers.

A good government would never seek to impose such extreme changes on such an important sector in our economy, but then again this government has a very strong record of wreaking as much damage as possible on Australian businesses and the millions of people that they employ. We all know that manufacturers and small businesses will be hit hard by the carbon tax. We all know our miners will soon be subjected to a mining tax, and here today we are discussing legislation which will hit the financial services sector hard. It is important to note that this legislation has been introduced at a time when there is a low level of personal and investor confidence in the Australian economy. It is the failings of this government that have led to a low level of confidence. This government has made a difficult situation worse through economic mismanagement and punitive legislation. The Australian business community is crying out for certainty from their national government. Australian consumers are seeking stability. They are seeking job security, yet at every turn they have a government which is undermining the confidence of investors, and that is flowing through to all sectors of the economy.

It is with this in mind that I raise my concerns about the proposed changes to the industry that provides financial advice to Australians. The industry exists to assist Australians better manage their financial risks and maximise their financial returns. An appropriately robust regulatory framework must be in place, as financial services providers deal with other people's money on a day-to-day basis. The industry is especially important in my electorate of Cowper, where a number of constituents are either in or approaching retirement and need reliable and transparent financial advice. Decisions made on the recommendations of professionals in this industry will mean large variations in their standard of living, particularly in retirement years.

As we look back on the global financial crisis, I recognise that the financial services industry generally performed well, although I shall discuss some of the exceptions later. Some of this success can be linked to the reforms which were legislated by the Howard government in 2001. That said, like other industries, the financial services industry is constantly changing, and regulations surrounding it need to reflect that change.
It is not hard to support the general principle of having more transparency in this important industry, especially when there is a large information asymmetry between the providers of financial advice and their clients. But, as with most changes this government implements, the devil is in the detail—and what a devil it is. Changes should not be made simply for the sake of change. In seeking to make regulatory change, the government should be focusing on doing things better and not in a more complex and more expensive way. These changes are coming from a government that promised a 'one in, one out' policy—one regulation drawn up and one taken away. Let us look at their record. How has the 'one in, one out' policy gone? I am afraid it is not a very good scorecard, because we have had 16,000 new regulations and less than 100 repealed. With this record, I have very little confidence that these changes will ease the regulatory burden on the financial advice industry.

During the financial crisis there were a number of high-profile collapses in financial service providers across Australia, with the notable examples of Westpoint, Storm Financial and Trio. With the hindsight of these collapses, it is important to assess what went wrong and what could be changed in order to minimise the risk of and hopefully prevent future collapses. Every member in this place will be aware of the devastation that occurred in many families as they suffered and, in some cases, lost their homes when they were advised to use those homes as security for the purchase of investments.

So, in February 2009, the parliament asked the Parliamentary Joint Committee on Corporations and Financial Services to conduct a comprehensive inquiry into Australian financial products and services. That inquiry, referred to as the Ripoll inquiry, reported back in November 2009 and made a number of sensible recommendations to reform the industry. The main recommendation was to introduce a fiduciary duty for financial advisers requiring them to place their clients' interests ahead of their own. The recommendations provided a blueprint that the government could have adopted with bipartisan support. It was noted in the Ripoll inquiry in 2009:

… the committee is of the general view that situations where investors lose their entire savings because of poor financial advice are more often a problem of enforcing existing regulations— and I stress that: enforcing existing regulations— rather than being due to regulatory inadequacy. Where financial advisers are operating outside regulatory parameters, the consequences of those actions should not necessarily be attributed to the content of the regulations.

Unfortunately, this was not considered in this reform package, and it has been hijacked by this government succumbing to vested interests. Reforms that are important to the financial advice industry have been delayed by over two years while this government made various changes without consideration of the costs involved or of other consequences.

I now want to raise specific concerns that the coalition have with these regulations. The bills fail the government's own standards, and certainly they represent another broken election promise. As previously mentioned, this government came to office with a promise to reduce regulation and red tape, which is a good aim for government. In fact, the coalition have a deregulation task force that has been specifically established to reduce the regulatory burden on business. A regulatory impact statement is a tool that government has available to review the proposed legislation so that it can assess it for unintended consequences. This will also give a clear picture of the costs for the increased red tape that might be borne by businesses.
and consumers. According to the government's own Office of Best Practice Regulation, the
government did not have adequate information before it to assess the impact of FoFA on
businesses and consumers or to assess the costs and benefits of the proposed changes. In an
industry as complex as financial services and relied upon by so many, this is not acceptable,
especially with the contentious parts of the proposed FoFA reforms.

The drafting and tabling of this legislation epitomises how this government tends to
manage major reform. Instead of investing the time and the resources to get the detail right, it
leaves everything to the last minute and then produces legislation that fails to address the key
issues. Such poor management of the legislation has now led the government to try and rush it
through the parliament. It is an absolute disgrace that this legislation will not even be
considered by the Senate before May, with only six weeks before the proposed start date.
What type of government would seek to manage such a reform when there is simply not
enough time for the changes to be implemented by the financial services industry?

Given that the MySuper start date is proposed for 1 July 2013, it simply makes sense to
implement FoFA and MySuper at the same time. Not only would this give industry sufficient
time to make the significant changes that are required; it would also allow participants to
make the required changes to their IT systems for both reforms at the same time. It is also
well known that a large number of people approach their advisers for financial advice at the
end of the financial year. The advisers that are attempting to implement these huge changes
will at the same time be coping with their busiest time of the year. Well considered reforms of
the financial services industry would consider the conditions of the industry and not thrust
change upon them when they are least able to implement it.

The changes proposed by the government are also draconian because they are
retrospective. These changes will add an additional annual fee disclosure statement over and
above the current regular statements provided by financial service product providers to their
clients. As I have previously said, I welcome changes that increase transparency in the
industry; however, this measure was not in the Ripoll inquiry and was only included by the
government at the last minute. It has been estimated by the Financial Services Council that the
implementation of the fee disclosure requirements will cost approximately $53 per client for
new clients and $98 per existing client. The additional costs borne by retrospective fee
disclosure will add absolutely no additional consumer protection benefits. Yet the additional
cost will either have to come from the financial adviser or by way of reduced returns to the
consumer.

The government made a commitment during the consultation period that the additional
annual fee disclosure requirements would apply prospectively only. This is another example
of the Gillard government promising one thing only to renege on that promise when it comes
to the implementation. Not everyone would want to go to a financial adviser to receive a full
financial plan. Many want to receive advice on only a specific need that they have, be it a
specific type of insurance or savings product. Scalable advice is the concept of focusing
advice on areas specifically identified by the client. The provision of scalable advice would
allow many people to access advice more frequently for specific matters. The changes would
allow the provision of scalable advice where the request for such limited or scaled advice is
instigated by the client. This would ensure that clients are able to access affordable and
appropriate financial advice as and when it is required and not when the client is able to afford a full financial plan.

I welcome the amendments that the coalition is proposing. They are sensible amendments that include: the government would be required by parliament to table a regulatory impact statement on the FoFA changes; the changes be assessed as compliant by the government Office of Best Practice Regulation; the opt-in be removed from FoFA; the retrospective application of the additional annual fee disclosure requirements be removed; the drafting of the best interest duty be improved; a ban of commissions on risk insurance inside super be further refined; and the implementation of FoFA to be delayed until 1 July 2013 to align it with the MySuper.

The rushed nature of this legislation certainly is of concern. But the overwhelming concern for most Australians with this new legislation is that they have no faith in this government's ability to deliver change. They have seen the government bungle reform at every turn, they have seen the government bungle programs. The Australian people have lost faith in this government. When you are looking at an area as complex as the FoFA reforms, as detailed as the FoFA reforms, how can the Australian people have faith in a government that could not put pink batt in roofs, and could not build school halls without massive cost overruns? How could the Australian people have faith in a government that is incapable of implementing the simplest program? How could they have faith in this government implementing changes as complex as those that are proposed under FoFA? We see Australians very concerned about the implications of the carbon tax for the same reasons. They have seen the government's failure in program implementation. They can see the complexity of the carbon tax, as massive as it is, and the massive burden that the carbon tax will place on the Australian economy and on Australian business. They do not trust this government to implement matters of such complexity.

So I say this to the government: take note of the amendments prepared by the coalition. The coalition has a track record when in government of implementing sound policy. The coalition has a track record in government of ensuring that government is conducted on a competent basis. The coalition can be trusted with government whereas the current government certainly is under a cloud of distrust with regard to the Australian people. The current government certainly is not considered by the Australian people capable of implementing complex reforms such as those proposed in these bills.

Mr SHORTEN (Maribyrnong—Minister for Financial Services and Superannuation and Minister for Employment and Workplace Relations) (11:00): I would like to thank all the members who have contributed to this important debate. Financial advice is an important step in the wealth management industry in our community. Therefore I value the participation of all members on this legislative package, which represents the most comprehensive set of reforms relating to financial advice in the last decade. This debate has been about the Corporations Amendment (Future of Financial Advice) Bill 2011 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2011.

I shall address some of the specific issues that have been raised by members, but first I would like to make some brief remarks about the measures contained in the bills. These two bills implement the government's future of financial advice reforms, the government's response to the Parliamentary Joint Committee on Corporations and Financial Services
inquiry into financial products and services in Australia. This inquiry was commissioned in the wake of the high-profile collapses of Storm Financial and Opes Prime. In combination, these bills contain a number of vital measures to restore trust and confidence in the financial advice sector.

Firstly, the bill sets in place arrangements requiring financial advisers to obtain their retail clients’ agreement in order to charge them ongoing fees for financial advice. That is the opt-in requirement. This measure promotes the active renewal by the client to ongoing fees for advice with the opportunity to consider whether they are receiving value for money. This very basic requirement is that advisers must obtain their clients' agreement to renew at least once every two years as well as giving clients a fee disclosure statement at least once every 12 months. If the client does not respond to the renewal notice, they are assumed to have terminated the advice relationship and no further fees can be charged by the adviser. That said, if advisers charge on a per piece of advice basis rather than on an ongoing basis then the opt-in requirement will not apply to them. Overall, we want financial advice to focus on the client and what is in the client's best interest. Advisers should be in regular contact with their clients if they are charging them regular fees and I know many financial advisers already are.

