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For searching purposes use http://parlinfo.aph.gov.au

SITTING DAYS—2012

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FORTY-THIRD PARLIAMENT
FIRST SESSION—SIXTH PERIOD

Governor-General
Her Excellency Ms Quentin Bryce, Companion of the Order of Australia

Senate Office holders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Shane Parry
Temporary Chairs of Committees—Thomas Mark Bishop, Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, Sean Edwards, David Julian Fawcett, Mary Jo Fisher, Mark Lionel Furner, Scott Ludlam, Gavin Mark Marshall, Bridget McKenzie, Claire Mary Moore, Louise Clare Pratt, Arthur Sinodinos and Ursula Mary Stephens
Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

Senate Party Leaders and Whips
Leader of the Australian Labor Party—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy
Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party of Australia—Senator Hon. George Henry Brandis SC
Leader of The Nationals—Senator Barnaby Thomas Gerard Joyce
Deputy Leader of The Nationals—Senator Fiona Nash
Leader of the Australian Greens—Senator Christine Anne Milne
Chief Government Whip—Senator Anne McEwen
Deputy Government Whips—Senators Carol Louise Brown and Helen Beatrice Polley
Chief Opposition Whip—Senator Helen Kroger
Deputy Opposition Whips—Senators David Christopher Bushby and Christopher John Back
The Nationals Whip—Senator John Reginald Williams
Australian Greens Whip—Senator Rachel Mary Siewert

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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(2) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice H. Coonan, resigned 22.8.11), pursuant to section 15 of the Constitution.
(3) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice Hon. M. Arbib, resigned 5.3.12), pursuant to section 15 of the Constitution.
(4) Chosen by the Parliament of Western Australia to fill a casual vacancy (vice J. Adams, died in office 31.3.12), pursuant to section 15 of the Constitution.
(5) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. B. Brown, resigned 15.6.12), pursuant to section 15 of the Constitution.
(6) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. N. Sherry, resigned 1.6.12), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

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

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<tr>
<td><strong>Prime Minister</strong></td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Digital Productivity</strong></td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Mental Health Reform</strong></td>
<td>The Hon Mark Butler MP</td>
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<td><strong>Minister for the Public Service and Integrity</strong></td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on the Centenary of ANZAC</strong></td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td><strong>Cabinet Secretary</strong></td>
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<td>Senator the Hon Jan McLucas</td>
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<td>The Hon David Bradbury MP</td>
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 09:30, read prayers and made an acknowledgement of country.

PARLIAMENTARY OFFICE HOLDERS

Temporary Chairmen of Committees

The PRESIDENT (09:31): Order! Pursuant to standing order 12, I lay on the table a warrant nominating Senator Sinodinos as an additional Temporary Chairman of Committees when the Deputy President and Chairman of Committees is absent.

BUSINESS

Days and Hours of Meeting

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (09:31): I seek leave to move a motion relating to using the matters of public interest time today to give the Senate the opportunity to debate the Financial Framework Legislation Amendment Bill (No. 3) 2012. I understand there are some other issues in terms of the government business program that are still under discussion.

Leave granted.

Senator JACINTA COLLINS: Senators will be aware that this has been circulated in part yesterday, although it has been amended. I move:

That the order of the Senate agreed to on 19 June 2012, relating to the hours of meeting and routine of business, be varied to provide that:

On Wednesday, 27 June 2012:

(a) the hours of meeting shall be 9.30 am to 8 pm;

(b) consideration of matters of public interest shall not be called on and instead the Financial Framework Legislation Amendment Bill (No. 3) 2012 shall be called on, have precedence over all business, be considered under a limitation of time—

Honourable senators interjecting—

The DEPUTY PRESIDENT: Order on my left! Order, both sides! Senator Sterle, order!

Senator JACINTA COLLINS: As other senators are noting, this is a very important piece of legislation, responding to the High Court, and I understand that other parties too believe that it should be dealt with promptly—and, indeed, on the run, given the timetable involved. I continue reading the motion:

That the order of the Senate agreed to on 19 June 2012, relating to the hours of meeting and routine of business, be varied to provide that:

On Wednesday, 27 June 2012:

(a) the hours of meeting shall be 9.30 am to 8 pm;

(b) consideration of matters of public interest shall not be called on and instead the Financial Framework Legislation Amendment Bill (No. 3) 2012 shall be called on, have precedence over all business, be considered under a limitation of time and the time for the remaining stages commence at 12.45 pm until 1.50 pm;

(c) paragraph (b) operate as an allocation of time under standing order 142;

(d) divisions may take place between 12.45 pm and 2 pm; and

(e) the question for the adjournment of the Senate shall be proposed at 7.20 pm.

The Financial Framework Legislation Amendment Bill (No. 3) 2012 is known as the Williams matter.

Senator IAN MACDONALD (Queensland) (09:33): Just speaking to the motion, I am unclear. I have not seen this
before, and I suspect other senators are in this situation. I wonder if the minister could—

Honourable senators interjecting—

The DEPUTY PRESIDENT: Order! Senator Macdonald, you have the call.

Senator IAN MACDONALD: You mentioned something about time limitation, Minister, which I am unclear about. I and many of us, in spite of the way the Greens have rolled over on guillotines—

Senator Milne interjecting—

Senator IAN MACDONALD: I have not, so this has been your standard position.

Government senators interjecting—

Senator IAN MACDONALD: Sorry, I have 20 minutes to speak, and I will—

The DEPUTY PRESIDENT: Senator Macdonald, would you address the chair with your remarks, please.

Senator IAN MACDONALD: Thank you, Mr Deputy President. I remember the days when the Greens would spend hours in here berating the Howard government for time-managing just 36 bills in three years.

Senator Cormann interjecting—

Senator IAN MACDONALD: We are now up to, I am told—I accept Senator Cormann's interjection—125 bills that the Greens have so far guillotined—36 in this current two-week period. You talk about hypocrisy. I just cannot believe how any Australian would ever believe anything the Greens say, because of their hypocrisy on issues like this. Mind you, while I am at it I might say that I and nearly every Australian cannot believe anything the Labor Party says after 'There will be no carbon tax under the government I lead'—although, in Ms Gillard's favour, I might just say that perhaps she was being honest; perhaps she will not be the leader of the government on 2 July, when the carbon tax comes in. I await with bated breath the end of this week, as the hawks circle around the Prime Minister's office. It is a fascinating week.

But, getting back to this more serious issue, I am just uncertain of what we are being asked to do. I agree—and it is not my position to speak for everyone here, but I know we all agree—that this is an important bill to get through, but I am reluctant to be part of any guillotining of any bill. If it is important—and it is important—I think we should debate all weekend if necessary to have this bill through. I am not sure—

Senator Fifield: I am going to stand up.

Senator IAN MACDONALD: You are going to mention things. I want to indicate to those who are listening to this debate and wondering what it is about that this is a dramatic issue for the governance of Australia. The High Court has made a ruling which means some legislation and some grants programs are put in jeopardy and in doubt. What we are trying to do is fix that in a short period of time so that the procedures of government can continue. But there are many of us who are concerned about bringing in this urgent legislation within such a short time after the High Court's decision, perhaps without it being fully investigated; there is a bit of concern in people's minds. That is why, as I understand it, the Manager of Opposition Business in the Senate has indicated that there should be a sunset clause on any broadscale agreement today to cover what the High Court has dealt with. I think that is a very sensible arrangement. We can do what needs to be done to make sure the normal process of government continues but we put a sunset clause on it to say, 'Just in case we have been a bit too hasty; perhaps there are unintended consequences'—and, heaven knows, nearly every piece of legislation this government
has brought in has had an unintended consequence. I and a lot of others are just a little bit reluctant, so I urge on all parties the thought that perhaps we should fix this up today but make sure that we revisit it in a short period of time so we are not doing things that have unintended consequences.

Senator MILNE (Tasmania—Leader of the Australian Greens) (09:39): The Greens understand how important it is to deal with the High Court decision in relation to the Financial Framework Legislation Amendment Bill (No. 3) 2012, and we have very strong and clear views about it, including the need to properly recognise that the High Court has ruled there needs to be a readjustment of influence or power between the executive and the parliament. We have always supported more power being vested in the parliament. We think it is a really important ruling and we think it needs proper discussion. We also recognise the urgency of allowing existing programs to continue and not putting them in jeopardy. So I want to inform the government that we are prepared to give this matter precedence over matters of public interest at 12:45 today, but we are not prepared to have it time managed. We think that the debate should continue and should take precedence over other business, but it should be allowed to be debated in the Senate's time. Clearly we have amendments we want to deal with and, on that basis, I informed the government that we would be prepared to give it precedence over other government business but we are not prepared to put a time limit on the debate.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (09:41): The opposition have indicated to the government over a couple of days that we are very happy to facilitate the passage of legislation to address the issues raised by the High Court. I know the shadow Attorney-General has been in discussions with the Attorney-General about the form the legislation might take and also with other parties about any necessary amendments. We recognise that this is a matter which needs to be dealt with this week and that the opposition was prepared to give up its own time in the matters of public interest discussion to facilitate the debate. However, at no stage have we supported time management or a guillotine. As you know, Mr Deputy President, that is something we do take very seriously; we think that time management should be used only in exceptional circumstances. But this is significant legislation. It does deserve to be properly debated. The parliament does deserve the opportunity to have amendments properly considered, and all colleagues who wish to make a contribution to this debate should have the opportunity to do so. For its part, the opposition will be limiting the number of speakers that it puts forward, so as to make sure the matter does come to a vote this week, but at no stage have we indicated that we would support a guillotine or time management on this legislation—informal arrangements, yes; but no guillotine, no time management. We could not support a motion which contained an element of time management, but if the government were minded to remove that part of the motion we would be able to support a motion to have this legislation debated at 12:45 today. We have not indicated at any time that we would support time management.

The DEPUTY PRESIDENT: Senator Fifield, do you want to move an amendment in relation to the removal of the time management provision?

Senator FIFIELD: I move:
Omit paragraphs (b) and (c), substitute:
(b) consideration of matters of public interest shall not be called on and instead the Financial Framework Legislation Amendment Bill (No. 3) 2012 shall be called on.
Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (09:44): I appreciate that people have given a broad commitment to dealing with the bill today. The reason the government have sought time management, as explained by Senator Collins, is that we have an absolute necessity, in terms of the payments being made, to get to this bill today in order not to prevent the capacity for those payments to be made, given the end of the financial year.

Senator Ian Macdonald interjecting—

Senator CHRIS EVANS: Senator, I just make the point that I appreciate that in discussions with the opposition they have been prepared to support the bill. It was put to the—

Senator Ian Macdonald interjecting—

Senator CHRIS EVANS: The proposition—

Senator Ian Macdonald interjecting—

Senator CHRIS EVANS: Senator Macdonald, have you had your go?

Senator Ian Macdonald interjecting—

Senator CHRIS EVANS: No, you ought to belt up and let me give my—

The DEPUTY PRESIDENT: Order, Senator Evans; through the chair please—and order, Senator Macdonald; do not interject.

Senator CHRIS EVANS: I appreciate it, because if you stop him running the commentary I am happy to—

The DEPUTY PRESIDENT: I have asked both of you to adhere to the procedures.

Senator CHRIS EVANS: Thank you. The point—

Senator Ian Macdonald interjecting—

The DEPUTY PRESIDENT: Order, Senator Macdonald! You have the call, Senator Evans.

Senator CHRIS EVANS: Thank you. I am not sure that Senator Macdonald was party to the conversation I am referring to, but I have asked the opposition and we did talk about how we might manage it. It is true that the opposition have always made it clear that they are not going to support a guillotine, but it was also made clear that we were looking to time manage the debate in order to get the bill today, because in the normal course of events it is possible that we may not get the bill today. We have very little time available for that purpose, so the approach has been about trying to manage that process.

Senator Ian Macdonald: We've got tomorrow and Saturday and Sunday.

Senator Chris Evans: Mr Deputy President, it is not possible to have this bill passed on Saturday or Sunday and meet the deadline, which the opposition recognises. The point I want to make is that if the view of the Senate is that we do not have support for the time management, with the Greens and the opposition indicating that they will not agree to that, I accept that that is the will of the Senate.

Senator Ian Macdonald: The Greens have agreed to every other time management—

The DEPUTY PRESIDENT: Order, Senator Macdonald! You have the call, Senator Evans.

Senator CHRIS EVANS: Mr Deputy President, I am happy to deal with him or you can deal with him, but I will deal with him—

The DEPUTY PRESIDENT: I am dealing with the matter, Senator Evans. You have the call.
Senator CHRIS EVANS: Thank you, Mr Deputy President. If a senator wants to continually talk over the top, it is very hard for me to not deal with him myself, so one of us needs to deal with him.

The DEPUTY PRESIDENT: You have the call, Senator Evans.

Senator CHRIS EVANS: Thank you, Mr Deputy President. I try and deal with the Manager of Opposition Business in the Senate and the Leader of the Opposition in the Senate because they allegedly are able to control the way that their party operates in the Senate—something that is starting to be questioned. But I appreciate the goodwill from the opposition. They are trying to deal with this issue. I just make the point, without delaying the Senate any further, that the government has made the argument and we continue to make the argument that we need this bill carried today in order to have those payments met and the normal processes of government continue and for organisations to administer those funds. I just want to make the point that, if there is no agreement to time management this morning, we run the risk of the bill not being carried tonight—in the absence of management—because the time allotted for government time late this evening is very short. I just urge the Senate—

Senator Ian Macdonald interjecting—

The DEPUTY PRESIDENT: Order, Senator Macdonald!

Senator Jacinta Collins interjecting—

The DEPUTY PRESIDENT: Order, Senator Collins! Senator Evans has the call.

Senator Ian Macdonald interjecting—

The DEPUTY PRESIDENT: Order! Ignore the interjections, Senator Evans. Have you concluded your remarks?

Senator CHRIS EVANS: No. I am waiting for you to bring order, Senator.

The DEPUTY PRESIDENT: Senator Evans, I have brought order to the chamber. Interjections are disorderly. Senators know this, and I suggest you ignore the interjections. You have the call.

Senator CHRIS EVANS: I will try and ignore them, Mr Deputy President. I appreciate your keeping control of the Senate in that regard. I am just trying to make the point that we need the bill today. In the absence of a time management resolution, I am relying on the goodwill of the Senate, all of the Senate, to do that, and that means we have to have an understanding about the use of the time available. If people are not prepared to vote for a time management solution, we need to informally have an understanding about that. That does not have to be on the record. I am just making the point that otherwise we may well find that some of the people who seem not to be under any discipline in this place may talk and may prevent us bringing that matter to a conclusion tonight. That is the only point I want to make. If the view of the Senate is that the attempt by Senator Collins to have that time management included in the resolution will not be supported—and I think Senator Fifield's amendment will be supported, given what I caught of Senator Milne's contribution as I came into the chamber—I accept that that is the view of the Senate, but I do make the point that we will need the full cooperation of the Senate if we are not to find ourselves in the position where we run out of time. I just make that point very strongly because, in the absence of a time management mechanism, that is not always possible. Some senators, including the one who continually interjects now, are famous for not meeting the broader agreements that are reached around this place.
Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (09:49): Mr Deputy President—

Senator Ian Macdonald interjecting—

Senator Chris Evans interjecting—

The DEPUTY PRESIDENT: Order! Senator Evans, you pointed out that the chamber was disorderly. You are contributing to that now. Senator Macdonald, please do not interject.

Senator BRANDIS: Mr Deputy President, may I say through you to the Leader of the Government in the Senate: let not your heart be troubled, Senator Evans. The opposition's attitude, as I understand, has been set out by Senator Fifield, but, to make assurance doubly sure, as the shadow minister with responsibility for this bill let me indicate to the chamber what the opposition's attitude is. As I said to the Attorney-General yesterday, the opposition will agree to expedite the passage of this bill this week.

The opposition has concerns about the bill. We have both concerns as to its legal validity and concerns about the process which the government and, in particular, the Attorney-General have adopted. Our willingness to cooperate in expediting the passage of this bill this week reflects merely the fact that we are in uncertain constitutional territory at the moment, and we the opposition certainly do not want to stand in the way of the government's attempts to seek to regularise or validate the position following last week's High Court decision.

Nevertheless, as I said a moment ago, I do have serious concerns about the legal method, as it were, chosen by the government to validate these payments. For that reason, the opposition will be moving an amendment to propose a short sunset clause on the bill which would sunset the operation of the bill to 31 December this year. I would hope that particularly crossbench members of the Senate would see the point in this. The reality is that we had, last Wednesday, a very complex High Court decision. I do not know how many senators have had the opportunity to study it. I have. I think it is not controversial to say that the High Court decision casts a great deal of doubt over a very large range of Commonwealth programs. Most, but not all, of those programs are programs that have the support of the opposition—and I dare say that many of them would have the support of all senators. The opposition's willingness to expedite the passage of the bill, subject to a short sunset clause, is merely to hold the situation in statu quo so that the High Court's decision can be properly considered, particularly by the Attorney-General's Department and by those who advise the government. A more thorough and effective statutory response to the High Court decision can be considered in the six months that the sunset provision allows. With that very significant reservation of the opposition's position, that is the reason we are prepared to expedite the passage of this bill this week, and I have told the Attorney-General that. Finally, I should indicate that, when we have the second reading debate, I will be the only speaker from the opposition.

Senator Ian Macdonald: Mr Deputy President, I rise on a point of order. I could not hear the speaker because the Leader of the Government in the Senate and the Manager of Government Business in the Senate were chatting among themselves. What Senator Brandis is saying was particularly important, and I think the Manager of Government Business would benefit if he actually listened to what Senator Brandis is saying.

The DEPUTY PRESIDENT: There is no point of order. The question is that the
amendment moved by Senator Fifield be agreed to.

Question agreed to.

The DEPUTY PRESIDENT: The question now is that the motion moved by Senator Collins, as amended, be agreed to.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (09:54): In closing the discussion around this proposal, for the benefit of the Senate I thought it might be useful to read, as amended, what we are now voting on and make some brief comments. The amended motion states:

That the order of the Senate agreed to on 19 June 2012, relating to the hours of meeting and routine of business, be varied to provide that:

(a) the hours of meeting shall be 9.30 am to 8 pm;
(b) consideration of matters of public interest shall not be called on and instead the Financial Framework Legislation Amendment Bill (No. 3) 2012 shall be called on;
(c) divisions may take place between 12.45 pm and 2 pm; and
(d) the question for the adjournment of the Senate shall be proposed at 7.20 pm.

That removes any of the previous references, Senator Fifield, to time management and I think that satisfies the concerns that you had raised. I would like to reflect on the comments made in respect of the time that will be involved in debating this, as Senator Evans said. We take as indications of goodwill the comments about how promptly this matter will be dealt with. But, at the same time, I note Senator Brandis’s comments about concerns with the legislation that will be dealt with this week. The concerning factor there is that we take longer than today to deal with this matter, and I must highlight the urgency that is involved.

For the information of senators, we are seeking to pass this bill today. This legislation is largely agreed, as demonstrated by public comments of all parties and the passage of the bill through the House last night. I remind Senator Brandis that passage did occur in the House last night. But, more critically, the bill needs royal assent with regulations in place before the end of this financial year. The only opportunity for this process to occur is tomorrow morning and, on that basis, because of the arrangements for Ex Co tomorrow morning, I seek the cooperation of the Senate to achieve passage of this bill today.

Question agreed to.

BILLS

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

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CASH (Western Australia) (09:57): In the very short time that has been allotted to speak, I rise to speak on the Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Bill 2012. This bill will amend the Paid Parental Leave Act 2010 and the Fair Work Act 2009 as well as implement other minor changes to five acts consequential to the dad and partner pay payment in order to extend the Paid Parental Leave Scheme to fathers and partners from 1 January.

The coalition welcome the long-overdue change in this amendment, which was promised by the government in 2010. Schedule 1 of this bill extends the Paid
Parental Leave Scheme to provide two weeks pay for fathers and partners at the national minimum wage level of $590 per week before tax. It is important to note that fathers and partners will only be able to lodge claims from October 2012 for children born or adopted on or after 1 January 2013. Despite this payment being promised at the 2010 election, dad and partners will have to wait until 2013 to receive a paternity leave payment from the government. While the coalition do not oppose the bill, the reality is that the coalition's paid parental leave scheme is far superior to the government scheme, in that our scheme provides real benefits for women, men, families, business and the economy. In summary, instead of trying to fool the public and portray the coalition's PPL scheme as a reward for the rich, Labor should look at the facts. Labor's paid parental leave scheme does not pay superannuation, while the coalition's scheme includes superannuation at the mandatory level. Our scheme is a genuine social reform that will help families; it is not the box-ticking exercise that is the government's. Labor is asking employers to be the pay clerks, despite the Productivity Commission warning that the biggest dangers of an employer co-funded paid parental leave scheme are discrimination against women of reproductive age and, in the shorter term, financial pressure on cash-strapped employers. Under the coalition's plan, small business will not pay the levy and they will not administer the scheme. Workers taking paid parental leave will be paid directly by the government and businesses do not have to find the money and then wait to be reimbursed. Labor's scheme places an administrative burden on small business, while the coalition's plan will be administered by the Family Assistance Office.

A clear contrast between the coalition's PPL scheme and Labor's scheme is that no woman will be any worse off under the coalition's scheme and, further, 99 per cent of working women will be financially better off compared with the Labor scheme. The coalition's PPL scheme also provides more time for mothers to bond with their children. Labor's 18 weeks is insufficient time for women to breastfeed and bond with their child. The coalition will be giving women 26 weeks of PPL compared with Labor's scheme of 18 weeks. The coalition's 26-week scheme is precisely the duration that health experts recommend is the minimum period for optimal maternal and health outcomes.

One of the most important differences under the coalition's scheme is that working women on PPL will receive superannuation contributions at the mandatory nine per cent level. Labor's PPL scheme does not provide for any superannuation payments during PPL and, because of this fundamental failing, will further entrench the financial disadvantage of women who have chosen to have children. The coalition believes that if government is committed to women and to ensuring their financial security, superannuation contributions must be paid while women are receiving paid parental leave.

This is a step towards ensuring that women are not disadvantaged when it comes to their retirement savings. With the average life expectancy for women being higher than for men, it is important that women are not penalised with low retirement savings for having children. Research shows that a typical woman will have 35 per cent less savings than a typical man and that a woman who takes a career break to have children will have 26 per cent less for retirement than if she had continued working. That is why the coalition believe that women should not be disadvantaged when the time comes to draw on retirement savings and that is why
we have included superannuation in our policy. Financial security for women is something we have seen various Labor ministers for the status of women pay lip service to but take no action on, and that is clearly reflected in the government’s paid parental leave scheme. The least the government could do is admit that its policy on this is wrong and harmful to a woman’s financial security.

Men will also be better off under the coalition’s scheme. More than 94 percent of full-time working men will be better off financially under the coalition’s PPL scheme and, unlike Labor’s scheme, no man will be worse off. Men on low incomes will be up to $200 better off under the coalition’s scheme and men on middle incomes will be up to $1,500 better off. Working families are also significantly better off under the coalition’s PPL scheme. Why? Because they will get more time off and more money under our scheme. Unlike Labor, the coalition recognises that paid parental leave is a work entitlement rather than a welfare benefit.

Employees are entitled to sick, carers, annual, bereavement and public holiday leave at their actual salary amount and paid parental leave, in our opinion, should be no different. Under the coalition’s PPL scheme, employees will receive a proper work entitlement. A proper paid parental leave scheme reinforces that taking time off work for births is a normal part of life and not an inconvenience, as the Labor scheme would have it. The coalition’s PPL scheme gives women real choice because it fully supports their income when their family is at a most financially vulnerable time. Our PPL scheme recognises that a family’s financial responsibilities do not reduce when a child is born into the family. There is no maternity leave from mortgage payments, power and fuel bills or grocery expenses. Mortgage payments, electricity and fuel bills and grocery costs do not take maternity leave but women certainly do and so, for a reasonable amount of time, their pay should be like any other work entitlement and not a basic welfare entitlement.

One of the other clear differences between Labor’s scheme and the coalition’s scheme is that the Labor scheme forces small and big business to incur the red-tape cost of administering the PPL payments. On that point, I was astounded to hear the member for Corangamite in the other place say:

... I want to make it very clear to those listening in the House today or via the broadcast that the paperwork burden is actually very manageable and very small and does not take a great deal of effort by either the employee or the employer. If you look at the efforts that this government has made in terms of red tape reduction, I think we have a first-class record of removing unnecessary red tape. Importantly, there is some necessary red tape or regulation to ensure proper operation of our laws. The level of paperwork associated with this is appropriate, it is not a great burden and it does not take an unnecessary amount of time.

Senator Ronaldson: He’s a fool.

Senator CASH: Thank you, Senator Ronaldson, I will take that interjection. You are right. If the member for Corangamite stands by that statement he is clearly a fool who has absolutely no understanding at all about the way that small business functions.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): Order! Senator Cash, you will withdraw that remark about a member in the other place.

Senator CASH: Thank you, Mr Acting Deputy President. I will withdraw that remark about a member in the other place.

Senator McLucas: Mr Acting Deputy President, I raise a point of order. I would also request that Senator Ronaldson withdraw his comment, which will also be on the record.
The ACTING DEPUTY PRESIDENT: Senator Ronaldson, before you leave the chamber, the comment you made about the member for Corangamite may well appear in the Hansard; would you withdraw that remark.

Senator Ronaldson: Mr Acting Deputy President, I was actually directing my comment to Senator Cash that the member for Corangamite is a fool—

The ACTING DEPUTY PRESIDENT: Senator Ronaldson, I realise that.

Senator Ronaldson: But, if there is a concern, I will withdraw it.

Senator McLucas: No ifs.

The ACTING DEPUTY PRESIDENT: Thank you.

Senator CASH: The member for Corangamite has made these statements and they clearly show that he has no understanding at all of how a small business runs. If he honestly believes that the level of paperwork associated with this is appropriate, that it is not a great burden and that it does not take an unnecessary amount of time he should go to any small business owner in the Australian community, as I have done, and I can tell you that the first thing they will say is that they cannot afford the red tape and regulation that is placed on them by Labor's PPL scheme. If the first-class record of removing unnecessary red tape that the member for Corangamite refers to is in relation to the 18,089 additional regulations created by the Rudd-Gillard government since the beginning of 2008 whilst only 86 were repealed then, quite frankly, the Liberal Party has a very, very different definition of a first-class record—so different that we have committed to cutting red tape and the compliance burden on small businesses by $1 billion a year if and when we are elected to government.

The coalition's PPL scheme, unlike Labor's scheme, will release employers from the pay-clerk burden imposed by the Gillard Labor government, unless employers opt in for this additional regulatory and compliance task. Imposing such additional regulatory and compliance obligations on employers for no good reason adds nothing to ongoing workplace relationships and is an additional burden that most employers can well do without. Anybody who has spoken to an employer will know that red tape is not conducive to good business practice. Imposing such additional regulatory and compliance obligations on employers for no good reason makes ongoing workplace relationships tougher than they need to be and is an additional burden that they can well do without. As always, it is a coalition government, not a Labor government, that wants to make life easier for small business owners, who carry our economy each and every day. This will be especially important for small business owners who, unlike big employers, do not have whole departments that can actually handle the PPL pay-clerk task imposed by the government's scheme. The coalition's PPL scheme will also help boost productivity in the workplace. Our scheme boosts productivity because it provides more encouragement to women to remain in the workforce, to continue gaining practical workforce skills, to learn on the job and to continue applying their knowledge, skills and abilities in the workplace. It provides more encouragement for workplace participation and it makes more workplaces more efficient by removing the onus Labor has put on employers to administer the PPL scheme.

The Productivity Commission estimates that when faced with a choice of resigning or taking paid parental leave almost one-fifth of mothers choose to resign their jobs. The
coalition recognises that, for employers, replacing an entire role is expensive and time-consuming in terms of recruitment and training costs and the risk of loss of corporate knowledge that an individual has built up in a role. Our PPL scheme provides the right incentives for working mothers to return to work. The coalition's PPL scheme is a globally recognised productivity boost. In fact, Australia is the only country in the world with a paid parental leave scheme that is entirely based on the minimum wage. According to the Productivity Commission's report on paid parental leave, at least 37 nations around the world had introduced a paid parental leave scheme prior to the launch of Labor's minimum wage scheme. Of those schemes, 35 were based on full or part replacement wage. Many other countries offer replacement wage, just like the coalition's scheme, including France, Germany, Austria, Russia, Denmark, Serbia, Singapore, Slovenia, Estonia, Greece, Mexico, Morocco, Luxembourg, Poland, Norway, Portugal, Switzerland and Spain. They all deliver paid parental leave based entirely on a mother's prebirth earnings. I find it very interesting that in so many areas the Labor Party conveniently wants to be world leader.

Senator McEwen interjecting—

Senator McLucas interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senator Cash, resume your seat. I remind senators that under standing order 197 a senator shall not interrupt another senator speaking except to call to attention a point of privilege or a point of order. Senator Cash has the call.

Senator Cash: As I was stating, the Labor Party conveniently, when it suits them—certainly not when it suits the Australian public—likes to be world leader in so many areas. They want to be a world leader when it comes to the carbon tax. They promised the Australian people, prior to the last election—the 2010 election—that there would be no carbon tax if they were elected to government. Conveniently, when they assumed office, they broke that promise. And when we questioned them as to why they broke that promise, what did they say? They said that Australia needs to be a world leader when it comes to reducing the impacts of climate change. So what do they do? Well, in four days time they will impose on Australia the world's greatest carbon tax.

So they want to be a world leader when it comes to carbon taxes. However, when it comes to the paid parental leave scheme it is the exact opposite. Goodness forbid that the Labor Party actually support women. Goodness forbid that the Labor Party actually support the economic success of women—because gosh, you cannot actually give women a hand up in life if you are from the Labor Left! You need to keep them down, because then you have an excuse for remaining in government.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senator Cash, resume your seat. Senators on my right and my left, I remind you again that under standing order 197 a senator shall not be interrupted except on a point of privilege or order. Senator Cash has the call.

Senator Cash: Goodness forbid that the Labor Party would ever say to women in Australia, 'We think it is absolutely fantastic that you are successful.' Did you know that less than one per cent of women in Australia earn in excess of $100,000? Instead of saying to those women, 'Well done; we celebrate your success, because we want you to be better,' what does the Labor Party say? They say: 'Quite frankly, that's not good enough. If you take time off work we will not give you a replacement wage. Because
we're from the left of society, we believe that all you are entitled to is a welfare benefit.’ And that is what they give them.

We on this side of the parliament, however, celebrate the economic success of women. If there is a woman in Australia who gets an improvement in her job, if there is a woman in Australia who gets an increase in salary, we say that is absolutely fantastic, because that is a step in the right direction towards ensuring the financial security of women. That is why our paid parental leave scheme will celebrate the economic success of those women and provide them with 26 weeks at their replacement wage up to $150,000.

Despite the Gillard government's best efforts to talk up the benefits of Labor's paid parental leave scheme, the truth is that the coalition is the party in Australia that celebrates the economic success of women, and that is why it is our paid parental leave scheme that is the better scheme for Australia.

The ACTING DEPUTY PRESIDENT: Order! The time allotted for this debate has expired. The question is that this bill be now read a second time.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Fawcett) (10:07): The question now is that the remaining stages of this bill be agreed to and the bill be now passed.

Question agreed to.

Bill read a third time.

Passenger Movement Charge Amendment Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.
government continues to tax it, regulate it—but not, it would seem, compensate it. As I said, the government has introduced a tax that is based on a lie.

The interesting situation facing the Great Barrier Reef is, I think, worth repeating. While I am sure tourism operators will welcome the fact that the government has reduced the Great Barrier Reef visitor levy to offset the carbon tax impact on businesses operating reef tours, I am sure that will be very small compensation for those small business operators up there. The utterly remarkable part of this is that the government has cut funding to the very body that is charged with researching the impact of climate change on the reef. The Great Barrier Reef Marine Park Authority, GBRMPA, has faced a budget cut to pay for the carbon tax assistance program. So Labor is effectively cutting off its nose to spite the Barrier Reef's face.

It is absolutely fascinating that day after day in the other place we saw Minister Garrett, and day after day in this place we have heard Minister Wong, regaling us about the need to price carbon to save the Barrier Reef. But we have this duplicitous situation whereby funding to the body that is providing research on the impact of the climate change they are referring to is actually being cut.