In addition, today I can announce that the government will be moving an amendment that offers financial advisers an alternative to the opt-in requirement. This amendment will allow ASIC to provide class order relief from the opt-in requirement to licensees and representatives who are signatories to an ASIC approved professional code of conduct by 1 July 2015. Importantly, such an ASIC approved code would need to include practices and conduct requirements that obviate the need for the opt-in requirement. This amendment ensures that the opt-in requirement is linked in legislation to the class order relief for licensees and representatives.

Further, under this proposal, the government will introduce legislation into parliament by 1 July 2013 that will enshrine the term 'financial planner' or 'financial adviser' in law. I am grateful to the members for New England and Lyne in developing these propositions. The government will conduct consultation with organisations, such as the Financial Planners Association and Choice, to ensure that these measures are implemented in the most effective way possible.

Returning to the measures in the bill, the second measure enhances the capacity of ASIC to supervise the financial services industry and boosts its ability to protect investors by restricting or removing unscrupulous operators from the industry. The changes will implement the PJC recommendations in this area and will strengthen ASIC's administrative powers, as they apply to licensees and representatives, to strengthen the gatekeeping function of the licensing regime and extend ASIC's powers to remove unsatisfactory persons from the industry.

Third, the bills impose a statutory best interest duty on financial advisers. This will be a legislative requirement to ensure that financial advisers are focused on what is best for their clients. While this will ultimately lead to better advice in many cases, it is about regulating conflicts. It is not about regulating for the best investment return. As I have said previously in the House, the best interest duty does not require that advisers give the best advice. It does not require perfection in statements of advice by applying the benefit of hindsight. The duty strikes a balance between certainty and flexibility for the financial adviser. The duty requires
the provider of the advice to take steps that would be reasonably regarded as being in the best interests of the client given the client’s relevant circumstances. For most advisers, this is business as usual. For some advisers, who perhaps have not always put their clients’ interests first or are otherwise driven by conflicts, the duty will require them to adapt their practices. The government makes no apology for legislating to change behaviour in any industry to ensure Australian consumers are better off and can retire more comfortably.

Finally, the bill implements a key aspect of the government’s response to the Ripoll report—a ban on the receipt of conflicted remuneration by financial advisers including product commissions. It is so important that ordinary mums and dads can engage a financial adviser without having to worry about whether the adviser is a professional or really just a product salesman. These measures ensure that advisers are working for the consumer, not the product provider. In short, advisers will not be able to receive remuneration from product issuers or anyone else which could reasonably be expected to influence financial advice provided to a retail client. On previous occasions I have congratulated many in the industry that have already moved away from product commissions towards a fee-for-service model. These industry leaders will be well-placed to embrace the new opportunities that the reforms present.

The government recognises the significance of these reforms for the financial services industry. I have already announced—to reassure the member for Cowper—smoother application arrangements to assist people to transition into the post-FoFA world.

Honourable members interjecting—

Mr SHORTEN: We remain optimistic. Under these arrangements, application of the reforms will not be mandatory until 1 July 2013. The government will introduce amendments to give effect to this in the winter sittings.

This brings me to some of the specific issues raised by members. There has been a lot of comment about the fact that opt-in was never recommended by the original Ripoll inquiry. That is true, but it was recommended by another inquiry; and that is the Cooper review of superannuation. It was recommendation 1.12 on page 26 of the final report of the Cooper review. It said:

Members of MySuper products should only be provided with advice about superannuation (other than intra-fund advice) under arrangements that require the member to renew the advice service each year on a renewal notice from the adviser.

There has also been a lot of comment that these reforms will cost jobs. These claims about job losses have not been substantiated and have been rebutted and dismissed as ‘silly’ by senior officials of our national Department of Treasury. I believe the greatest threat to financial services jobs is the coalition, which voted against the increase in superannuation. Our government is lifting superannuation from nine to 12 per cent and adding hundreds of billions of dollars to the pool of funds to be managed by the wealth management industry. With more money to manage, this will create more jobs for people to manage the money. This is good for jobs in financial advice, life insurance, funds management and fund administration. The government is also opening up new markets for financial advice by making it easier to provide limited or scaled advice. This will make it easier for the industry to provide advice to the 60 to 80 per cent of Australians who currently do not take financial advice.
There has certainly been a lot of strong leadership by the government, the industry and consumer movement to get to this point today. Firstly, I would like to acknowledge the hard work and determination of my ministerial predecessors. I would also like to acknowledge the leadership displayed by the Financial Planning Association of Australia and its CEO, Mr Mark Rantall. Whilst he has never supported opt-in, he recognises that this latest proposition will ultimately improve the professionalism of the industry. I also acknowledge the work of Choice and Jenni Mack. I acknowledge the work of the Industry Super Network, with Ms Robbie Campo and Mr David Whiteley. I indeed appreciate the contributions from the large retail and financial institutions who provided me with constant advice and allowed us, in our latest set of amendments, to update to reflect the pragmatic knowledge of industry.

In conclusion, advice—that is, any advice, whether from an engineer, a solicitor or a doctor—can be good advice only if you have trust and confidence in it. If people do not have trust or confidence that it is quality advice and cannot trust that the advice is in their interests, it will always be difficult to convince them that they need financial advice, which I believe Australians do. It will certainly be very hard to convince people that they should pay for advice if there is a cloud over the merits or the motivations of the advice that you are receiving from a financial planner. I know many financial planners—they are dedicated and hardworking. Many financial planners have already arrived at the point that this legislation is taking us too. I also believe, however, that ordinary Australians should be able to expect that a licensed financial planner will be able to provide them with the advice of a certain quality and, most importantly, that they can trust the adviser is working in their interests.

The need for people to get the help they need to manage their financial affairs and to ensure that they have adequate requirement savings is simply too important, particularly in the context of an ageing population concerned about making sure they have an adequate income in retirement. It is for this reason: if we are going to create a compulsory stream of wealth in Australia and compulsory savings of superannuation, we must ensure that the financial transactions in the back office are provided in the most efficient way and the best interests of consumers. These reforms will enhance the quality of and access to professional and impartial financial planning advice.
The Broadcasting Services Amendment (Regional Commercial Radio) Bill 2012 amends the Broadcasting Services Act 1992 to ease the regulatory burden on regional commercial radio broadcasters which has arisen as a result of the operation of provisions introduced in the former government’s 2006 media reforms.

This bill makes changes to the regulatory arrangements for regional commercial radio licensees to reduce their overall regulatory requirements while ensuring they continue to provide local content for regional audiences.

It also provides appropriate exemptions for remote area, racing service licensees and the small number of licensees operating outside the Broadcasting Services Bands. It further revises provisions relating to certain types of changes of control of a licence known as a ‘trigger event’, including to allow improvements to business practices and reduce unintended consequences.

Regional commercial radio localism requirements

The Broadcasting Services Amendment (Media Ownership) Act 2006 introduced a range of new obligations for regional commercial radio licensees relating to levels of local content, minimum service standards for local news and information, local presence requirements and changes of control known as ‘trigger events’.

Broadly speaking, there are two separate obligations.

First, there are provisions that apply to all regional commercial radio licensees requiring them to provide minimum amounts of ‘material of local significance’. The Australian Communications and Media Authority has defined ‘material of local significance’ in the Broadcasting Services (Additional Regional Commercial Radio Licence Condition—Material of Local Significance) Notice of 19 December 2007 as material that is hosted in, produced in, or relates to a regional commercial radio licensee’s licence area. The minimum amount of material of local significance required to be broadcast by each regional commercial radio licensee differs. Most licensees must provide three hours on each of the five business days of each week, while lesser amounts apply for smaller broadcasters and racing radio.

Second, there are a series of additional and overlapping requirements that are imposed after certain changes of ownership—known as trigger events. The trigger event related provisions were introduced to guarantee minimum levels of local news and information, and ensure that changes in ownership did not result in high levels of syndicated content on regional commercial radio.

Following a trigger event, a licensee must in perpetuity meet minimum standards for local news and information, submit to the ACMA local content plans and annual compliance reports, and maintain a defined level of local presence (which includes staffing levels, and use of studios and other production facilities).

The commercial radio industry, Productivity Commission and the ACMA have all expressed concern with the inflexibility of the current legislation, noting that these regulatory requirements for regional commercial radio licensees are affecting the operation and viability of regional radio services.

These concerns were also borne out by respondents to the review of localism requirements which was undertaken in 2010. In some submissions licensees even said they had not
employed extra staff for regional radio stations nor made additional investments in capital equipment because of the requirements.

Of particular concern is that once a broadcaster is subject to a trigger event, under the current legislation they are forever locked into maintaining the levels of local staffing and use of studios and facilities that existed prior to the trigger event. This is regardless of changed business or economic circumstances, changed audience demand, or technological developments.

With many regional commercial radio licensees already struggling to maintain profitability, these onerous requirements—as well as the administrative reporting burden associated with them—significantly reduce the ability of licensees to adapt their business to deal with new or changed market conditions.

The ACMA reports that 90 broadcasting licences have been affected by trigger events since the provision was introduced on 4 April 2007.

Providing flexibility and consistency while maintaining local content

The changes proposed by this bill will provide greater flexibility for regional commercial radio licensees in meeting their obligations to ensure minimum amounts of locally relevant content is available to regional audiences.

The bill takes into account the limited on-air staff available in some regional areas and the difficulty obtaining short-term replacements for staff on leave. The current requirement to comply with the local content and minimum service standard for news and information for 52 weeks of the year fails to take into account industry working arrangements such as the entitlement of some employees such as journalists to six weeks annual leave and radio announcers to more than four weeks leave in exchange for working Sundays and public holidays. While not all employees receive six weeks annual leave, reducing the compliance period by five weeks will assist the industry while maintaining local content for audiences.

The bill also provides those regional commercial radio operators affected by a trigger event with flexibility in the local presence and reporting requirements after a 24-month period. As mentioned earlier, the current legislation maintains these limitations in perpetuity and limits the ability of licence holders to adapt to changed business or economic circumstances.

The operation of this 24-month ‘sunset period’ on the local presence and reporting requirements will be considered as part of the statutory review of the provisions undertaken every three years. A transitional provision will cap the obligation to 24 months from the commencement date of the legislation for licensees affected by a past trigger event.

Licensees affected by a trigger event will still be required to provide local news and information and emergency warnings, ensuring that localism is still provided to regional audiences.

The government also recognises that the current legislation is not well suited to some categories of regional commercial radio licence holders, particularly those: operating in remote areas; providing predominantly racing services; or operating outside the broadcasting services bands (referred to as section 40 licence holders).

The wide geographic area covered by some licensees or the highly specialised nature of their content makes compliance with the current legislation particularly burdensome and this
The bill exempts these operators from the operation of the local content provisions. It also ensures consistent treatment of these categories of licence holders with respect to exemption from the application of the trigger event provisions. These changes will only affect a small number of licences and have a minimal impact. The bill also provides a tighter definition of the circumstances in which a trigger event takes place, so as to:

- reflect consistency with media control principles outlined in Schedule 1 of the Broadcasting Services Act; and
- allow for some specific situations to be exempted from the definition of a trigger event. For example, certain types of internal corporate restructures, transactions between close family members where there is no sale of shares and in other limited circumstances.

The ACMA will be given discretion to determine the extent to which the trigger event provisions apply so as to avoid or reduce unintended consequences from events which are not initiated by licence holders (including involuntary administration, bankruptcy and court orders).

**Conclusion**

This bill eases the regulatory burden on regional commercial radio broadcasters which has arisen as a result of the operation of provisions introduced in the former government’s 2006 media reforms. It provides greater flexibility to the regional radio industry while maintaining the government’s commitment to local content for regional audiences, and I commend the bill to the House.

Mr **HARTSUYKER** (Cowper) (11:21): I am pleased to speak on the Broadcasting Services Amendment (Regional Commercial Radio) Bill. The coalition recognises the importance of strong, profitable regional radio stations. Radio has played a key role in the development of Australian society, beginning with the first commercial radio broadcast by Sydney's 2SB in November 1923. From that first broadcast, Australia’s commercial radio industry has matured quickly and has served our nation well for almost 90 years.

There are now 261 commercial radio stations on air in Australia, including 224 regional commercial radio licences. The ownership of regional licenses is concentrated, with stations owned by only 32 operators; 80 per cent of stations are linked to one of 12 networks. Radio is still the preferred means of accessing local information, news and weather for millions of Australians living in the regions. Radio is the only medium that is accessible in almost every situation and location. All over regional Australia at any time of the day or night radio can be heard in cars, trucks, on building sites, on farms and in tractors and headers. Radio is also the key source of information during emergencies.

Regional commercial radio stations hold a privileged position in their communities because they have the right to use radio frequency spectrum, which is a public resource. With this right comes a responsibility to serve local community with the provision of local content. The Howard coalition government enshrined this responsibility in legislation with the Broadcasting Services Amendment (Media Ownership) Act 2006. These radio local content rules were introduced as part of the government's broader reform of media and industry regulation. The intention of the local content rules is to ensure that local radio stations continue to broadcast local material using local facilities and local people.
My colleague the member for Hinkler, who is here in the chamber today, has been a great champion of regional radio, and he championed the local content rules in 2006. He maintains a keen interest in this sector. The 2006 changes also introduced rules to ensure that regional radio stations could not be purchased and then stripped of staff and production facilities and the programming moved to a central broadcast location.

The 2006 legislation introduced the concept of a trigger event, which occurs when an interest in a regional radio licence is transferred. Stations that have experienced a trigger event are subject to certain obligations in addition to those imposed on other regional radio stations. These so-called trigger event rules and reporting requirements have proven to be a regulatory burden on regional radio stations. This bill removes some of that burden and levels the playing field for stations that have been subject to a trigger event.

The coalition's approach to this issue is all about balance. We recognise that licensees need freedom to compete and flexibility to react to the dynamics of the market. We also recognise the importance of maintaining strong local content rules. We believe this bill strikes an appropriate balance.

I would like to turn my attention to the important details of the bill. Items 2 through 4 of schedule 1 clarify the definition of regional racing broadcasters and remote broadcasters. Item 6 is particularly important because it reduces the local presence requirements for a station subject to a trigger event to 24 months. At present a regional commercial radio licensee must maintain in perpetuity the same local presence in terms of staffing and use of studios and other production facilities in the licence area that existed three months prior to the trigger event. This rule means that a station cannot reduce its staffing levels following a trigger event, even if the business is struggling and advertising revenues are down. The rule has the potential to discourage employment and investment in the radio industry. This new 24-month rule is a reasonable compromise which discourages new owners from stripping away local staff and facilities from a town, while allowing sufficient flexibility for owners buying for the long term. Item 7 exempts racing and remote broadcasters from the local presence requirements I have just noted. This amendment recognises the unique nature of these broadcasters.

Item 8 allows regional commercial radio broadcasters to take a five-week holiday each year from the local content requirements. At present most stations are required to broadcast three hours of locally significant material each business day, stations in smaller licence areas have a 30-minute requirement and remote broadcasters a five-minute requirement. This item recognises that many regional radio stations are not large enterprises. Stations need the flexibility to allow presenters and production staff to take annual leave over Christmas and the new year period. Many stations also struggle to find qualified and available replacement staff for this period. This amendment allows ACMA to specify when the five-week period will begin. If ACMA makes no determination, the five weeks will begin on the second Monday in December each year. It should be noted that nothing in this bill limits the amount of local content a station may broadcast. Many stations will choose to continue broadcasting local programs, news and weather during the new year period, and there is nothing in this bill to prevent this happening. Indeed, my experience is that most regional commercial stations are a key source of local information, entertainment, news and weather.
Item 9 exempts remote and racing broadcasters from the local content licence condition. Items 10 through 12 deal specifically with the interaction between Australia’s local content rules and the Australia-US Free Trade Agreement. The coalition had significant concerns with this part of the bill and the government agreed to remove items 10 to 12, after prolonged negotiation. I thank the government for cooperating with the opposition in this matter.

Schedule 2 introduces some clarity and precision to the definition of a trigger event. Items 1 through 6 of schedule 2 insert or amend various items defining different family relationships for the purpose of the Broadcasting Services Act. Item 10 amends the definition of a trigger event. A trigger event currently takes place when a regional commercial radio broadcasting licence is transferred. These amendments will broaden the definition of a trigger event to include a change of control of a regional commercial radio broadcasting licence, rather than a change of ownership. Item 10 also deals with intergenerational change. This item includes a new provision which excludes inheritance as a trigger event in most cases. If control of the licence is transferred to a near relative for no financial consideration—which is most likely in the case of an intergenerational change—no trigger event is deemed to have taken place. Item 10 also allows for exemptions to the trigger event provision if a change of control of a licence happens as a result of circumstances beyond the control of the person controlling the licence. An example would be of change in control due to a licensee contracting a medical disability and not being able to continue running the station. In such a case the subsequent change in control would not be a trigger event. Item 10 also allows exemptions to trigger event rules through regulation. This measure would permit regulations to cater for matters like corporate restructuring when new holding companies or subsidiaries are created but the ultimate control of the affected licence does not change.

Item 11 amends trigger event rules as they apply in the event of the creation of a registrable media group due to a decision by ACMA to vary details of a licence area. In practice this means that a trigger event will not take place simply because ACMA merges licence areas or varies a determination in relation to a licence area. Lastly, item 12 amends the trigger event rules as they apply in the event of certain changes in control of a registrable media group. As the rules currently stand there are a wide variety of situations that constitute a change of control of a registrable media group, which can lead to many trigger events. As a result of this item the changes in control of a registrable media group brought about by circumstances outside the control of the group would not constitute a trigger event. This would include circumstances such as a court-ordered divestment transfer. In conclusion, although it will remain an important part of our society for many years to come, the role of radio in our society is changing. Digital radio has been introduced in the capital cities and will eventually be rolled out in the regions. The convergence of different media types is affecting the way we interact, access information and receive advertising and a huge range of music available on demand. Radio needs to be able to compete in this environment. These amendments provide some important regulatory relief to commercial radio while preserving measures that guarantee the continued broadcast of local content. We support the bill as amended by the Senate.

Mr NEVILLE (Hinkler—The Nationals Deputy Whip) (11:30): I am not going to follow as technical an argument as the minister and the shadow minister have. I just want to review this story of regional radio, because it is a very interesting story. I have been committed to
regional radio for most of my life. I have taken a great interest in it, and that became no less so when I entered parliament.

To hold a radio licence is a privilege, and we should recognise that it carries obligations. I think it would be fair to say that in the period leading up to 2006 there was ample evidence that the responsibility aspect was being diluted. We saw the concentration of ownership of radio stations. Although you could not own more than two radio stations in a market, there was still a buying-up of radio stations into corporate groups. The London Daily Mail—the DMG organisation—was a big purchaser. The Grundy organisation, RG Capital, was also a big purchaser. There were also a number of activities going on in the capital cities while this was happening in the country. Those ownerships then came together, especially DMG and RG Capital, under the banner of Macquarie Regional Radio, which was a particularly big group. And as it then owned more than two stations in some markets, that caused some divestment, and other groups formed. Today, even the merger of Southern Cross and Austereo has resulted in another group of 70 radio stations. That is 70 out of 260-odd. That means that one company or group owns over a quarter of the nation's radio stations. I do not say that with any criticism, but I would like to flag it so that we are all aware of what concentration of ownership of media can mean.

There has also been a tendency, leading up to 2006, when the original legislation was put in place by the Howard government, to strip country radio stations of a lot of their services, their staff and in some instances even the physical hallmarks of a radio station. In fact, I know of one particular town in Queensland where the new group moved in and even removed the control desks from the studios. For someone to say, 'We're still going to provide localism, and we've taken the desk out,' is tantamount to saying, 'We're not.' That sort of thing was happening, and that is when I and a number of others started to agitate, as the shadow minister has just said, to put some regulation into ownership and into what ownership was going to mean into the future. As I said, the control of a radio licence carries with it both privilege and obligation. Australians have grown up with radios since 1923, and it has been a particular part of the development of regional Australia. That is not a motherhood statement; there is a real, live connection between radio and how the bush developed, from all sorts of points of view—in particular, the cohesion of communities, and within that things like local information, sporting information, local news, local rural broadcasting and commodity prices. All those things became part of the fabric of the town, and the radio station became a very important beacon to those communities—perhaps more so than in the capital cities, where there has been a choice, even in the early days, of five or six radio stations. The ABC, to its credit, developed along similar lines, with its network of capital city stations and then regional stations. In more recent times it has gone out into other fields, like FM, Fine Music Radio, Radio National, 24-hour news and the like. And then there is triple J, of course.

All these things were very important, but the commercial country stations and the ABC regional stations were very much a part of the fabric of regional and remote rural life. When these big stations then became networked—when these conglomerates were bought up—there was a tendency to hub the stations, to put this cluster of 20 or 30 stations through a capital city or a provincial city. This, too, is not said with criticism. There were hubs in places like Townsville, the Gold Coast, Albury and Bunbury, and various networks operated out of these hubs. There was then a tendency to hub the news, and we saw some terrible examples of the
wrong news going to the wrong areas and journalists not understanding the geography of these bigger areas. That goes on even today—silly statements that do not truly reflect what is going on in a community.