I also want to talk about other sectors of the economy that have not fared so well on the carbon tax compensation front. Take the people of Tasmania, for example, who will face higher costs to get from Tasmania to the mainland as a result of the toxic carbon tax. The ferry between Tasmania and Victoria will cost $3 more per passenger per journey after Sunday. It will cost $6 more per vehicle on the ferry after Sunday. With Tasmania's economy so heavily reliant on tourism and the necessity of moving goods by sea, this decision is deeply troubling.

But I do not hear anything from the Labor senators in this place about this matter—not a single word. And what about the following members from the other place—the member for Bass, Geoff Lyons; the member for Braddon, Sid Sidebottom; the member for Franklin, Julie Collins; and the member for Lyons, Dick Adams? Where are they in relation to this issue? Why aren't they sticking up for their state? Why aren't they acknowledging that the cost of a ferry ticket will increase by $3 or that the cost of a car on the ferry will increase by $6? Where are they in relation to this matter? They are absolutely absent from the debate.

Further, air travel will be more expensive after Sunday, with ticket prices set to increase by $3.50 for Qantas and $3 for Virgin—another impact on the tourism sector. A family of four travelling to Queensland on Sunday to enjoy school holidays will be paying an extra $24 for their holiday than if they had gone this week. Businesses will face higher costs in other parts of the country as a result of the impact of the carbon tax, and that will impact on the tourism sector. Small and medium businesses will receive no compensation for the cost of freighting goods by air and face increased costs as a result of that. Guess who will ultimately pay for these increased prices? You and I know who that is: the Australian consumer. This toxic tax will touch every aspect of the lives of Australians come 1 July.

I now want to again refer back to the passenger movement charge bill. As I said earlier, this is not the same bill as that originally introduced by the government. Why did that occur? I know exactly why. The shadow minister for tourism, Mr Baldwin, and the shadow minister for justice,
Mr Keenan, who both sit in the other place, moved heaven and earth, in conjunction with the tourism sector, to take one of the more insidious parts of this bill out of the original legislation. All power to them and congratulations, along with many thanks to the tourism sector, for the enormous amount of work that they did on that matter. As part of Mr Baldwin's campaign in relation to this passenger movement charge, he reiterated the fact that, as the shadow minister, he has launched the 'staycation' initiative. The website is www.staycation.org.au, for those who might be interested. The aim of that initiative is to encourage Australians to stay in Australia. But every time we see increases such as this then the high value of the Australian dollar kicks in and tourism in this country suffers.

Page 11 of Budget Paper No. 2 says the following:

Passenger movement charge ...

The Government will increase the passenger movement charge by $8 to $55 per passenger with effect from 1 July 2012, with the charge to be indexed annually by movements in the Consumer Price Index thereafter. The measure is estimated to increase revenue by $610.0 million over the forward estimates period.

Barely seven weeks later, after extraordinary pressure from the tourism sector and from Mr Baldwin and Mr Keenan from the other place, the government backed down and we now have the bill that is before us, which we will be supporting.

The increase in the passenger movement charge makes the Australian departure tax the highest short-haul departure tax anywhere in the developed world. The Senate may not be aware that, since coming to office, the Labor government has increased the passenger movement charge from $38 to $55, a $17 increase. In the life of the Howard government, the passenger movement charge increased twice over a 13-year period, by a total of $11, and those increases were linked to specific programs, such as the See Australia campaign and defending Australia from biohazards such as foot-and-mouth disease.

I want to give my colleague Senator Nash the opportunity to make a more substantial contribution than time would otherwise allow, but I want to again say that this is a government that does not care about the multimillion-dollar tourism industry or about the one million Australians employed in it. It has no understanding of what the 90 per cent of tourism businesses that employ fewer than 20 employees are facing at the moment and no compassion for them. The circumstances facing them are quite dramatic. We know full well that the tourism sector is under enormous pressure at the moment. Why this government would be doing anything to add to that pressure is beyond comprehension.

Senator WATERS (Queensland) (10:27):

I rise to speak in favour of the Passenger Movement Charge Amendment Bill 2012 as amended. The Australians Greens welcome the changes made to the bill in the other place to remove the indexation element. The bill now only increases the passenger movement charge by a one-off $8 amount. Modelling shows that an increase in the passenger movement charge has a detrimental impact on the tourism industry. The Greens have heard loud and clear the concerns of the tourism industry about this bill, in particular from the Tourism and Transport Forum. I am pleased to say that, through negotiation with the government, the Greens have helped to remove the indexation of that charge.

We have also secured additional funds for the tourism industry from the increase in the charge. As well as the $48.5 million over four years for an Asia marketing fund, there will also be a further $48.5 million for a new
tourism industry regional development fund. Both of these initiatives are very welcome. We recognise the importance of the Asian tourism market and the potential for growth in this area. In particular, we welcome the regional tourism fund, which will go to attracting visitors to regional Australia. That will support regional communities and local economies. We look forward to more ecologically sensitive walking trails, art works, camping sites and exhibits in nature parks funded through this initiative.

I would like to make some remarks about the importance of tourism to our economy and the Greens' proud support for this sector. Tourism is a global force for economic and regional development. According to Tourism Australia, it generates $94 billion in spending. As a sector, tourism contributes $34 billion in GDP. That is a very impressive 2.6 per cent of Australia's total GDP. It is our largest services export earner. According to the Tourism and Transport Forum, tourism supports almost one million Australian jobs. That is double the number in the mining and the automotive sectors combined. Most importantly, 90 per cent of tourism businesses are small to medium enterprises with fewer than 100 staff. Tourism plays an important role in the economic development of regional Australia, with 46c in every tourist dollar spent in regional Australia. Australia's many natural attractions make it one of the leading providers of nature based tourism in the world, attracting over 5.6 million Australian visitors in 2009. Nature tourism refers to the whole range of tourism experiences that have some interaction with nature, whether it be whale watching, hiking or visiting a national park, for example. Nature based tourism continues to grow at a faster rate than the overall tourism sector, and ecotourism alone is growing globally at 20 per cent per annum, compared with just seven per cent for tourism overall.

In Queensland, home to five of Australia's 19 World Heritage areas and over 450 national parks, marine parks and state forests, ecotourism is one of the state's fastest growing tourism sectors. The UNESCO World Heritage List identifies heritage that is of outstanding universal value, which of course means they are often key tourist attractions. The jewel in the crown is our World Heritage listed Great Barrier Reef, which brings in $5.1 billion to our economy annually and employs more than 54,000 Australians. It is a very important and beautiful area that I would encourage all members to visit.

Australia's reputation as a premier snow and ski tourism destination is also growing. We had 42,000 international snow and ski tourism visitors come to Australia in the year ending December 2010. Compared to 2009 that was an increase in overnight visitors of 48.1 per cent.

The Greens will support this bill. We are pleased to have supported the industry in dissuading the government from indexation of this charge and in ensuring further hypothecation of the revenue raised going back into supporting regional tourism. On that note, I wish all MPs a regional holiday in our gorgeous country, supporting the tourism sector during the winter break.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (10:31): I rise to make some comments today on the bill before us, the Passenger Movement Charge Amendment Bill 2012. In looking at this piece of legislation, it is interesting to note the comparison between the rates of departure tax, or departure-type tax, for Australia and for the rest of the world. We see a very striking contrast between Australia and other nations. The decision by this government to raise the passenger movement charge by $8,
from $47, takes the departure tax to $55 per passenger. When we compare this with other countries, we see a stark contrast, with Australia being taxed far greater than other countries. The Australian dollar equivalent charge for travel outside the European Union is $10 in France and $34 in Germany. New Zealand has a $19 charge and the US has a $14 arrival tax. Here we are in Australia, with a population of roughly 22 million people, we are looking at a passenger movement charge tax of $55, which is really quite extraordinary. It just shows this government's absolute addiction to tax.

There is no doubt that this Labor government simply cannot manage money. Whenever we see the government scrambling around trying to somehow manage the economy, they are diving straight to—yes, you guessed it—yet another tax.

The contrast in this area between the coalition and the government is also very stark. Under the Howard government the passenger movement charge only saw reasonably modest increases. From 1996 to 2007 the passenger movement charge rose by only $11, from $27 to $38, which was a rise of only 35 per cent over those 11 years. In contrast, in just five years, this government has increased the passenger movement charge by $17, from $38 to, with this extra increase, $55—a rise of almost 45 per cent. That contrast just cannot be ignored. This government simply has no idea what to do to manage the economy, to run the country, without diving for yet another tax. This year alone there is a 17 per cent annual increase, and that is compared to an expected CPI increase of only 3.25 per cent. We will get to the CPI a little later. That is extraordinary.

As my very good colleague Senator Ronaldson said earlier, the government has simply no regard for the tourism industry—absolutely none whatsoever. Why on earth would you place an impost on an industry to make things tougher for it? We have heard a lot from this government over recent years about the impact of the global financial crisis and how difficult things were in this country. Well, why would they do something to make it harder for tourism? It is simply stupid. Like so many other decisions that we have seen from this government, it is simply stupid.

I digress for just a moment: we now have the Treasurer telling us how well we are going as an economy and how tremendously we are going on the world stage, and the Prime Minister telling people overseas how brilliant our economy is and giving them a finger-wagging talk about what they should be doing—which is quite ridiculous. What the government is not doing is talking to people in the street, in the businesses, in the towns, in their homes. I can tell you what, Mr Acting Deputy President Fawcett, as I know you know full well, people out on the ground in our communities, particularly our regional communities, are doing it very tough. So it is all very well for the Treasurer to say, 'Oh, it is fine; we are all going brilliantly'—he is not talking to people on the ground. He is not talking to hardworking everyday Australians around this nation who are coming to me and saying, 'It is tough.' There is no confidence in this government and, particularly in regional communities, money has stopped moving and they are doing it very tough. So here we have another example of the government making a stupid decision to impose something that will directly affect the tourism industry, which needs help, not hindrance—which needs the government to respect and understand what sort of environment the industry is faced with and to do things that help, not make it more difficult. But this, again, shows the complete ineptitude of this government to properly communicate with industries and
with people on the ground to determine what it is that they need to do in terms of policy. Again, this is yet another stuff up.

We will not be opposing this legislation today, as much as we want to. We on this side of the chamber understand what we need to do to ensure a sustainable economy. We understand what we need to do to be fiscally responsible, unlike this government, which has put us in a situation where we now have a debt of around $239 billion. Labor just cannot manage money. Not only can it not manage money; it cannot make a sensible policy decision in the best interests of the Australian people. Here we see that again today.

This government's level of ineptitude is just extraordinary and breathtaking. I know you, Senator Birmingham, understand this very well. Why on earth would the government tax an industry that is doing it tough and that needs assistance? We know why. It is simply a cash grab, because the government has no ability to run the economy. I know I have said this before—and you will get sick of hearing me say it and I am sure that others will say it after me and have said it before: the Australian people understand that this government has no ability to run the country.

Senator Birmingham: They know how to spend, though!

Senator NASH: They do know how to spend. Thank you very much, Senator Birmingham; I will take that interjection.

Senator Williams: And they know how to borrow!

Senator NASH: And I will also take the interjection from my good colleague Senator Williams. They know how to spend and they know how to borrow. It is a downward cycle. I am sure that, when people on the ground are looking at this piece of legislation, they will be saying, 'What on earth are the government doing?' Hardworking everyday Australians are out there in their homes, balancing their budgets, making ends meet. Quite a lot of them are giving up things so that they can do other things. Contrast that with the Labor government, which is in this shambles of borrow and spend, as my good colleagues here have just indicated through their interjections. It is no wonder that the Australian people are tearing their hair out, saying, 'Please, will you give us an election so we can have some grownups run the country, who can make some sensible decisions in the national interest?' But it is simply not happening under this government.

I found it quite extraordinary when I realised that, on 2 March, 2012 there was a National Tourism Alliance meeting and out of that came the communique from the Minister for Tourism's roundtable. I want to quote to you from the section on passenger facilitation: 'Industry raised concerns regarding the cutting of the passenger facilitation budget in the context of increasing passenger movement charge collection over recent years.' Again, I quote: The Minister informed the meeting—that is, Minister Ferguson, the Minister for Tourism—that he had heard of no proposals to raise the passenger movement charge in the upcoming budget.

On 2 March the minister had heard of nothing to increase this passenger movement charge. He is either completely inept or he was not being completely honest with those at the roundtable. It has to be one of those two things. Because, surely, as the minister responsible in March, he would have known that this passenger movement charge increase was on the table. If he did not, it just shows (a) that he was completely inept or (b) that it was policy on the run, which we see so often from this hopeless Labor government.
The alternative, (c), is that he was being less than honest with the people at the roundtable. Any way you look at it, it is simply unacceptable.

Here we have the minister saying, on 2 March, that he had not heard of any proposals to raise the passenger movement charge. What do we see in the budget? An increase of $8, from $47 to $55. This has a familiar ring to it: before the budget we were told that there will be no passenger movement charge increase. After the budget, what did we get? A passenger movement increase of $8. It sounds familiar. I wonder what it is tweaking my memory about. Let me see. It may well be the carbon tax. Before the last election, the Prime Minister said, 'There will be no carbon tax under a government I lead.' After the election, what did we get? A carbon tax. In a few very short days, on 1 July, we are going to have a carbon tax.

This is a common thread in the government. Whether it is the Prime Minister saying, 'There will be no carbon tax under a government I lead' and giving us a carbon tax or whether it is the Minister for Tourism just a few months ago saying, 'I haven't heard of any proposals to increase the passenger movement charge,' they are true to form. What do we see in the budget? An increase in the passenger movement charge. The Australian people no longer trust the Labor government under any leader. Who knows who the next leader will be? Mr Kevin Rudd might be having a few chats at the moment. It does not matter who is leading the Labor Party; they simply are not trusted anymore by the Australian people. Is it any wonder that the Australian people have no trust when they are constantly being told one thing by the Labor government and by the current Prime Minister—'current' in capital letters—Ms Julia Gillard, and then doing completely another? They are sick of it. This might just seem like a piece of legislation with an $8 tax increase, but this is about the heart and soul of Labor and their inability to be honest with the Australian people. This is about them not being straight with the Australian people. This is about their complete inability to formulate any decent sort of policy that is in the best interests of the Australian people. They simply cannot do it.

It is no wonder the Australian people are completely fed up. The ineptitude of this government—again shown through the Prime Minister—is absolutely gobsmacking. I will quote the Prime Minister on ABC Brisbane on 14 June when she was asked about the passenger movement charge and the increase. The Prime Minister said:

… first and foremost, we are not taxing Australian tourism through the increases in the Passenger Movement Charge. People will pay that increased Passenger Movement Charge if they are going to an airport to fly out of the country to take their money overseas and go and spend it in some overseas tourism destination, you know, anywhere round the world that people might want to go to …

Senator Birmingham: So tourists to Australia never leave the country?

Senator NASH: Thank you, Senator Birmingham. So, tourists to Australia clearly, according to the Prime Minister, never leave the country. Well, there are some people who try to come here and never leave the country but that is a debate for another day.

If this were not so serious it would be hilarious. The Prime Minister of the nation is effectively saying: 'Gee, people coming here are never going to leave and pay the departure tax. And people leaving here and paying the departure tax are not going to come back and go somewhere.' It is just extraordinary. All of the people, particularly those out in the regional areas, whom I so
strongly represent, would be shaking their heads at this. Does the Prime Minister think that international travellers coming to the wonderful destinations in Australia, particularly our regional destinations, are just never going to go home? Does she think they are going to stay here forever?

When they leave the country they will pay the departure tax. It is called a return ticket. They will go home from whence they came and they will pay the departure tax. And here is a news splash for the Prime Minister: those travelling to Australia will actually take that into account. So, for the Prime Minister to indicate that these people are just going to come here and never go home is just extraordinary. Clearly, if they are coming from their home nation there will be a return journey.

Again, more shambolic policy from this Labor government. Perhaps the Prime Minister was tied up in knots, because she clearly had no idea what she was talking about. Clearly she has no idea of what this piece of legislation involves. Otherwise, why would she say something so stupid? I do not know how many times I can use the word inept; I am going to have to come up with some new words.

Senator Williams: Hopeless will do.

Senator NASH: Thank you, Senator Williams, I will take that interjection. This government is hopeless. It is sad when we see this wonderful nation of ours being run by a collection of such hopeless parliamentarians in the Labor Party, led by a hopeless Prime Minister. We saw the government back down on linking the increase to CPI, which is one of the very few intelligent decisions—or maybe it was more to do with saving their bacon—the government has made.

Senator Birmingham: Their hand was forced by the industry.

Senator NASH: I was coming to that point. Thank you, Senator Birmingham. It is one of the less stupid decisions the government has made, but the government was forced to do it by the industry, strongly backed by the coalition. I have to commend my colleague Mr Baldwin, in the other place, who is working in this area. They were forced into a backdown. The fact that the Labor government was even considering linking the CPI to this was just stupidity.

How many times does this government have to whack industries across this nation? I think the Australian people would be absolutely thrilled if this government could just once get something right. It is not just a question of us standing on this side of the chamber railing against this bad government. It is actually true and the Australian people recognise that. I really feel for all the people in the tourism industry, particularly those people in regional areas. We have some of the best holiday destinations in the world. I love this country, and I know that so many Australians do. All Australians do. We think Australia is the best place in the world, and why wouldn't we? But the people who are out there working hard in the tourism industry, many of them in small businesses, woke up the morning after the budget to find that they had had yet another whack, all because the Labor government cannot manage money and they needed another tax grab to try to shore up the coffers.

Just look at the waste and mismanagement. In the Home Insulation Program $2.5 billion was mismanaged, with at least $500 million to be spent fixing the mistakes. Computers in schools had a $1.4 billion blowout and it is way behind schedule. The $175 million Green Loans Program was mismanaged and eventually dumped and then replaced with the $130 million Green Start Program, which never started. And my personal favourite: the government sold the
parliamentary billiard tables for $5,000 and then spent over $102,000 determining whether or not they got value for money. They wonder why the Australian people get so angry when we see yet another tax hike, when the government simply cannot manage money. That is only the tip of the list—and there is around $239 billion of debt.

So, here is the government whacking the tourism industry to try to scrounge some money back out of them, and they are one of the industries least able to withstand a whack. It just shows this government's complete disconnect from the tourism sector and with what is right for the Australian people. With this piece of legislation we have seen yet another shambolic tax grabbing policy from this appalling, inept, hopeless Labor government.

Senator BIRMINGHAM (South Australia) (10:51): It is a pleasure to follow Senator Nash in this debate on this appalling piece of legislation, the Passenger Movement Charge Amendment Bill 2012. Senator Nash has highlighted so many of the flaws in this proposal and just how much these flaws are a result of the hopeless management of this government. In this legislation we see, as we saw in the budget that was handed down last month, the chickens coming home to roost for this government. This Labor government has created the ultimate vicious cycle: a vicious cycle of wasteful spending funded by borrowing that ultimately, when all is said and done, can lead to only one place. That is a place called 'higher taxes'. All the wasteful spending in the world can only be funded by all the borrowing in the world for so long. Eventually the rubber hits the road and taxes have to go up. The only way to pay for wasteful spending, the only way to be able to pay back government debt, is ultimately to tax Australians more—to increase the tax base.

That is what this government has sought to start doing in this budget. We see it on a grand scale in some areas, with the carbon tax and the mining tax, but then we see it on a sneaky scale in other ways, and this is a sneaky tax grab. This is a sneaky tax grab by a government that is addicted to wasteful spending and that can no longer fund its wasteful spending just out of its borrowing but has to now fund its wasteful spending by stuffing its pockets full of taxpayer dollars any way that it possibly can.

This tax slug on Australia's tourism industry comes at the worst possible time for the tourism industry, when it is facing perhaps the greatest mix of cost pressures that that industry has seen for a long period of time. It comes at a time when the industry is dealing at home with higher labour costs and higher input costs around energy, water and key supplies in transport and other sectors, all of which, of course, will be added to by the carbon tax coming in just a few days. But the industry is not just grappling with that. It is also grappling with a very high Australian dollar, the highest it has been for a long period of time, which of course makes Australia a less competitive destination internationally. This is the worst possible time in the world to have decided to start increasing costs on tourism, increasing taxes and making Australia a less competitive place for international tourists to choose—which is what the government is doing through its actions.

The tourism market is one in which people are very choosy. We know from all the market research that has been undertaken that people around the world love the idea of visiting Australia. Why wouldn't they? We love the place and we know what a great place it is. We welcome tourists to this country with open arms. But the biggest problem Australian tourism has and has always had is not getting people to like the
idea of visiting Australia but converting them from having that sense of wanting to come to Australia to actually deciding to come to Australia. What impacts on conversion? There are some practical things that have always made it difficult for Australia, like our distance from any key markets, but then of course there are some key competitive aspects which go to the quality of the facilities available and to the cost of coming here.

This legislation will directly increase that cost. There is no getting away from that, no matter how many stupid, idiotic or senseless the Prime Minister's comments makes, comments to which Senator Nash referred to earlier. Prior to coming into this place, I spent most of my career working in industries associated with the tourism sector. I spent about five years working with the wine industry, a sector that has cellar doors in states right around the country. Many members from across the parliament celebrated with the industry last night its successes and noted its challenges. It is an industry that is very much reliant on tourism spending to support many of its smaller businesses. I notice Senator Whish-Wilson in the chamber at present, and I look forward to his maiden speech later today, and I note that, as someone with a background as a small winemaker, he of course would acknowledge the significance that the tourism industry has for the wine industry and small winemakers in particular and the correlation that exists between those small winemakers and our tourism industry. Prior to that, I had worked with the hotel industry for a couple of years. Indeed, even when I was working as an adviser and chief of staff to a couple of different state ministers, they happened to be tourism ministers. So I have some background in this industry.

Nothing astounded me more than hearing Senator Nash quote the Prime Minister as saying, 'This tax will only impact Australians who choose to go on holiday overseas.' What a remarkably stupid thing to say. How could the Prime Minister of Australia, imposing this significant tax grab on our tourism industry, a tax rise that is a 17 per cent increase in the passenger movement charge, get it so ridiculously wrong? How could she fail to recognise that every inbound tourist who comes to Australia also ultimately gets on a plane, in nearly every circumstance bar perhaps a few, and leaves Australia as well, and when they leave Australia they have to pay this passenger movement charge as well?

This budget was not just a hit to the tourism industry and it was not just a double whammy; it piled pain upon pain upon pain. It increased the passenger movement charge, which has up dramatically from the $38 it was when Labor came to power. It will be $55 after this legislation passes. This budget reduces Tourism Australia's budget. It passes on the additional costs of AFP security in airports, which will flow through to higher ticket prices. And it cuts the number of Customs staff, potentially increasing waiting times for people coming to and from Australia and reducing the quality of their travel experience. So, all up, there are multiple slugs and hits that the tourism industry takes from this budget. If I return to where I started—I am sure it is not that this government have it in for the tourism industry, rather it is that this government are incapable of getting their wasteful spending under control, incapable of getting their addiction to debt, deficit and borrowing under control. Ultimately, as a result of that, they have come back to the only thing they know and that is to go for a tax grab—and, in this case, a very sneaky tax grab—that is hitting our tourism industry at a time when they can least afford it.
The DEPUTY PRESIDENT: Order! The time allotted for consideration of this bill has expired. The question is that the bill be read a second time.

Question agreed to.

Bill read a second time.

Third Reading

The DEPUTY PRESIDENT (11:00): The question now is that the remaining stages of this bill be agree to and that the bill be now passed.

Question agreed to.

Bill read a third time.

Tax Laws Amendment (2012 Measures No. 2) Bill 2012

Pay As You Go Withholding Non-compliance Tax Bill 2012

Second Reading

Debate resumed on the motion:

Senator CORMANN (Western Australia) (11:00): The Tax Laws Amendment (2012 Measures No. 2) Bill is yet another demonstration of the complete incompetence and the complete dysfunction of this high-spending, high-taxing Labor administration. This government does not know whether they are Arthur or Martha. They do not know where they are going; they do not know whether to go left or right or straight ahead. They are spending so much money that they are always casting around for more cash. They are always looking for another opportunity to tax somebody. When Mr Rudd was Prime Minister and Mr Bowen was looking after this particular portfolio responsibility, they decided to reduce the withholding tax on managed investment trusts. When Prime Minister Gillard and Minister Shorten come in, they decide to double the withholding tax on managed investment trusts, but they did not have the support in the parliament for that particular tax grab. They did not have their alliance partner, the Greens, on board, so what did they do? In a rush, in complete chaos, they quickly scramble to take that part of this bill and reintroduce it as part of a separate bill. This government is all over the place. In their desperate rush for more cash, their processes are in an absolute shambles. This government has completely lost the plot.

Here we have another tax laws amendment bill before us, which contains a whole series of tax grabs—including, I might add, some retrospective tax grabs, which are there to fix up some of Labor's past stuff-ups. Remember back in 2010 when Labor was trying to make some changes to the consolidation scheme arrangements and we said to them at the time, 'What you are doing is wrong. The way you are doing it is going to cause you some issues.' And sure enough, it has caused issues. Here they are in a mad scramble trying to fix it, but—guess what?—they say it is going to be retrospective. They are going to take it all the way back to 2010, when they made the original stuff-up.

Let me say that tax law changes that impose adverse consequences on taxpayers should not be retrospective. How can a taxpayer be expected to have complied with a law that he or she did not know existed at the time? The reason we have these sorts of chaotic, incompetent, dysfunctional changes to our tax laws, proposed by this incompetent and dysfunctional government, is that, under the leadership of Prime Minister Gillard and Treasurer Swan, our public finances have got into a complete mess. This is the government that inherited from the coalition a strong fiscal position—a budget position with no government net debt, with a $22 billion surplus and with $70 billion invested in the Future Fund. We actually left the Labor Party a situation where the government was collecting net interest
payments, rather than having to pay net interest to service the debt that they have accumulated. What has this government done? In four and a half years they have delivered $174 billion worth of accumulated deficit. They have taken us from no government net debt to a situation where we are now heading for a $145 billion worth of government net debt. They are planning to spend about $30 billion over the forward estimates in net interest payments to service the debt that Labor and the Greens have accumulated over the last four and a half years. That is why we get the sorts of chaotic tax law changes that are before the chamber today.

In a mad last-minute rush last week the government actually had to remove Schedule 4 from this bill—Schedule 4 which was supposed to be the doubling of the withholding tax on managed investment trusts. That was an extraordinary measure. The chaotic approaches to tax administration and to tax policy from this government have already had a very significant impact on our sovereign risk profile. We need a government that spends less so that we can tax less. We need a government that is committed to a more stable approach to tax policy and tax administration, because we need to focus on being internationally competitive and on being an attractive destination for investment. We need to focus on these things, so that we can grow our economy more strongly. The one thing that senators on this side of the chamber understand, and which Labor senators clearly do not understand, is that an economy that grows more strongly not only delivers increased economic prosperity for all Australians, but it also delivers increased revenue for government without the need for all these new and ad hoc Labor Party tax grabs—all this constant chopping and changing of tax arrangements. As I have mentioned, it was Prime Minister Rudd and Minister Bowen who reduced the withholding tax on managed investment trusts to 7 1/2 per cent, only for Prime Minister Gillard and Mr Shorten to turn around and double it. It is only since 2010-11 that this tax has been at 7 1/2 per cent. The parliament was expected to turn around and say, 'Okay, in 2010-11 the tax rate was 7 1/2 per cent, but we will be complicit in turning around, making yet another change and doubling this rate, which will have significant implications for our capacity to attract investment, particularly for critical infrastructure.' Yet again, the government has not done its homework. It introduced this Tax Laws Amendment (2012 Measures No. 2) Bill without having checked the numbers, without having made sure that it had support on the floor of the parliament. There is one reason, and one reason only, why the government removed schedule 4 from this bill in the House of Representatives last week: the government knew that it did not have the confidence of the House of Representatives to pass that tax increase. That is why the government, in a mad rush, removed that schedule from this bill. In order to save face it then scrambled to reintroduce it as a stand-alone measure, which it is now attempting to ram through the parliament. I only hope that the Greens will remain strong and impose proper parliamentary processes and proper parliamentary scrutiny on what is yet another ad hoc Labour Party tax grab, which will have bad consequences, including for investment, dare I say, in important environmentally friendly green infrastructure.

This bill includes a number of proposed changes in relation to the taxation of financial arrangements provisions and the consolidation tax cost settings, in particular. It is proposed that the changes to the consolidation tax cost settings be
retrospective to 2010 in order to fix, as I have mentioned, a problem of the government's own making. It is to fix yet another Labor Party stuff-up. These bills make changes to the taxation of financial arrangements and link changes to the consolidation regime provisions. The government says that this is a revenue protection measure, even though there is going to be, and the budget indicates that there will be, a revenue gain over the forward estimates. A consolidation regime treats a group of wholly owned or majority owned companies and other associated entities, such as trusts and partnerships, as a single entity for tax purposes. This means that the head entity of the group is responsible for all or most of the group's tax obligations, including the lodgement of tax returns and the payment of tax obligations. The explanatory memorandum to the bill highlights how this bill operates to reverse retrospectively the changes to consolidation regime is made in 2010. It says:

For corporate acquisitions that ... took place before 12 May 2010, the changes prevent the retrospective operation of unintended effect—

that is what the government says—

of, and perceived weaknesses in, amendments to the law that were made in 2010. These changes are necessary to protect a significant amount of revenue that would otherwise be at risk.

That is what the government says in its explanatory memorandum. My office contacted the Assistant Treasurer's office to ask how much revenue is at risk, because we were told that the fiscal impact of this bill was nil. We asked what the impact of not passing this bill would be. The Assistant Treasurer's office was not able to tell us—it did not have a clue. It was only later, during the inquiry by the House Standing Committee on Economics into this bill, that Treasury revealed that there could be a negative $6 billion impact on government revenue.

The government was warned before the 2010 changes were introduced that it had got things wrong, but it refused to listen, as is so often the case with this incompetent, dysfunctional Labor government. During the consultation on the exposure draft for the 2010 legislation, industry clearly warned Treasury and the government that they had got their costings wrong and that the proposed changes would lead to much higher deductions being claimed, which would lead to a reduction in revenue. The government did make some changes while we were debating these changes in the Senate in 2010 but it still did not address the key issues that had been clearly identified during the consultation process, especially the issues around the costing of the measures.

When the 2010 legislation came into force, industry predictions came true. Companies did take advantage of the higher deductions permitted by the government's flawed legislation, exactly as had been predicted, and there was a collapse in anticipated revenue. When the ATO informed Treasury and the government of this collapse in anticipated revenue the government asked the Board of Taxation to look into these issues. The board's inquiry confirmed what everybody but the government knew before it made these changes back in 2010—that is, that higher deductions would lead to a lower associated taxation revenue.

Now the government proposes to punish taxpayers for its incompetence. It proposes to punish taxpayers for its own error, even though it had been warned about the error and refused to listen to that advice. The government should not punish taxpayers retrospectively for its own incompetence, for its own mistakes and for its refusal to listen.
to the advice that it was provided in good faith at the time. Importantly, the government should also let the parliament and the Australian public know what new procedures if any it has put in place to make sure that such errors, with such enormous financial consequences, will not be made again. People across Australia have lost confidence in this government's capacity to manage anything competently. People across Australia concluded long ago that this is an incompetent, dysfunctional government which deserves to be thrown out of the next election. I do hope that in the bowels of the Public Service some serious work is being done to review the processes that led to the lack of adequate consideration as these bills were put together back in 2010. The consolidation tax cost setting arrangements and changes in taxation of financial arrangements are, as I have mentioned, retrospective tax changes. The coalition is opposed to retrospective tax changes as a matter of principle. I put that on the record very clearly. We do not believe that taxpayers should be adversely affected through retrospective changes imposing tax laws on people when people did not know these existed at the time they made certain decisions that were relevant to the taxes being proposed now.

The reasons the coalition is opposed to retrospective tax changes are, among others, that they can change the substance of bargains struck between taxpayers who have made every effort to comply with the prevailing law at the time a particular agreement or decision was made; they can expose taxpayers to penalties when taxpayers could not possibly have taken steps at the earlier time to mitigate the potential for penalties to be imposed; they may change a taxpayer's tax profile which in turn can materially impact the financial viability of investment decisions and the pricing of those decisions; and they can increase Australia's level of perceived sovereign risk.