When I was the chair of the communications standing committee some years ago we held an inquiry into regional radio. That revealed some very interesting things, one of which was the absolute paucity of community announcements, especially in times of trouble. We received evidence of incidents in which people had to break into radio stations, when they were hubbed back to the capital city or to the hubbing network, so that they could make a local announcement. In one instance, in a provincial city, there was a very dramatic event—if I remember correctly it was a petrol tanker or chemical tanker turning over—and the local manager of the radio station could not be found, so the phone call eventually went to the hub station. The response, from a very junior staff member, was, 'No, we never break into a network program; you ring up your local SES'—to be so dismissive of the community in a dangerous situation like that was quite frightening. Before we had finished that inquiry the ABC, commercial radio interests and a third body, of which I forget the details, all got together and developed a code of practice for emergency broadcasting. I am sure that was because they wanted to have their hands clean by the time the report was tabled. That is just another illustration of the sorts of things that regional radio can do.

In this concentration of radio stations, there were also some very poor practices. One of those was to use section 61 of the Broadcast Services Act, which allowed someone to own more than two radio stations in a market for a short period of time. In that time, when they might have held the three or four licenses on a temporary basis, instead of allowing the residual stations that they did not need to continue as radio stations they removed them. They eliminated them as competition. One way, of course, was to sell them or lease them to the TAB networks, which meant they effectively went out of the competitive market. There were practices like that going on as well. That is when the coalition came in—and I played a prominent part in it, I still make no apology for it—to get some rules in place that defined what a regional station would still be required to do. Amongst those was three hours of locally devised and presented broadcasting and 12½ minutes of local news of weekdays—about the same thing as the ABC was doing. It included weather bulletins and emergency warnings. They also had to give ACMA a local content plan of how they intended to run the station.

To make this happen, the department came up with the idea of a trigger event. As has been explained when ownership moves from one entity to another that causes a trigger event. That trigger brought into place those various obligations. I will admit that some of them have become onerous. For example, if there is an inheritance problem, where the ownership is moving substantially to the same family entity—someone has died but the son is taking over the business, or something like that—that should not cause a trigger event. I am prepared to concede that. Also, one of the provisions of the 2006 legislation was that radio stations could not just move in and gut a radio station. They had to maintain the staff levels, the character of the station and of the broadcast facilities of the station. That too has perhaps become onerous in this sense, that with the digital economy, with high-speed broadband, production does not necessarily have to occur in every radio station everywhere. It can now be done over the phone or the internet line. So in this 24-month window that the amended bill contains, it will allow radio stations at that end of that period to rationalise some staff measures.
I make the appeal to the radio stations, that that should not be a signal for gutting radio stations and for a new wave of hubbing. If that was to occur, that would be a betrayal. That would be a betrayal and I do not think it would enhance the quality of radio. There have been some great regional radio operators who have been very close to their communities and have been great citizens in those communities. I would hope that that would continue. I think too that hubbing should be treated judiciously. There have always been syndicated network programs. I am not criticising those. You can go back to the days of the quiz shows of Bob Dyer and Jack Davey, the Lux Radio Theatre and Mobil Quest. All those sorts of things. They were all good. They were networked. No-one denies that. Nor is it wrong to have a regional network—I am not saying there is anything wrong with that either—or even a national network, providing that that is not to the exclusion of localism and always providing that the community is well informed. It is important that the radio station, as we have said, for at least those three hours a day on the weekdays, with 12½ minutes of news, is engaging with its community and being part of the vibrant life of that community. I thank the minister for maintaining most of the things that I have always cherished in this bill. There is one little thing to be sorted out, and he has given me an understanding that that will happen. I hope that this regional radio will go on to serve this nation well as it has for the last 19 years.

Mr CIOBO (Moncrieff) (11:45): I am pleased to speak to the Broadcasting Service Amendment (Regional Commercial Radio) Bill 2011. This is a bill that goes some way to amending the Broadcasting Services Act 1992. It is of particular interest to me coming from a part of regional Australia—although for many I suspect Gold Coast would not be considered to be regional Australia although we are certainly not a capital city although we are the sixth largest centre in the country. That said, I am pleased to report that the Gold Coast has a very strong and very vibrant radio industry.

We have a number of stations in the form of Hot Tomato—and these are commercial stations—Sea and Gold FM, which are owned by Southern Cross. In addition to that there is of course the local ABC radio station, community radio stations and a number of radio stations that encroach on the Gold Coast and around the Gold Coast in what is probably one of the most heavily contested radio markets in the country. There is spillover, for lack of a better term, from Brisbane radio stations, from radio stations to the west of the Gold Coast and from radio stations along the Tweed northern New South Wales coast.

The result of all these media influences is that the Gold Coast media market is a very heavily serviced market with a great number of operators and stakeholders that participate in it. I think, ultimately, that it is for the benefit of all Gold Coasters. There can be no doubt that in a city of 600,000 the opportunity to be able to listen to such a vast array of radio stations is in the interest of consumers. There is no doubt that the ensuing competition that arises as a consequence of the vigorous desire by each of these broadcasters to attract local Gold Coast advertisers is also in the interest of advertisers. These all work in unison to ensure that Gold Coast listeners are very well serviced.

The flip side of that coin would be that those that are the stakeholders—those that hold the radio licenses—may prefer that it was not quite as vigorous as it is. There can be no doubt that there are very slim margins associated with the radio business on the Gold Coast, especially when you take into account a lot of the sunk costs built around, for example, the spectrum that they use. That notwithstanding the Gold Coast is perhaps uniquely placed with
respect to other regional centres for which these amendments will have a much greater impact than they would specifically on the Gold Coast. We have seen a continued level of investment into the Gold Coast market by those that have radio licences and, as I said, that is in the interests of Gold Coast consumers and radio listeners.

I look forward to the coming advent of digital radio on the Gold Coast. I think there are many people who take the view that this could not happen soon enough. We wait as the progressive rollout takes place across the country.

I particularly want to acknowledge the good work that is done, especially with respect to local content, which I would like to touch upon in more detail—and I am talking predominantly here about the commercial radio stations being Hot Tomato, Gold and Sea FM. That said, ABC should not be discounted because they too also have very strong local programming content and it is excellent. It is often and regularly shared with the Sunshine Coast, but Gold Coast radio listeners, together with Sunshine Coast radio listeners, could not complain about that quality of local content that is received, again, within the Gold Coast radio market.

Having put all that on the table, with respect to the operation of the amendments contained within this bill, it does a number of key things but specifically with respect to local content requirements. Other speakers in this debate before me have touched upon where local content came from and the reason local content is a requirement on local radio stations. It is one of those things, again, which perhaps is not resonating as strongly on the Gold Coast as it would in other regional markets because we have a population that can service and sustain a number of commercial radio licences on the Gold Coast. Local content serves to ensure that, with syndication across radio markets, there is some degree of local content to service local communities. As I said, in a city of 500,000 people that is not as much of an issue and I recognise that. I recognise and respect that, in many ways, in smaller regional radio markets the need to have local content is an important consideration to ensure that you do not get blanket syndication, which would effectively result in the local media market being fed a diet of news and information from other places not located in the geographic vicinity of that market. That is the rationale for local content.

That said, it is not an issue on the Gold Coast and not a consequence of the operation of local content requirements. Rather, it is a commercial decision that is taken by those operators in the market and a commercial decision built around the fact that there is clearly a desire and an appetite in the Gold Coast regional radio market for there to be a very strong level of local content. We are well serviced by morning crews—that is the commonly used term—on Sea FM, Gold FM, Hot Tomato and local ABC radio as well as community radio stations, which also have local, morning based presenters. All of this, as I said, services the Gold Coast community exceptionally well.

However, broader than that, I have had concerns raised with me—and this bill does address some of those—specifically around the operation of a trigger event. Again, speakers prior to me have touched upon some of the reasons concerns exist with respect to trigger events, what causes a trigger event as well as the application of the trigger event from the time of the event.

Mr Albanese: Didn't you listen to my speech? I went through all the triggering.
Mr CIOBO: I say to the minister at the table that others have raised these concerns. On that basis, clarification around what is a trigger event and the way in which a trigger event would maintain existing levels for a period of 24 months provides clarity and certainty to the industry, which I think is a positive thing.

Again, notwithstanding that this is not particularly germane to the Gold Coast, concerns have been raised by commercial radio licence holders with me about the impact of trigger events. This would have particular relevance in my city because of the fact that the radio market on the Gold Coast, being as strongly serviced as it is for the reasons I outlined earlier, has wafer-thin margins. That is also a consequence of the economic downturn that my city is experiencing. There is no doubt that the decline in tourism and construction activity across the Gold Coast means that the local radio licence holders are finding it particularly difficult to maintain a profitable business. They are finding it particularly difficult to attract new investment in radio advertising at a time when so many businesses are being forced to tighten their belts, reduce their budgets and limit the amount of marketing that they undertake.

In that context, it is obvious that, were a trigger event to occur which required a radio station to have a higher level of staffing than it otherwise would have under a new owner—which could in fact be all the difference in whether that particular radio station was profitable or not—the certainty that it is afforded by this bill is a positive step forward. That is why the coalition is very pleased to support the bill together with the government. The coalition is also pleased that the minister was willing to listen to the points that were made by coalition members and to remove from the bill certain items that dealt with the interaction between the US-Australia Free Trade Agreement and the specific operation of the bill.

Having covered all of that territory, this bill is a step in the right direction. It builds upon the Productivity Commission's finding that there was a high compliance cost associated with local content requirements and dealing with the legislation. In my view, any reduction in compliance requirements—any reduction in red tape—is generally a good thing, and I am pleased that the bill addresses that. In addition, I take this opportunity to congratulate the licence holders and the staff and stakeholders associated with the Gold Coast regional radio market. It is a vibrant market that is well serviced by people with a strong connection to the Gold Coast who understand the significance of local content for the Gold Coast. I am pleased that my listeners, meaning my constituents, have the chance to be so well serviced by such a vibrant market, and I look forward to continuing in the future, ideally at a lower cost as a consequence of the operation of this bill and the support of the coalition.

Mr ALBANESE (Grayndler—Leader of the House and Minister for Infrastructure and Transport) (11:55): I thank those members who contributed to the debate on the Broadcasting Services Amendment (Regional Commercial Radio) Bill 2012. This is a bill that seeks to ease the unnecessarily onerous provisions of the Broadcasting Services Act 1992 which were introduced as part of the previous government's 2006 media ownership changes. Once again, it is this government fixing up problems created by the former government. While local content is important for regional areas, the current legislative provisions place unreasonably onerous and inflexible requirements on regional radio which, if left in place, will affect the viability of some local services. These requirements and the compliance burden have been strongly criticised by the industry since their introduction. The government's changes do not abolish the requirements for regional commercial radio broadcasts to provide local content.
The changes are intended to better reflect the realities of radio broadcasters' operational practices and to reduce regulatory burdens, which provide little actual benefits to listeners in regional communities.

The bill will provide flexibility and consistency while maintaining local content by taking into account the limited on-air staff available in some regional areas and the difficulty regional licensees face in obtaining short-term replacements when staff are on leave. The bill broadens the trigger event definition to include a change in control of a regional commercial radio broadcasting licence to reflect consistency with media control principles outlined in schedule 1 of the Broadcasting Services Act 1992. Additionally, the bill provides those regional commercial radio operators affected by a trigger event with flexibility in the local presence and reporting requirements after a 24-month period. I commend the bill to the House and thank those members who participated in this debate this morning.

Question agreed to.
Bill read a second time.

Ordered that this bill be reported to the House without amendment.

STATEMENTS ON INDULGENCE

Stynes, Mr Jim

Ms O'DWYER (Higgins) (11:58): As a Victorian and an ardent 'Shinboner' I understand the role football plays in our community. For us as Victorians it is more than just a game, more than just a sport; it is a way of life. And Jim Stynes was a colossus. Jim Stynes was a trailblazer. In 1984 he made what was at that stage an unheralded move from Ireland to Australia to pursue a career in the AFL after an already very successful career in the Gaelic Football League, winning an all Ireland minor football championship with Dublin. Little did he know at that time the precedent that he was setting. Pioneer is a term too readily repeated these days, but Jim Stynes was a pioneer. When he arrived in Australia no-one could have predicted the impact he would have on the game, the community and society as a whole. Jim Stynes holds the AFL record for the most consecutive games—244. This achievement could not sum up Jim Stynes attitude towards life more succinctly—a fighter to the end, and someone who was absolutely relentless in his commitment. Jim was a four-time best and fairest winner, a two-time All Australian, an AFL Hall of Famer, a Melbourne team of the century member and, of course, the 1991 Brownlow medallist, awarded to the best and fairest player in the league. That was the first time someone born outside of Australia won this prestigious award. Jim's affection for his beloved Melbourne Football Club was unrivalled. A one-team player, his connection to the Demons extended beyond his playing career. In 2008, Jim Stynes was named chairman of the board. He arrived with the club burdened with debt and embarked on the debt demolition campaign, delivering on the $5 million pledge in August of 2010. Jim's commitment to his club was nothing short of superhuman given the graveness of his illness, but he never allowed his personal battles to burden those around him. Even during the depths of his own personal struggles, he was reported to be counselling others with their troubles. This was the Jim that we all knew publicly, a man who was always thinking of others.

Jim's duty to his community extended far beyond football. He was the founder of the Reach Foundation, helping disadvantaged youth. He was twice named Victorian of the Year and was
awarded an Order of Australia for his contribution to sport and community. Unfortunately, Jim's battle with skin cancer is an all too familiar one in this country, with Australia recording the highest rate of skin cancer per capita anywhere in the world. It is essential that we all follow the SunSmart message and have regular checks.

Our thoughts and prayers are with Jim's wife, Sam, and his two young children, Matisse and Tiernan, who, most importantly, have lost a husband and a father at too young an age. One cannot express the sorrow and pain they must be feeling but, at the same time, the pride they must also feel to have loved such an inspiring and courageous leader of our community. We mourn the passing of Jim Stynes, a great Victorian and a great leader. He will be sadly missed.

Mr Briggs (Mayo) (12:02): I too rise to acknowledge the untimely death of Jim Stynes. I do not make a practice of speaking on these motions unless I have some personal connection in this place, but I am originally from Victoria and, growing up as a young Victorian, one of my earliest memories of football was the 1987 preliminary final, where Hawthorn played Melbourne to take on the mighty Blues a week later in the grand final. Of course, Carlton belted the living suitcase out of Hawthorn in the grand final. But the preliminary final between Hawthorn and Melbourne was a very close game and Jim Stynes, in, I think, his first year of senior footy, famously ran across the mark of Gary Buckenara, who, with a 15-metre penalty, as it was in those days, proceeded to kick the goal taking Hawthorn into a grand final they were sure to lose—but, in any event, they made the grand final. It was one of my earliest football memories.

Jim Stynes played a significant part in the last 20 years of Australian football. It is a passion and religion in the southern states and is also growing, I must say, in the northern states and in the west, and Jim Stynes has been a significant part of that. To lose Jim at such a young age with such a contribution still to make to society is extremely sad. The member for Higgins, appropriately, went through his record in the game and so forth, and I will not repeat that, but I saw a comment by Patrick Smith in the Australian a day or so ago that I thought was extremely appropriate. He said that Jim Stynes arrived in Melbourne not knowing how to play football, but, after he left, Melbourne would not be playing football without him. That is completely true. Without Jim Stynes' commitment and passion for that football club, it is likely they would not be running around again this year.

He was truly a champion—a term that gets thrown around too often—on the sporting field and a champion off the sporting field. I feel terribly sorry for his young children and for his wife, Samantha. I will finish by quoting what Samantha Stynes said in her Facebook message when she announced his death:

Jim's lesson is that life was to be challenged and treasured.

Mr Tony Smith (Casey) (12:04): I join in this sad statement of condolence for someone who was well known and well liked not just in Victoria but beyond. Many millions of Victorians felt a connection with Jim Stynes. He died at the age of 45. The member for Mayo began his speech with a memory of the 1987 preliminary final, and I would like to start there too. I remember that day very well—like the member for Mayo, I am a Carlton supporter. Melbourne had been an underperforming team for many years but they surged through the 1987 season and, against great odds, won their way to the preliminary final. I remember that I had come home from work that day and saw the last few minutes on
television, which was rare in those days—they did a live cross because the match was so close.

As the member for Mayo outlined, it was a heartbreaking finish for the club and for Jim Stynes personally. Melbourne looked like they had won the match. They had been in front pretty much all day, they had been in front at three-quarter time. Gary Buckenara, from Hawthorn, had taken a mark that was too far from goal and the siren rang. As it was ringing, Jim Stynes—who we had all got to know as the Irish recruit, who had come across and learnt the game at the instigation of Ron Barassi—I think I am correct on that—ran across the mark, which in those days was an automatic 15-metre penalty. That put the Hawthorn sharpshooter Gary Buckenara within distance to kick the goal after the siren. He did kick that goal and Hawthorn went into the grand final. For Melbourne supporters it was heartbreak, and Jim Stynes felt it. I read in the paper this week that he went to Europe to try and get away from it all, but someone walked up to him and said, ‘Aren’t you the bloke who ran across the mark in the preliminary final?’

That story has been told a lot. But it is a story that needs to be told because Jim Stynes was a determined person but also an affable and optimistic person. He came out from Ireland not knowing the rules of our ‘southern code’. Then he had a setback. It took him a while to make the firsts and become a star player. He played in a premiership grand final the following year and, even though Melbourne lost, he was best on ground. He won a Brownlow Medal. He was not just a great footballer but a great person and a great community leader. It is rare to be a superstar AFL footballer but it is rarer still to be one of those players for whom every AFL fan has a soft spot. Throughout his playing career, every AFL fan thought Jim Stynes was a great person. He was a superstar for the Melbourne Football Club, and opposing fans respected that. Of course, he took that affable determination that so many people had underestimated into his full-on dedication in the community, as the member for Higgins outlined. It is too sad that he is now no longer with his family. He is someone who came from Ireland and became a great Australian. His family naturally will be devastated that he has been taken so early, but they will be forever proud for everything he did and for everything he ever was.

Mr ROBB (Goldstein) (12:10): It is a great privilege for me to have this opportunity to reflect on what has been an extraordinary life, that of Jim Stynes, and to honour that life in a modest way and to express my deep regret and sympathy to his wife and family, and to his parents, who in fact reside in my electorate and whose citizenship I presided over a few years ago. Jim and his wife were there, together with other family members. That experience, along with many others I have had with Jim Stynes, was one to remember. He was that sort of fellow. He was a leader of men and women, and he had a capacity to connect with people in all sorts of walks of life. He was known in the football world for his sportsmanship and his leadership role in combating racism and encouraging players to lead by example in their off-field endeavours. He brought so much to the game. He extended the proud history of Irish immigration in Australia. The first time I met him I thought of my family, who originally came from Ireland 150 or 160 years ago. It made me think at the time of the way in which it would be difficult to uproot yourself and come to another country and to seek to make your mark.
He was a man who made an extraordinary mark. But he had difficulties when he first got here—over the first two or three years—to establish himself and combat the expectations and cynicism in a lot of quarters over whether this experiment, if you like, would work. Despite the early setbacks he persisted and became an astonishingly successful ruckman. He played 264 games, including 244 consecutively without missing a game. In that context, that is an extraordinary feat in itself. I suspect in many games he did take to the field with injuries and problems that would have certainly meant that other players would not have fronted—would not have been able to contest a full match. Yet he played and he played in the ruck, which is a very significant contact part of the game.

He became the only overseas born player to win the highest individual honour in the AFL, the Brownlow medal. He won the best and fairest award four times for Melbourne, received all sorts of other All Australian honours, representing the state in the State of Origin and was inducted into the AFL Hall of Fame. So he is a man who obviously achieved such an enormous amount, yet through all of that the humility of Jim was extraordinary. He did not see that what he was doing was anything special. He had gifts—he had wonderful gifts. He made the most of those gifts, and that is all that can be asked of somebody.