I ask the question again, and this is really the crux of the issue: how can taxpayers be expected to have complied with laws that they did not know existed at the time they were supposedly expected to have complied with them? I really would like the government to provide an answer to that question as it sums up this debate. That really goes to the crux of this issue. The government has not made a compelling enough case publicly to justify the retrospective application of this legislation. The government has not explained why a taxpayer should have to pay the price for the Labor Party's dysfunctional incompetence over the last 4½ years in government but, in particular, in relation to the tax changes that were passed through the parliament by the government back in 2010. This is just a belated attempt by Labor to amend the consequences of its mistakes made in 2010. Taxpayers should not be expected to pay for the consequences of Labor's incompetence and mismanagement through retrospective tax changes.

Incidentally—and I make this position very clear—if the changes that are on the table now were made to be prospective from the date of announcement, 25 November 2011, then we would be inclined to support those changes. But the reason we will vote against this bill is the retrospective nature of its provisions. That is why the coalition cannot support those changes in the current form.

Commenting on the proposed changes in schedule 1, through schedule 1 the government proposes that it wants to target, yet again, phoenixing activity. This is the government's second attempt at this. It has previously tried to move similar amendments as part of its previous bill. These changes
propose to make directors personally liable for unpaid superannuation, stop director penalties being discharged by placing a company into administration and make directors and associates liable to pay out PAYG withholding non-compliance tax when a company has failed to pay. These changes were previously the subject of a parliamentary economics committee inquiry and, in a bipartisan fashion—that is, Labor members and coalition members—that committee said the government got it wrong. They sent the government back to the drawing board. They said to the government, 'These measures are not appropriately targeted to focus on phoenixing activity'. Phoenixing activity is not even defined in this legislation. The House economics committee, in a unanimous fashion, told the government, 'Go back to the drawing board; go and do your homework'. Even Labor members on that committee were embarrassed by what the government had put forward.

Now, a couple of months later, the government turns around and says, 'Here, we are bringing it in again'. Do you know what, Mr Acting Deputy President? It is not good enough. We do not believe that the government has addressed the concerns that the House economics committee in a bipartisan fashion expressed earlier this year, which is why, in their current form, we will not be able to support those provisions either. We take phoenixing activity very seriously. We do need effective action against phoenixing activity, activity where people try to avoid paying debts that they have incurred by shifting funds from one company to another when they have an interest in both companies.

People who want to avoid paying their debts should have the book thrown at them but you have to make sure that the measures that you put forward properly target that activity and do not just catch everyone. That is our concern with the provisions in this bill. This is far too broad a brush. It is not adequately targeted and it is just yet another demonstration that this government—even after its own members told them that they needed to have another look—is not able to do a job professionally and competently.

I finish where I started. This is the most incompetent, the most dysfunctional government since Federation. Even Labor voters across Australia are embarrassed by the incompetence of this high-spending, high-taxing government. This bill is another demonstration of a government that has lost the plot, that is completely chaotic, that does not know what it is doing, that does not know whether it is Arthur or Martha. One day it says we need to reduce a particular tax and then it wants us to double it. One day it is in the bill then it is out of the bill. It has not got a clue. (Time expired)

Senator IAN MACDONALD (Queensland) (11:21): The Tax Laws Amendment (2012 Measures No. 2) Bill 2012 is an important bill and there are at least nine speakers who would like to make a contribution. Of course, that is what this parliament is all about. We as senators come here representing our states, representing the people who have sent us here. These people make representations to us and expect and ask us to make sure that their concerns about this and other bills are raised in the parliament. Indeed, for those listed to speak on this bill—and the voters they represent—regrettably few are going to get the opportunity because, by arrangement between the Greens political party and the Australian Labor Party, this bill is another one of the 36 bills this fortnight that have been guillotined. That is, for those listening to this debate, it has been truncated. The normal arrangements where you debate bills fully have been denied to the parliament by
the Greens political party and the Australian Labor Party. It is rather unusual that the Greens should be part of that because in former days they used to complain long and loud when there was any suggestion of curtailment of free speech in this parliament. But now the Greens seem to have had another thought, at the behest no doubt of their left wing colleagues in the Labor Party.

This bill will not be fully debated. This parliament will not do what it is meant to do—that is, to fully assess every particular aspect of a bill. It is not just this bill; there were three previous bills that I was listed to speak on. The passenger movement charge bill had a sum total of 40 minutes for debate in the parliament—a bill that does so much to harm the tourism industry in Far North Queensland, where Senator McLucas comes from and where I come from, the Whitsundays and the Gold Coast and Sunshine Coast in my state of Queensland; a bill that will do enormous damage to tourist industries and small businesses, and will impact on the inflow of overseas tourists. Yet what did we have? We had 40 minutes to debate it in this chamber.

Listeners might remember that when Ms Gillard eventually became Prime Minister of this parliament she told everyone this was the new paradigm: 'We are going to have openness and accountability'—that nothing would be done behind backs; everything would be fully explained and fully debated. Here we are in this fortnight alone, because of the Greens and the Labor Party, with 36 bills curtailed, guillotined, so that senators are denied the right to fully address the issues.

I am concerned about these bills because the changes proposed in schedule 1 are not properly directed at phoenix activity, which I will come back to later. This was one of the intentions of the government in introducing this bill. We do not think it properly addresses the issues that the government are trying to address. Further, I believe these measures are broad based; they are not properly targeted. If implemented, they will impose very onerous obligations on company directors that would have those company directors more focused on compliance rather than on performance on behalf of their shareholders and the people whom they represent—the reason that they are directors, which is to try and get a good return for investors.

As my colleague Senator Cormann, the shadow Assistant Treasurer, has mentioned, there are retrospective tax changes here, and the coalition have always had an abhorrence for retrospective tax changes. Senator Cormann mentioned that we could probably support that aspect of the bill if the tax changes were not to be retrospective. We could talk for hours on the evils of retrospective taxation. But I think most senators understand, and indeed most of the Australian public understand, that proper governance requires you to know in advance what you are responsible for, not to actually take a course of action and then find out later that the government has changed the rules some time previously. They are abhorrent and should not be agreed to. Indeed, as Chair of the Senate Standing Committee for the Scrutiny of Bills, I can say that these retrospective changes are something that the committee is always concerned about and we continually draw to the attention of parliament any retrospective issues.

The one good thing I think you can say about this bill is that it does not now contain the schedule 4 that was originally proposed by the government. The government have withdrawn schedule 4. It was such a dodgy proposal that the Labor Party could not even get their mates in the Greens political party
to agree with them on that. As Australians, we can be grateful for small mercies.

As Senator Cormann also pointed out, during consultations with the industry on the exposure draft of the 2010 legislation, industry warned the Treasury and the government that they had not got their costings correct and that the proposed changes would lead to much higher deductions being claimed, which would lead to a reduction in revenue. But this government are so arrogant and so incompetent that they ignored that advice from the industry and went ahead anyhow, and now we find out, thanks to the House Standing Committee on Economics, that if it is not fixed today it is going to cost $6 billion. The government were told about that just two years ago.

It shows again and again that this government simply cannot be trusted with money and they cannot be trusted to keep their promises. We all remember that this government are only in place at the moment because on the eve of the last election Ms Gillard promised the Australian nation solemnly, and what everyone thought was sincerely but which clearly was not, that there would be no carbon tax under a government she led. The people of Australia said: 'We don't want a carbon tax. We know it will destroy the Australian economy. We know it will do absolutely nothing for the environment.' Australians said, 'We don't want a carbon tax. We know it will destroy the Australian economy. We know it will do absolutely nothing for the environment.' Australians said, 'We know Australia emits less than 1.4 per cent of the world's carbon emissions. We know that China is opening one coal-fired power station every week.' So we know that Australia reducing its 1.4 per cent of world emissions by five per cent by 2020 will not make one iota of difference to the global environment. So Australians sensibly said: 'Good. We don't agree with it.' Neither does the Labor Party, neither does the Liberal Party and neither does the National Party. The Greens political party do agree with this. At least they are honest. They got—what was it?—11 per cent of Australians to agree with them. But the rest of Australians said, 'No carbon tax,' because Ms Gillard and Mr Abbott had both promised there would be no carbon tax. But purely for the purposes of retaining power Ms Gillard breached her solemn commitment to the Australian public and we know that in a couple of days time Australians are going to be burdened with the world's largest and broadest carbon tax—a tax that will do nothing for the global environment.

That is why the people of Australia no longer trust the Labor Party with money. Nor do they trust their word. It matters little these days what Ms Gillard or in fact any member of the Labor Party says. Australians know that you cannot take the word of Australian Labor Party politicians. Whatever they promise, Australians know there is no commitment to the words that come out. Of course, that is reflected in opinion poll after opinion poll. We all say we do not take notice of them, and we do not, but there are so many opinion polls and they cannot all be wrong. The Labor Party vote now sits at around 23 per cent, just a little bit above the Greens political party vote. Surely the Labor Party should understand that they are doing it wrong.

As I said earlier today in another debate, perhaps I am maligning Ms Gillard. Perhaps she was being truthful when she said, 'There will be no carbon tax under a government I lead,' because there is every indication that, come 1 July, she will no longer be leading the Australian government. It will be Mr Crean, Mr Shorten or some fill-in patsy, I might say.

Senator Bernardi: Rudd.

Senator IAN MACDONALD: Or Mr Rudd. Actually, I think you are right, Senator Bernardi. It is probably more likely to be Mr
Rudd taking over, awaiting the eventual electoral slaughter. My guess, Senator Bernardi, is that Mr Rudd will take over. He will immediately say: 'I made a mistake on the carbon tax. We're not going to introduce it and we will go to an election.' There is my tip. That might at least stop the slaughter that will happen to the Australian Labor Party. It will not change the result of the election, but it may save one or two of the senators opposite who clearly know that they will not be back here after the next election. And why? Because of the Labor Party leader's broken solemn promise and because of the financial mismanagement of this government that I highlight in this particular bill before the chamber.

The government was warned two years ago that the legislation they were then putting in place would lead to a reduction in income, and we now find that that impact was in the order of $6 billion. That is typical of the Labor Party's financial management. You will recall that when the Howard government took office in 1996 there was a $96 billion debt—some of it hidden, I might say—to greet the new Howard government. Over the next 10 years the coalition, through good management and a tightening of the belt, paid off the $96 billion and actually put another $60 billion or $70 billion into the bank—$60 billion in credit. Within three short years the Labor Party turned that $60 billion credit into a $150 billion deficit, rapidly rising towards $250 billion.

Labor's debt is costing Australians $25 million each and every day for interest alone. Can you imagine if we had $25 million every day to build a new hospital, to build a passing lane on the Bruce Highway, to reduce the passenger movement charges that the Labor Party have just increased because of their financial incompetence? Can you imagine what you could do with $25 million every day? That is the $25 million that the Labor Party are spending on interest alone to foreign lenders because of their incompetence in financial management.

That incompetence is clearly demonstrated in the bill before the parliament at the moment. Here is another $6 billion. Who in the Labor Party cares? 'It's only $6 billion—it doesn't cost us.' No-one in the Labor Party has ever had a real job, or very few of them. They have either been union officials or staffers for another politician here or in another place. Most Labor politicians do not understand what business is about. They do not understand what it is like to make your own way, to have to make your books balance, to make sure that your business earns more than it spends. Can you imagine if that applied to the government—that you had to earn more than you spent? Here we are, approaching $250 billion of debt, and the Labor Party, supported by the Greens political party, seem to think that they know what they are doing. This bill proves that they do not. They are correcting past errors. I had a lot more I wanted to say on this but, because of the truncated debate due to the guillotine put in place by Labor and the Greens, I am not going to take my full time because I know my other colleagues desperately want to speak on this bill. So I will conclude there, urging the Senate to vote against this bill for the reasons that have been mentioned.

**Senator EDWARDS** (South Australia) (11:37): I thank my colleague Senator Macdonald for making some time available before the time comes to truncate this debate. I rise today to speak on the Tax Laws Amendment (2012 Measures No. 2) Bill 2012 and the Pay As You Go Withholding Non-compliance Tax Bill 2012. This legislation will add to the sense of confusion and the lack of confidence that now hangs over much of our economy because of this government's mismanagement. With the
introduction of an economy-wide carbon tax, what Australia does not need is more legislation to weigh down our economy. We in the coalition do not support passing these bills in their current form.

I would like to first turn to the issue of adding indiscriminate liability to all of Australia's directors and the considerable burden to business that this obviously represents. Included among the measures of this legislation is making directors personally liable for unpaid superannuation. This legislation extends director penalties that cannot be discharged by placing a company into administration. It would also make directors and associates liable for PAYG withholding non-compliance tax where a company has failed to pay.

The key issue is the manner in which protective action can be undertaken which is specifically directed at and focused on phoenix activity. In this sense, the government's current bills continue to be flawed with their broad based, non-targeted approach. This government are refusing to change the legislation because of their own political agenda. They have pushed on with these measures despite the widespread concerns from many key stakeholders. Poor consultation has been a hallmark of this government and this is no exception.

For instance, on 4 June 2012, which was only a matter of weeks ago, Mr John Colvin of the Australian Institute of Company Directors made a great contribution to this discussion; however, it has gone unheeded. I note his comments to a House of Representatives committee on that day. He said:

We are disappointed that since the last time the Australian Institute of Company Directors appeared before the committee on the same issue, the government has not made significant changes to the original bill, nor has it picked up all of the recommendations of this committee, particularly the phoenixing recommendation.

That is very clear. I will refer to some of his other comments a little bit later. The measures intended to address phoenix activity have not appropriately targeted that activity. The liability would indiscriminately apply to all directors across the board. We in the coalition are very concerned about this.

Unfortunately, it is typical of this government to burden all directors with liability and shift off the responsibility and make everybody accountable and say: 'For the limited activity that takes place in the bad sector of any industry, we will apply it to the whole of industry. We will apply it to all of commerce.' This is regardless of their guilt and due to an unsuitable definition of the activity that would appropriate it. Again, Mr Colvin raised this point:

… as we have said on numerous occasions, the problem with this bill is it is not confined to fraudulent phoenix operators. By failing to define fraudulent phoenix activity, it instead targets all of Australia's 2.2 million directors including those who volunteer their time to work for charities and community organisations. Following submissions to this committee last year, it recommended the government investigate whether it was possible to amend the bills to better target phoenix activity. Yet the government has made virtually no attempt to target phoenix activity in revising the bill.

The most glaring error in this legislation is the indiscriminate proportioning of liability and the possibility of holding new directors liable after the fact.

Again, I will refer to comments made by Mr Colvin of the Institute of Company Directors. He said:

No person in Australia in any occupation should commence a new job or a new position only to find that within 30 days they become personally liable for a breach that occurred before they commenced work in the role, which involve acts which they, by definition, cannot have taken part in and cannot be held culpable for. We are of the
view that applying automatic liability on new directors for acts of the company which occurred before they were a director is particularly offensive to the rule of law.

Yet we see no accommodation of those comments from an organisation representing 2.2 million directors around this country. It is an abrogation of what is a commercial responsibility. This government's measures will make potential directors think twice about taking up a position on a board. These measures ignore the fact that the recruitment of highly skilled directors is an internationally competitive process. Inevitably, this will have long-term ramifications for Australia and the calibre of directors that we attract to this country. This liability for the past would serve to discourage potential directors and pose burdensome requirements on businesses, especially charities and not-for-profits that are limited by guarantee. In fact, there are around 11,700 companies in Australia that are limited by guarantee. It is not surprising that this Labor government wants to lump directors of companies, even those where there is no illegitimate activity, with undue liability. I see Senator Sinodinos has joined us for the discussion. I look forward to his contribution and his input into this policy, because surely he will have something that the government can learn about from his many years in this sector. We in the coalition are concerned about phoenixing activity. 'Activity' is the key word. We support targeted legislative initiatives that are efficient and effective in dealing with the problem; however, this Labor government bill is neither efficient nor effective. Again, lack of efficiency and effectiveness are hallmarks of much of this government's legislative agenda. I think we are up to the guillotining of 125 bills today, which certainly marks a record not to be proud of.

As someone with a background in business, it is important I now discuss the significant costs in the proposed regulatory compliance. Through massive increases in red and green tape, this government has been holding Australia back. This legislation imposes exactly the sort of blunt compliance that distracts directors from concentrating on the performance of their companies. Australia cannot afford more regulatory costs right now; we are on the eve of introducing one of the most fraudulent taxes this country has ever seen. We in the coalition are not convinced that the government has adequately checked parts of this legislation. Specifically, I refer to the productivity costs associated with the additional indiscriminate duties imposed on directors who are not involved in phoenixing activity. This government has not produced a regulatory impact statement which analyses the costs of these measures in how they may impact on these companies, nor has it produced one for the economy as a whole. It is: grab a handful of wheat and throw it at the side of the barn. Yes, sure, it will all hit the barn, but it will not make any difference. You will spray it—you will achieve the objective; you will hit the barn—but you will have sprayed it right across with a handful of wheat. It just shows how insincere they on the other side are about managing business effectively and economically.

That brings me to the issue of retrospective taxation. We on this side of the chamber have a very strong in-principle opposition to retrospective taxation. If it is to happen at all it must have incredibly strong justification. This government has not made a strong enough justification for the retrospective application of the proposed changes contained in schedules 2 and 3 of the Tax Laws Amendment (2012 Measures No. 2) Bill 2012, which is in relation to consolidation of tax cost-setting arrange-
ments and related charges to taxation of financial arrangements. Schedules 2 and 3 show the laziness of this government. The government is attempting to use the legislation to retrospectively extract taxation from past years, reaching into our lives backwards and forwards, anywhere it can. These government measures will, sometimes years later, persecute those who acted lawfully and in compliance with the prevailing laws of the time, which creates great uncertainty for business and increases Australia's risk profile as a good place to do business.

We work in a global economy. The legislation as it currently exists is out of step with legislation around the world. There is the irony of introducing an NBN so we can be at the so-called world's edge of all the magical and wonderful things that it is going to bring to us, yet at our core, in our structure, all we are doing in the way we regulate business is throwing out a boat anchor to drag business down even harder and further. Those on the other side just do not understand business. If you asked those people on the other side who had had more than five years in a private enterprise business to put their hands up there would not be one hand go up—certainly not in this chamber at the moment.

This Labor Party policy will impact on the financial viability of investment decisions, with all of the serious negative flow-on effects this will have for jobs and the economy as a whole. That leads me to my concerns about the increased perceptions of sovereign risk. How can the erratic behaviour of this government inspire confidence? It is the rabbits in the headlights approach, which says, 'Which way did they go? What are we going to do? We'll go retrospective. We'll do this—actually, we'll ignore that. We'll ignore these amendments—actually, they're good amendments but they're from the opposition. No, we can't do that; that'll look bad. It'll be good for Australia but we won't do it. We just won't do it.' How can overseas investors trust a government that promised never to introduce a carbon tax? 'There will be no carbon tax under a government I lead.' Every time you on the other side hear that it must chill you to the bone. And, for that matter, why would ordinary Australians trust a government that promised never to introduce a carbon tax? How can the mining industry trust it? Labor was not going to have a Minerals Resource Rent Tax. Let us also not forget the great uncertainty the government's mining tax is creating around investment by miners in this country and around attracting foreign capital to this country to start mines. The Labor government's application of retrospective taxation, and the breaking of key promises, totally undermines Australia's economic credibility. In international forums people must sit around and giggle about all the resources and all the capacity we have in this country, yet we seem to be governed by the Gillard Labor government's undisciplined, unthinking, uncaring approach to business. The government is also showing that it is unconcerned about Australia's international competitiveness. Along those same lines, we still have to compete with countries in South America and all over the world that have also got quarries, IT industries and manufacturing. On top of the world's biggest carbon tax, it is using this legislation to double the withholding tax rate. Again, this undermines Australia's reputation as an attractive destination to invest in with certainty. It puts Australia out of step with comparable rates in the Asia-Pacific region. It sends offshore based companies with investments in Australia down tax-haven rabbit holes in an effort to search out ways of minimising their tax so that they can at least justify to their boards, located elsewhere.
around the world, why they are doing business in this country.

These measures by the Labor Party would see Australia lose its position as 'the leader of the pack' when it comes to the headline rate of tax. This government seems as though it is trying to derail our long-held objective of becoming a leading regional financial services hub in the Asia-Pacific region. This brings me to my next point, and it is a very important one for those opposite. This legislation presents a risk to billions of dollars in existing investment and subsequent government revenue.

The government asserts that this measure would raise $260 million over the next four years. Yet this has been brought into serious doubt in the analysis conducted by the Allen Consulting Group—not some fly-by-night consulting group but a very well respected commentator on these matters—for the Property Council of Australia. This was provided to the House of Representatives Standing Committee on Economics as a confidential submission. This analysis showed that the proposed increase in the final withholding tax revenue from MITs would have a 'profound adverse impact' on the economy, without raising the expected revenue. It was also found that, if there were a $1 billion drop in investment as a result of the increased tax, the net tax revenue in 2015-16 would be $35 million. This would be due to decreased receipts. This is less than half the $75 million predicted by Treasury. It again raises questions about the unforeseen implications that this government's policy would have on Australia. And I do not need to go into the Treasurer's forecast budget surplus, which is so finely balanced and yet we see bills like this, ones that without the amendments that the coalition are going to put up would put all of these things in peril. But I guess you on the other side all know that and you just think you will manage it then: 'We'll get some spin doctors out and we'll manage this as to the surplus so that it will be somebody else's fault.' So it will be somebody else's fault, won't it? It will be the fault of somebody in Asia or somebody in South America. It will be: 'We didn't plan on this. We didn't plan on that.' So that $1.4 billion surplus due to be coming to fruition next year will evaporate.

I go back to the Allen Consulting Group analysis. They also found that by 2015-16 the increased tax would reduce GDP by $580 million and cost more than 4,600 jobs a year. Is there nothing that this government cannot put its hand on that reduces employment in this country? It just attacks everything in industry. What did they ever do to this government that it would keep putting the dead hand of bureaucracy across them wherever they go? Surely the government cannot proceed when there is strong evidence of the adverse impact of these measures on our economy?

In summary, I have outlined how these bills must be opposed. This is on the basis that they unduly increase taxation, propose retrospective measures without proper justification and give rise to automatic and indiscriminate liability to directors. I hope that the government will swallow its pride and suck it in and say, 'Well, the grown-ups in the room are the ones that actually understand business and they've got a few reasonable suggestions and we'll take them on board and we'll do the right thing by Australia.' I hope that this government will just get on with it and say, 'We shouldn't ignore Senator Cormann's good work on this,' and that there is a bit of goodwill. I hope that they understand that these bills in their current form are just not going to cut it when it comes to serving Australia's best commercial interests. I will sit and let my other colleagues, who are plentiful, take the debate further.
Senator SINODINOS (New South Wales) (11:57): Thank you for that powerful speech, Senator Edwards. You stole all my best lines! That having been said, there is so much in this government's approach to taxation policy that even I can make a contribution to this debate. The first point I would like to make is that I am surprised that the Tax Laws Amendment (2012 Measures No. 2) Bill 2012 contains a number of measures which, I suppose, taken together almost exemplify this government's approach to taxation policy generally. We are looking at a series of measures which impose retrospective elements and a series of measures which impose onerous new obligations. Thankfully, we have been saved one measure which was withdrawn in the House of Representatives regarding withholding tax on managed investment trusts. This goes to the heart of the way that this government does taxation policy and people in the community and people who are out there listening to this debate should be very concerned about the approach that the government takes to these matters.

I turn to the Pay As You Go Withholding Non-compliance Tax Bill 2012 and schedule 1 of the Tax Laws Amendment (2012 Measures No. 2) Bill 2012, which makes directors personally liable for unpaid superannuation, stops director penalties being discharged by placing a company into administration and makes directors and associates liable for PAYG withholding non-compliance tax where a company has failed to pay. Ostensibly, these measures are directed at phoenix like activities. Those of us on this side of the house fully support efforts to stop companies being put into administration in such a way so as to remove them from their lawful obligations. We do not like phoenix activity. People such as Senator Fierravanti-Wells, in a previous profession as a solicitor, including during the time she spent with the tax office, was very much involved in trying to unearth examples of that sort of activity and combating it. No one has an argument with that, but here we have a bill which is a sledgehammer to crack a nut. The reason I say that is that we are putting further onerous obligations on directors and I think this is where there is an element of unrealism in the approach of the government.

The reason I say that is that, as part of my role as Chairman of the Coalition Deregulation Taskforce, I have been talking to companies across the country, to top company directors and also to people who might be said to be a bit more objective about the role and responsibilities of company directors. They are saying that company directors today face so many obligations that there is a concern about attempts to keep increasing those obligations, particularly in circumstances where a director may have no direct control over the matter that is of concern.

The Australian Institute of Company Directors have identified 700 separate pieces of legislation or regulation that they believe imposes obligations on company directors. So things are getting to a stage where many people are hesitating to become directors because of the obligations they are being asked to take on. That is not necessarily a reaction to the specific points being made here but it is like all these things: if you add further regulation or layers of regulation on top of what is, if you like, an iceberg of regulation, they can be the straw that breaks the camel's back. Many directors give us that feedback. So often with this government, with all respect to my colleagues on the other side, there seems to be this lack of understanding of how the corporate sector works.
We saw an important example of that when this government rushed through measures to do with employee share ownership, which were the subject of considerable brouhaha after they were introduced as part of one of the budgets a few years ago, were considerably unrealistic and did not seem to understand the underpinnings of these schemes. I think they had to be substantially redrawn and modified. That was a concern, because that betrayed a mindset of not understanding the way some of these schemes work in the private sector. We as a parliament and as, if you like, stewards of the public interest have an obligation to ensure that private operators, private interests do not in some way subvert the public interest or get an undue tax advantage. But the way that those bills were structured and the way those schemes were attacked showed a lack of understanding of how the corporate sector works. Again, I think there has been a lack of understanding here about the obligations already being put on directors. As I said, we on this side of the house support targeting phoenix type activities.

One issue with the bill, as I see it, is that we keep having ad hoc piecemeal measures introduced to deal with phoenix activity, but we have yet to see a comprehensive definition of 'phoenix activity'. The government stands accused of having continually failed to target measures applying to directors of phoenix companies, without imposing onerous and new obligations on directors of the vast majority of companies that continue to comply with their legal obligations. This is all a matter of perspective and proportionality. This idea that the business sector out there is spending its whole time trying to find ways to get around the laws of the land is not right. In every section of society there are bad apples and we should go after them. But in business you have to build trust with your customers, suppliers, employees and others. In building trust you have to show that you will meet your obligations.

Every parliament and every government have an obligation to understand the broader role that trust plays, particularly in a market type society. That is why, as I say, there is a lack of proportion, a lack of perspective in some of these measures. The coalition will continue to strongly oppose fraudulent phoenix activity and we will support all appropriate measures to stamp out this practice. However, this bill imposes too many obligations on too many good people who are trying to do the right thing.

In relation to a second set of measures, the changes to the taxation of financial arrangements provisions, let me first make the point that TOFA, as it is known in the vernacular, was a long time coming and very complex in the way it was put together. That is not a reflection on the people who put it together. That is not a reflection on the people who put it together. We are talking here about an inherently very complex set of arrangements. No-one on this side of the chamber underestimates the difficulty of framing measures dealing with aspects of the taxation of financial arrangements. But that said, what we are dealing with here is a very clear, if you like, abrogation of the government's duty in that they are introducing changes which are retrospective to the existing tax law. These are being done both as a revenue protection measure and as a revenue gain over the forward estimates. They relate to a consolidation regime which treats a group of wholly owned or majority owned companies and other associated entities such as trusts and partnerships as a single entity for tax purposes so that the head of the entity group is responsible for all or most of the group's tax obligations, including the lodgement of tax returns and the payment of tax obligations.
This bill operates to retrospectively reverse the changes made to the consolidation regime in 2010:

For corporate acquisitions that … took place before 12 May 2010—
which, I think, was budget day—
the changes prevent the retrospective operation of unintended effects of, and perceived weaknesses in, amendments to the law that were made in 2010. These changes are necessary to protect a significant amount of revenue that would otherwise be at risk.

In other words, this is a retrospective tax increase to correct legislative errors the government now accepts that it made when changing the consolidation tax cost-setting arrangements in 2010—clearly a mistake of the government's own making. The government had been warned before the 2010 changes were introduced that it had got this wrong, but it refused to listen. This is of a pattern where consultations occur with the private sector but where, essentially, you sometimes wonder whether it is for form's sake or for going through the motions or for ticking the box, as opposed to having a genuine dialogue and listening to each other. There is nothing worse than having some sort of dialogue of the deaf when it comes to consultation between government and stakeholders.

Sometimes, unfortunately, I find that governments can bring the attitude to the table that the people on the other side, because they are in the private sector, are potentially tax evaders, tax dodgers and the rest and therefore they should be treated as being guilty and have to prove their innocence.

**Senator Bernardi:** That was Graham Richardson. He was a tax evader, a tax dodger.

**Senator SINODINOS:** Thank you, Senator Bernardi. On the money, as usual.

During the consultations with industry on the exposure draft of the 2010 legislation, industry clearly warned Treasury and the government that they had got their costings wrong and that the proposed changes would lead to much higher deductions being claimed, which would lead to a reduction in revenue. What has happened? It has come about that these people in the private sector, speaking sincerely in the context of consultations, made the government aware of the potential for significant deductions. The government did make some changes in the Senate in 2010, I do not know at whose behest, but they still did not address the key issues that had clearly been identified during the consultation process, particularly around the costings of the measures, so these predictions have come true.

They remind me very much of what happened with the mining tax, where, in a windowless room in Treasury or somewhere else, the gang of four—Gillard, Swan, Tanner and Rudd—sat down and worked out the resource super profits tax with a small group from Treasury. They did the modelling, and then what happened is that when they took it out there—

**Senator Jacinta Collins:** Was Godwin there?

**Senator Bilyk:** Was Godwin there?

**Senator SINODINOS:** Comrades, I will explain it to you if you are only happy to listen—through the chair.

**The ACTING DEPUTY PRESIDENT (Senator Boyce):** Senator Sinodinos, please ignore the interjections.

**Senator SINODINOS:** I am sorry. No, what happened is that they put it out there, and guess what? The mining industry took a nanosecond to look at this and to see that the government was going to accrue vastly greater revenue than its model was suggesting, so they saw that this would have
a much more swingeing impact on the mining sector than the Treasury had assumed, because the Treasury did not understand the mining sector in regard to the modelling of the impacts of the resource super profits tax.

Senator Jacinta Collins: Is swingeing a technical term?

Senator SINODINOS: Swingeing means a particularly sharp increase or cut in something.

Senator Bilyk: Did you make it up or is it a real word?

Senator SINODINOS: No, it is a real word.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Sinodinos, for the lesson, but could you please ignore the interjections. There are dictionaries available.

Senator SINODINOS: Sorry, Madam Acting Deputy President. As usual, you are right, and I will proceed. It reminds me very much of the mining tax exercise, where either the consultations with the private sector did not occur or the private sector was not listened to. You get the situation where the government has to hurry back to the parliament and has to put together these measures in order to protect this revenue and protect a revenue gain in the forward estimates.

When the 2010 legislation came into force, the industry predictions came true. Companies did take advantage of the higher deductions permitted by the government's flawed legislation, exactly as had been predicted, and there was a collapse in anticipated revenue. The Board of Taxation looked into the matter and confirmed everything that the government had previously been told about the higher deductions and the associated lower tax revenue. So there we have it: another botched consultation; another botched listening exercise.

Retrospective legislation is pernicious. If people are moving ahead on the basis of what they believe to be a set of settled arrangements, there is nothing more unsettling and more a breach of trust than to suddenly find themselves liable for something that they had had peace of mind that they were not going to be liable for. I remember that John Howard was burnt considerably in the early eighties when he introduced some retrospective tax legislation to do with the waterfront, to do with some of the bottom-of-the-harbour schemes that were uncovered as a result of the Royal Commission on theActivities of the Federated Ship Painters and Dockers Union. He paid a high price for years, particularly in Western Australia, where they are great federalists and great believers in following the principles of tax law. People should have learnt from that exercise that retrospectivity in the tax law, as in other parts of the law, does not serve the interests of the government or the governed. It is a breach of an important trust between taxpayers and the government. Breaching that principle alone, I think, should condemn this particular bill.

I turn now to the managed investment trusts which were withdrawn from this bill in the House of Representatives, I gather at the behest of the Greens. It is very interesting how the Greens, on occasion, can be greater economic rationalists than the government—sorry, yes, they are the government. The Greens had acknowledged, had recognised, that if the measure went ahead to increase the withholding tax rate—

Senator Cormann: Double it.

Senator SINODINOS: to double it from 7½ to 15 per cent, that would have a chilling effect on investment, particularly in areas—
they were concerned—around renewable energy but more broadly around investment in critical infrastructure in Australia. This is after only a couple of years. The late lamented Kevin Rudd and the talented Chris Bowen reduced this tax to 7½ per cent as of 2010-11, only for Julia Gillard, Bill Shorten and David Bradbury to try and double it two years later.

One of the important things as a principle in tax policy and economic policy generally is certainty and stability. Continuity, consistency and credibility are what the Organisation of Economic Co-operation and Development used to talk about, and that is important in policy settings. If you are sending a message, as my colleague Senator Edwards said, that you want Australia to be a financial centre, you cannot chop and change on these measures. The government has chopped and changed on these measures in this budget because it needed revenue for other things, just as it transmogrified a company tax cut—

Senator Jacinta Collins: Transmogrified!

Senator Bilyk: Oh, you're just showing off now!

Senator SINODINOS: No, I am not. It is the word that came to mind.

The ACTING DEPUTY PRESIDENT: Senator Sinodinos, please ignore the interjections.

Senator SINODINOS: Madam Acting Deputy President, I entirely agree with you. It transmogrified a company tax cut into further cash payments to households in order to shore up its support ahead of the introduction of the carbon tax on 1 July. You cannot make tax policy on that short-term basis.

Yes, governments have to have flexibility, a capacity to change policy settings over time in response to changing circumstances, but we are talking here about a measure that was trumpeted as part of our efforts to promote Australia as an international financial centre. Lamentably, our efforts to do so have gone backwards in recent years. Singapore is growing as an international financial centre. Hong Kong is growing as an international financial centre. Shanghai is growing as a financial centre. Some of that growth is inevitable. As more and more of the axis or centre of gravity of world economic activity shifts towards East Asia, it will be centralised in places like Shanghai and Hong Kong. But the fact of the matter is that, with our highly educated workforce, our experience in the financial services sector, our first-class lifestyle, our IT base, our advantage in time zones and all the rest of it, we are in a good position to be an international financial centre, but we are losing that to Singapore, just as in a number of areas in recent years we have been losing our competitive edge. Our costs are going up relative to our competitors and today our competitors are not the US, the UK or Europe. That is not who we benchmark ourselves against in terms of economic competition. Today it is very much Asia, Africa and Latin America. Places in Africa which are getting their governance systems right and are promoting more favourable regimes for foreign investment are starting to attract, for example, big mining investment.

If you are a miner in Western Australia you will look seriously at the costs and benefits of doing work in Africa as opposed to do further work in our own region, including within Australia.

The issue of competing against areas in our own backyard in industries like financial services is critical. Anything that sends the signal that policy settings are volatile, are easily changed and are at the whim of government is not good enough. We have to
have certainty, stability and continuity going forward. These particular measures were held up by the Greens in the lower house and I commend them for that. They saw the economic implications of this in a nanosecond and said, 'We have to have a further look at all of this.' Again I say I commend them for it. We encourage the government to rethink these sorts of measures and to create greater certainty and stability for our investment regime.

Let me say something about the mining tax. Over the last couple of days we have had revelations by UBS, through the work of a very respected mining analyst, that they expect this tax to raise less than half what is projected in the government's forward estimates. This is a concern because there are obligations for increased government spending which are linked to the revenue generated by the mining tax. We have this volatile, cyclically-sensitive tax revenue source which is tied to relatively certain future government spending obligations. That is increasing the vulnerability of the budget to the economic cycle. It is creating a further budgetary headache down the track and will come on top of the budgetary headache created by the carbon tax. Not only will we have fixed spending associated with the carbon tax but also we will have the danger that the price—once we go to a floating carbon tax when it becomes a carbon price—will fall and will reduce revenue available to governments. These are budgetary issues which are looming on the tax front and this discussion is an opportunity to raise those points.

Senator BERNARDI (South Australia) (12:17): I rise to speak on the Tax Laws Amendment (2012 Measures No. 2) Bill 2012 and the Pay As You Go Withholding Non-compliance Tax Bill 2012 and state from the outset that the opposition is opposed to these bills, with good reason, which I will get to in a moment. I would like to pick up on a point made by Senator Sinodinos in his excellent contribution. Senator Sinodinos pointed out that Australia's competitive edge is being eroded and that our new competitors are more likely to be in Asia and in parts of Africa, rather than in Europe. Unfortunately, this government seems intent on taking Australia down the European path, the social democratic experiment, where an increasing number of people are absolutely dependent upon handouts from government.

The entitlement mentality is meant to keep people dependent upon government so that government can exercise influence and power in areas where people like me and most of us on the coalition side think it is inappropriate to do so. We see that in any number of government programs, with cash splashes and billions of dollars being squandered in a number of areas. It is almost a case of legislate first and think later. These bills are indicative of the history of the last two governments, the first led by Mr Kevin Rudd and the recent one led by Ms Julia Gillard. We have a history of programs that have failed, have been ill-conceived and whose consequences have not even been considered. Had they been considered, the government would have accepted some amendments. They would have accepted at face value and in good faith statements by the minor parties, the Independents and, indeed, those on the coalition benches who are intent on ensuring that Australian taxpayers get value for money and that they get productive and worthwhile policy initiatives, rather than cooked up, half-baked schemes which have not been completely thought through.

There is a list of them, including the Computers in School program. We were told that a computer was the toolbox for the 21st century. Those computers in schools do not
have the appropriate software or have not been installed properly, and some people are still waiting for them. We could go to the Building the Education Revolution, which was trumpeted as bringing schools up to 21st century standards. The problem with that is that schools which were apparently brought up 21st century standards were later closed down. Libraries were built for schools with one student. Thousands of millions of dollars were wasted and some have dubbed this the 'builders' enrichment revolution' because that is exactly what it did. It transferred huge amounts of money into uneconomic, unviable and uncompetitive projects. We are still, as a nation, dealing with the debt legacy from that one program in which approximately $8 billion to $10 billion are estimated to have been wasted. That is a small part of this country's debt.

When I look around I see schoolchildren up in the gallery who are wide-eyed and optimistic about their future. The unfortunate thing is that in just four years of this government we have gained $150 billion worth of debt. We have seen our net position deteriorate from a $70 billion net surplus of assets into $150 billion worth of debt.

Senator Jacinta Collins interjecting—

Senator BERNARDI: Senator Collins says it is not the end of the world—

Senator Jacinta Collins interjecting—

Senator BERNARDI: She said it is the end of the world, being sarcastic—

Government senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Boyce): Senators on my right, please stop interjecting. Senator Bernardi, please continue.

Senator Bilyk interjecting—

The ACTING DEPUTY PRESIDENT: Senator Bilyk, please!
the skeletons are buried, so they will not do it.

We also have the abject failure of this policy of 'legislate first, think later', which is responsible for the armada of illegal vessels that have been hitting the shores of this country. It is an extraordinary indictment of this government that, under the Howard government, one, maybe two, maybe three boats would have arrived here in a year; we were told each boat was a policy failure. We have now had 194 boats since Ms Gillard became Prime Minister. We should have a birthday cake for Ms Gillard with 194 candles to celebrate her two years as Prime Minister of this country. It is an absolute disgrace. There are thousands of people dying at sea because of the poor policies of this government, but those opposite refuse to admit it.

We can go on to the minerals resource rent tax, which Senator Sinodinos also touched on. It was cobbled together by a small group who are all infected with groupthink; I do not think there is any question about that—

Senator Jacinta Collins interjecting—

Senator BERNARDI: Madam Acting Deputy President, I am not sure if you can hear the screeching from Senator Collins, but it is really quite disturbing and it grates. I am sure people—

The ACTING DEPUTY PRESIDENT: Just ignore the interjections, Senator Bernardi.

Senator BERNARDI: I hope the people listening to the broadcast cannot hear the sort of vile abuse that I am receiving from Senator Collins. As I was saying, the minerals resource rent tax was concocted by a tiny group of people all infected with groupthink, where they pat each other on the back and tell each other what a great job they are doing. But of course they had not thought through the implications of the MRRT.

The examples continue with the National Broadband Network. We know that Senator Conroy—who has been in the same portfolio for some time and has very little to show for it—called for tenders for a national broadband network and did not receive any. As I recall, Telstra put in a one-page thing, which was a question about whether it was a tender or not. That was for a $6 billion rollout, as I recall, but I stand to be corrected. But, when nothing satisfactory came through, rather than accept the fact that $6 billion should be the limit, as was intended, Senator Conroy took an envelope and hopped on a plane with then Prime Minister Rudd. Mr Rudd was really, at the time, refusing to talk to any of his cabinet ministers. But Senator Conroy managed to lock him into a plane for a while and, together, they wrote up a $50 billion deal on the back of the envelope. Together they wrote up $50 billion of expenditure that the government is undertaking off the balance sheet, without a cost-benefit analysis, without a business case. It is an absolute disgrace. And they defended that, saying that it would bring us into the 21st century, just like they said about computers in schools, which was botched and a failure; just like they said about the Building the Education Revolution, which was botched, full of rorts and a failure; just like they said pink batts would; and just like they said green energy schemes and all those sorts of things would.

They also said that they would sort out illegal arrivals. They also said the minerals resource rent tax would pay for superannuation for all Australians. It will not. They do not understand. Superannuation is paid for by business employers. I made this point yesterday, which caused all sorts of consternation, because those opposite do
not like to be mugged by reality; they do not like what they hear.

These bills continue this 'legislate first, think later' process. It is no way to run a government. It is no way to run a business. It is no way for a family to manage their own finances or to approach a particular problem. The ramifications of this are flowing right through our economy. As Senator Sinodinos said, we now have an increase in sovereign risk in this country causing a level of concern in international investors that I cannot previously recall in my lifetime. When I was a member of the financial advisory profession, I recall people saying they enjoyed the certainty, the security and the commonsense outlook that the Howard government provided. They felt they could invest in this country with a reasonable degree of trust that the economic outlook and policy directions would continue into the future. That was reinforced, might I add, when Mr Kevin Rudd—who was then pretending to be an economic conservative, in 2007—said there was not a sliver of light, not a cigarette paper, between the economic approach of the Howard government and that of the Rudd government. Well, we know that was simply not true, just like when Ms Gillard opened her mouth—you cannot believe anything that comes out of it—only a few days before the last election and said, 'There will be no carbon tax under a government I lead.' If that does not go down as one of the three great election campaign falsehoods in the history of this country, I do not know what would. It is right up there with 'the cheque is in the mail'. That is the sort of stuff we hear from the Labor Party. But the problem is that no-one believes what this government says, because they know the credibility of the Prime Minister is in absolute tatters.

That lack of credibility is further evidenced by the way these bills have been managed. The government cooked together these bills, which we are opposed to, and, on the eve of the debate, moments before the debate was to continue, it withdrew one of the important schedules, schedule 4—the doubling of the final withholding tax on managed investment trusts. I mentioned earlier the sovereign risk attached to this country. If people are going to invest significant amounts of money, they want to have reasonable confidence that the legislative environment and the general approach—'the vibe', if you like, in the words of The Castle—is going to be maintained going forward.

How can people invest in managed investment trusts in this country when, having been promised a 7½ per cent taxation regime by Prime Minister Rudd, the Rudd successor is now proposing to put it up to 15 per cent? I am pleased it has been withdrawn, but that is not the point—the intention was for it to happen like this in the first place. The government did not think through the implications of this. It is unfortunate that it is the Greens who are the conscience of the government, but on this occasion I do commend the Greens—and that is a very rare thing for me to do—for putting their foot down and stopping this government from making an even bigger mistake in addressing these issues.

The government have withdrawn what they claim was a very important schedule—a schedule which, of course, was going to put up taxes. We know that this government love putting up taxes, because they cannot manage expenditure restraint. They have not been able to manage expenditure restraint at all. Instead of cutting its cloth to fit its purse, or the taxpayers' purse, they just likes to put taxes up and then hand out charity or entitlements or benefits to people they deem worthy. The problem is: that is not sustainable.
As I said at the start of my address, this is about the Europeanisation of Australia—making us more like Europe, where more people are dependent on government handouts. We have whole industries—the Greens' renewable energy industry, green power and those sorts of things—that are dependent on government subsidies in order to remain competitive and grow or even to be remotely competitive. That is why this government, with their intransigence and their swallowing of the extreme agenda on carbon dioxide and all the related misinformation about it, has done a disservice to Australia.

We know the carbon tax comes in on 1 July and we know there will be cost implications for families and businesses. We know that every business will be subject to the carbon tax in some shape or form, because electricity will be going up. There will be some one-off compensatory payments for those under certain income thresholds. But we know that this tax is going to continue and continue. Every time your local retailer turns on his fridge, every time your partner turns on the vacuum cleaner or every time they turn on the light, you will be hit with higher and higher taxes.

That is why there is a stark difference between the way the coalition approaches and manages government expenditure and the way this government does. We want to live within our means. We want to make sure that the Australian people have savings for a rainy day, not debt. That is why I am pleased that schedule 4 of this bill has been withdrawn. I am delighted because—whether it is the managed investment trust industry, local businesses, individuals or families—we cannot afford higher taxes in this country. That is the upshot. If we want to be competitive and if we want to continue to have a safe and stable democratic environment so that we can remain an attractive nation for investment, we need to have consistency, we need to make sure that our tax and industrial relations regimes are competitive and we need to make sure there is reasonable certainty about our future approach. That is the essence of the problem we face.

There is no certainty about the future approach of this government. They are just leaping from one crisis to another. They have no strategic agenda, though I did read today that yesterday in the caucus room Ms Gillard said she had a plan and put up a PowerPoint presentation. According to one right wag, some people tuned out as soon as the PowerPoint came on and so did not hear what the plan was.

Senator Jacinta Collins interjecting—
I am sure people like Senator Collins were paying very close attention to what the plan is, and that is probably why she is so cranky today and interjecting so vociferously. They know the plan—it is about the Gillard government clinging to power and doing whatever it takes to do so. I guess that those on the other side who have children and a semblance of an interest in the future of this country would be tearing their hair out, going: 'Oh, my goodness, what are we doing to the Australian nation? How long will it take for our legacy of dysfunction and hopelessness to be addressed so we can get this country back on an even keel?'

The Australian people clearly want to make sure that Australia does get back onto an even keel and onto a path of relative stability—one with opportunity, hope and reward for those who are prepared to invest in this country, rather than for those who seek to live off the proceeds of others. That, unfortunately, is what this government does. It is not about the people of Australia; it is about them clinging to the Treasury benches for as long as possible and doing whatever it
takes to stay there. Former Senator Graham Richardson said that 'whatever it takes' is an appropriate approach to government. I do not believe that. I think there has to be some principle attached to what governments do. In conclusion, I think it is reprehensible for a government to impose retrospective tax penalties or a retrospective tax regime on Australians who have sought to comply with the law as it then stood. It is reprehensible. I condemn that approach being taken by any parliament, not just this one. I think it is wrong. If people are complying with a law at a particular point in time, they are entitled to the benefit of the doubt. Any decently minded person would have to stand against the imposition of retrospective tax changes such as those proposed in these bills. They are another example that this government seeks to legislate first and think about the consequences later. It is unfortunate that it is incumbent upon the opposition to do the thinking for this government, but what is worse is that the government refuses even to allow debate on so many important matters through its pernicious and rotten guillotining of these debates. (Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (12:38): I would like to have spoken for some time but cannot because debate in this place is restricted, thanks to the government and the Greens. Once again we are on about tax—taxing the private sector, undermining the confidence of overseas investors by demonstrating that there is sovereign risk attached to this country and changing the rules. We are moving the goalposts halfway through the game.

When will this government learn that it is the private sector that drives our nation's wealth? That is where the money comes from; governments do not have money. The government is doing its best to cripple the very sector that drives our nation's wealth. I am proudly wearing a badge that says, 'I love small business.' Here is another tax that has been brought into this place simply because of the mess those opposite have made. Schedule 4 has been thrown out—thank goodness!—but those opposite want to make it retrospective. It is unbelievable to see how much of a mess they can make. They were warned by business. The business world warned the government in 2010 that this would blow up in their face, and it has. Once again the business world was right. Of course we do not expect the government to understand business—most of them come from the trade union movement; most of them have never run a business.

Senator Jacinta Collins: I don't know anyone who thinks you represent business.

Senator WILLIAMS: I have spent all my life in the private sector, in the small-business sector, Senator Collins—all my working life. You should get out there and learn about it. But, no, you are in here robbing the private sector again. You are anti small business. It will start again this Sunday with the introduction of the carbon tax, your broken promise. The Australian people will not forget that broken promise—they are not fools. They will put it in a saved file and, come the next election, they will square up to you for what you have done to the business sector in this country.

The DEPUTY PRESIDENT: Order!

The President—Senator Hogg

Ayes ......................33
Noes ......................27
Majority ...............6

AYES

Bilyk, CL
Brown, CL

Bishop, TM
Cameron, DN
Wednesday, 27 June 2012

The Senate divided. [20:48]

The President—Senator Hogg
Ayes ...................... 33
Noes ..................... 27
Majority ............... 6

AYES

Bilyk, CL
Bishop, TM
Bernardi, C
Birmingham, SJ
Boswell, RLD
Boyce, SK
Brandis, GH
Bushby, DC
Cash, MC
Edwards, S
Cormann, M
Colbeck, R
Eggleston, A
Colbeck, R
Fawcett, DJ
Carr, RJ
Heffernan, W
Conroy, SM
Heffernan, W
Evans, C
Fieravanti-Wells, C
Farrell, D
Joyce, B
Lundy, KA
Scullion, NG
Siewert, R
Fisher, M
Sterle, G
Abetz, E

The Senate divided. [20:48]

The President—Senator Hogg
Ayes ...................... 33
Noes ..................... 27
Majority ............... 6

AYES

Bilyk, CL
Bishop, TM
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Evans, C
Fieravanti-Wells, C
Farrell, D
Joyce, B
Lundy, KA
Scullion, NG
Siewert, R
Fisher, M
Sterle, G
Abetz, E

Question agreed to.

Bills read a second time.

Third Reading

The PRESIDENT (12:46): The question now is that the remaining stages of these bills be agreed to and these bills be now passed.

Question agreed to.
Bills read a third time.

Financial Framework Legislation Amendment Bill (No. 3) 2012

First Reading
Bill received from the House of Representatives.

Senator WONG (South Australia—Minister for Finance and Deregulation) (12:50): I move:
That this bill may proceed without formalities and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading
Senator WONG (South Australia—Minister for Finance and Deregulation) (12:51): I move:
That this bill be now read a second time.

As I have indicated to the opposition, I intend to make some brief remarks on the second reading of this bill. To save time, I have flagged with the opposition and with Senator Milne that I intend to respond briefly to the amendments which have been foreshadowed by either party.

The Financial Framework Legislation Amendment Bill (No. 3) 2012 responds to the decision handed down by the High Court on 20 June 2012 in the matter of Williams v Commonwealth, a decision which represents a significant shift in the balance of power between the parliament and the executive. For over 100 years, governments of all political persuasions have understood that the executive could rely on the executive power of the Commonwealth to spend money on programs without the need for legislative authority. However, in the Williams case the High Court determined the executive cannot spend money on programs unless they are supported by legislation, regardless of the value of the programs.

The bill before the Senate responds to this new operating environment. It will amend the Financial Management and Accountability Act to establish clear legislative authority for the Commonwealth to make payments in relation to particular programs, grants and arrangements. Transitional provisions in the bill protect programs, grants and arrangements in place before the bill commences.

It is vitally important that recipients of Commonwealth grants and other payments who act in good faith consistent with the arrangements under which those payments are made not be left in doubt about the validity of payments. The government has been careful to identify grants and programs where a question might be raised about the need for legislative authority.

As the Senate will see from the schedule before the chamber, the types of programs that we are talking about are clear. This bill provides spending certainty across various government programs including Indigenous broadcasting, support for carers, National Immunisation Program, infrastructure spending, Australia's presence in Antarctica and many others.

This bill also responds directly and specifically to the Williams case, in which the High Court invalidated the national school chaplaincy program. A majority invalidated payments under the program on the ground that they were not supported by legislation. The bill before the parliament deals directly with that need. As parties are aware, we do need to provide certainty for these programs before parliament rises for the break. The only responsible response to government spending is to get this passed and passed through the Senate today.

As I indicated, I would like to make some brief comments on the amendments that have been foreshadowed. In respect of the
amendment by the opposition to insert a six-month sunset clause, we need to be clear about the actual implications of this proposal. The effect of this would be to potentially put 900 chaplains’ contracts at risk in Queensland. We cannot give these 900 chaplains the confidence of a forward contract beyond 2012 should the amendment be successful. This would mean over 900 chaplains would not be able to be contracted for the next school year.

The government are also of the view that the amendment would make this legislation legally meaningless. It would create great risk for the ongoing operation of important government programs, including chaplains. We are advised it means that no contract that extends beyond that six-month period would be able to be responsibly entered into. It would mean that the government could not enter into any agreements or have programs which went beyond the sunset provision. After the sunset clause, if new legislative support were to be provided, all agreements and programs would need to be re-established. This would therefore defeat the purpose of the act, which is to provide legal certainty for Commonwealth programs across everything from foreign aid to disability services and so forth.

I make some brief comments on the amendments foreshadowed by Senator Milne. We believe the proposed response to Williams encapsulated in this bill is responsible. The government do recognise that the decision increases the ability of the parliament to scrutinise the expenditure of Commonwealth money and this bill strikes a balance. It provides oversight to the parliament on new areas of spending and also provides flexibility for governments to respond to emergencies and unforeseen events. The government do not interpret the regulation-making provisions in this bill as unbounded and as shifting from the practice of governments for many years, and of all persuasions, in relation to the majority of Commonwealth expenditure. If one considers the stock of all government spending, approximately 75 per cent is in standing appropriation bills, which provide legislative backing. So when it comes to programs such as the age pension, the Pharmaceutical Benefits Scheme and payments to the states, we have and will continue to implement legislation.

In recognising the regulation-making power in this bill is broad, the government will obviously work through implementation issues over time. This would include looking at the utility of a set of principles or guidelines around government determining which programs are more appropriately underpinned by primary legislation and those for which regulation is suitable.

In conclusion, the bill is a measured, appropriate and necessary response to the Williams decision. It will ensure that the government can maintain funding for community programs, including the National School Chaplaincy and Student Welfare Program, and has been designed to address the new requirement for specific legislative approval of spending in programs identified by the High Court. This spending includes services vital to the lives of millions of Australians, an issue that parliament needs to resolve and resolve quickly. I thank the Senate.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (12:57): The Financial Framework Legislation Amendment Bill (No. 3) 2012 was presented in the House of Representatives yesterday afternoon by the Attorney-General as an urgent response by the government to the High Court’s decision in Williams v Commonwealth, which was handed down on Wednesday of last week.
That decision found that funding for the National School Chaplaincy and Student Welfare Program, to which I will refer for the sake of shortness as 'the chaplaincy program,' which the opposition strongly supports, was beyond the executive power of the Commonwealth because it was not supported by an act of parliament and was therefore not a valid exercise of the executive power under the Commonwealth under section 61 of the Constitution, which provides:

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

I should stress that the only Commonwealth program which the High Court's decision invalidated was the chaplaincy program. However, the language and reasoning of those justices who comprised the majority in the Williams decision have potentially far-reaching implications for other Commonwealth programs which rely upon the exercise of the executive power without appropriate statutory authorisation.

The solution proposed by the government is to amend the Financial Management and Accountability Act to provide for the validation of a large number of Commonwealth government programs and grants. This is proposed to be done by regulation. In all, some 11 types of Commonwealth financial assistance grants and some 416 types of programs, providing for the payment of Commonwealth moneys, are set out in the draft regulations, with which the opposition has been provided. I want to indicate that the opposition, with grave reservations, and subject to a sunsetting amendment to which I will return in a moment, has decided to cooperate with the government in expediting the passage of this bill through the parliament this week. Our decision to do so, however, should not mask our very grave concerns about the legal validity of the approach which the government has adopted—concerns which, I might say, were relieved not at all by the speech we just heard from Senator Wong. I do not criticise Senator Wong for not having read the Williams case, because I doubt she would have had time to do so. But those who prepared the notes for her ought to have read the Williams case and they have plainly not understood its effect.

I should also record that my request to the Attorney-General on Tuesday to be provided on a confidential basis with a copy of the Commonwealth's legal advice was refused by the Attorney-General. I understand that ordinarily legal advice to the government is not provided, even on a confidential basis, to the opposition, but this is an unusual case. It does not arise out of a political controversy and it is a case in which the government is seeking bipartisanship. Under the previous Attorney-General, Mr Robert McClelland, on two occasions after a decision of the High Court struck down either legislation or a ministerial decision, in respectively the Lane v Morrison case and the Malaysia solution case, the legal advice was provided to the opposition—indeed, in the latter case it was published—when the government sought the opposition's cooperation to deal with the consequences of those two High Court decisions. I can but wonder why on this occasion that level of cooperation was not afforded. Nevertheless, it was not.

So the opposition, without having the benefit of considering the government's legal advice, has arrived at its own views about this legislation. Our concern relates to the method adopted by the bill, the essence of which is to insert into the Financial Management and Accountability Act a new section, section 32B, which purports to
validate any grant or payment of Commonwealth moneys which may be identified by regulation. That is done by providing that, omitting unnecessary words: 'If, apart from this subsection, the Commonwealth does not have power to make, vary or administer a grant or payment, and the grant or payment is specified in regulations, then the Commonwealth has the power to make the grant or payment.' That is the legal method adopted by the draftsman of this bill to overcome the effect of the Williams decision on the very many—hundreds—of Commonwealth programs which are specified in the regulation.

I am far from satisfied that that umbrella form of statutory validation is effective to satisfy the constitutional lacuna which the High Court identified in the Williams case. Nor am I satisfied that the proposed section 32B, in its application to each particular grant or program payment, is supported by any of the section 51 heads of power, although in respect of many such grants or payments it may be. The whole point of the Williams case was to decide that the executive cannot spend public money without legislative authority and parliamentary scrutiny. It seems to me that it is hardly sufficient to meet the tests which the majority set out in their reasons for judgment as necessary to constitute a valid expenditure merely to specify a schedule of grants payments and simply declare them to be valid. The approach adopted is particularly inept given that the programs are to be specified merely by regulation. It was the fact that the chaplaincy program was established only by executive order which resulted in its invalidity. It seems to me that there is an element of circularity in the Commonwealth's legal reasoning.

To make matters even worse, the power to make regulations which will bring particular programs within the general validation provision of proposed section 32B may itself, as a result of section 32D, be delegated by the minister to 'an official of any agency', which means in effect any public servant, no matter how junior. This is the legislative response to a High Court decision the whole purpose of which was to limit the executive power of the Commonwealth. But, just to prove that the draftsman of this bill does have a sense of humour, he has included section 32E. Wait for this, Senator Smith; I know that you are close student of these matters. It reads:

This Division does not, by implication, limit the executive power of the Commonwealth.

When I was writing these remarks last night, I was drawing upon my own no doubt very limited intellectual resources in arriving at some conclusions about the proper interpretation of the Williams decision. So you can imagine how gratified I was this morning to read that a constitutional scholar of far greater eminence than my poor powers of constitutional scholarship, Professor Anne Twomey of the University of Sydney, had posted on the University of Sydney's website a note about this legislation, under the heading 'Parliament's abject surrender to the executive'. Professor Twomey is obviously a woman who does not hide behind clouds of ambiguity. This is what Professor Anne Twomey, a professor of constitutional law at the University of Sydney, had to say about this bill in her article published today:

Will this Bill, once enacted, be effective? It is really just setting up more stoushes with the High Court. What the Court stressed in the Pape case in 2009 and the Williams case last week, was that the Commonwealth must have a head of legislative power to support its spending. Where is the head of legislative power to support this Bill? Many of the programs listed in the draft regulations will fall under a head of legislative power, and it is conceivable (although contestable) that this Bill, once enacted, is enough to support them. But others will not be supported
by a head of power and will remain invalid regardless of such a law. Hence, this Bill merely provides a fig-leaf for the Commonwealth’s legislative incompetence. It still leaves open the question of whether the Commonwealth has the legislative power to support the chaplaincy program along with many others.

Finally, what is most extraordinary above all is the fact that the Commonwealth Government seems so determined not to listen to the High Court. It ignored the High Court’s judgment in the Pape case; merrily going on with funding of bodies and programs without sufficient legislative power. In response to the Williams case it simply enacts a law that attempts to restore what it wrongly believed to be its former powers, without actually listening to or taking to heart the High Court’s concerns about a democratic deficit, the important role of parliamentary scrutiny and the importance of federal considerations. This Bill, in a bald-faced manner, rejects the fundamental propositions put by the High Court in the Williams case. The Commonwealth is clearly asking for another clobbering by the Court.

Those are the views of Professor Twomey, who arrived at the same conclusion I did. I am sure Professor Twomey's words carry a lot more weight than mine on this matter. I do say with all due respect, and I know they were operating under great pressure of time, that those who drafted this law and advised the government that it was a sufficient legislative response to the Williams case do not understand what the Williams case decided.

Senator Cormann interjecting—

Senator BRANDIS: Thank you, Senator Cormann, for your interjection. I was about to demonstrate the accuracy of what Professor Twomey said in her article. Senator Cormann has drawn to my attention an exchange of questions and answers from the most recent Senate Finance and Public Administration Legislation Committee estimates hearing on 23 May 2012. Senator Cormann asked officers of the Department of Finance and Deregulation:

Senator CORMANN: What is the approach of the Commonwealth in terms of making sure that any and all of its spending is consistent with the constitutional requirements and does not go beyond what is authorised under the Constitution? What checks and balances are in place?

After an exchange that went for about a page, Mr Tune from the department ended up answering that question this way:

In the main we are relying on precedent here, so things have been going along in their 'likeness' and you make the assumption that they are okay. Where you have got new things and the same questions arise you go to the Attorney-General's Department to get their view. Ultimately, of course, this is a matter for the courts.

Senator CORMANN: What you are saying is consistent with what the Prime Minister's department told the inquiry by the Senate Select Committee on Reform of the Australian Federation:

To date the approach we have taken is that current arrangements will continue unless subsequent decisions by the court suggest that a particular activity should not.

So what you are saying is we will keep spending in the way we are spending unless somebody successfully challenges that a particular item of expenditure is not appropriate under the Constitution.

… … …

Mr Tune: The Attorney-General's Department may make some new interpretation, but until they do that is the way you operate.

A few lines down it continues:

Senator CORMANN: If I could ask this on notice: since the decision of the High Court in the case involving the Commonwealth and Mr Brian Pape the instances where Commonwealth expenditure was subject to advice on whether or not it would be consistent with the requirements of the Constitution. If you could provide me a list of instances where expenditure was reviewed from that perspective I would really appreciate it.

Mr Tune: Yes.
I understand from Senator Cormann that no such list has been forthcoming. So in fact the very thing that Professor Anne Twomey referred to in her article this morning where she said that the Commonwealth seems determined to ignore the judgment in the Pape case, 'merrily going on with funding of bodies and programs without sufficient legislative power', is precisely what is happening, as was confirmed to Senator Cormann in estimates last May. This is entirely unsatisfactory.

In short, this government's response to the Williams decision to invalidate a particular program because it was established by executive action rather than legislation is to say that all programs are validated so long as they are identified in a regulation, and that regulation does not even have to be made by the minister. That seems to be hardly an adequate response. My preliminary view, which I am emboldened to see is shared by Professor Anne Twomey, is that the bill is a flawed bill that does not overcome the legislative gap or constitutional problem identified in the Williams case.