My initial contact with Jim was through the Reach Foundation when I attended some of the fundraising functions and then got the opportunity to observe Jim in action. He had this extraordinary capacity to connect with young people. It is something that is hard to describe because it is an intangible, but I did have the great privilege of seeing him work with young people. He had this ability to help them confront the issues that were bedevilling them. It is true of so many problems in life, I think, that if you have the courage to confront it, it can make an enormous difference to the resolution of those problems. I am the last one to speak about that, having spent 43 years denying something. But it takes a lot for people to confront issues and Jim Stynes had this wonderful ability. He gave support and self-belief. You could see the self-esteem of some of those young people growing with his belief in them. Almost before your eyes you could see them gaining strength and courage from not just his words but his manner, his identification. He would ask the hard questions but in a way which was not passing judgment, it was in a way which would help some of these young people confront their issues.

The program he has been responsible for in Reach, I think there are now some 60,000 taking part nationally each year. It is modelled somewhat on his personal experience in Ireland with programs where young people work with other young people in camps to improve self-belief and to develop resilience and emotional awareness amongst young people. At 45, to achieve what Jim has achieved is quite remarkable in many respects. To have 60,000 young people each year taking part in these programs, these camps, is a most extraordinary thing, quite apart from what he has done with the Melbourne Football Club and the inspiration that he has been for so many millions of Australians in the way in which he has tackled issues.

He has left an indelible mark on his adopted country and quite a number of extraordinary legacies. He was a giant of a man in so many ways. Yet through all of that, you would not have found a more humble and self-effacing individual who had all the moods of all the rest of us, but overwhelmingly was a person of great character and with great concern about others. He just oozed interest in what you were doing and what you were saying. When you
were talking to Jim Stynes you felt that you were the only person that was important, notwithstanding his responsibilities and notwithstanding the fact that often he might have just been out of hospital for four days, having had several cancerous growths removed. That happened so often; it was quite remarkable.

I would just say about Jim that he showed in so many stages of his life that striving and struggling to reach our own potential is ultimately what gives meaning to our lives. It is what dictates the uniqueness and the dignity of each person, and Jim's life teaches us that life is meaningful. He was a man who found great meaning in his own life. He was a man who realized that life was expecting something from him despite his circumstances. Despite the fact the he was riddled with cancer and was battling in these last three years with such an overwhelming threat to his life and all of the endless operations and chemotherapy and all of these issues, through those three years he grabbed a football club that was inexorably sliding into a dysfunctional state and turned it on its head. He resolved a $5 million debt; breathed commitment, hope and interest into a board; developed a strong and effective administration; and in so many ways very significantly turned around the fortunes of the Melbourne Football Club, which for me is something of great significance seeing that I have been barracking for them since 1957. The last time they got a flag was 1964. I have taken much greater interest had more involvement in the club over the last few years since I came back to Melbourne and assumed the parliamentary role that I have. Again, I have had the privilege in that connection with the Melbourne Football Club in the last few years to see Jim quite often and to just interact and pass the time of day and catch up with what he is doing. At no stage through all of that—and, of course, much of that has been a time when he has been very ill—would he ever reflect on his own state of health. He was always putting a brave and uncomplaining face to the world.

I want to convey my deep condolences to his wife, Sam, to his kids and to his brothers and sisters, and a special mention to his parents, who as I said earlier are in my electorate and are wonderful people. I have met them on a couple of occasions now and I would see them at the club now and again. They share, as you would expect, the same qualities of openness. They are people who are so easy to talk to and relate to and, whilst being extremely distressed and upset and sad, they must be immensely proud of their son, who has been such a wonderful example to all of us and who has already made in his short time in Australia such an extraordinary contribution—someone who has been Victorian of the Year on two occasions and Melburnian of the Year because of the community work he has conducted and his other leadership responsibilities. The Melbourne Football Club, the AFL community and Australia have lost a great son with the passing of Jim Stynes. Thank you.

BUSINESS

Rearrangement

Ms BRODTMANN (Canberra) (12:24): by leave—I move:

That business intervening before order the day No. 4, committee and delegation reports, be postponed until a later hour this day.

Question agreed to.
Debate resumed on the motion:
That the House take note of the report.

Mr MATHESON (Macarthur) (12:25): I rise to speak on the report of the Parliamentary Joint Committee on Law Enforcement inquiry into unexplained wealth legislation and arrangements. This inquiry was a very important one because it looked specifically at unexplained wealth derived from serious and organised crime in Australia. Serious and organised crime has a serious impact in this country, threatening the economy, national security and the wellbeing and liberty of all Australians. The financial cost to the community is conservatively estimated at around $15 billion per year. This, along with the safety of our communities, is what made this inquiry so very, very important.

The committee's inquiry considered our country's need for legislative or administrative reform to address unexplained wealth. A number of organisations contributed to the inquiry, including Commonwealth, state and territory agencies, police associations, the Law Council of Australia, the Queensland Law Society and Civil Liberties Australia. I would like to pass on my appreciation to all parties who contributed to this inquiry by either written or oral submission or by attending a public hearing.

Put simply, the unexplained wealth laws represent a relatively new form of criminal asset confiscation where serious and organised criminals who cannot account for the wealth they hold are forced to forfeit these assets to the state. Being a former police officer, I am well aware that the incentive behind organised crime is to make money and accrue wealth. Initiating a reverse onus of proof on those involved in serious and organised crime to show that they have legally obtained their wealth gives us the opportunity to tackle serious and organised crime head-on. I am also a strong believer that confiscating criminal profits will remove funds that are used as capital for further criminal enterprise. Removing these funds significantly disrupts the ability of criminal networks to operate. This can only be a good thing. During the inquiry, the Australian Crime Commission stated that, while serious and organised criminal groups prove resilient and adaptable to legislative amendment and law enforcement, the reduction or removal of their proceeds of crime would likely cause a significant deterrent and disruption to their activities.

I have to say that it has been a great honour to be part of this committee, which has worked hard throughout this inquiry. As a member of the New South Wales Police Force for 25 years, I am very excited about the new form of law enforcement that this unexplained wealth legislation represents. While traditional policing has focused on securing prosecutions, unexplained wealth provisions contribute to a growing body of measures aimed at prevention and disruption. In particular, these provisions will fill an existing gap which has been exploited whereby the heads of criminal networks remain insulated from the commission of offences and enjoy their criminal gains.

I believe this inquiry takes a great step forward from the introduction of unexplained wealth provisions into the Commonwealth proceeds of crime legislation we saw in 2010. While we welcomed the introduction of these provisions, unfortunately in the past two years
no unexplained wealth proceedings have been brought before the courts due to a range of limitations. This is why the committee wanted to examine these provisions more closely and has made a number of significant recommendations in this report to enhance the effectiveness of the Commonwealth unexplained wealth provisions. These recommendations will target the provisions of serious and organised crime; provide further support for unexplained wealth investigations; improve the operation of task forces, including enhancing the role of the ATO; streamline the court process; and develop a consistent and effective national approach to unexplained wealth across Australia.

In particular, we have recommended a harmonisation of Commonwealth, state and territory laws. We believe that a national strategic approach to organised crime will eliminate gaps that can be exploited between jurisdictions. The committee has also recommended a series of technical amendments to ensure that unexplained wealth proceedings are fair and efficient. We believe it is vital that Australia has effective unexplained wealth legislation which will take the profit out of criminal enterprise. This will undermine the business model of serious and organised criminal networks and protect our communities from these individuals and criminal organisations. As part of our recommendations, the committee have sought to support future unexplained wealth investigations by ensuring that ACC examination material can be used as evidence; exploring the possibility of enabling the ACC to conduct examinations for the purpose of unexplained wealth proceedings in a manner consistent with Proceeds of Crime Act court proceedings; and amending the search warrant provisions in the Proceeds of Crime Act to allow for the collection of evidence for unexplained wealth proceedings. We would also like to see an improvement in the operation of task forces which involve the tax office through the prescription of the Criminal Assets Confiscation Taskforce under taxation regulations to allow greater information sharing; and allowing the tax office to make greater use of information obtained through telecommunications interception, where appropriate.

We believe it is also possible to streamline the court process by eliminating the current and unnecessary duplication of meeting an evidence threshold test; providing for an extension of time limit for serving notice of a preliminary order, where appropriate; removing the potential for abuse of legal expense provisions by harmonising them with other Proceeds of Crime Act proceedings; and granting an ability to create and register a charge over Australian property to secure later payment.

I think this inquiry is a great step forward for policing and law enforcement in Australia. Along with my colleagues on the committee, I am a firm believer that, if we can remove this incentive behind organised crime in this country, then we are in a better position to protect our communities from these criminal organisations and bring about a major disruption to all of their criminal activities.

Debate adjourned.
ADJOURNMENT

Ms BRODTMANN (Canberra) (12:31): I move:

That the Federation Chamber do now adjourn.

Longman Electorate: Longman Environmental Reference Group

WYATT ROY (Longman) (12:31): During my time in this place, I have made no secret of the fact that Longman is home to some breathtaking environmental scenery. From the Pumicestone Passage to our very own sand island, Bribie Island, from the Caboolture River estuaries to the spectacular gum tree corridor in Burpengary and Narangba, our region boasts some of the very special treasures of this nation. They are treasures which deserve to be treated with respect so that future generations will also be able to get as much enjoyment from them as we do now. It is for this reason that last year I established the Longman Environmental Reference Group, with the intention of bringing together the many community groups in my electorate who have some fantastic initiatives to protect, maintain and promote our local environment.

The environmental groups in my local community are made up of passionate and dedicated people who work extremely hard doing everything in their capacity to protect and promote our local environmental assets. Whether their passion is wildlife rescue, regeneration of native vegetation or improving the health of our local waterways, these individuals toil for many hours each week, making significant contributions locally. Without their efforts, many of the environmental achievements in our community would simply not come to fruition. However, despite the previous hard work of these groups, I had observed that many of their projects could be enhanced and their efficiency improved by combining the efforts and resources of all the environmental groups in the region. Rather than two groups working on similar projects using limited resources to chip away at a problem, these same groups could work together and achieve an exponential impact with the same resources.

I believe the strength of the Longman Environmental Reference Group will be in the way we can develop and support a cohesive vision for environmental conservation in the Moreton Bay region, promoting environmental opportunities and initiatives. Collectively, the group will also be able to work with local and state government representatives, as well as federal colleagues, to pursue our local environmental concerns. These concerns will receive the weight of attention they deserve, due to the prominence they hold simply through the united front of the Longman Environmental Reference Group.