Nor is the opposition satisfied with the manner in which the government has dealt with us in seeking to address the issue. Although the High Court handed down its decision on Wednesday last week, the first approach to the opposition by the government was the day before yesterday, some three working days after the judgment, when the Attorney-General invited me to a briefing after question time and outlined in broad terms the approach the government was proposing to take. It was at that meeting that my request to examine the government's legal advice was refused. When I met Ms Roxon on Tuesday afternoon I was promised a draft bill by late that night or very early the following morning. In the event, an initial draft was received just before 9 am yesterday. It was replaced later in the morning by another draft, which contained important differences. Neither the shadow cabinet nor the opposition's leadership group had a chance to examine the draft prior to its introduction by the Attorney-General in the House of Representatives late yesterday. The opposition had only a few minutes notice of the final iteration of the bill. As a result, we have gone into this debate having had only a matter of hours to consider the draft legislation and not having had any time to consider each of the more than 400 categories of grants to which it applies. For that reason, while expediting the passage of this legislation today because we want to cooperate in ensuring these grants continue to be paid—notwithstanding our doubts about the constitutional validity of the bill—the opposition proposes an amendment sunsetting the legislation until 31 December this year so that the matter can be considered properly and with the benefit of time.

I heard Senator Wong's observations in her remarks before that the sunset clause would have the effect of making it impossible for the Commonwealth to enter into contracts having an expiry date beyond that time or to make grants. Senator Wong, once again those who prepared those notes for you have let you down, because the proposition you advanced is directly at variance with what the court decided in the Williams case. Referring to the well-known authority of New South Wales v Bardolph, the Chief Justice said:

The case is authority for the proposition, applicable to the Commonwealth, that the Executive Government... could enter into a binding contract absent prior parliamentary appropriation for the expenditure of money—on the project. In effect, that is what this seeks to do. The sunsetting clause will have no effect on the application of that principle to these circumstances. The opposition will allow passage of the bill, but we record our
deep concerns as to its constitutional validity.

Senator MILNE (Tasmania—Leader of the Australian Greens) (13:17): I rise today to comment on the Financial Framework Legislation Amendment Bill (No. 3) 2012, which is being brought to the parliament for in response to the High Court decision in the case of Williams v Commonwealth of Australia. That case was brought in relation to the national school chaplaincy program which has been operating in Australia. The Greens have had considerable concerns about that chaplaincy program for a good length of time, particularly in relation to the need to make sure that people who are offering counselling and welfare support to students in our schools are appropriately qualified.

Having been a teacher before I came into the parliament, I am deeply concerned that people who have no tertiary qualifications are currently allowed into schools to provide advice on welfare and other matters to young people. Nobody could claim to understand the complexity of life as a teenager—now or previously—and certainly that was my experience as a high-school teacher. But the one thing I think is critical is that people in schools who get the confidence of young people and sit down and talk to them about the matters of concern to them, particularly about issues in relation to welfare—they used to be known as guidance officers or psychologists and so on—need to be professionally qualified. The chaplaincy program does not provide for that. I understand that the government has reorganised some of that program and made the qualification at least a certificate IV. Until the government did that, it was a matter of people having just some qualification in hours. Even so, tertiary qualifications are appropriate. If tertiary qualifications are required for people teaching in our schools, they should most certainly be required when it comes to giving young people the kind of support that is so necessary in the areas of guidance, welfare and the like.

That is why I will move a motion at the end of my speech in the second reading debate which says that the Senate considers that the National School Chaplaincy and Student Welfare Program should be replaced with a program offering genuine counselling and other assistance to students by professionals with appropriate tertiary qualifications. I think that is critical, and I hope that the coalition will support that second reading amendment. The government have indicated that they are not going to support it, but I invite the coalition to think about it because it is critical that we have people with appropriate tertiary qualifications speaking with young people in our schools.

In spite of what has been said about the changes to the program, I was very concerned when I saw that $13 million of the $16 million to be paid in relation to the school chaplaincy program at the end of the financial year, at the end of this month, was going to four evangelical churches. That reinforces to me that we are not seeing money spent on supporting people with tertiary qualifications in our schools and offering the kind of advice that young people so badly need. I want to make it very clear: the Greens have said from the start that we certainly want to see the $220 million the Commonwealth is providing to support students in our schools given to our schools and spent; but we want to see it spent on supporting appropriately qualified people in our schools. That leads me to the issue of why we are dealing with this legislation today. It was as a result of the Williams case in which the High Court held that the Commonwealth government could not rely on executive power alone. This article I am
holding is by Professor Anne Twomey. I noticed Senator Brandis was quoting from her piece today and I will as well. She says that in that case:

… the High Court held that the Commonwealth Government could not rely on executive power alone to support the funding of the chaplaincy program. Not even an Appropriation Act was enough to support it. There needed to be validly enacted legislation to support such expenditure. The Court stressed a number of points. First, this was public money that was being spent (not the private money of the Government) and that it therefore had to be subject to parliamentary scrutiny. Secondly, there is a need for parliamentary engagement in the formulation, amendment and termination of programs for the spending of money and there will be a ‘deficit in the system of representative government’ if these programs remain solely within the Executive’s domain. Thirdly, the Court pointed to ‘federal considerations’ and the fact that the public school system in a State ‘is the responsibility of that State’.

So I want to go to the particular focus here on the "deficit in the system of representative government" if these programs remain solely within the Executive's domain'. This is something the Greens feel very strongly about and, when the High Court case decision came down this week, it went to the point that I made and that was so strongly evident to me—that is, the High Court was saying it is time to rebalance the power of the parliament vis-a-vis the executive.

For way too long executives have taken it upon themselves to not have parliamentary scrutiny for a number of programs and public expenditure. Rather, they have done it in this way through various programs. That is clearly one of the issues we have always had with majority governments vis-a-vis parliaments where there are shared powers. When you have a majority government, the executive can use the parliament as a rubber stamp, whereas when you have minority governments or shared power arrangements then the parliament has to actually deal with the issues and the executive cannot just do what it likes—as it can when it has a majority power, especially if it ends up with a majority in both houses. But, in particular, if you do not have a majority then you do have to come back to the parliament more frequently for validation of legislation or validation of programs.

In her article, Professor Twomey goes on to ask how the Commonwealth parliament has responded to the High Court's very clear indication. As Senator Brandis noted a moment ago, her ultimate conclusion was that this legislation rejects the fundamental proposition that the balance needs to be restored between the power of the parliament vis-a-vis the power of the executive. She notes that the Financial Framework Legislation Amendment Bill (No 3) 2012:

… gives legislative authority to the Executive to make, vary or administer any arrangement by which public money is paid out by the Commonwealth and the grant of financial assistance to any person whatsoever. The only constraint is that the arrangement or grant must be either specified in financial management regulations, or be included in a ‘class of arrangements or grants’ or a program mentioned in the regulations. The draft regulations show that these categories of approved grants and programs are extremely wide, including expenditure for ‘Foreign Affairs and Trade Operations’, ‘Payments to International Organisations’, ‘Public Information Services’, ‘Regulatory Policy’, ‘Diversity and Social Cohesion’, ‘Domestic Policy’ and ‘Regional Development’.

Clearly that is why she concludes that the Commonwealth is not really listening to the High Court. It is not really listening to the fundamental issue that there is real concern in the High Court about the democratic deficit; that is, the role of parliamentary scrutiny of federal considerations, being
those of the Commonwealth in relation to the states.

Professor Twomey goes on to say that, contrary to the view that was being put by some of the speakers in the debate in the House of Representatives yesterday—their view being that this bill was just about validating existing programs—it goes much further than that. She says:

It gives the Executive carte-blanche to enter into such programs in the future without any parliamentary scrutiny at all as long as the program or grant comes under one of the existing broad descriptions in the regulations, or with only the need to amend the regulations (by executive action), if a new category needs to be inserted. Never has such enormous power been surrendered by the Parliament to the Executive in one hit …

That is her reflection on what happened in the House of Representatives yesterday. I will repeat it because I think it is quite shocking at one level:

Never has such enormous power been surrendered by the Parliament to the Executive in one hit …

So, in the view of the Greens, what needed to be done in response to the High Court decision was, first of all, to validate existing programs, because clearly there are legacy issues with programs that are already in place—and we would want to see the money for those programs expended in the way that was envisaged.

However, there also needs to be a rebalancing of the powers of parliament versus those of the executive and there needs to be some process to enable that to happen. The problem that we as a parliament have now is that there is so little time before the parliament rises for the winter break. We have to make sure that we validate the legacy programs but at the same time deal with, and enable the debate that has to be had about, the rebalancing of this relationship. That is why the Greens do not only have a second reading amendment—the one I foreshadowed dealing with the issue of appropriate qualifications for the chaplaincy program—but are also proposing an amendment which my colleague Senator Wright will discuss a little later. The amendment would give the Commonwealth six months to identify any other programs where there are legacy issues and which might need to be caught up in validation. The amendment would also require that, as of 1 January next year, any new program would have to be legislated—that is, it would have to come through the parliament for parliamentary scrutiny. That would enable the debate to be had over the next months as to what the threshold should be—how you would determine what needs to have legislative power, coverage, approval or scrutiny of the parliament and what could be done by a disallowable instrument in a regulation. That is one of most important things we have to get out of this; otherwise it will be true that the Commonwealth has used the short time line we have to rush through the parliament not only the validation of the legacy matters but the giving up of the powers of the parliament to the executive.

The High Court has done a great favour to the parliament by giving us the opportunity to take back for the parliament some of the powers that clearly the Constitution deemed appropriate to the parliament. We ought not to be giving up the opportunity to take those powers back when we have the chance to discuss this in an appropriate manner, to take advice and get some of the legal academics, the constitutional lawyers and others around the country sitting down to work out how we might rebalance things.

One of the concerns I have also is—and I completely understand why the government has to validate the existing programs and I totally understand that that has to happen—
that, in rushing to do this, the question will remain whether in fact this is the most effective way to deal with something like the chaplaincy program alone. Professor Twomey says:

Where is the head of legislative power to support this Bill? Many of the programs listed in the draft regulations will fall under a head of legislative power, and it is conceivable (although contestable) that this Bill, once enacted, is enough to support them. But others will not be supported by a head of power and will remain invalid regardless of such a law.

She goes on to say:

... this Bill merely provides a fig-leaf for the Commonwealth's legislative incompetence.

I think that is harsh in the context of needing to deal with this in the time frame that we have, but, nevertheless, it makes the point that when you rush to respond to a High Court decision with the implications that this has, you need to deal with both matters: you need to deal with the immediate matter of validating existing programs, but you also need to deal with the big picture, which is the opportunity that the parliament has to take back some of the power that it rightly has under the Constitution—power that over time has been taken by the executive.

The Greens take this very seriously, and that is why we are moving amendments which will do exactly that. Our amendments will do three things. By passing this legislation, we will validate the existing programs. Through our second reading amendment, for which I ask the support of the Senate, we will get tertiary qualified people in our schools to give the appropriate level of counselling and support to students. Thirdly, through our substantive committee stage amendment, we will give effect to what the High Court wanted—to ensure that as of 1 January next year any new program must be legislated for. That would buy us the time we need to take the opportunity, and I have heard the coalition say that they also think this is important, to have the debate we need to have about how to effectively take on what the High Court has said. We in this parliament appreciate this opportunity that the High Court has given us and we want to restore the powers to the parliament. We take to heart the High Court's concern about the current democratic deficit.

The Greens absolutely want to see this debate go to not just the immediacy but the long-term implications of addressing that democratic deficit. From our point of view, we have gone some way to doing that with a parliament that is a shared power arrangement. For the first time in a very long time, matters have had to come before the parliament that executives would have just brushed away in the past. Our amendments go further than that in making sure that public money that is being spent has appropriate parliamentary scrutiny.

The community would be reassured by that because they worry about how much is done behind the scenes—how much pork barrelling goes on and the like. Parliamentary scrutiny enhances our democracy just as shared power parliaments enhance our democratic representation and give effect to the wishes of the constituency more appropriately—because it means everybody's voice is heard and everybody's voice can be brought to bear in bringing appropriate changes to legislation.

I am supporting the Finance Framework Legislation Amendment Bill (No. 3) 2012 and I invite the Senate to support our second reading amendment in relation to chaplains and to support our substantive amendment which goes to the heart of restoring parliamentary power vis-a-vis the executive. I move:

At the end of the motion, add "but the Senate considers that the National School Chaplaincy and Student Welfare Program should be replaced
with a program offering genuine counselling and other assistance to students by professionals with appropriate tertiary qualifications”.

Senator Ryan (Victoria) (13:36): I rise to speak on the Finance Framework Legislation Amendment Bill (No. 3) 2012 because I think it is one of the bills of higher importance that will come before this parliament. In a Westminster parliament, there are few issues more important historically than the legislature’s control over the power of the purse. In the Williams decision last week, which has provoked this particular piece of legislation, the High Court reasserted the power of the legislature over power of the purse. I find it particularly disconcerting that, after a High Court decision that has very serious implications for the power of the Commonwealth and the executive to appropriate and spend money, we are facing this bill, having provoked this particular piece of legislation, the High Court reasserted the power of the legislature over power of the purse. I find it particularly disconcerting that, after a High Court decision that has very serious implications for the power of the Commonwealth and the executive to appropriate and spend money, we are facing this bill, having provoked this particular piece of legislation, the High Court reasserted the power of the legislature over power of the purse. I find it particularly disconcerting that, after a High Court decision that has very serious implications for the power of the Commonwealth and the executive to appropriate and spend money, we are facing this bill, having provoked this particular piece of legislation, the High Court reasserted the power of the legislature over power of the purse.

One that I am particularly familiar with is the Hammond case of 1997, where, on a reading of the excise powers, the power of state parliaments to levy what the High Court defined as an excise power—which was essentially anything between stages of production and sale of a good, and ruling out what had been known as franchise fees for tobacco and for petrol—had profound impact on state budgets.

Everyone knew that there was the potential for a decision like this from the High Court last week. We knew that because we had the decision in the Pape case recently, which flagged to members of this parliament and to members of the Australian community that the court was reading the power of the appropriation of funds, and in particular the heads of power of the Commonwealth, in such a way that a decision like this was possible.

In 1997, when in the Hammond case the High Court did a lot of what I would describe as damage and profoundly changed the federal financial relations of this Commonwealth, there was legislation ready to go. There was legislation that was announced particularly quickly. There was legislation that, as I understand it, was quickly enacted with genuine consultation with the opposition at the time. In this case, I think it is fair to say that that consultation has been lacking. I think that is a disappointment, because, when it comes to providing certainty for those in receipt of Commonwealth funds, when it comes to providing certainty for members of the Australian community who might depend on particular programs, or indeed when it comes to people overseas, I think this parliament has shown a genuine willingness to act as one and to provide a means by which certainty within the law can be provided.

But in this case what we have is a piece of legislation that seems to assert that what the High Court said was questionable is no longer questionable. In schedule 2 attached to this bill there are very broad-brush descriptions of what the Commonwealth claims are programs which are now valid by virtue of this bill. I would like to draw the attention of the chamber to one of them—that is, 412.002, titled ‘Payments to International Organisations’:

**Objective:** To advance Australia’s foreign, trade, economic, and security interests through membership and participation in international organisations and their various peacekeeping activities.
That is a particularly broad-brush description of a program—if it indeed would qualify as such. In fact, the way I read it, it is a more a grab-bag of various payments to various organisations for various objectives, which the government has attempted to put under the broad program objective of advancing Australia's foreign trade, economic and security interests.

One of the worst things we could do in this place would be to not deliver the certainty that is required, to put through legislation without sustained debate or inquiry, which is what the government has asked with respect to this, and to not actually address the issue of certainty but merely lead to further litigation. That is one reason why the opposition is moving the amendment it has outlined; an amendment which, I note, was negated by members of the government and their allies in the lower house yesterday.

The opposition does not accept the advice provided by the minister for finance that the ability to enter into contracts would be limited by the provision of the sunset clause. I put to members of the government that actually the sunset clause serves to provide greater certainty, because it will make sure that there is a more detailed consideration by this parliament in both chambers, with their two distinct constitutional roles, to examine the impact of both the Pape and the Williams cases.

It seems to me that the piece of legislation we have before us from the government is a very brave one because, while there were varying judgments last week, the point of this bill seems to be to legitimise, through an assertion of an act of this parliament, that we have met the criteria, stated by various justices, that the Commonwealth executive needs to have an act upon which to base an appropriation—more than simply the appropriation act and a contract entered into by the Commonwealth.

This bill does not do anything to address the potential uncertainty, in the opinion of some—I know my colleague Senator Brandis has mentioned those in his contribution earlier today—that these appropriations need to be linked to a particular head of power. I do not think anyone in this chamber or anyone on behalf of the government could assert that that opinion is not valid. I am not asserting that it is necessarily the case; I am simply saying that it is something that should be considered in more detail, and I put to the government that the provision of a sunset clause could bring this legislation back to the parliament so that it could be considered in more depth and so that expert advice could be taken, because these areas are matters for debate.

While the coalition remains a strong supporter of the program it introduced in government—the student chaplaincy program—and I have little doubt that that program could be made quite constitutionally compliant, I sense that this may not be the best way to deal with it. There has been an opinion expressed by some that the High Court decision last week may prove to be a disaster for the Commonwealth. I state no opinion with respect to decisions of the High Court, other than to say the court is there for a reason and needs to be respected as an institution that enforces the written terms of our Constitution as enacted by the Australian people. So politicians or commentators can complain all they want, but in this country the people are sovereign and that is expressed through the Constitution. Limitations upon the executive are, in essence, no bad thing. Limitations upon the executive to require it to have parliamentary appropriation are themselves no bad thing. In fact, civil wars have been fought in countries about such matters. It is one of the founding
principles. It was one of the great, most lengthy items of debate at the constitutional conventions leading up to the formation of our nation—the various powers of appropriation, the balance between the two houses and the debate over the ordinary annual services of government clause that has been happening for 110 years. Those debates represent the very essence of what this particular case or series of events are about—that is, the relative balance of power between the executive and parliament in order to serve the needs of the community through appropriations and programs.

I would not like to see a situation where the broad brush strokes of this bill that comprise an assertion of Commonwealth power to appropriate and spend money lead to further uncertainty and litigation. I have been contacted by a number of people of high standing, much more highly trained than me in this area, who are of the view that this bill would not pass muster before the High Court if a similar action were brought. I do not think that is what anyone is seeking to do today. We are seeking to provide certainty.

I would urge the government to very seriously consider the offer, meant in all good faith, by the opposition to insert a sunset clause into this bill to ensure that this parliament at some point has an opportunity for a much more detailed consideration of the impact of these two High Court cases. I have not had a chance to look through all of the programs listed in the regulations in schedule 2 of this bill. That in itself is a problem. But if there are provisions in here that are potentially challengeable because they lack an easily identifiable head of legislative power for this parliament to appropriate funding then I do not see how we are doing the recipients of these programs—or indeed the service providers of these programs—any favour by passing this legislation today.

I stated in my first speech in this place and have written many times that I am a proud federalist. I do not see limitations placed on the activities of this parliament or the executive drawn from this parliament as, by their very nature, a bad thing. We have in this country a limited Commonwealth that was meant to leave a great degree of autonomy not to the states as governments but to the people of the states. It is often said that this is a states' house. It is a term that I have not been comfortable with because it is a house for the people assembled by the states. It is still a people's house but it is people assembled by the communities in a geographic sense, as defined by the states.

I am not one who thinks that the lines of our federation are in any way relevant. The whole point is that we have a federation that provides only limited power to the Commonwealth. The decision last week in the Williams case was a reflection of that. It is a decision that many of our state parliaments would not face. They do not have a written constitution that cannot be amended by the parliament in the way this place does. We should view what happened last week partly as an opportunity to clarify the powers of this Commonwealth and to clarify the powers of the executive and the parliament. If they are more limited than before there is a mechanism to deal with it—a longstanding one—and that is to put that choice to the people. I note that the overwhelming number of those choices have been put by those opposite and the overwhelming number of those have been profoundly and completely rejected by the people, with very few successes. I take that as a signal from the people that they do not want us to gather more power in this parliament—when the highest court in the land limits the power of the executive, which
many people have for many years been complaining about, that has an overweening influence on the legislature.

I used to be a tutor in politics. I remember academic treatises would always refer to the overarching power of the executive and how it needed to be constrained. What we had last week was the High Court limiting the power of the executive and simply saying that parliament needs to consider it, that parliament needs to make the decision to appropriate funds. What it potentially has also said, when looked at in the context of the Pape case, is that there may well be limitations on this parliament to appropriate funds. We do not have the clause of the United States constitution which allows us to appropriate and spend for the general welfare of the people. Our founding fathers chose not to put that clause in our constitution, to create a more limited central government.

This particular bill, I fear, will not address all of the problems the government hopes it will address. Indeed, it will not address the problems that the opposition hopes it might address. We agree with the government on the need to provide validation and certainty to recipients of Commonwealth programs, to the service providers that do so much for members of our community. I strongly agree with that—in particular, with the decision made last week on the chaplaincy program, that we provide certainty for students and service providers who deliver and benefit from that program.

There should have been something ready earlier. It should have been provided to the opposition last week. It should be—

Senator Wong: The High Court decision was on Wednesday!

Senator Ryan: I pointed out that in 1997 there were legislative programs in place to deal with bigger decisions, like the Hammond case, where states' franchise fee powers were knocked out and their budgets were shot by the decision of the High Court. It was possible to see this decision coming. It is one of the scenarios the government could have planned for.

I would respectfully suggest to the government that delivering the bill to the opposition yesterday, bringing it into the House of Representatives yesterday, with changes still being undertaken—so the opposition did not have a chance to consider the final bill before debate—and then bringing it to this place today, not allowing time for parliament to fully debate it, will put the very objectives of the bill at risk. We have very few more important roles in this place than to oversee the power of the purse. We have very few more important roles in this place than to oversee the balance of power between the executive and the legislature. There may well be different positions between people who think the decision of the High Court between Pape and Williams was a good one and those who think it was a bad one. Regardless of that, we have to live with the decision. That is what the High Court is there for.

I urge the government and the Greens to seriously consider the opposition amendments, which will ensure that this parliament again has an opportunity to consider this issue in more depth, in due course and with a reasonable amount of time, and to provide certainty to those services which, we all agree, are important to the people of the Commonwealth.

Senator Polley (Tasmania—Deputy Government Whip in the Senate) (13:52): I rise to speak in favour of the Financial Framework Legislation Amendment Bill (No. 3) 2012. I understand that the opposition has a role to oppose, but what I find so hypocritical is for those people opposite to come in here now and play
politics over an issue that is so important. It is important to our community, but particularly important when it comes to the National School Chaplaincy and Student Welfare Program. What we are doing with this piece of legislation is ensuring that the funding continues and that there is no interruption to providing the services that are so necessary within our communities.

Senator Brandis: The legislation won't work!

Senator POLLEY: You can talk about 'We need to have more time'. The reality is that the High Court brought down its decision on Wednesday.

Senator Brandis: No, last Wednesday. Have you read it?

Senator POLLEY: Last week. Here we are now, at the first opportunity we have had to bring it into the chamber, and I would have thought that in the past, Senator Brandis—through you, Mr Acting Deputy President—that those people opposite—and I know that there were some good senators, including a former senator from Tasmania in Guy Barnett—were very supportive of the chaplaincy program. It is with great interest that I will watch the debate because I can assure you that I will write regularly, as I normally do, to the chaplains around the Tasmanian community. It will be very interesting to see how those people, particularly Senator Bushby and others, vote on this very important piece of legislation.

Senator Brandis: Mr Acting Deputy President, I rise on a point of order. I think you will find that it is against standing orders for a senator to cast reflections upon an upcoming vote in the chamber and to cast reflections upon the motives of a senator in casting their vote. As the spokesman for the opposition I made it perfectly clear that the opposition is supporting the expedited passage through this parliament of the legislation.

The ACTING DEPUTY PRESIDENT (Senator Marshall): Order! We are now moving to debating the point of order.

Senator Brandis: I come back to my point of order; it is about reflecting upon a senator's motives in casting a forthcoming vote in this chamber. All opposition senators will be voting in favour of the bill even if our amendment fails. The senator is out of order.

The ACTING DEPUTY PRESIDENT: Senator Brandis, you have identified your point of order and, unfortunately, I have to confess I was conversing with the Deputy President about business of the Senate and I did not hear the comments. On that basis I would simply remind senators of the standing orders.

Senator POLLEY: This program continues—

Senator Wong: Your amendment means we can't enter into the contracts. There is no point of order.

Senator Brandis interjecting—

Senator Wong: It's about running costs and the Solicitor-General's advice. You'd better go out and tell 900 chaplains that they won't have jobs next year.

Senator Brandis interjecting—

The ACTING DEPUTY PRESIDENT: Order! Senator Polley has the call!

Senator POLLEY: Mr Acting Deputy President, you can see the people on this side of the chamber are very passionate about ensuring that this chaplaincy program is continued and is funded without any interruption. That is our responsibility here today in this chamber, to pass this legislation. I know that the Greens, for instance, have had problems, and that they do not support the program. But the reality is that this program has been put in place and it
has been funded in the forward estimates in the budget. So I am asking people to put the interests of these young people first and foremost.

Of 1,000 new schools, 65 per cent have applied for the services of a chaplain and 35 per cent for a student welfare officer. In fact in the last round of applications the program was oversubscribed by 30 percent. I would just like to share with the chamber a comment from the acting principal of the West Launceston Primary School in my home state of Tasmania, Bev Shadbolt—and I would have to say what a wonderful principal she has been over a long period of time. She said:

We are delighted to learn that our application to seek funding for the appointment of a Chaplain has been successful. In 2012 our school has identified the building of greater community connections as a school priority. We see the Chaplain as working with students, their families and with staff. He/she will be a wonderful conduit for building connections and enhancing relationships across the school community.

I think this appropriately reflects the importance of the scheme to our schools and our community in general.

The High Court determined that the funding agreement between the Commonwealth and Scripture Union Queensland for the provision of the National School Chaplaincy and Student Welfare Program and the payments by the Commonwealth to Scripture Union Queensland under that agreement were invalid. Therefore, the way that the funding was provided, and not the program, was invalid. I think it is very important to make that distinction.

I know that a lot of schools, parents and service providers in the community have been concerned about the future of this program, which is why the government has acted so swiftly to ensure the protection of this good program. The government has taken action which it believes is an appropriate response in the light of the reasons that the High Court found the agreements and payments under the program to be invalid. This means that payments that were due to some service providers by the end of this financial year can go ahead. That is why it is so terribly important that this piece of legislation is supported, and it is.

As I said before, I know that there has been opposition from the Greens in the past, but I sincerely hope that the strategies of those opposite of trying to be obstructionist—as they so often do when they come into this place—will not come to the fore here today. I would urge people in this chamber, before they vote, to consider the real value. There were changes, but we have to remember that this was a program that was introduced by the Howard government. It was then supported by the incoming Rudd and Gillard governments. There have been some modifications to it, which have reflected what has been requested by the community.

I draw people's attention to the necessity and urgency of supporting this piece of legislation, and I endorse the bill.

Debate adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

MINISTERIAL ARRANGEMENTS

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:00): I inform the Senate that Senator Conroy will be absent from question time today and tomorrow due to illness. The allocation of Senator Conroy's question time responsibilities for today and tomorrow is as follows. Senator Lundy will represent him in his responsibilities as Minister for
Senator RONALDSON (Victoria) (14:00): My question is to the minister representing both the Minister for Defence and the Minister for Veterans’ Affairs and Minister for Defence Science and Personnel, Senator Bob Carr. Given that it is two years to the day since the coalition committed to the fair indexation of DFRB and DFRDB military superannuation pensions, and three days from the toxic carbon tax starting, can the minister explain how much compensation a DFRDB military superannuant receiving the average annual pension payment of $24,386 will receive for the effects of the government’s toxic carbon tax, a tax which is based on a lie?

The PRESIDENT: I must have an old sheet. I have an old listing; my apologies for that. I call the Minister representing the Minister for Defence, the Minister for Defence Materiel and the Minister for Veterans’ Affairs and Minister for Defence Science and Personnel, Senator Bob Carr.

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:04): I am eager to answer the question.

The PRESIDENT: Wait a minute, Senator Bob Carr.

Senator Ronaldson: On the point of order: the very reason this question was directed to this minister is that it is the department of the minister he is representing which actually pays the pensions.

The PRESIDENT: That is not the point.

Senator BOB CARR: This one was under-rehearsed. This is not a kabuki drama. The Australian government accepted the recommendation of an independent review that Australian government civilian and military superannuation pensions should continue to be indexed by the consumer price index. The indexation of Australian government civilian and military superannuation pensions was subject to a comprehensive independent review in 2008. This review was conducted by Mr Trevor Matthews, an independent actuary.

Senator Johnston interjecting—

Senator BOB CARR: No, on the contrary, he is a very prominent actuary. To
cast aspersions on his reputation is, I think, not only deeply offensive to him but—

Senator Brandis interjecting—

The PRESIDENT: Order! Senator Brandis, I was just about to rule that Senator Carr should come to the question, if that is your point of order.

Senator Brandis: That was my point of order, Mr President, yes.

The PRESIDENT: Senator Bob Carr, you have a minute and 20 seconds remaining to address the question.

Senator BOB CARR: I welcome the opportunity, because in August 2009 the government accepted the review recommendation that Australian superannuation pensions should continue to be indexed by the CPI. Aligning those arrangements with the Commonwealth—

Senator Ronaldson: On a point of order, Mr President: while I am sure the minister has no idea what the DFRDB is, I do, however, ask him to return to the question and answer: what is the carbon tax compensation for these people?

Senator BOB CARR: I just said that the pension is indexed to the CPI. He cannot absorb that. That was the most pithy and relevant answer to his question he could have. At the end of this parliamentary session, they have absolutely run out of questions to ask. That is the revelation here.

Senator Brandis: On a point of order, Mr President: as much as we might all be enjoying this thespian display, the fact is that the minister has not approached the topic of the question, which was specifically and only directed to compensation for DFRDB superannuants for the carbon tax.

Senator Chris Evans: Mr President, on the point of order. Senator Carr has been as helpful as he can be in providing an answer to the senator's question. I advised Senator Ronaldson that Senator Wong was best placed to help him if he seriously wanted a specific answer to his specific question. But he doesn't. This is, again, another political stunt. Senator Carr has been as helpful as he can within his responsibilities and he is directly responding to the question asked.

The PRESIDENT: I have drawn the minister's attention on two occasions to the need to address the question asked by Senator Ronaldson.

Senator BOB CARR: The appropriateness of this approach is confirmed by this paragraph from the Matthews review in 2008, quoting the ABS to the effect that:

The CPI is a robust measure of general price inflation for the household sector—

The PRESIDENT: Order! Senator Bob Carr, resume your seat. Senator Ronaldson is on his feet

Senator Ronaldson: On a point of order, Mr President: can the minister please attempt to give a semblance of an answer to a matter that affects 57,000 Australians and their families?

Senator Chris Evans: What is the point of order?

The PRESIDENT: Order! I have drawn the minister's attention to the question.

Senator BOB CARR: The government accepted the Matthews recommendation that the pension be indexed to the CPI. By the way, what was accepted by this government was never accepted by them when they were in government. If this is such a matter of tender concern to the conscience— (Time expired)

Senator RONALDSON (Victoria) (14:09): Mr President, I ask a supplementary question. Given that on Sunday military superannuants will have their superannuation increase by the CPI only, and receive no
direct assistance for the increased costs of a carbon tax, what justification does the minister have for this unfair treatment of 57,000 Australian veterans and their families?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:10): There is no unfair treatment because we have accepted the recommendation that aligned indexation arrangements for all Commonwealth schemes with the age pension. They will receive an immediate increase. We accepted the recommendation of CPI indexation. The contrast with when they were in government was that they never accepted that principle. It has been accepted under this government.

The PRESIDENT: Minister, you do need to come to the question.

Senator BOB CARR: Some commentators have noted statements by the Australian Bureau of Statistics in 2005 that 'the CPI is not a purchasing power or cost-of-living measure'. But in their subsequent paper, for the Matthews review in 2008, the ABS stated explicitly—

The PRESIDENT: Order! Senator Bob Carr, resume your seat.

Senator Ronaldson: Mr President, my point of order is in relation to standing order 168(1) and I ask the minister to table the document that he is reading from.

Senator Jacinta Collins: Mr President, on the point of order. The minister is not referring to a document in any way relevant to that standing order. He is not reading it; he is referring to some elements of the material across a range of documents and the standing order does not apply.

The PRESIDENT: There is no point of order. There needs to be a motion if that is the path you wish to proceed down, Senator Ronaldson.

Senator BOB CARR: On 14 June over 310,000 members of the veteran community—(Time expired)

Senator RONALDSON (Victoria) (14:12): Mr President, I ask a further supplementary question. When will the government join with the coalition in not just giving veterans and their families fair indexation but scrapping the toxic carbon tax, which is based on a lie and which will drive up cost-of-living pressures?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:13): On 14 June over 310,000 members of the veteran community received an initial payment, the clean energy advance, to help meet household costs which en the carbon price starts on 1 July. This payment, part of the Household Assistance Package, is an upfront lump sum amount to last until ongoing assistance, the clean energy supplement, commences between March 2013 and January 2014. All Veterans' Affairs pension recipients are eligible for clean energy payments. The children of veterans and members who receive fortnightly educational allowances are also eligible for clean energy payments. Disability pensions, including—

Senator Ronaldson: On a point of order, Mr President: he is not referring to DFRDB recipients. If the minister is saying that DFRDB recipients will be getting a payment, can he please tell the chamber now and I will spread the word for him.

The PRESIDENT: Order! That is an argument. The minister is answering the question. The minister might not be answering the question in the manner desired by the questioner. I draw the minister's attention to the question.

Senator BOB CARR: Service pensioners received a lump sum of $250 for singles and $190 for each eligible member of
a couple. War widows and widowers received a lump sum of $250. This is comprehensive household assistance—

(Time expired)

**Vocational Education and Training**

**Senator MARSHALL** (Victoria) (14:14): My question is to the Minister representing the Prime Minister, Senator Evans. Can the minister update the Senate on how the Australian government is continuing to invest in the skills and training needs of the Australian economy?

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:15): I thank Senator Marshall for his question and his interest in these issues. We are rightly proud of the strength of the Australian economy at a time when other countries are doing it tough, with very high unemployment and debt. In comparison, Australia's economy grew by 4.3 per cent through the last year, faster growth than for any other major industrial economy.

We know the challenges this growth throws up include the challenge of providing skilled workers to meet the jobs emerging in the economy. That is why the government has invested so heavily in education and training. Across universities we have increased funding to $14 billion this year, up from $8 billion in 2007. That is a 50 per cent increase, which has seen 150,000 extra students at universities getting the sort of training that will help them fill the professional jobs emerging in the economy. But we are also seeing increasing demand for trades and technical skills. That is why the government is investing a record amount of $15 billion to support training over the next four years and to allow people to have access to the high-skilled, high-paid jobs emerging in the economy. The reality is that low-skilled jobs are disappearing from the economy. What we need is people who have skills, to support the growth occurring in the economy. In future, the ability of people to earn good incomes will depend on their skills levels. That is why we have invested, as such a priority, in skills training and higher education to make sure that Australia continues to be a high-skilled, high-wage economy. That is where our future is and that is why we have to continually invest in the skills and education of young Australians.

**Senator MARSHALL** (Victoria) (14:17): Mr President, I ask a supplementary question. Is the minister aware of any risks to the strength of skills investment, particularly in my home state of Victoria?

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:17): It is important the investment effort this federal government is making is supported by the states. They run the vocational education and training systems. While we got a very strong agreement from them recently through the COAG processes, it is important they continue to invest in their training systems. As I say, we are putting in a record amount of money, but it is going to be undermined if the states do not continue to maintain their investment. That is why I am particularly concerned about the Victorian government's $300 million cut to TAFE expenditure in their recent budget. There is no point in us increasing our investment if, at the other end, the states are pulling the money out.

We are seeing redundancies, closures of courses and TAFEs making very tough decisions in Victoria. That will reduce training opportunities for young Victorians and undermine the skills efforts of this country. (Time expired)
Senator MARSHALL (Victoria) (14:18): I ask a further supplementary question. Is the minister aware of how cuts to skills investment in Victoria will have significant impacts on regional Victoria?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:18): The impact on regional Victoria is even worse because the TAFEs are, in some of the smaller markets in regional Australia, the only provider of these training opportunities. We are seeing closures of courses, students being turned away and staff being made redundant. Today Bendigo TAFE announced that a total of 100 staff were to be sacked due to these funding cuts. This follows similar announcements made in relation to other regionally based Victorian TAFEs. In regional Victoria we are seeing a huge diminution of training capacity, young Victorians being turned away from TAFEs, people being sacked from their jobs in the education sector and opportunities available to young Victorians being restricted. We are making record investments, but the Victorian state Liberal government needs to maintain its investment in young people and their opportunities. (Time expired)

Carbon Pricing

Senator BIRMINGHAM (South Australia) (14:19): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to an opinion piece written by the Prime Minister, appearing in the Herald Sun of 30 May 2011, in which she wrote:
The best way to cut carbon pollution is to make up to 1000 of our biggest polluters pay …
I further refer to the Prime Minister's statement to the parliament, of 13 September 2011:

Around 500 polluters will pay.
Finally, I refer the minister to the current list of 294 entities liable to pay the carbon tax, published by the Clean Energy Regulator. Will the minister explain how the government got its initial estimates so wrong and was more than 70 per cent out on its original forecast of the number of liable entities?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:21): I am glad we are back to business as usual. It is an interesting question, given that if you had listened to the Leader of the Opposition or to most members of the opposition you would think that every business in this country is paying the carbon tax. Now I am asked why only so few are—

Opposition senators interjecting—

Senator WONG: I take the interjections, saying they are, because the question was to the effect that not enough are paying. So the opposition should really work out whether or not their position is too many or too few.

Senator BIRMINGHAM: Mr President, I rise on a point of order. The minister appeared to mishear or misunderstand the question. The question was: how did the government get it so wrong?

The PRESIDENT: It is not a point of order.

Senator WONG: I am very happy to respond to the question. I again make the point, though, that the opposition seem to be all at sea about what their position really is on this issue. In relation to who is going to pay the carbon price directly, this has been based all along on an objective threshold—that is, the fact of whether or not a facility emits more than 25,000 tonnes of pollution a year. That has been the same factual position for a lengthy period of time. We have always been clear that that is the threshold which will apply in terms of large polluting entities
being responsible for payment of a carbon price.

We did make a decision last year to exclude smaller landfills from the carbon price—something I would have thought, given their campaign, that the opposition would welcome—and more detailed analysis of larger landfills has resulted in fewer liable sites than first expected. It is the case that the Clean Energy Regulator is required to publish a Liable Entities Public Information Database. This is a database of persons that the regulator has reasonable grounds to believe are liable entities for the relevant financial year. To date, the names of 294 entities have been published. I will come back to this in the supplementary.

Senator BIRMINGHAM (South Australia) (14:23): Mr President, I ask a supplementary question. Given that the estimates of the number of liable entities have been so wrong and given that Treasury have made it clear that they are unable to accurately forecast the rate of the carbon tax beyond the fixed three-year price period, how confident is the government that its budget estimates or its compensation rates on the carbon tax actually stack up?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:24): I want to make a couple of points. The first is on the assertion that the estimates were wrong. I was taking the senator through the fact that this has always been based on an objective threshold of 25,000 tonnes per annum and also that the regulator is working through the details of the liable entities, and additional entries will be added once all issues have been worked through.

I turn now to whether or not the government has confidence in its budget. Yes, we do. I will tell you what we have confidence in. We have confidence in the fact that our assistance package will give a tax break to everyone earning under $80,000 a year, and our assistance package will deliver increases to the pension, to the disability support pension, to recipients of allowances and so forth. And we are confident that those opposite will go to the election with a policy to put a tax hike on every Australian earning under $80,000 a year, because that is what Mr Hockey has committed to.

Senator BIRMINGHAM (South Australia) (14:25): Mr President, I ask a further supplementary question. I note the minister's references to so-called compensation and refer the minister to the statements in Budget Paper No. 1 that any changes in the carbon tax will affect receipts but that the costs of household assistance are permanent. Minister, what risks are there to the budget bottom line if the government has got any of its other forecasts as wrong as it got the original forecast that 1,000 entities would be paying and liable for the carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:25): The last part of that question was wrong for the reasons I outlined in the answer to the first question. In terms of risks to the budget, quite clearly the risk to the budget is those opposite: $70 billion of cuts to services that they will have to make should they ever want to form government. Seventy billion dollars of cuts to services do not pay the age pension for two years—two years nonpayment of the age pension. They are the sorts of cuts that those opposite are trying to hide. That is why they have their costings done by catering companies and by accounting companies who are found to have acted unprofessionally. That is why they hide from the scrutiny and transparency of the Parliamentary Budget Office. That is why they will not front up to the Australian people and tell them what they want to do.
Senator Birmingham: Mr President, I raise a point of order. The minister has been going on now for some 44 seconds of her one-minute answer. The minister has spent most of that time dealing with the opposition rather than actually addressing the question, which went to the threats of government policy to the budget bottom line. Given that the minister is in fact the finance minister as well as the minister representing the climate change minister, surely she should be able to address these basic issues relevant to the threat to the budget bottom line of the government's abysmal forecasting record.

The PRESIDENT: Order! I believe the minister is answering the question, and the minister has 16 seconds.

Senator WONG: I have told you, Mr President, that the government has confidence in its budget. When I am asked about threats to the budget I again say: it is those opposite. We make no apology for saying that the assistance is permanent. That is the government's commitment. (Time expired)

Asylum Seekers

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:27): My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Lundy. Given the terrible news of another unfolding tragedy off Christmas Island today, will the government consider urgent measures proposed by refugee experts in the region—in particular, to significantly increase Australia's humanitarian intake to show good faith and leadership in the region and to uphold our obligations under the refugee convention?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:28): The government's attention remains fully focused on the welfare of the survivors of the tragedy that is unfolding, and we know that events are unfolding as we speak. Details are slowly coming to light, and all relevant agencies, as I am advised, are engaged in taking action to assist. We will, as we always do as a government, continue to update the parliament and the public as information becomes available.

Here in Parliament House we can observe the opposition offering nothing new in their latest stunt to introduce their old bill in the parliament, but there are of course very positive signs that there is an enormous amount of goodwill at least on the part of some MPs. Conversations have been occurring today. We heard comments last night made by Mr Christopher Pyne MP, who is Manager of Opposition Business in the House of Representatives. On Sky News last night, what he had to say was very different from what Mr Abbott and Mr Morrison have said this morning. Any indication of a willingness to enter talks is welcome, and the government does welcome it. However, in the case of Mr Pyne, the Manager of Opposition Business is not the immigration spokesperson. So the Australian people need the shadow immigration minister or the Leader of Opposition to clarify the position of the Liberal and National parties. Any indication of a willingness to negotiate with the government and return to the table, after the coalition broke off negotiations last year, would be very welcome. We really want to see a breakthrough. The Australian people want to see a breakthrough and that is why the government began negotiations seriously, with goodwill and intent. (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:30): Mr President, I ask a supplementary question. I asked the minister whether she would consider the proposals put forward by
refugee experts, including significantly increasing Australia's humanitarian intake. Another proposal they have put forward is to establish an Australian ambassador for refugee protection, to assist the government with high-level advocacy in the region. Could the minister respond to both those—increase in the intake and an Australian ambassador for refugee protection? Would you consider both or either of those?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:31): The government fundamentally disagrees with the position of the Greens. We do not believe it is workable and we believe that offshore processing does, by necessity, need to be a part of the whole solution in providing a disincentive for boats to come across the water and, as we have seen in recent times, tragically for lives to be lost. With regard to the question I have been asked—

Honourable senators interjecting—

The PRESIDENT: Order on both sides! Senator Milne is entitled to hear the answer.

Senator LUNDY: In regard to the question Senator Milne asked, I am certainly happy to refer those specifics to the minister but it is difficult to answer that question knowing that the Greens do not support offshore processing and a holistic approach, a regional framework to manage people movements in this area with the overriding concern for their safety and the need to create a disincentive for people to use boats to try to come to Australia. (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:32): Mr President, I ask a further supplementary question. I thank the minister for referring those matters for further consideration but, given the remarks about offshore processing, can the minister tell the Senate why the High Court found that the proposed Malaysia solution was illegal?

Senator LUNDY: I am happy to respond in this way: as part of the regional framework and approach to the management of irregular maritime arrivals, the government firmly believes we need to engage with countries in this region. We did put forward a Malaysia arrangement and the High Court decision, as we all know, prevented us from proceeding with that arrangement. In regard to the way forward, we remain at this stage disappointed in what the coalition has undertaken today. It cannot be described in any other way than yet another shallow stunt that is not aimed at resolving this incredibly serious problem, which is now costing people's lives, whereas the government has continually shown goodwill. We urge the coalition to negotiate with us. (Time expired)

Carbon Pricing

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:33): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Minister, given the Gillard Labor government said agriculture would be excluded from the carbon tax, I refer the minister to a report released yesterday by business analysts IBISWorld, which finds that the carbon tax is set to increase the cost to Australian farmers by $3.7 billion. IBIS concludes that intense global competition among food manufacturers will make it difficult for our farmers to pass their rising production costs on to consumers. Given our farmers already face an unlevel playing field due to the huge subsidies and tariffs granted by overseas governments to their farmers,
why is the government making it even harder for Australian farmers by introducing the world’s biggest carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:34): I did not catch the first part; I think it was the IBIS report. I will make a couple of comments in terms of the advice I have from Minister Combet. This is modelling which overstates the impacts of the carbon price. It does not consider the impact of government assistance programs and it assumes no improvement in the emissions performance of farms or downstream processes. We would refer you, Senator Williams, to the modelling undertaken by the Australian Treasury, which takes into account changes in the prices received for Australia’s agricultural exports as well as cost changes. When these important effects are taken into account, Treasury modelling shows that output from Australian agricultural industries will continue to grow by 12 per cent between now and 2020 and by over 130 per cent by 2050.

The senator would probably also be aware—I think he might have asked me about it previously—of the detailed modelling and the impacts for carbon pricing by the Bureau of Agricultural and Resource Economics and Sciences released late last year, which shows that at most the carbon price would have a 0.37 per cent impact on the cost of dairy farmers per unit, about 0.9 on wheat farmers and 0.26 per cent on sheep farmers. These numbers do not take into account the benefits of the Clean Technology Food and Foundries Investment Program, which I spoke about yesterday and which is there to leverage the productivity benefits and cost reductions to food processors across the country. I would suggest to the senator that he would do well for the people he represents if he were not part of making claims which are not backed up by facts and referred people to the assistance that the government is also providing.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:36): Mr President, I ask a supplementary question. Given the IBISWorld report finds that dairy farmers will face the biggest impact from the carbon tax because they will pay more to operate their milking sheds and refrigerate their milk, why is the government making life tougher for Australian dairy farmers by introducing the world’s biggest carbon tax?

Senator Nash interjecting—
Senator Brandis interjecting—

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:37): Yes, apparently you did not quite get your line right—Senator Brandis is correcting your line, Senator Nash, so you might want to have a little caucus meeting, because we know what doormats the National Party are.

Opposition senators interjecting—
The PRESIDENT: Order!

Senator WONG: Tell us about preselection in the seat of Hume, Senator Nash.

Opposition senators interjecting—
The PRESIDENT: Order! Order! Senator Wong.

Senator WONG: Tell us about what is happening in Hume. Are they going to roll you over again?

The PRESIDENT: Order, Senator Wong.

Senator Brandis: Mr President, on a point of order: Senator Wong is a serial offender when it comes to avoiding addressing the question by abusing senators who were not even the questioners.
The PRESIDENT: There is no point of order. I was about to draw the minister's attention to the question. The minister needs to answer the question. Minister.

Senator WONG: As I said, ABARES estimates that electricity is about two per cent of dairy farm cash costs. This means the carbon price impact on electricity prices would be about 0.2 per cent of farmers' cash costs. Some dairy processors will be directly liable under the carbon price, but the government is also assisting businesses to lower emissions and improve efficiency. I again refer the Senate to the $200 million Clean Technology Food and Foundries Investment Program. The program has received significant interest from the sector, and I am advised that, on Thursday, 17 May, Dairy Australia was named as one of the recipients of an Energy Efficiency Information Grant. I would also refer the senator to comments from Fonterra—and I might come back to that—about the preparations that that company has been making to reduce its carbon footprint. (Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:38): Mr President, I ask a further supplementary question. Given that the Labor government will impose a $3.7 billion hit on Australia's agricultural sector, how much does the government expect the temperature of the globe to change in exchange for making life tougher for Australian farmers?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:39): Firstly, the $3.7 billion figure that was given is not correct, for the reasons that I think I outlined in my first answer. Secondly, if the senator does not believe that action should be taken by this country on climate change, he should wander down to the House of Representatives and have a chat to the Leader of the Opposition, who has committed to the same reduction as the government, only his plan will cost more. It will cost the people who are left—you—and every household in Australia $1,300 every year. Same objective, higher cost—

Senator Brandis: Mr President, I raise a point of order. There was only one question: by how much does the government expect global temperatures to change? The minister has not even approached that question.

The PRESIDENT: The question was broader. The minister is addressing the question and has 25 seconds remaining.

Senator WONG: It is the same amount as your policy, but our program will cost less. I know the National Party probably did not pay attention, but you are signed up to the same environmental outcome except you have signed up for more tax for your constituents: $1,300 for every Australian household every year. Worse than that—and the National Party should care about this—it means the Liberal Party have imposed on you a tax hike for all income earners. (Time expired)

Agriculture, Fisheries and Forestry

Senator MOORE (Queensland) (14:41): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Can the minister please update the Senate on the state of Australia's agriculture, fisheries and forestry sectors; what are the forecasts for the future of these important Australian industries; and how is Australia positioned to take advantage of future global opportunities?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:41): I thank Senator Moore for her continued interest in agriculture, unlike the doormats of...
the Liberal Party, the Nats. The Australian agricultural sector consistently punches above its weight. There are strong opportunities, new growth areas and a firm foundation to boost our markets. Australia's agriculture is a strong player in our strong economy. Only last week, this was again proven true when the ABARES June quarter 2012 report was released. It showed that Australia's agriculture, fisheries and forestry sectors continued to provide world-class product to global markets. Agricultural export earnings are forecast to be around $34.4 billion through 2012-13. Further, while there has been a softening in some commodity prices, there is continued demand in the Asian region, and Australia's high-quality product locks in our ability to compete on the world stage.

The report also had positive news for our forestry and fishery sectors. Export earnings from forest products are forecast to increase to $2.4 billion, while export earnings from fishery products are forecast to also rise, to around $1.3 billion, in 2012-13. These numbers speak to the government's strong economic management, which is delivering for Australian families and Australian farmers. The strength of the Australian agricultural sector is more than just export numbers. For the first time in more than 30 years, it is forecast that there will be positive average farm business profits in all states for broadacre farms. This comes after a decade of devastating and debilitating conditions. Australia has moved out of drought and into areas where there are opportunities now across agriculture—(Time expired)

Senator MOORE (Queensland) (14:43): Mr President, I ask a supplementary question. Can the minister outline to the Senate some of the future opportunities for our agricultural sector and what the government is doing to support these opportunities?

Senator LUDWIG (Queensland— Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:44): I thank Senator Moore for her supplementary question. The biggest opportunities for farmers and land managers are the unparalleled prospects for the Carbon Farming Initiative provided by this Gillard government. The Carbon Farming Initiative is win-win. It provides opportunities to reduce emissions and gain additional incomes for farmers. There is a real demand. The doormats should hear the demand out there for the CFI and for the on-ground work. The Gillard government, after establishing this program, is supporting it through a $1.7 billion land sector package. I refer to the Australian Financial Review, where Mr Nick Thomas, a partner of a leading law firm, said the current level of interest in the CFI is very high. I have seen firsthand the interest in the Carbon Farming Initiative right across Australia. Most recently, I announced $70 million in grants for research and on-the-ground study, while meeting—(Time expired)

Senator MOORE (Queensland) (14:45): Mr President, I ask a further supplementary question. Can the minister outline to the Senate any alternative policies for Australian agriculture?

Senator LUDWIG (Queensland— Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:45): When it comes to Australian agriculture, the Liberals and National Party—or, should I say, the doormats to the Liberal Party, the Nats—are only too eager to create a dark cloud of negativity across the agricultural landscape. Every day the Liberals and Nationals peddle their fear. They try to create uncertainty and take away confidence in the agriculture industries. The Liberals
and Nationals only want to fearmonger across agriculture. With the Solar Flagship program or the $2.2 billion Caring for our Country program, they peddled the lie that they were not going to exist. Similarly, they attempted to oppose the funding for critical support for Queensland and Queensland farmers rebuilding from Cyclone Yasi and last year’s floods. The Liberals and National Party do not seem to be happy unless they are predicting doom and gloom. They love talking down the agricultural sector; they like putting a wet blanket—

Senator Colbeck: On a point of order, Mr President: coming from a government that did not even issue an agriculture policy at the last election, it is a bit rich for this minister to criticise the opposition when we did have a comprehensive agriculture policy. I am not sure that the minister is being relevant to the question.

The PRESIDENT: There is no point of order. That is more a point of debate, which can take place at the end of question time.

Carbon Pricing

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:47): My question is to the minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Is the minister aware that the RSPCA, one of Australia’s most recognised charities, is yet another victim of the government’s carbon tax—expecting to face a carbon tax bill of up to $180,000? Which important services for animals does the government expect the RSPCA to cut to make up for its carbon tax bill?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:48): I think we know where the National Party is in the coalition tactic room hierarchy, because they are always a day late with the questions. Can I say to the senator—

Honourable senators interjecting—

Senator WONG: I have to say, even if it is a day late, that I think all of Australia was particularly—

The PRESIDENT: Minister, come to the question.

Senator WONG: All of Australia was particularly interested in the Leader of the Opposition going to the RSPCA—as I was part of the way through saying—to talk about the poor old cats and dogs that were very scared about the introduction of a carbon price. As the Prime Minister said, next he will be talking about Skippy. I would have thought that a person who aspires to be Prime Minister would perhaps do a little better than wandering along and trying to scare homeless cats and dogs over the introduction of a carbon price. Politics is odd and people do different things, I suppose.

In terms of the programs that will assist not-for-profit groups around the country, these are obviously in addition to the reforms the government has put in place for the not-for-profit sector. I would like to draw the Senate’s attention to the Low Carbon Communities program, which is worth more than $300 million. This is intended to fund grants for community organisations to retrofit or upgrade facilities to reduce energy use. I would encourage charities, including the RSPCA, to consider such an application. I am advised that the RSPCA did not apply for the first round of the Community Energy Efficiency program, which is part of this program. For charities there is also a dedicated funding stream under the program to provide payments to offset any carbon price impact on essential maritime and aviation fuels used by such organisations as air and sea rescue services. This funding will be provided on an ongoing basis.

Senator Abetz: There is a maritime component?
Senator WONG: I am providing information on charities, Senator. If you do not want information—

The PRESIDENT: Order! It is not time for debating; it is time for answering.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:50): Mr President, I ask a supplementary question. Is the minister aware of comments made by Mr Michael Linke, the CEO of RSPCA ACT, who said yesterday that, in relation to the impact of the government's carbon tax:

…we will see an erosion of the services not only at the RSPCA but at charities across the country because there is no compensation, there is no funding elsewhere to pay for this.

Given Mr Linke's statement, will the minister now concede that not even organisations looking after animals are safe from the government's carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:51): What can I say? I am thinking of a number of things that could be said, but I will refrain. I will simply say this. I find it pretty extraordinary that the people who wish to be in government could seriously come in and run an argument about puppies and suggest that somehow it is a matter of great political contest. I do not think anybody in this country or parliament is—

The PRESIDENT: Order! Senator Wong, resume your seat. Order! On both sides I need order.

Senator Brandis: Mr President, I rise on a point of order—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Wong, resume your seat. On both sides, I need order!

Senator Crossin: Guppies! What about guppies?

Senator Abetz: You should be calling for hush!

The PRESIDENT: Senator Abetz, I can do without that sort of help.

Honourable senators interjecting—

Senator Brandis: I hope Hansard caught Senator Abetz's timeless interjection.

Senator Abetz: I hope not.

The PRESIDENT: I hope not.

Senator Brandis: Mr President, seriously now, on the question of direct relevance: yet again, the minister is doing what you have ruled previously she may not do—that is, not answering the question but ridiculing the senator asking the question. Nothing she has said bears upon Mr Linke's statement about the effect of the carbon tax on the RSPCA.

The PRESIDENT: There is no point of order.

Senator WONG: I refer the senator, in terms of the effect on charities, to my first answer, in which I took her through the assistance available for charities under the Low Carbon Communities program to provide payments for retrofitting and for the upgrade of buildings to reduce energy use. Obviously, organisations such as the RSPCA are welcome to apply. (Time expired)

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (14:54): Mr President, I ask a further supplementary question. Given that organisations such as the RSPCA generate 97 per cent of their funding through the community, which the minister obviously has some clear disrespect for, does the minister concede that the government is completely out of touch with the reality of how these organisations operate and is ignoring the impact on them of the world's biggest carbon tax—a tax which is based on a lie?
**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:55): First, I take issue with the accusation that was in the question. I do not think anybody in this parliament means disrespect to the RSPCA—maybe some do, but I certainly meant none. My disrespect was for an opposition that is prepared to go down to an organisation and say, 'Cats and dogs and puppies and kittens are not safe from the carbon price!' Talk about an example of the ridiculous scare campaign this country has been subjected to! Senator Crossin had it right: what about guppies and snakes? Are they at risk too? That is the disrespect, Senator. You are not interested in a serious public policy debate on this. You are not interested in a serious debate about how we deal with climate change. You are not interested in any economically responsible policies; you are just interested in a scare campaign. That is all you are interested in. You are not interested in any proper debate; you are just interested in a scare campaign. *(Time expired)*

**Foreign Investment**

**Senator MADIGAN** (Victoria) (14:56): My question is to the Minister representing the Treasurer, Senator Wong. Minister, can you explain why the asset value threshold for foreign ownership of Australian primary production business and rural land, before investigation conditions need to be met to gain approval, stands at $244 million, a figure that is almost 2½ times higher than that of our close ally and neighbour New Zealand?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (14:57): I will start by making a couple of general points. The first is that the ABS data which the government commissioned in November 2010 indicates that levels of foreign investment in the agricultural sector have remained relatively stable for the last 30 years. The second point I would like to make to Senator Madigan, and I do understand his concerns—he has been consistent about them and he is representing the views of a number of his constituents—is that it is important to remember why we have foreign investment in Australia. It is because we do not have sufficient capital in this country to make the investments that are needed. Investment is good for Australian jobs and Australian workers and it is good for the economy more broadly. If we had a position where we said, 'We don't want foreign investment,' we would actually be saying that we want to generate less economic output and less economic wealth.

**Senator Nash interjecting—**

**Senator WONG:** I am not quite sure whether the National Party is for or against foreign investment, from their interjections, but what we do know is that they will roll over again, just as they are doing on pre-selections—good luck in the seat of Hume—but I think the Leader of the Opposition got some—

**The PRESIDENT:** Order! Come to the question, Senator Wong; ignore the interjections.

**Senator WONG:** I apologise to Senator Madigan. In terms of the government's position: we apply a rigorous national interest test to all foreign investment, from their interjections, but what we do know is that they will roll over again, just as they are doing on pre-selections—good luck in the seat of Hume—but I think the Leader of the Opposition got some—

**The PRESIDENT:** Order! Come to the question, Senator Wong; ignore the interjections.

**Senator WONG:** I apologise to Senator Madigan. In terms of the government's position: we apply a rigorous national interest test to all foreign investment applications. We screen every dollar of direct investment from foreign governments. The reality is that Australia has long been reliant on foreign capital to build and develop its business in all parts of the economy, including agriculture. I referred earlier to the commissioning of the ABS to give the government and the Australian people a better picture of the foreign investment landscape. The intention there was to take
sensible steps to acquire a comprehensive snapshot of foreign investment levels in Australia's agricultural land, water entitlements and agribusiness. As I said, I am advised that the data indicates a relatively stable level of investment for around the last three decades. (Time expired)

Senator MADIGAN (Victoria) (14:59): Mr President, I have a supplementary question. Given that our foreign investment thresholds are so high and that the Australian Bureau of Agricultural and Resource Economics and Sciences reports that 99 per cent of foreign owned land relates to area and not enterprise ownership, can the minister explain why there is no cap on the area of land foreign investors can purchase until they reach the $244 million price tag?

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:00): Firstly, in terms of foreign ownership levels, the ABARES data to which I referred in the first question shows that foreign ownership in the agricultural sector remains modest and that around 89 per cent of agricultural land is entirely Australian owned. The government is continuing to look at ways we can improve transparency in the foreign ownership of agricultural land and I am advised that the government recently announced it would establish a working group to develop a register of foreign ownership of agricultural land. This would provide the community with a more comprehensive picture of the specific size and location of foreign agricultural land holdings than is currently available.

Senator MADIGAN (Victoria) (15:00): I have a further supplementary question, Mr President. Will the minister consider the proposal from farming groups to reduce the threshold for applying investigations and special conditions to $15 million and also consider leasehold of land as the only form of foreign ownership when large acreages are concerned?

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:01): The ABARES report released by the government earlier this year notes that the current strong regulatory framework surrounding foreign investment in agriculture is providing:

… a considerable level of scrutiny of foreign investment proposals and operations of foreign-owned agribusiness in Australia.

Senator Williams: A free for all!

Senator WONG: Senator Williams, if you have an issue with what I am saying I suggest you have a talk with Mr Robb because your position is 180 degrees—

The PRESIDENT: Order! Senator Wong, this is not a debating time. Ignore the interjections.

Senator WONG: The government will continue to ensure that our foreign investment policies protect the national interest. Whilst I do understand Senator Madigan's concerns, as I said he has been consistent in raising those, the government is of the view, consistent with the historical reality that Australia has long been reliant on foreign capital to build and develop businesses in all parts of the Australian economy, including agriculture, that it is important we recognise the benefits that this foreign investment brings to Australians, not just in businesses concerned but across the economy.

Senator Chris Evans: Mr President, I ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Remand Population

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:02): On 25 June 2012, in my capacity representing the Attorney-General, I took a question on notice from Senator Wright regarding the remand population in Australia. I table a response to that and seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

People on remand include unconvicted prisoners awaiting a court hearing or trial, convicted prisoners awaiting sentencing and persons awaiting deportation where they are under the administration of adult corrective services.

As at 30 June 2010, 23 per cent of the adult detention population in Australia were people on remand. There was a six per cent increase in people on remand from 2009 to 2010 but a decrease in the amount of time spent on remand.

The operation of the criminal justice system, including bail and remand is the responsibility of state and territory governments. The decision to hold an individual on remand is made by state courts, or in some states from a police referral. Remand can be the result of a bail refusal, or an inability of an individual to meet the bail conditions imposed. The types of bail conditions imposed can vary significantly and are at the discretion of the court setting bail.

The government raised the issue of high rates of remand with the state and territory governments at the April meeting of the Standing Council of Law and Justice as part of the government's response to the Doing Time—Time for Doing: Indigenous youth in the criminal justice system report, released by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs in June 2011.

The Justice Reinvestment working group of the National Justice CEOs compiled a report which has not yet been publicly released. This requires agreement from all jurisdictions prior to being released.

However, I can advise that the Australian Bureau of Statistics has commenced work on a review of corrective service data. The review will be undertaken with all jurisdictional agencies with an interest in improving the data.

The Attorney-General's Department is not currently working on a bail hostel pilot project.

However, the Attorney-General's Department is working with other agencies to pursue a policy of 'no exits in to homelessness', including developing options of how the Commonwealth can reduce exits from care into homelessness, noting that this is primarily the responsibility of state and territory governments.

People leaving care (including detention), particularly young people, have been identified under the Homelessness Action Plan as a group vulnerable to becoming homeless.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Carbon Pricing

Senator JOHNSTON (Western Australia) (15:03): I move:

That the Senate take note of the answer given by the Minister for Foreign Affairs (Senator Bob Carr) to a question without notice asked by Senator Ronaldson today relating to Defence Force Retirement and Death Benefits recipients and the carbon tax.

Obfuscation and bravado is clearly no substitute for even a passing interest in veterans' pensions. This minister today has been caught out because he has absolutely no knowledge or understanding of what people are doing in the real world. Veterans are doing it tough, and I will tell you exactly why a little later on.

The responsibility of government involves an awful lot more than having a deep cultured voice and a thespian demeanour.
This minister brings to the table of charade of knowledge that is so thin as to be almost as thin as this government's prospective budget surplus. There are 57,000 DFRDB personnel. They have been misled; they have been lied to; they have been effectively cheated of their vote in the 2000 election.