Already the Longman Environmental Reference Group has been consulting with industry, individuals and key stakeholders to promote projects and activities in the community, and we have seen some significant steps forward in new and existing projects. For the first time, people from all of our environmental groups are sharing ideas and information and working together to find a better solution to the challenges we face in our region. This is what it is all about: empowering locals to make real achievements on the issues that they are passionate about. Let me share one of the many local examples that we have. Last year, the Longman Environmental Reference Group was pleased to host the shadow minister for climate action, environment and heritage as a guest speaker. Not only was this an example of my efforts to bring key decision makers into the community to hear firsthand about local challenges and opportunities; this was a chance for members of the group to ask questions and have real
discussions about how we ensure that development is sustainable and protects our local environmental assets. Essentially, what should our strategic environmental vision be for the future of our region? The discussion that we had was about how, as one of the fastest growing areas in the nation, with the need for essential infrastructure development, we need to consider environmental impact and sustainability so that we maintain our irreplaceable environmental assets and our unique lifestyle.

Since this meeting, every member of the Longman Environmental Reference Group has been empowered to make changes in their approach to their environmental work. Instead of working introspectively on a small area of focus, I have observed a broader focus and a more inclusive outlook with thought given to long-term outcomes. These views are exactly what we need in our community to make real, tangible differences.

I would like to take this opportunity to thank all the members of the Longman Environmental Reference Group for taking the time out of their duties and making time to come together for quarterly meetings. I commend them for willingly sharing their vast experience and knowledge in these areas. I believe that, working together, we are going to see some great things achieved locally. Together, we can ensure that future generations enjoy our beautiful natural landscape and our local environment.

Dress as a Teenager Day
Tuggeranong United Football Club

Ms BRODTMANN (Canberra) (12:36): Today I would like to speak about two events that are happening and have happened in my electorate that really showcase the sense of community that we have here in Canberra. Canberrans are great contributors and donators to worthwhile causes, and I think these events highlight that giving spirit. In fact, I understand that we have the highest volunteering rate in Australia and that Australia has one of the highest volunteering rates in the world, so we are definitely up there in terms of achievement in this area.

The first event I would like to talk about is Dress as a Teenager Day, which is an initiative of Galilee Foster Care and Communities@Work. They are two very important organisations in my electorate. Communities@Work runs a range of community programs—in excess of 200, I think—throughout the Tuggeranong Valley region in particular. It plays a vital role in ensuring that we have a range of community services throughout Canberra.

Communities@Work and Galilee have come together to launch Dress as a Teenager Day on 30 March, which, funnily enough, requires adults to dress like a teenager to help raise awareness and funding for foster carers in Canberra. This great fundraising initiative began last year as a way to help provide more support to children in foster care. There are almost 35,000 children in foster care in Australia and many find a new home through Galilee Foster Care, where they stay with their foster family for a few days or months or an extended period of time. Canberra certainly has a need for foster carers, and I commend those people in the Canberra community who open their lives and their doors to children and young people in need.

While I will be visiting my constituents on Norfolk Island on 30 March, I will make sure I take my jeggings and Ray-Bans to comply with the teenage dress code and support this very
worthwhile cause. I was involved in the cause last year and I wore my Justin Bieber T-shirt, but I am now in love with someone else and so I will be reflecting that on Dress as a Teenager Day because, as you know, Mr Deputy Speaker, love is very strong and true when you are a teenager. But I will still be out there in the jeggings and the Ray-Bans—or the rip-off Ray-Bans anyway. I hope others will do the same, not necessarily by wearing the love of their life's T-shirt and the jeggings but by making a donation to help Galilee Foster Care continue to assist young people in the Canberra community.

I would also like to thank the Tuggeranong United Football Club, who invited me to their Adam Fry Memorial Season Launch last weekend. This event is held by the men's section of the club each year to launch their season. The event is named after Adam Fry, a former player who passed away in 2003 as a result of an epileptic seizure. He was a very much loved player of that club. Many players whom I met on Saturday had played with him all those years ago. I just think it is fabulous that this club is still honouring the memory of their much loved former team member nine years after he passed away. What was also really heartening was the fact that Adam's parents were there on the day—Richard and Rhonda Fry. They have been going to these memorial season launches ever since they began. They are still very much involved in the Tuggeranong United Football Club. It is good to see that continuity.

Each player on the day makes a donation and all money raised is donated to Epilepsy ACT. Tuggeranong United FC is one of the ACT's largest sports clubs and provides the opportunity for anyone to play football regardless of age, gender or skill level. They run football programs for juniors, women and men, and I met them all on Saturday. They are the largest men's football club in the ACT region of any code, with over 250 players. But they also have 180 female players, so there is a very strong female and male presence. What I also found really heartening was the fact that there is a mix of age groups. It goes from essentially the under-15s right through to 70-year-olds still playing. Some of the 70-year-olds set the club up all those years ago and it is great that they are not only interested in and involved with the club but also still pulling on the boots.

That morning they held a round robin tournament. That afternoon the premier team was going off to play the White Eagles in the first kick-off of the season. It was a wonderful morning. They raised a lot of money for Epilepsy ACT. I take my hat off to them and look forward to following their progress in coming months.

University of Queensland Research Facilities

Mrs PRENTICE (Ryan) (12:41): I was delighted to visit the University of Queensland earlier this month for a guided tour of the university's state-of-the-art research facilities. I thank Professor Max Lu, Senior Deputy Vice-Chancellor, and Professor Alan Lawson, Deputy Vice-Chancellor for Research, as well as Professors Gerard Milburn, Mark Kendall and Ove Hoegh-Guldberg, and Mr Andrew Davis and Dr Dean Moss of UniQuest for their time and hospitality during the day.

Firstly, I visited the ARC Centre of Excellence for Engineered Quantum Systems, which is under the stewardship of the Australian Research Council Federation Fellow and Professor, Gerard Milburn. The centre gained $24.5 million of funding in 2010 to investigate quantum coherent systems and work with 14 other leading institutions. From the quantum activity of photosynthesis, which occurs in plants, Professor Milburn's optomechanics researchers are hoping to devise artificial photosynthetic cells to convert sunlight into other forms of energy.
This kind of energy conversion will be much more efficient than the current solar photovoltaic cells, and is definitely an area to keep an eye on.

Secondly, I was able to inspect the Australian Institute of Bioengineering and Nanotechnology with Professor Mark Kendall. There I received an update on the very exciting research and commercial operations, with particular reference to the nanopatch developed in their laboratories. The team has recently received a milestone-linked venture capital grant of $15 million to advance the development and delivery of the nanopatch, which will replace the need for needles and syringes in the future. Smaller than a fingernail, the nanopatch has thousands of points about 100 millionths of a metre long, with tips coated in vaccine, that are still able to breach the tough outer skin layer. This kind of technology has great potential for the developing world, including for 18 of our 20 nearest neighbours which are still developing countries. The second biggest contribution, after clean water, to adding more years and quality to human life has been vaccines. The nanopatch will be of enormous help in places like Papua New Guinea, which desperately needs better targeted programs for diseases like tuberculosis. As they begin to move into the first phase clinical trials with humans, they will not only increase the efficacy in vaccine administration but, because of the much smaller dose required, they will also reduce many of the adverse effects associated with vaccines, especially at the injection point itself.

Thirdly, many in the House would have heard of the great work that Professor Ove Hoegh-Guldberg has been doing with the Great Barrier Reef. Ove is now the Director of the Global Change Institute at the University of Queensland. They are devoting significant resources to devising possible solutions to four problems which affect humanity: land use, food security, oceans and coasts, and renewable energy. With any policy proposal, one must consider the trade-offs involved; for example, as ethanol is produced from food products, how can we increase the contribution of ethanol to energy production, while mitigating the impacts on the supply of food, global food prices and poverty?

We really need to handle the interplay between, on the one hand, coming up with positive solutions and, on the other, weighing up the intended and unintended consequences of such a solution. That is what the Global Change Institute are trying to do, and I commend them on their efforts.

One of the inspiring aspects of the day was the truly international representation at the University of Queensland. For example, there are 12 different nationalities in the nanopatch laboratory alone, and many more at the quantum systems laboratories. These high-achieving internationals—including Australians—have genuine mobility and flexibility; they really are citizens of the world. They could be doing their research at places like Humboldt University in Berlin or John Hopkins University but instead they choose the University of Queensland. This certainly demonstrates the huge worth of investing in our universities and in research. It also demonstrates how far the University of Queensland has come, to be one of the best research universities in the world that is an attractive place for some the world's greatest thinkers and researchers.

We are at a turning point with university research. Our country has seen some of the best research in the world, but we must not be complacent. It is therefore very concerning that the Gillard government has failed to recommit to schemes like the National Collaborative Research Infrastructure Strategy, a program implemented by the Howard government to allow
universities to collaborate their work with world-class technology and equipment which would otherwise have been prohibitively expensive for a single faculty. With this type of equipment we are able to attract researchers from around the world and keep Australia's home-grown talent here. It is therefore absolutely imperative that this government continues to invest in our research industry so that it is not just world class but top of the class.

**IT Price Discrimination**

Mr HUSIC (Chifley—Government Whip) (12:46): The other night it took me four minutes and 55 seconds to order the latest iPad from Apple Australia's website. Very impressive. Easy to select options, along with the chance to customise the order and add extra items to the purchase. In the meantime, it has taken 363 days to get a written response from Apple Australia's Managing Director asking him to let Australian consumers know the answer to the following question: 'Why do your products cost more in Australia than they do in the US?' To be fair to Apple, they are not the vendors walking with clay feet on this issue. Most of the big players in the sector—Adobe, Apple, Canon, Lenovo and Microsoft—have all failed to substantially address these concerns. The general approach of the vendors on this issue is that, if they close their eyes, perhaps the complaints will simply dissolve away. Bad call. That was the approach they took through the course of last year's Productivity Commission review into the economic structure and performance of the Australian retail industry. If you cast your eyes over the submissions received, you will not be struck by too many put forward by IT vendors. From my perspective, the most commonsense approach would have been for the companies to set out in their own terms why they price their products in Australia differently from other parts of the world. Instead of doing that, IT vendors have not only remained mute, they keep aggravating Australian consumers. And those consumers are contacting me.

Last week Daniel Myles let me know via Twitter: 'Photoshop CS5 extended digital download is currently $999 in the US. The exact same download costs A$1,671 when buying from Australia.' So here we see that price discrimination continues even after the Productivity Commission effectively told IT vendors that there are few persuasive arguments to justify pricing software downloads differently in varying regional markets. Let us be clear about this: IT vendors are demonstrating they will price differently here because we will cop it or they think we will keep quiet about it.