Pensioners have received compensation. The question to this minister was: what is going to happen to DFRDB recipients? He did not even know that Defence Force Retirement and Death Benefits is referred to as DFRDB. He was groping around looking for what is one of the most important things. These are people who have given great service to their country and this minister simply does not know or care or understand about them. He is dismissive. He was clearly inconvenienced by having been asked a question on the plight of these pension recipients in the face of this carbon tax based upon a lie. It was a lamentable performance.

It makes me worry about our standing with our near neighbours and further abroad when this man is in charge of diplomatic issues. To be so dismissive, to be so disdainful and, frankly, to be so ignorant says a lot about why we have had, since 2007, 350 boats and more than 19,000 people arrive on our shores. When he goes back to his office I can just imagine the first thing he will say to his staff is, 'What the hell is DFRDB? What is it? What on earth is MTAWE—male total average weekly earnings. He has no concept of the day-to-day lives of ordinary Australians. He does not even know or understand the massive betrayal, given that Kevin Rudd said, before the 2000 election:

A Rudd Labor government will maintain a generous military superannuation system, in recognition of the importance of the ADF and the immense responsibility placed on personnel in securing and defending Australia.

The Military Superannuation Review is the latest example of the Howard Government refusing to release vital information about the operation, costs and alternative policy approaches that should be considered in this area.

'A Rudd government will provide a fresh approach.' So he held out the opportunity and the prospective opportunity for DFRDB recipients to have an indexed system that was 'much fairer and more generous'. What did they do? On 21 August 2009, Lindsay Tanner said:

The Rudd Government is satisfied, after considering Mr Matthews' report, the purpose of indexation of civilian and military superannuation pensions should continue to maintain the purchasing power of the pension.

We are aware that this will disappoint many superannuants ...

In short, all of the promises by Rudd and Labor were cast aside by this callous government. They wonder why their primary vote is at 30 per cent. It is the great lies: the carbon tax, the 2009 defence white paper and of course the promises to veterans to index defence DFRDB pursuant to MTAWE—and we know that that was the great lie. This minister has no idea about it. (Time expired)

**Senator MOORE** (Queensland) (15:08): It is very surprising and disappointing that Senator Johnston would use this take note debate to attack a minister and to attack people for having no responsibility and no respect for people who served our country. There has never been a debate in this place that that was the point. There has been a debate in this place about the appropriateness of how you actually look at DFRDB pensions and it has been quite serious and over a long period of time. As people on both sides of this chamber know, the issue of changing the way DFRDB pensions are assessed is not a new issue. We could go back over the extensive debates in this area, through periods of the Howard government.
through to the Rudd and the Gillard
governments, and there have been
agreements. Recently, a very strong
debate was conducted in this place that
ended up with a decision that we would
change the process. That was very difficult
and people were deeply affected by the
process.

Senator Johnston was quoting again from
the piece of paper that they have about what
the Rudd process was before the 2007
election. Again, in the very words read out
by Senator Johnston, there was an agreement
for a 'fresh approach'. There was an
agreement that the issues would be
considered and indeed they were. As
Minister Carr reflected in his answer to the
Senate today, the report was done with the
support of this chamber and it was an
independent review of the way pensions
were to be assessed. The results of that
independent review came to this place and
the government agreed with the review. That
was not easy. All of us, every person in this
chamber, have people in our electorates who
have DFRDB pensions. All of us know what
extremely strong advocates they are and I
would expect that every one of us meets
regularly with those people. They come
forward with their arguments and they are
very telling about the way they feel that their
DFRDB pensions should be assessed.

Those same arguments were the ones that
they took to the review in 2008 and the
independent assessment said that that was
not going to be the way that the pensions
would be assessed. We will continue to have
debate, and I think we should. None of
these issues should remain untouched. All
these debates should be had, but the real
issue of the debate should be about what we
are discussing, not some attempted slur on
our minister, as we have seen today, to imply
that he did not have any compassion or
knowledge of the people who have served
our country. That is not the way to have an
effective debate. That is not the way to show
respect for the very personnel about whom
we are talking. The question given to the
minister today talked about the process for
DFRDB pensions, and we do know what that
means—and Minister Carr does know what a
DFRDB pension is—

Senator Ronaldson: He has no idea.

Senator MOORE: I can guarantee that
he does in terms of the process. What the
question was referring to was how it was
going to be calculated for the impact of the
carbon price. That was not mentioned by
Senator Johnston in his taking note
contribution. Senator Ronaldson clearly
knows that the point of his question was
about how the pensioners on the DFRDB
system would be impacted by the carbon
price. That was what the minister went to in
his answer. But in Senator Johnston's taking
note effort, he turned that around to an attack
on the foreign minister. That does not
actually add to the debate. It becomes
personal and minimises the impact of the
original question.

We can tell people in this chamber what
the impact on DFRDB pensions will be by
the indexation of their pension. Certainly,
you would have to admit that the minister
did say that DFRDB pensioners will have
their pension linked to the CPI. That is what
happens now. That is the result of the Wallis
review. That is the result of several debates,
and I think there have been at least three
debates in the last 18 months in this place on
the way DFRDB pensions will be handled.
After all of those debates, the end result is
that the CPI is the way that the pensions will
be handled. I fully expect that we will have
these debates into the future, and so be it.
But in looking at the way the question was
answered today, and that is what taking note
is all about, what was said was that they are
done through the CPI—the impact on DFRDB pensions will be continuing. *(Time expired)*

Senator RONALDSON (Victoria) (15:13): As much as I like Senator Moore, that speech bore absolutely no relevance to either the response of the Minister for Foreign Affairs or the response of Senator Johnston. Senator Carr clearly had no idea what DFRDB is—none at all. He probably knows by now because he is back in his office. He did not attempt to answer that question at all. He read from a brief which had been passed to him by someone else. Again, we have the repetition and the reinforcement today that the Australian Labor Party do not support the coalition's view on changing the DFRDB indexation. We know, again as a result of today, that the only way those DFRDB and DFRB recipients are going to get an appropriate indexation of their pensions is by a change of government. That was reinforced today. The minister made no attempt to answer my question in relation to the impact of the carbon tax on military superannuants. Some 57,000 superannuants and their families will receive no compensation for the carbon tax. That was quite clear from Minister Carr's answer today, or lack of answer, because if it were otherwise he had the perfect opportunity to set the record straight. They will be getting no compensation. So on 1 July 57,000 Australians and their families will get the double-whammy. They only get the six monthly CPI increase and not the full suite of indexation options that the coalition will provide, and they get no compensation at all.

Regarding Minister Carr, I would just make this comment. Every other minister in this place walks in with two armfuls of briefs. This minister, who has the responsibility of representing the Minister for Defence, the Minister for Defence Science and Personnel and the Minister for Veterans' Affairs, walks in with a folder that fits under one arm—no weight at all. And he gives no weight to his responsibilities. He swans around this place as an esoteric show pony. He is not doing his job and he deserves to have someone sit down and tell him that he just does not swan in here and then swan overseas and not accept any responsibility for the matters for which he has representative responsibility.

I want to turn in the time left open to me to a quite remarkable speech given by the Minister for Veterans' Affairs in the other place on 31 May. In a remarkable contribution, the Minister for Veterans' Affairs suggested that it was illogical that we the coalition pursue fair indexation of pensions. I do not have the time to go through this quote, but what the minister did was to take an example of a colonel equivalent who retired in 2010 after 35 years of service and then frame his whole debate around a superannuation payment of $59,000 per year. What he said was:

You might tell me what the logic is here. What is the logic of equating a superannuation payment of $59,000 per year to the age pension?

Well, we have equated military superannuation to the age pension. We have equated it to the service pension. What the minister failed to do was to tell the other place that he had inflated by 250 per cent the average payment under the DFRDB and the DFRB. It was an absolutely and totally duplicitous use of an example that he should have known, and did know, was not an example of the average amount of the DFRDB or the DFRB. It was a deliberate attempt to mislead the other chamber by a minister who leads a government and who fails to accept that what is happening to military superannuants at the moment is grossly unfair.
In the 28 seconds left to me, I will again repeat that I do not care what Senator Moore and others say about further discussion taking place on this matter, because quite frankly no-one believes them. No-one believes the Australian Labor Party because 12 months ago in this chamber the Australian Labor Party and the Greens had the opportunity to provide fair indexation to military superannuants and they failed to do so.

Senator BILYK (Tasmania) (15:18): As has been said today, and I think quite eloquently by my colleague Senator Moore, and earlier by Senator Carr, the government engaged Mr Trevor Matthews to conduct an independent review of the indexation method used to adjust Commonwealth civilian and military superannuation pensions. The government accepted Mr Matthews's recommendation that Commonwealth civilian and military superannuation pensions should continue to be indexed by the CPI. This is important, because if we had chosen not to accept Mr Matthews's recommendation those on the other side would be coming in and harping on as they do. So it does not matter what we on this side do; the other side always find the negative and like to take it up.

As Senator Moore alluded to, and I agree with her, this debate does need to continue. But I find it bizarre that the opposition come in and slur a minister and allege to know what he knows or does not know. I do not know how they know what he does know or does not know in relation to definitions and acronyms. But it is not the first time this week that the opposition have come in and harping on as they do; the other side always find the negative and like to take it up.

As Senator Moore alluded to, and I agree with her, this debate does need to continue. But I find it bizarre that the opposition come in and slur a minister and allege to know what he knows or does not know. I do not know how they know what he does know or does not know in relation to definitions and acronyms. But it is not the first time this week that the opposition have come in and harping on as they do; the other side always find the negative and like to take it up.

The DEPUTY PRESIDENT: Order, Senator Bilyk. I just want to draw to your attention back to the motion before the chair. I have given you a fair amount of free range and latitude. I just draw your attention to the motion before the chair.

Senator BILYK: No, Mr Deputy President, I am sorry, but I have to say that I am just trying to point out to those on the other side interjecting constantly throughout my speech—they have not stopped since I stood up—that I can just keep talking over

Senator Bernardi commented that I had never worked in private enterprise or been self-employed. I have, Mr Deputy President, as I am sure you are aware. You are Tasmanian, so I am sure you are aware of that. I have done both of those things, so I am really pleased to be able to get that on the record.

It is pretty important that those on the other side come in and tell truths, but they do not. They continue to tell untruths. They continue to run their scare campaigns. They continue to carry on. If I listened to those on the other side, I might as well not wake up on 1 July because the world will come to an end. Mr Abbott himself has commented in regard to that. I think the direct quote from Mr Abbott was that the 'spectre' will destroy and kill entire industries and 'wipe towns off the map'. This is just another way those on the other side carry on all the time and tell untruths. Honestly, people are getting really sick of it. I was also interested today in some of the other comments that were made in regard to people on this side. What some of the newer senators on that side have not worked out is that I used to work in the childcare industry. In fact, it is the place where I was self-employed for quite some years. When I worked in the childcare industry, I could control 30 three-year-olds. But trying to control those on the other side—

The DEPUTY PRESIDENT: Order, Senator Bilyk. I just want to draw to your attention back to the motion before the chair. I have given you a fair amount of free range and latitude. I just draw your attention to the motion before the chair.

Senator BILYK: No, Mr Deputy President, I am sorry, but I have to say that I am just trying to point out to those on the other side interjecting constantly throughout my speech—they have not stopped since I stood up—that I can just keep talking over
them and I am happy to do that. They can waste their breath but, having worked with three-year-olds previously, I am quite used to being able to do that.

What else can we say about the motion to take note today? As I said, the government engaged Mr Trevor Matthews. This is something the other side do not seem to want to acknowledge. Mr Matthews, who is a prominent actuary—he does not do his funding processes in cafes or restaurants—conducted this independent review of the indexation method used, and we accepted those recommendations. That is what we have gone on. Those on the other side, as I said earlier, just do not like that fact. If we had not accepted any of those recommendations they would have had a little grizzle about that. They are grizzling about this. They grizzle that the sky is falling in. They grizzle that Whyalla is going to be wiped off the map. I do not personally think that is going to happen, and I do not think the sky is going to fall in. They come in here and grizzle all the time. They do have a bit of a problem—yes, I accept that—with the fact that I have worked for a trade union representing workers. (Time expired)

Senator FAWCETT (South Australia) (15:24): I rise to take note of answers given by Senator Bob Carr to questions asked by Senator Ronaldson. I would like to go back to 10 March this year to an article written by Major General John Cantwell, retired. He starts by saying:

It's all about respect.

He is quite correct. He goes on to say:

Fitzgibbon was out of his depth. He simply didn't get it.

That statement can be applied to many on the other side. The answer to this question today is a classic example. We are talking about respect for the people who have served this nation and who have retired on a DFRDB pension. We are talking about the fact that service pensioners, who are a different group, age pensioners and others have received compensation but the people who are on a DFRDB have not. This government and their representatives here in this chamber do not even understand the difference. How can they pretend to have respect for service men and women of this country when they do not even understand the basis upon which people receive their retirement income? Major General Cantwell is indeed correct when he says that it is all about respect.

If this government respected our serving men and women, not only would ministers be across their briefs and understand the things that affect people but they would be looking out for the interests of people affected by their portfolios. They would not just be able to answer questions here in the Senate; they would be proactively looking out for the interests of those people to make sure that budget measures did not disadvantage them. Clearly, the minister responsible and his representative here in the Senate today have not taken the first step to being proactively concerned for people who are DFRDB recipients in terms of the carbon tax compensation payments and have not bothered to be across their briefs to be accountable in this place when they are asked questions.

The same lack of respect goes to how they have treated service men and women in this budget. Not since 1938 has a government stripped so much funding out of and paid so little of our gross national income to the defence department. The budget cuts not only are on major items, the $1.6 billion cut from equipment, but also go to personnel issues—for example, saving a small amount of money, about $15 million, by cutting the eligibility of single members aged 21 and over, about 22,000 people, to have an airfare paid for their next of kin once a year. That
may seem like a small thing but for somebody who does not know when they will be returning from an exercise or from deployment or who may not be close to internet access to book cheap fares that can be a significant cost impact if you are based in Northern Queensland, the Northern Territory or Western Australia and your family lives in Adelaide, Sydney or Melbourne or in the regional parts of Australia. So to achieve their wafer-thin budget surplus, which there is no guarantee they will achieve, this government have been prepared to not only place Australia's national security at risk through cutting funding, some $5.5 billion from the budget this year, and deferring programs over a number of years; they have also shown a complete lack of respect for our service men and women through these measures which affect personnel entitlements.

That flows on to things like caring for wounded and injured servicemen. The government makes great announcements about programs but then it turns out that those are funded from within Defence's existing budget. Defence is doing a very good job, as we found out at estimates, of trying to make that work. But the reality is that the things that this government claims about its care and respect for servicemen is not demonstrated by the minister when he is in Afghanistan and it is not demonstrated by the minister or the Minister for Veterans' Affairs in their planning or preparation for when they come into this place. The minister was clearly not across his brief today and did not understand the basic question that was being asked. It shows that Major General Cantwell is indeed correct: it is all about respect, and there is no respect from this government.

Question agreed to.

PERSONAL EXPLANATIONS

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (15:29): Mr Deputy President, I seek leave to make a personal explanation.

Leave granted.

Senator BOB CARR: On 30 May in Senate estimates I was asked questions concerning a former business activity. A false assertion was made suggesting a continuation of business activity. This is obviously untrue. The facts are that on Friday, 2 March 2012 it was announced that I would be appointed as foreign minister. Immediately after that, on Monday, 5 March, I took steps to resign my directorships of commercial companies and I ceased all commercial arrangements and activity. My business ceased to trade on that date and instructions were given to my accountant to provide all appropriate notification to ASIC and to cancel GST registration of my dormant private company. These actions left a single bank account in my name and a dormant entity. No business activity was conducted from that date. The place of business and the business address for the dormant entity have been amended and reflect the fact that all business activity at my Bligh Street office ceased on or before 5 March. There is no actual possible conflict associated with my retention of a single share in my own dormant company—no conflict whatsoever between my private interest and my public responsibilities. I am further advised that this is entirely consistent with the standard of ministerial ethics.

CONDOLENCES

Edwards, Dr Harold Raymond (Harry)

The DEPUTY PRESIDENT (15:31): It is with deep regret that I inform the Senate of the death on 26 June 2012 of Dr Harold
Raymond Edwards, a member of the House of Representatives for the division of Berowra, New South Wales, from 1972 to 1993.

NOTICES
Presentation
Senator Nash to move:
That the Senate—
(a) notes that:
(i) Australian charities, including the Royal Society for the Prevention of Cruelty to Animals (RSPCA) face significantly higher electricity and other costs as a result of the Government's carbon tax;
(ii) the RSPCA faces up to $180 000 in increased costs because of the carbon tax and that the Chief Executive Officer of its Australian Capital Territory branch, Mr Linke, has stated that services to help animals could be cut, and
(iii) the Government's Low Carbon Communities program will be of no assistance to thousands of charitable organisations across the nation facing carbon tax-related cost increases; and
(b) condemns the Government for imposing major extra cost burdens on charitable organisations like the RSPCA, forcing them to cut services, including to save helpless and injured animals.

Senator Abetz to move:
That the Senate—
(a) notes the Speaker of the Southern Sudan Legislative Assembly, the Right Honourable James Wani Igga, announced the Declaration of Independence Act for South Sudan on 9 July 2011; and
(b) congratulates the world's newest state, the Republic of South Sudan, on its 1st anniversary on 9 July 2012.

Senator Rhiannon to move:
That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 31 December 2012:
The administration, management and objectives of Australia's overseas development programs in Afghanistan in the context of the 'Transition Decade', including:
(a) an evaluation of Australia's bilateral aid program to date in Afghanistan;
(b) an evaluation of the interaction and effectiveness of Australia's bilateral aid, multilateral aid, the Afghanistan Reconstruction Trust Fund and other Australian government departments delivering aid;
(c) the means to most effectively address the Millennium Development Goals in Afghanistan;
(d) how to guarantee the safety of all workers involved in the delivery of Australian aid programs in Afghanistan; and
(e) any other related matters.

Senators Madigan and Back to move:
That the Senate—
(a) notes that:
(i) Saturday, 23 June 2012, marked the anniversary of the tabling of the final report by the Community Affairs References Committee, The social and economic impact of rural wind farms,
(ii) this report made seven recommendations, including recommendations calling for studies on the effects of wind farms on human health,
(iii) on 7 February 2012, the Senate passed a motion calling on the Government to immediately act on the seven recommendations of the report,
(iv) 12 months after the tabling of the report, and more than 4 months since the Senate called on the Government to immediately act on the recommendations, the Government has failed to respond to the Senate's call, and
(v) Mr Lane Crockett, board member of the Clean Energy Council and General Manager of Pacific Hydro, one of the leading wind farm corporations in Australia, has called on the Government to launch a national review into the health effects of all forms of power generation, including wind power; and
(b) orders that there be laid on the table by the Minister representing the Minister for Health, no later than noon on Tuesday, 14 August 2012, information detailing the actions being taken by the Government to act on the recommendations calling for studies on the effects of wind farms on human health.

Senators Madigan and Xenophon to move:

That the following bill be introduced: A Bill for an Act to amend the Renewable Energy (Electricity) Act 2000, and for related purposes. Renewable Energy (Electricity) Amendment (Excessive Noise from Wind Farms) Bill 2012.

Senator Abetz to move:

That the Senate—

(a) notes that:

(i) in September 2011, the Government released a public discussion paper seeking community views on the consolidation of Commonwealth anti-discrimination laws, and

(ii) approximately 270 submissions were received;

(b) recognises that the Government has committed to introducing new protections against discrimination on the basis of sexual orientation and gender identity; and

(c) calls on the Government to introduce, as a matter of priority, legislation that ensures Commonwealth anti-discrimination laws are consistent with Australia's international human rights obligations.

Senator Waters to move:

That there be laid on the table by the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, no later than 14 August 2012, any documents, including correspondence, created since 1 January 2009 in the possession or control of the Minister, his office, or the department, regarding:

(a) the adequacy of relevant Queensland Government departments' administration of their responsibilities under the current or former assessment bilateral agreement established under the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act); or

(b) the capacity and likelihood of relevant Queensland Government departments to effectively administer the EPBC Act if an approvals bilateral agreement were to be entered into under the EPBC Act.

Senator Ryan to move:

That the Senate—

(a) notes that:

(i) Senator Bob Carr's electorate office in Bligh House, Sydney, also served as the principal place of business of R.J. Carr Pty Ltd, his former lobbying company, until 24 May 2012,

(ii) on 24 May 2012, Senator Ryan raised this issue at the 2012-13 Budget estimates hearing
of the Finance and Public Administration Legislation Committee,

(iii) on 24 May 2012, the principal place of business of R.J. Carr Pty Ltd was transferred to an address in Burwood,

(iv) on 30 May 2012, Senator Bob Carr told the 2012-13 Budget estimates hearing of the Foreign Affairs, Defence and Trade Legislation Committee that the 'process of excising that reference from the record of ASIC is a matter between my business accountant and ASIC' and 'just an office detail', and

(v) clause 2.9 of the Prime Minister's 'Standards of Ministerial Ethics', dated September 2010 'require that Ministers divest themselves of investments and other interests in any public or private company or business'; and

(b) calls on Senator Bob Carr to explain to the Senate forthwith why he has retained his shareholding in R.J. Carr Pty Ltd in contravention of the Prime Minister's 'Standards of Ministerial Ethics'.

Withdrawal

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:31): I withdraw government business notice of motion No. 3 to vary the hours of meeting and routine of business or Thursday, 28 June.

BUSINESS

Leave of Absence

Senator McEWEN (South Australia—Government Whip in the Senate) (15:32): by leave—I move:

That leave of absence be granted to Senator Conroy for 27 June and 28 June 2012, for personal reasons.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion No. 817 standing in the name of Senator Ludlam for today, relating to ABC news online, postponed till 28 June 2012.

COMMITTEES

Australia's Food Processing Sector Committee

Reporting Date

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:33): I move:

That the time for the presentation of the report of the Select Committee on Australia's Food Processing Sector be extended to 16 August 2012.

Question agreed to.

MOTIONS

National Disability Insurance Scheme

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (15:33): I, and also on behalf of Senator Boyce, move:

That the Senate—

(a) recognises that:

(i) the proposal of a National Disability Insurance Scheme (NDIS) is a once-in-a-generation landmark reform that has the potential to deliver better quality of life outcomes for Australians with disabilities,

(ii) the schedule for implementation of the NDIS, as proposed by the Productivity Commission, will take 7 years, spanning the life of three Parliaments, and

(iii) the NDIS is a reform that involves the cooperation and support of state and territory governments, the disability support services sector, people with a disability and their families and carers;

(b) notes the bipartisan and cross-party support for the implementation of the NDIS; and

(c) declares its support for policy stability on the NDIS over the life of those three Parliaments and until the scheme's full implementation.
Question agreed to.

COMMITTEES

Joint Select Committee on the National Disability Insurance Scheme

Appointment

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (15:34): I, and also on behalf of Senator Boyce, move:

(1) That a joint select committee, to be known as the Joint Select Committee on the National Disability Insurance Scheme be established to oversee the implementation of the National Disability Insurance Scheme.

(2) That the committee be subject to terms of reference and reporting dates, to be agreed upon by the Prime Minister and Leader of the Opposition and agreed to by both Houses of Parliament.

(3) That the committee consist of 10 members, two Government members and two Opposition members, two Government senators and two Opposition senators, one Australian Greens member or senator and one independent member or senator.

(4) That every nomination of a member of the committee be notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(5) That the members of the committee hold office as a joint select committee until the House of Representatives is dissolved or expires by effluxion of time, whichever is the earlier.

(6) That the committee elect as its joint chairs a Government member appointed to the committee on the nomination of the Government Whip or Whips or the Leader of the Government in the House of Representatives or the Leader of the Government in the Senate, and an Opposition member appointed to the committee on the nomination of the Opposition Whip or Whips or the Leader of the Opposition in the House of Representatives or the Leader of the Opposition in the Senate.

(7) That three members of the committee constitute a quorum of the committee provided that in a deliberative meeting the quorum shall include one Government member of either House and one Opposition member of either House.

(8) That the committee have the power to call for witnesses to attend and for documents to be produced.

(9) That the committee may conduct proceedings at any place it sees fit.

(10) That the committee have the power to adjourn from time to time and to sit during any adjournment of the House of Representatives and the Senate.

(11) That the committee report to both Houses of Parliament from time to time.

(12) That the provisions of this resolution, so far as they are inconsistent with the standing orders, shall have effect notwithstanding anything contained in the standing orders.

(13) That a message be sent to the House of Representatives acquainting it of this resolution and requesting that it concur with the action accordingly.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers and Parliamentary Secretary to the Prime Minister) (15:34): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator McLUCAS: This motion from the opposition is more about politics than outcomes for people with disability. It is about the opposition trying to find a place in the political sun rather than doing the hard work to design an NDIS to deliver real outcomes for people with disability, their families and carers. Irrespective of the words of the motion, the coalition does not have a clear position on supporting an NDIS. Our Labor government is getting on with the job of building a national disability insurance scheme. We have delivered $1 billion to fund our share of the first stage of a national disability insurance scheme. Twenty
thousand people with significant and permanent disabilities, their families and carers will benefit from the first stage in up to four locations around the country. The first stage will start in the middle of next year, a full year ahead of the timetable set out by the Productivity Commission. We are getting on with the job because we know how long people with disability have been waiting for change. They waited for change for 12 years under the Howard government while disability funding went backwards. We asked the Productivity Commission to look into care and support for people with disability because we knew the system was letting people down. This motion from the opposition is about politics. It is not about doing the right thing for people with disability.

Senator LUDLAM (Western Australia) (15:36): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator LUDLAM: I thank the chamber. This short statement is essentially on behalf of Senator Siewert, who is on leave of absence this week and who has carriage of this matter. The Australian Greens do support the obvious need for cross-party support for the NDIS and increased transparency for the rollout process, so this is a measure brought forward by the coalition that we support in intent but not in effect. We do not believe that establishing a joint select committee is the best way to achieve this. I thank the chamber.


The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator FIFIELD: To say that I am extremely disappointed and the coalition is extremely disappointed with the decision of the government and the Greens in relation to this motion is an understatement. The assertion by Senator McLucas that the opposition does not support an NDIS is outrageous. The government are quite happy to say from time to time that there is bipartisan and cross-party support and they willingly supported the previous motion but when it actually comes to a concrete demonstration that they genuinely support bipartisanship, that they genuinely want bipartisan and that they genuinely want cross-party support they reject that at every opportunity. The opposition has extended the
hand of bipartisanship in relation to this motion. Mr Abbott has written to the Prime Minister three times proposing the establishment of a cross-party committee. Because the implementation of an NDIS will span several parliaments, there needs to be a mechanism to lock in all parties over several parliaments. But there also needs to be a mechanism that will elevate the implementation of an NDIS above partisanship. The government have rejected the mechanism that would do just that. They are very happy to pay lip service to bipartisanship and they are very happy to pay lip service to cross-party support but when it actually comes to a practical demonstration they say no. I have got to tell you, Mr Deputy President, that the groups in this sector that I have spoken to think that this committee is a good idea. They want this committee and they will be extremely disappointed by the decision and the response of both the government and the Australian Greens. I expected better and, quite frankly, I am appalled.

Senator BOYCE (Queensland) (15:39): Mr Deputy President, I seek leave to make a short statement.

Leave not granted.

The DEPUTY PRESIDENT: The question is that general business motion No. 820 moved by Senator Fifield, standing in the names of Senator Fifield and Senator Boyce, be agreed to.

The Senate divided [15:44]

(The President—Senator Hogg)

Ayes.........................30
Noes.........................35
Majority...................5

AYES

Cormann, M
Eggleston, A
Ferravanti-Wells, C
Heffernan, W
Kroger, H (teller)
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Seullion, NG
Smith, D

NOES

Bilyk, CL
Brown, CL
Carr, KJ
Collins, JMA
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Singh, LM
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

PAIRS

Abetz, E
Back, CJ
Fisher, M
Johnston, D
Joyce, B

Question negatived

MOTIONS

Migrant Workers

Senator DI NATALE (Victoria) (15:47):

I move:

That the Senate—

(a) notes that:
(i) temporary and migrant workers make a significant contribution to the Australian economy and Australian society,

(ii) the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was adopted by a resolution of the United Nations General Assembly on 18 December 1990, and

(iii) the Convention’s provisions protect the human rights of migrant workers and shield them from unconscionable exploitation; and

(b) calls on the Government to:

(i) ensure that temporary migrant workers who come to Australia receive settlement assistance, language training and culturally appropriate services,

(ii) institute a rigorous program of inspection and enforcement to ensure that the conditions and pay migrant workers receive are fair and meet the legal requirements, and

(iii) show its commitment to leading the world in the protection of the rights of migrant workers by immediately ratifying the Convention.

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:47): Mr President, I seek leave to make a brief statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator JACINTA COLLINS: Mr Deputy President, unfortunately, I suspect that I will require the standard two minutes, but let’s go. The government recognises the importance of providing legal protections to migrant workers. Australia already has strong protections in place for migrant workers. Importantly, these are the same protections afforded to all Australians. The fundamental rights of all persons in Australia are already covered by the international human rights treaties to which Australia is party. Domestically, migrant workers are protected through a range of antidiscrimination legislation such as the Sex Discrimination Act 1984, the Age Discrimination Act 2004 and the Racial Discrimination Act 1975. Migrants and temporary entrants are also subject to the same workplace rights and protections as Australians. These protections are set out in legislation.

In 2008 Labor introduced further protections for temporary skilled workers, in particular 457 visa holders, through the Migration Legislation Amendment (Worker Protection) Act 2008. This act strengthens the integrity of temporary working visa arrangements and ensures that extra protections are afforded to visa holders. It is also through these laws and policies that Australia ensures compliance with Australia’s international human rights obligations in relation to workers and migrants more generally. Australia does not intend to become party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Question negatived.

Domestic and Family Violence Discrimination

Senator RHIANNON (New South Wales) (15:49): I move:

That the Senate—

(a) notes that:

(i) two-thirds of women in Australia affected by domestic violence are in some form of paid employment,

(ii) violence against women and children will cost the Australian economy $15.6 billion by 2022 unless effective action is taken to prevent it,

(iii) domestic violence can have a significant impact on the employment of women who are subjected to it, due to lost productivity as a result of distraction in the workplace, absenteeism due to physical and psychological injuries, disrupted work histories as victims
frequently change jobs, and lower personal incomes and reduced hours of work, and

(iv) it is common for victims and survivors of domestic and family violence to be denied leave to attend to violence-related matters, such as attending court or moving into a shelter; and

(b) calls on the Government to:

(i) consider introducing domestic and family violence as a separate ground of discrimination,

(ii) consider making discrimination related to domestic and family violence unlawful in the workplace, and

(iii) urge all private companies and public sectors to include domestic violence clauses in their enterprise agreements.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Gillard Government

Senator PARRY (Tasmania—Deputy President of the Senate and Chairman of Committees) (15:50): A letter has been received from Senator Fifield:

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

The failure during the 2 years of the Gillard Prime Ministership to honour the commitment to fix the climate change, mining tax and border protection policy disasters.

Is the proposal supported?

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

Senator BIRMINGHAM (South Australia) (15:50): I thank the Senate for the support in considering this matter of public importance: the failure during the two years of the Gillard prime ministership to honour the commitment to fix the climate change, mining tax and border protection policy disasters.

It is important to remember that this year we have noted the passing of the second anniversary of when Prime Minister Gillard stuck the knife into former Prime Minister Rudd and assumed the leadership of the parliamentary Labor Party. She and the Labor Party may not have wanted to note that anniversary but, nonetheless, it is an anniversary worth noting. It may have passed without the slightest consideration on the Labor side but, for the Australian people, it marks two years of chronic failure to address the very things that Prime Minister Gillard said she was elected to do in the first place. When asked to justify why it was necessary for her—the loyal deputy who was as likely to ever become Leader of the Labor Party as she was to play full forward for the Western Bulldogs—to backtrack on those solemn promises she apparently made to Mr Rudd, to her Labor colleagues and to the Australian people, Ms Gillard said that it was because the government had lost its way. In particular, she highlighted three areas in which she believed that the government had lost its way and it was necessary to fix its policy direction. Those three areas were the government’s climate change policies, the mining tax policy and the border protection policy disaster.

Where are we at two years later? Two years later, it is safe to say that Australia is in a deeper hole on all three fronts than it was two years ago, that all of these issues are now mired in greater public controversy, that all of these issues see greater waste and that all of these issues see greater threat to the Australian public and, of course, to the operation of government in this country.