Last year I mentioned to the House a comment passed on to me by a journalist covering the IT sector. This journalist put the issue to a senior IT exec and the response was: 'We don't really care what government thinks about this issue, we'll charge what we want.' Consumers do not need much convincing that that is the view of the vendors. Daniel Myles tweeted back to me: 'Suppliers and distributors will continue current practice for dollars until there is action and enforcement, not just words.' I do not think it is unreasonable that Australian consumers and business get their questions answered. In this day and age, where the internet has opened the eyes of consumers to what is on offer worldwide, IT vendors should be much more upfront about the way they set their prices. Since IT vendors have been so dismissive of consumers, businesses and government, it is now time to press for these answers. The time for the answers is right now, instead of having vendors hide behind convenient excuses such as the varying exchange rates.
I inform the House that I am now writing to the Minister for Broadband, Communications and the Digital Economy requesting that a parliamentary inquiry be held into IT price discrimination. The inquiry will be an opportunity for anyone with a concern or view on this issue to put forward their comments to help work out whether a differential in prices exists and to determine the extent of the differential, to get some answers as to why households and small business have to suffer these differentials, and to set out the impact of the differentials on Australian businesses and households, and even government—bear in mind the $2 billion spent on IT procurement by government. No-one wants inquiries to just be an exercise in hot air minus the action. So I think the inquiry should also receive advice on what might be done within the law to deal with this issue where IT vendors fail to respond.

There are a few reasons why this type of inquiry is necessary. The obvious initial reason is simple: fairness. I think it is fair that companies recover costs for getting products to market, but if products cost up to 80 per cent more in one country compared to another without good reason, that is not right and that is not fair. It is not fair that companies price in a way that benefits consumers of their home country because they cannot afford to upset domestic consumers, but they can rip off others. Where we as government are making a substantial investment in completely renewing our technological and communications infrastructure via the deployment of the NBN, and where that has demonstrated economic and commercial benefit for the nation, I do not think it is fair that our businesses competing in a global market be placed at competitive disadvantage where exactly the same hardware costs more than what their rivals have to pay, or where small business have to pay $10,000 more to download updated software or secure licences for that software.

As I said to the House last year, if IT vendors think this issue will disappear in the face of stonewalling, they should think again, and today is further evidence of that.

**Taxation**

Mr OAKESHOTT (Lyne) (12:51): I rise to talk about tax reform, but before I do I also strongly support the comments of the member for Chifley about price discrimination. I would also add the issue of product differentiation and why the same product in one country cannot deliver at the same level in another country. I would hope both price and product are part of any further inquiries. A related issue, which is an absolute bugbear of mine, is that basic connections, such as batteries, are not internationally harmonised. If we are going into an era where things like e-waste matter—I know this is drifting a bit from where the member for Chifley was heading—and if we as a country are serious about dealing with harmonisation, I would hope that some of those broader considerations related to product as well as price are taken into consideration by the minister and the government.

I rise today to talk about tax reform. Last year a critical part of the supply and confidence agreement struck with government was to hold a tax forum at the end of last year. We are now getting to the crunch of some of the flow-on work that came from that tax forum. I understand that the Tax Institute is nearly up and running in dealing with some of the more difficult and long-term tax issues facing Australia in areas such as housing and superannuation. A lot of work has been done between the time that the tax forum held in October last year and now in engaging various universities in finalising that matter. I am also pleased that COSBOA and the small business community are now finding much more of a voice within Canberra. I am really pleased to see Peter Strong engaging directly with both the
Prime Minister and the Treasurer on issues facing small business and the small business tax environment.

The issue that I rise to speak about today relates to some comments in the *Australian Financial Review* by the Institute of Chartered Accountants, who express some concerns about the speed of tax reform in Australia and almost encourage government to slow down. I take a completely opposite view and would urge government to continue with the program of comprehensive tax reform, particularly for business. The Business Tax Working Group came off the back of the program of tax reform. The particular issue of considerations around loss carry-back and the place of equity financing in the future of Australia is a really important policy issue of the moment and must be delivered as per the very positive sounds that came out of the tax forum and that are coming out of Treasury and the Business Tax Working Group. I strongly disagree in this instance with the Institute of Chartered Accountants saying, 'Slow down.' I hope government continues to look to implement that loss carry-back business opportunity.

I also encourage, on the back of the tax forum, the work that is being done by the superannuation roundtable. One of the good things that came from the tax forum was that archenemy groups such as the Business Council of Australia and the ACTU actually sat down and started to talk. Those talks have continued. I understand there is now constructive work in partnership going on with the superannuation roundtable on some of the more difficult longer term issues in areas such as housing and how we better achieve outcomes in the national interest in that regard. That is a good outcome in itself—if relationships are stronger and partnerships can be built by natural foes.

As well, the GST review is coming shortly, and I hope that considerations around mining royalties are an important part of that GST review. The state tax working group will be reporting at the end of this year. Harmonisation of Commonwealth and state taxation is critical to the success of any tax reform. I hope the government keeps the pressure on the two state Treasurers, of two different political persuasions, who are chairing that process.

Finally, the place of education, innovation and natural resource management in tax reform is important. I just highlight that, if we are serious about tax reform, it has got to talk to the broader social and economic outcomes for Australia.

**China**

Mr DANBY (Melbourne Ports) (12:56): One of China's foreign policy think tanks, the China Institutes of Contemporary International Relations, has suggested that Australia is seriously beginning to lag behind rival nations in its engagement with China. CICIR President Cui Liru has said that Australia's strategic relationship with China has failed to reflect the dramatic developments in the two countries' social and economic relationship. He said:

This implies that the longstanding model of the relationship, of which economic complementarity has formed the cornerstone, no longer suffices.

He also said:

The second disjuncture is that between our current strategic bilateral relationship and the fast-paced structural transformations in the Asia Pacific.
The CICIR has said:
China's re-emergence is the greatest single factor influencing the course of political changes in the region.

A very interesting interview appeared on Lateline with John Lee, one of Australia's leading experts on China, who, in response to a question from Emma Alberici about this Chinese think tank's claims, made the following very interesting points, particularly on Australia's economic relations with China:

... if you look at the Australia/Chinese relationship in 2009/10, that reached the lowest point that it had been probably for 10 years. But the Chinese buy commodities from Australia not because they like our policies, but because they have to.

Our commodities tend to be around a third cheaper than other competitors - for example, Brazil - because of our location.

Obviously transport costs to China increase the price of iron ore and coal from places other than Australia. Mr Lee continued:
The Chinese simply have no choice. I mean, getting access to raw materials is fundamental to economic growth. They cannot jeopardise that for domestic reasons.

So, it's very aggressive talk, but there's not much they can actually do.

He continued by explaining the foolishness of suggesting that we should act as some kind of broker between America and China, of pretending that we are not really in the American camp, that we can fudge that. He said:
Everyone agrees that the alliance with the Americans is the bedrock of Australian security …

... it's just unthinkable for the Chinese would view us as an honest broker in this kind of situation when security competition is actually deepening between America and China. So, if we try to play this role as honest broker, we will just be rebuffed by Beijing and annoy Washington, and won't achieve much in the process.

In response to Emma Alberici, he also pointed to the fact that Chinese military spending is increasing at an exponential rate, with compound interest of about 15 per cent per year for the last 15 years, last year exceeding $100 billion. People point to the fact that Chinese defence spending is less than the United States, but, of course, in China you can buy a lot more with $100 billion than you can in the United States. Mr Lee said further that the Chinese are actually spending about double what the official figure is. The second thing that concerns all of us, including Australia, is that they are not very transparent about what they are spending money on and why they are spending that amount of money.

It is very interesting to look at the Lowy Institute's recent review of very much improved relations between Australia and Indonesia. One of the highlighted factors emerging from the Lowy Institute's review of Indonesian attitudes to Australia is that Indonesia sees important reasons for closer economic relations between our countries and that the public polling figures in Indonesia reflect the same concerns about China that the Australian public have. I encourage Australian business to look increasingly to Indonesia, which is now going to have its second year of more than six per cent economic growth. There was a very interesting segment on Business Lateline last night about Australia being very much underdone in Indonesia in terms of business investment, especially foreign direct investment in Indonesia. If Australia looks at the burgeoning middle class and economic growth in Indonesia, that is
something Australian business should naturally focus on to extract benefits for both themselves and Australia from our great neighbour Indonesia.

Question agreed to.

Federation Chamber adjourned 13:01
QUESTIONS IN WRITING

Health and Ageing: Portfolio Entities
(Question Nos 821 and 825)

Mr Fletcher asked the Minister for Health, in writing, on 7 February 2012:

How many departments, agencies, commissions, Government owned corporations or other such bodies have been created within the Minister’s portfolio since 24 November 2007 (excluding existing departments that have been re-named or merged into a larger entity), what is the name of each such entity, and how many fulltime equivalent employees did each such entity have at the end of 2011.

Ms Plibersek: The answer to the honourable member's question is as follows:

Eight agencies have been created within the portfolio since 24 November 2007. The names of each entity and the number of fulltime equivalent employees each entity had at the end of 2011 are provided in the table below.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Year Established</th>
<th>Full Time Equivalents at 31 December 2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australian Commission on Safety and Quality in Health Care</td>
<td>2011</td>
<td>36.09</td>
</tr>
<tr>
<td>Australian National Preventive Health Agency</td>
<td>2010</td>
<td>32.71</td>
</tr>
<tr>
<td>Australian Organ and Tissue Donation and Transplantation Authority</td>
<td>2009</td>
<td>34.88</td>
</tr>
<tr>
<td>Cancer Australia (amalgamated in 2011 with the National Breast and Ovarian Cancer Centre)</td>
<td>2006</td>
<td>48.7</td>
</tr>
<tr>
<td>Health Workforce Australia</td>
<td>2009</td>
<td>116.46</td>
</tr>
<tr>
<td>Interim Independent Hospital Pricing Authority</td>
<td>2011</td>
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</tr>
<tr>
<td>Independent Hospital Pricing Authority</td>
<td>2011</td>
<td>36.4</td>
</tr>
<tr>
<td>National Health Performance Authority</td>
<td>2011</td>
<td>2.6</td>
</tr>
</tbody>
</table>

The definition used for Full Time Equivalent (FTE) is as follows:

FTE is calculated based on the number of hours worked by a staff member in a given reporting period, usually calendar months. Paid leave (either full or half-pay) taken by staff does not affect the FTE calculations. Unpaid leave taken by staff reduces the FTE as the total number of hours worked in the period reduces.