Let me address these three issues. I will do so in reverse. I will start with the border protection policy disaster because this of course is a matter that is the subject of a very serious debate in the other place as we speak. We have seen today yet more tragedy on the
sea. We have seen today yet another instance of human life being placed at risk because of a failure of policy in this country. It is disappointing to see arguments being put now that the way to end this human tragedy at sea is somehow to risk human rights on land—because that seems to be the proposal that is being pushed and put forward by the government.

There is a hue and cry at present, because of the tragedies we are seeing, for something to be done. It is an admirable instinct that when we see tragedy, when we see cause for action, there is a cry for something to be done. But the something that should be done must always be something that will make the situation better. The something that should be done must be something that is well considered and well thought through. In this case, sadly, the something that is being embraced by those opposite and being embraced by some of the crossbenchers in the other place is the so-called Malaysia solution.

The Malaysia solution represents an amazing transition of government policy for Ms Gillard in particular. Ms Gillard was once dead set against any form of offshore processing—dead set against it. Then, as Labor leader going into the last election, she decided that she was willing to accept a form of offshore processing and was up to negotiate a regional processing arrangement that would see a centre established in East Timor but that she would never consider offshore processing in a country that was not a signatory to the UN Convention relating to the Status of Refugees. After she managed to cobble together her government, we saw the situation where the East Timor proposal fell apart. The government, of course, had failed to dot its i's and cross its t's or indeed to do even the scantiest bit of homework about the East Timor proposal. It fell apart, and the government went looking elsewhere. Ultimately laid on the table was this Malaysia proposal. Remarkable—a country that is not a signatory to the United Nations Convention relating to the Status of Refugees.

I know that many opposite in this place and in the other place have grave concerns at the idea of Australia sending people who arrive here seeking asylum to Malaysia to be put at the back of the queue of others in Malaysia, with no guaranteed protections that Australia could reasonably be certain of to be afforded to their human rights. I know those concerns are shared by people opposite because people opposite have shared them with me. I have also heard them share them publicly. And I share those concerns.

The No. 1 reason why the Malaysia option should be rejected by this parliament is obviously the concern about the failure to be able to protect the most basic human rights of those who have come seeking asylum. It is the No. 1 difference between the proposal for Nauru and the proposal for Malaysia, because at least under the Nauru proposal the Australian government was in charge. Nauru has now become a signatory to the UN convention but nonetheless, importantly, the Australian government was in charge of the facilities. People were still processed in a manner in which their rights were not just respected but guaranteed. That is not the case with regard to Malaysia.

That is why the amendment to what is before the other place should be accepted. Then we could get something done. Then we could get a solution to this issue. Then we could actually see some progress on this very important subject, rather than the government doggedly sticking to an option that even those who really care about this issue in their own party know is an awful, awful solution.
The two other issues related to this matter of public importance, the mining tax and the climate change policies, which of course have turned into the carbon tax—the carbon tax that Ms Gillard said before the last election would never be introduced under a government she led—are equally areas of policy disaster. They are disasters on a less tragic scale when it comes to human life but certainly on a scale that is significant for the Australian economy, which will have significant ramifications for all Australians going forward. In a few days time, these taxes will take effect and have dramatic repercussions across the Australian economy. The mining tax poses great uncertainty to the budget and this week we have seen total uncertainty as to whether the mining tax will manage to raise any money at all—a remarkable situation. It is totally uncertain as to how this tax will deliver for the Australian government. However, there is no doubt the carbon tax will, in the first three years of a fixed price, raise billions and billions of dollars, a fixed price way above anything applied anywhere else in the world, with a scope and a coverage across the economy far beyond that anywhere else in the world.

Labor's carbon tax will threaten Australian jobs in Australian industry because it is applied here and not applied in the countries who are our major competitors or our major trading partners. It will have a direct cost-of-living impact on all Australians, especially on the millions of Australian households who, as government modelling admits, will be worse off. Across these three areas what does the report card say for Ms Gillard after two years? It says she and the Labor Party have gone backwards on these policy failures.

Senator THISTLETHWAITE (New South Wales) (16:00): Here we have it again, another Orwellian motion from the Orwellian writers of the Liberal Party. The only major party in this parliament doing anything about climate change and spreading the benefits of the mining boom and border protection is the Australian Labor Party. All those opposite ever do is say no to policy reform in these areas. In fact, they are so negative that their spokesperson on immigration said on 7.30 the other evening that he would even vote against their own policy in the parliament if it were put forward by the Australian Labor Party. That shows the credentials of those opposite when it comes to serious consideration and resolution of issues, in particular the most pressing issue facing our nation at the moment—that is, border protection. I will come to that in a moment.

In respect of climate change, it is a complete furphy that the Labor Party is not delivering on its commitments. Nine out of 10 climate scientists all agree that human induced global warming is pushing up the planet's temperature and that, if we do not do something about it, there will be catastrophic economic and social consequences. The Stern review and the Garnaut review were the most comprehensive economic and scientific studies into this issue. In the wake of those reviews, Australia made an international commitment to reduce emissions by five per cent by 2020. The opposition has now adopted that target and we have the same target for the reduction of emissions in our economy—five per cent by 2020.

The question then becomes: how do we achieve that in the most efficient method? There have been no fewer than 37 parliamentary inquiries in this parliament into that very question. Each and every one of them has recommended a market based mechanism as the most effective, efficient and cheapest way to reduce emissions in our economy. That was the finding of the
Shergold review, implemented by John Howard when he was Prime Minister of this country.

What is this parliament to do? Ignore those 37 parliamentary inquiries, ignore all of the work conducted by those experts into this issue? We would be fools, and the Australian public would see us as such, if we were to ignore the advice of those experts. That is why Labor is implementing its policy of a market based mechanism to reduce carbon emissions in our economy over time.

We all know that households, families, have made changes to their behaviour to reduce emissions and their carbon footprint. They have been involved, at increasing cost, in refitting their houses, installing energy efficient light bulbs, refitting their showerheads and investing in low-emission vehicles instead of gas guzzlers. Households and families have made a commitment to reduce their carbon emissions. This government believes it is about time that big business and big companies that are responsible for the overwhelming majority of emissions in our economy did the same thing, that they pulled their weight and took on some of the responsibility that households in this country have taken to reduce emissions. That is what our plan is all about.

Three hundred companies will pay a price for the right to pollute. There will be cost increases. We have never said there will not be. There is no cost-free way to reduce emissions in our economy, despite what those opposite would like the Australian public to believe. There will be costs associated with it and we have asked Treasury to model those. The modelling has estimated that the cost impact on the CPI will be 0.7 per cent, one fifth of the cost impact of the goods and services tax when it was introduced by the Howard government. When that was done, Treasury modelled the cost impacts of the GST. They said that the cost impact would be 2.49 per cent on the CPI. What did it come in at? It came in at 2.5 per cent. They were spot on then with their modelling and they will be spot on again—0.7 per cent on the CPI will be the cost impact of Labor's clean energy future package. On average, households will receive $10.10 per week to compensate them for the average rise to the CPI of $9.90 per week.

And we have given extra powers to the Australian Competition and Consumer Commission to prosecute companies who seek to price gouge and take advantage of the fundamental change which will be occurring in our economy over the coming months and years. The longer we wait to take action on climate change the greater the cost will be and the greater the cost will be for future generations of Australians. It will not be us who will be paying it if we do not do something now; it will be our children and our grandchildren. They would pay hell of a lot more than we would to deal with this issue. That is why we are acting on climate change and that is why we have implemented the Clean Energy Future package.

The second element of this goes to the mining boom and the mining tax. Well, Labor have delivered the minerals resource rent tax. We have seen that these companies are making super profits, many of them international companies sending some of those profits overseas—profits from minerals that belong to the Australian people. We have seen that the royalty system that the states have is inefficient and does not tax properly the returns that people are getting from some of these mines. That is why we implemented the minerals resource rent tax in consultation with representatives of the mining industry. What will that deliver? It will deliver an increase in superannuation from nine to 12 per cent over the next eight
years, boosting retirement incomes for Australians. It will also deliver greater investment in rural and regional infrastructure—in roads, rail and ports—in some of these important mining towns that are crying out for sufficient investment in their infrastructure.

Through other policies, we are spreading the benefits of the mining boom. We understand that Australian families who are not in the fast lane in our economy are feeling the effects of cost-of-living increases. That is why we are implementing tax cuts through the recent budget. Anyone on less than $80,000 will receive a tax cut of $300 per year on average. We are tripling the tax-free threshold, taking it from $6,000 to $18,000—a great win for people on low incomes, as most of them will now pay no tax. They will pay no tax under Labor, which is a great incentive for those people.

We are introducing the schoolkids bonus because we understand there are cost pressures associated with sending kids to school. Families will get compensation in the form of $410 for primary school students and $820 for high school students. We have implemented a supplementary payment to ensure that families can meet electricity and gas price increases, the majority of which are due to network upgrades being undertaken by state governments, which have offered insufficient rebates to families and households to cover the cost of these network upgrades. We are not doing that. We understand these cost pressures and so we are providing people with sufficient compensation, not only through the Clean Energy Future package but also through a supplementary payment to help meet those cost increases. We are increasing family tax benefits to ensure that those who are on the lowest incomes in our economy get the extra support they need to make the transition to a clean energy future. We have increased our investment in the areas of disability support and aged care, with a $1 billion investment over the coming financial year in the establishment of the National Disability Insurance Scheme, and extra money for aged care—in particular, for home-care support.

How would those opposite spread the benefits of the mining boom? We do not know. We do not know because they will not tell us. All they have told us is that they oppose the minerals resource rent tax. They oppose taxing the biggest miners and using that revenue to spread the benefits to families in this country. They oppose that. What we do know is that they are planning $70 billion worth of cuts to services—$70 billion. At each and every opportunity I ask them: what will those cuts involve? Will it be Medicare? Will it be the childcare rebate? Will it be pensions?

Senator Brandis: Mr Deputy President, on a point of order: the senator is misleading the Senate in a wilful manner, because he knows that the opposition has not said that—

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

Senator Brandis: In fact, we have said the opposite.

The DEPUTY PRESIDENT: That is a debating point, Senator Brandis. There is no point of order. Senator Thistlethwaite.

Senator THISTLETHWAITE: Senator Brandis could put that to bed by coming out and saying they will not cut those services in any way—

Senator Brandis: I just said that!

Senator THISTLETHWAITE: but he knows he cannot. (Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:11): I rise to speak on this matter of public importance, looking at the Hon. Julia Gillard's two years as Prime Minister of our
country. Some over there might be celebrating, but I do not think many are.

Why are the polls so bad for Labor? This longstanding party is supposed to represent the workers. As I often say, you cannot find a shearer among the Labor Party senators over there, even though the shearers started their party—now it is full of union reps. They are the ones going around selling the tickets, getting the commissions, getting the free ride. What are they celebrating from the two years of the Hon. Julia Gillard as Prime Minister?

Remember the words Ms Gillard used when she had the faceless men, Paul Howes and the crew, around her to dispose of the then Prime Minister, Kevin Rudd? She said the government had 'lost its way'. Next thing, she will tell us the government has found its way! How ridiculous. Before the last election, we all heard—and I am sure you remember it very well, Mr Deputy President—what Ms Gillard, and Treasurer Swan, said about a carbon tax. I will not repeat it; everyone has heard it a hundred times.

Senator Brandis: No, say it again.

Senator WILLIAMS: I will say it again, at the request of Senator Brandis: 'There will be no carbon tax under a government I lead.'

Senator Brandis: Who said that?

Senator WILLIAMS: That was the Prime Minister, who is still the Prime Minister thanks to people like Independents Mr Rob Oakeshott, Mr Tony Windsor and a couple of others. How could you stand in front of a camera and make a commitment to the Australian people that you would not bring in a carbon tax and then, after the election, go back on that—following pressure from the Greens, of course? Don't leave the Greens out of it. They are the ones who want to shut everything down, close every coalmine in Australia, have us go live in caves and issue us with three sticks of wood a week to keep ourselves warm and cook our meals. That is where they want to take us—

Senator Di Natale interjecting—

Senator WILLIAMS: Sorry, two sticks of wood, Senator Di Natale is pointing out!

Senator McEwen: Is that what he was doing?

Senator WILLIAMS: It may have meant something else, Senator McEwen; I am not sure! The point I make is this: we live in a modern world and we have to produce. We have to produce a lot of food in rural Australia, and we in rural Australia are so proud of our farmers and what they produce—and I have spent all my life living in rural Australia. We not only have to feed the Australian people; we also have to feed millions of other people overseas. As I said, we have to produce, but we live in a modern world, so we have, for example, big tractors. Case IH STXs these days have 460 horsepower. Farmers do not go along behind a Clydesdale horse with a one-furrow mouldboard plough any longer. We have to produce large volumes of food. Going back to the Prime Minister's commitment that there would be no carbon tax, we find out today that agriculture is exempted from the carbon tax, except for the $3.2 billion in the first year it is going to cost farmers, going up another $3.7 billion come July 2014. When we add another $520 million tax to the truckies' diesel to the carbon tax, it is no wonder that Tony Sheldon, boss of the Transport Workers Union, called it 'a death tax'. So much for the transparency and honesty Ms Gillard said she would deliver two years ago.

Sadly, we are talking about asylum seekers again. Sadly, another tragedy is unfolding today. This is really a serious issue. We know what happened. I can take
you back to July-August 2001, when a thousand asylum seekers a month were coming to Australia. The coalition government, led by Prime Minister John Howard, and the immigration minister, Mr Phillip Ruddock—a very capable man and a man I have huge respect for—had a problem. The problem was that people were coming to this country in droves. They were putting their lives at risk on those leaky boats, paying their way to get here. Now we have tragedies again. We had a problem and we fixed the problem. It was this Labor government that said: 'Oh, let's abolish temporary protection visas; let's lower the bar; let's send a signal to those people-traffickers over there with their boats looking for an easy dollar—an easy retirement amount in Indonesia—and open the industry again.' Look at the tragedies we have faced—last week, last weekend and now again today. This must be stopped.

The Prime Minister, Ms Julia Gillard, said before the last election that she had the problem solved—East Timor would solve the problem. She told all of Australia that. It was her open and transparent way of communicating with Australia again, just as she had not communicated with the East Timorese government. That is where the problem was—nothing had been put in place. When that falls apart, along comes the Malaysian solution—something that we will never accept because the Prime Minister, Ms Julia Gillard, said on Perth radio that this government she leads would not send asylum seekers to countries that are not signatories of the 1957 Refugee Convention. And where did she want to send them? To a country that is not a signatory to that convention. It is simply another false statement. Of course, the High Court put an end to that. To think that you would send 800 asylum seekers in Australia to Malaysia and take 4,000 from Malaysia, when we cannot guarantee their health or the education for their youngsters and we cannot look after them properly. What is the government doing? It is a sad day when we find ourselves facing the loss of life with disasters happening far too frequently.

What is wrong with the solution that the coalition government had? I was not in this place then, but in 2001 the coalition government had the problem—it was looking them in the face—and they found a solution and brought it to a stop. Members of the government have sadly created the problem again, because they changed the rules and sent a clear message that we are an easy touch. The end result is the loss of life. This is the transparency, the accountability and the stability that the Prime Minister talked about after the election with the Independents, including my federal member, Mr Tony Windsor, in the seat of New England, who went with this government for stability, accountability and longevity. There would be millions of Australians who would be saying, 'We wish we didn't have the longevity now—just bring on an election and let the people of Australia have a say in who runs this country.' The problem this government has is that the Australian people do not trust this government. They do not trust them on their promise that the carbon tax, which will hit small business starting this Sunday. This Saturday we celebrate Australian small business, the biggest employer. I have worked in that sector all my life, either farming or small business, either driving trucks or a small business on the land. We love small business, but small business do not trust this government. They did not want that tax. They do not trust this government for the way it borrows money—last Friday the gross debt was $233.45 billion.

They do not trust the way the government borrows the money or how they waste the
money. We have seen the programs, such as the Building the Education Revolution. You hand all that money to New South Wales, the proud state I come from, but its Labor government employed Reed Constructions to do all the programs in the New England area and the North Coast. Just this week we find a builder at Moree owed $640,000 by Reed Constructions, which was hand picked by the Labor government and is in administration. They have done their dough—$640,000 to a builder in Moree, not to mention the $80-odd thousand to the little builder in Warialda. These people will not see their money now. This is the way the government handles money—you are so irresponsible with taxpayers’ money or the money you borrowed and the debt you are building. That is why the people do not trust you, especially in regional Australia, with your carbon tax. It is going to hurt the regions more than anywhere else, where electricity prices are already higher and where they are already facing tough times with the high dollar and higher cost of living. The people do not trust you. They have every reason not to trust the government, be cause of what it has done to our nation with debt, with border protection, with waste of money, with broken promises, with new tax after new tax to fill your big hole of debt.

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (16:21): That contribution by Senator Williams really did show in the first few minutes what this debate is really about—that is about the fact that the opposition still have not got over the fact that we are in government. They still do not accept that we govern and are doing an extremely good job. The economy is strong—

Senator Brandis: No thanks to you.

Senator CAROL BROWN: Of course, Senator Brandis knows everything about everything. What would the coalition have done during the global financial crisis? We know what they would have done—nothing. That is exactly what they have done for nearly two years. They have done nothing—worse than nothing; they have embarked on scare campaign after scare campaign. The only thing that they do know is the word no. They have continually said no, and the Australian public are sick of it. They have actually at some point to come out with some positive policies. They have not done that; they have not got any—it is no, no, no.

Mr Abbott is known for his negativity, and, unfortunately, he has been getting his way in your caucus room. It is about time some of you stood up. I know that Senator Brandis has probably got a few ideas—whether they are good or not is a judgment you will have to make yourself, Mr Deputy Acting President—but from what I have seen of Senator Brandis's work—

Senator Jacinta Collins: He's actually the Deputy President.

Senator CAROL BROWN: Sorry—Mr Deputy President.

The DEPUTY PRESIDENT: Continue, Senator Brown.

Senator Williams: He's not acting; he's fair dinkum.

Senator CAROL BROWN: I know; he is a good Tasmanian senator. Let us have a look at the matter of public importance that Senator Fifield has proposed. Obviously, he has again embarked on the wild absurdities which are constantly being perpetrated by those opposite. He has listed three issues. As usual, the first one is carbon pricing and climate change. Let us look at the evidence; we know what that will tell us. We are acting on climate change. We are placing a price on carbon. Those opposite can sit on the other side of the chamber and take pot shots at the government over climate change, but it is
worth remembering that they too used to believe, that those opposite, under Mr Howard and Mr Turnbull, were supporters of a carbon price.

Senator Williams: I wasn't here!

Senator CAROL BROWN: They supported an emissions trading scheme. I am sure there are still some on that side of the chamber who believe. Some of those opposite know that taking action on climate change is the right thing to do. They know that we must reduce our greenhouse gas emissions and they know that a price on carbon is the most effective and efficient way of reducing greenhouse gas emissions. They do not have to believe me—I am sure they will not—but it is worth remembering that some of those opposite have stated their belief in climate change and in the need to introduce a carbon price. Okay, Senator Williams, you were not here. You are relieved of that obligation. But we know that your leader, Mr Abbot, said on Lateline in October 2009:

We don't want to play games with the planet. So we are taking this issue seriously and we would like to see an ETS …

Again, Mr Turnbull—

Senator Jacinta Collins: Sorry, who said that?

Senator CAROL BROWN: Mr Abott, of course. Mr—I was going to say Mr Negativity—Mr Abbott.

The DEPUTY PRESIDENT: Well you have; do not do it again!

Senator CAROL BROWN: I am sorry, Mr Deputy President. Next we have Mr Turnbull, who said on Q&A on 26 July 2010:

... you won't find an economist anywhere that will tell you anything other than that the most efficient and effective way to cut emissions is by putting a price on carbon.

While Mr Abot's comments would suggest he was supportive of a carbon price, nothing could be further from the truth, because, as we know, over the past two years Mr Abott has been running around spreading falsehoods and mistruths. He has engaged in the mother of all scare campaigns, which, unfortunately, has also reached Tasmania, as you would be aware, Mr Deputy President. He has been forecasting the end of entire industries. He has sent out his shadow ministry and his backbenchers, to go around predicting the end of towns, saying that whole towns will be wiped off the map. He has been trying to scare households into thinking that the sky is going to fall.

Senator Furner: Even puppies and kittens.

Senator CAROL BROWN: Yes, and today of course we had puppies and kittens brought into the negative story that is being told by Mr Abbott. Mr Abbott has been saying that the carbon price will be the wrecking ball that destroys Australia. But, slowly and surely, Mr Abbott has had to back away from these claims. Slowly, the truth is catching up with Mr Abbott. I look forward to 1 July when the carbon price is implemented and the mother of all scare campaigns can come crashing down.

Mr Abbott knows he is spreading mistruths. He knows that his mindless negativity and falsehoods will catch up with him and that he will be exposed. We have seen him, as we have seen the rest of the opposition, slowly shift away from his earlier description of the carbon price. He has gone from calling the carbon price the wrecking ball that will destroy industries and wipe towns off the map to now describing it as a python. Mr Abbott knows that his absurdities will be exposed. I do look forward to the time when those falsehoods are exposed.
While Mr Abbott has focused on spreading mistruths we have been getting on with talking about the facts of our scheme. I will take this opportunity to examine those facts. The federal Labor government's clean energy future package will place a price on carbon, it will cut pollution and it will drive investment in clean energy technologies and infrastructure such as solar, gas and wind. Let us be clear: the carbon price will not be paid for by ordinary Australians. The carbon price is about making polluters pay. As such, only Australia's biggest polluters will pay the carbon price. All money raised by the carbon price will go to supporting jobs, to driving investment in clean energy technology and to households. This support to households through increased payments and tax cuts will be targeted to those who need it most. We will ensure pensioners, low- and middle-income earners and families doing it tough will be looked after. Nine out of 10 Australian households will receive assistance through increased payments and tax cuts which will be targeted to those who need it most. Over four million Australian households will receive an extra buffer against the average price impact of the carbon price. These households will get assistance that is worth 120 per cent of the average price impact of the carbon price. All households will benefit from not having to pay the carbon price on any fuels including petrol, diesel and LPG for passenger motor vehicles. It is also worth remembering that this assistance is permanent, and the government will review the adequacy of the assistance each year and will increase it further if necessary.

Let me examine and refute the claim that Australia is going to do it alone internationally when it comes to the carbon price. While those opposite continue to wage their scare campaign, next week Australia will join more than three-quarters of the world's advanced economies in tackling climate change with an emissions trading scheme. The Department of Climate Change and Energy Efficiency has conducted an analysis that shows from 2013 there will be more than 50 national or subnational emission trading schemes in place around the world. These schemes will cover a combined population of more than 850 million people and account for around 30 per cent of the global economy, or 27 times the size of the Australian economy in 2012.

Whilst Mr Abbott and the Liberal opposition continue to engage in unfounded scare campaigns—(Time expired)
Senator Carol Brown tells us we are running a scare campaign. Let us talk about the facts. Firstly, no country currently imposes an economy-wide tax on greenhouse emissions or has in place an economy-wide ETS. The United States, Canada, India, China, Japan and many others have all made it clear they will not be moving to the kind of broad based carbon tax that Australia is picking up. We are alone in taking this extraordinarily punitive approach to dealing with this problem, punitive to the ordinary men and women of Australia. Senator Brown said only the biggest polluters will pay the carbon price. Really? If that is the case why is compensation, such as it is, being directed to ordinary households.

Senator Williams: Because they'll pay as well.

Senator HUMPHRIES: Indeed, they will. Senator Williams—they will pay as well. This is a measure of the extraordinary hole that the government has dug for itself, that they are running these kinds of ridiculous lines—'Only the top 500 polluters will pay'—but it is not the polluters who are getting the compensation; it is the households. Why are householders getting compensation? Because they are the ones who will pay at the end of the day with this extraordinarily stupid new tax.

We are told the carbon tax will not affect ordinary Australians, but already the dominos are falling. In my home of Canberra, Brindabella Airlines announced that they would cancel regular flights between Canberra and Albury and Canberra and Armidale. Why? Because the cost of the carbon tax has made it uneconomic to run routes of that kind. They estimate that the extra cost on the fuel that those routes entail caused by the carbon tax advent will contribute something like $1,000 a day to the cost of running the airline. It is the equivalent of $10 for every fare paid on that airline each day of the week, and that is why they have had to close those routes. That is a fact. They have had to make that decision. The decision has been made and the routes have gone. That is not scaremongering; it is fact.

The cost of the carbon tax to people living in this territory will be particularly severe because it is a cold city, as members opposite do not need to be reminded at the moment. It is a cold city and people here have higher than average earnings, which means that—again, these are not my figures; they are the figures of the ACT Labor government—60 per cent of Canberra households will be undercompensated for the carbon tax and 22 per cent of households in the ACT will receive no compensation whatsoever. If those opposite—and I am sure Senator Lundy would not be so foolish—think that 22 per cent of Canberrans are rich, are 'fat cats' who do not need compensation, clearly something is wrong with this badly flawed carbon tax.

The border protection policies of this government have failed. We only need to look at the many iterations of its policy to work out how badly it is floundering around, looking for new solutions every few months. This Prime Minister said she would fix the issue of border protection, of arrivals by boat, which had dogged the Rudd government. So she announced there would be a new solution. We would send our asylum seekers to be processed in East Timor, but the East Timorese had other ideas. They said no, you are not bringing refugees to be processed in East Timor. Then the government said they would go to a regional solution: 'We will have a regional solution that signs up other countries in our region to sort this problem out collectively.' How many countries today are signed up to the Labor government's regional solution,
announced more than two years ago? The answer is, at best, one, if you want to count the bilateral arrangement with Malaysia as a regional solution. It is not a regional solution; it is one country. It is a special deal done for one country—a deal which is extraordinarily ill-advised which entails sending 800 refugees to Malaysia and having 4,000 come back to Australia. It is an extraordinarily badly designed arrangement and one which entails putting asylum seekers into a setting where they have been and will be caned. That is a completely unacceptable option. Do not take my word for it; ask the people on Labor’s backbench who cannot live with that solution. I hope some of those present today also cannot live with it.

It is a completely unacceptable option and represents the complete and abject failure of this government, and no doubt sometime in the next few days there will be another solution, a different solution to this problem. All of this is taking place against a backdrop of knowing that there is a solution—a solution which worked, a solution which operated effectively to slow the arrival of boats to a trickle under the previous government. In fact, there were some years when there were no boat arrivals at all. It worked, and we are told that somehow this is unacceptable. What stands in its way is pride, particularly the pride of this Prime Minister, who promised to fix this problem who said that she would be the one to solve the problem that so dogged the Rudd government, and still the boats come—thousands and thousands of people arriving on our shores, with a huge jump in the cost of managing those asylum seekers. The cost used to be about $85 million a year under the Howard government and has now climbed to $1.2 billion a year.

I ask senators opposite to put aside the question about what is humane and what is fair to asylum seekers and ask themselves this: if somehow we could return to a policy which greatly reduced how much we have to spend dealing with unauthorised arrivals on our northern shores, how much benefit could we confer on the refugees of the world if we were to direct that $1 billion to assist people in refugee camps around the world? We do not admit any more refugees to this country under humanitarian settlement programs because we have to spend this money dealing with unauthorised arrivals on our shores. We still accept 13,500 people a year—the number is the same, it is just that more of them come on boats and fewer of them come through planned humanitarian resettlement programs. It is an extraordinary waste of money and it represents a huge immoral toll on the lives of people who are caught up in the tragedies we have seen in recent days. How extraordinary it is that this government should allow itself to get into this position.

Government senators have risen today to tell us what winners these policies are—how great the carbon tax is, how beneficial the mining tax will be to Australians, how effective its border protection policies are. Despite the evidence that these policies are anvils, which are dragging the government and its credibility to the bottom of the sea, government senators defend them and the Prime Minister, who was the architect of these policies in each case. I warn senators to be careful because the day is fast approaching when each of these senators will be faced with the question: do I dump this Prime Minister or do I leave her in place? When that question comes, if they answer, 'Yes, it is time to change the Prime Minister, again,' they will then have to answer the question: 'On what basis are we dumping the Prime Minister?' If it is not the questions of border protection, the mining tax and the carbon tax, what will be the basis for their decision? (Time expired)
Senator FURNER (Queensland) (16:41): I rise to contribute to this debate today and, like always, it is another vexatious and frivolous motion put forward by those opposite, looking at a host of things that the government has been dealing with. This Sunday will mark the first anniversary where Australians can be proud that they are part of a clean energy future. They can be proud that this government is serious about tackling action on climate change. They can be proud that this government believes now is the right time to take action to ensure we leave behind the same environment that we enjoyed for future generations and for generations to come—generations like my first grandchild, who was born on the Queen's birthday this year. I want to leave something to that generation. That is what the opposition have failed to do: look to the future.

They will also find on 1 July that the world is not going to end and that householders will not be stuck with a huge bill for emissions, as those opposite have been spruiking. The first of July will also signal the first day of an Australian government driving cleaner investment technologies, a government which will push clean alternatives like solar, gas and wind. We must emphasise that households will not be paying for carbon emissions, only those high-emitting businesses will be directly affected by this scheme. The more they pollute, the more they will pay. This will push these companies, many of which will receive transitional assistance, to move to cleaner technologies.

On this side of the chamber, we are not the only ones who believe action on climate change is imperative. Many of those opposite spruiked their support for an emissions trading scheme, but are now speaking against it because they are disingenuous when it comes to tackling climate change and when it comes to this government progressively moving to a cleaner economy. For example, the member for Fadden, Stuart Robert, in August 2009 said in part:

We believe that we need to give the planet the benefit of the doubt. We are committed to an ETS, informed by the Copenhagen meetings at the end of 2009, with a start date no earlier than 2012 ...

Also in 2009, Senator Brandis expressed his support for an ETS. He said:

The Coalition's policy, as has been expressed this week in clear terms by Malcolm Turnbull—remember Malcolm Turnbull? He was knifed in the back by Mr Tony Abbott and the rest of them. Senator Brandis continued:

by Andrew Robb, by Greg Hunt, is support for an emissions trading scheme. In fact, it was Malcolm Turnbull as Minister for the Environment in the last year of the Howard Government who initiated legislation for an emissions trading scheme. So there is no doubt or ambiguity about the Coalition's position on this matter whatsoever. They are your words, Senator Brandis. In 2009 another senator, Senator Eggleston, suggested that taxing carbon was the way to go. He said:

One way of avoiding the volatility of an emissions trading scheme would be to have a carbon tax. A carbon tax provides a very steady and known price for carbon, if you like, which is only varied by varying the tax. That tax can be set at a level that allows renewable energy systems to be competitive.

One of my duty seats is the electorate of Brisbane. I am really appalled that the Brisbane City Council's lord mayor, Graham Quirk, has blamed his hike in rates on a program that has yet to be implemented. It is going to be implemented this Sunday, yet he has already anticipated a rise in rates. Our assistance of $10.10 per week to households will compensate for this and it is no excuse to gouge ratepayers. Mr Quirk has added 0.7 per cent to rates, as he believes that pricing...
carbon will increase CPI by 0.7 per cent. This is unjustified, as CPI is a measure of inflation, not a measure of carbon pricing. Mr Quirk has also said Brisbane City Council will have to spend $1.3 million on carbon price administration and reporting. Once again, this is a fallacy. Brisbane City Council has already been reporting its greenhouse gas emissions for years under a national reporting system.

This is another scare campaign by the Liberal National Party. Just like Freddie Kruger in Nightmare on Elm Street, or Chucky in the Child's Play horror movies, you have the Mad Monk, Mr Tony Abbott, running around scaring everyone. Today it was reported in question time that he has even been scaring puppies and kittens here in Canberra with the lies they peddle in the scare campaign about the effects of the government's carbon emissions and renewable energy program.

On 1 July we will also see a new system of tax, with the tax-free threshold increasing from $6,000 to $18,200. One million Australians will no longer need to lodge a tax return, which will reduce the stress at tax time and also leave extra cash in the hands of our hardworking Australians.

Moving to the mineral resources tax, we will see the superannuation guarantee increase progressively until it reaches 12 per cent in 2019-20. I know those opposite opposed the superannuation guarantee legislation put in place when we were in government. We moved to allow workers to have something in retirement after their hardworking years in working life. So we are sharing the wealth of the mining boom, and that is exactly what we should be doing. We only have one opportunity to dig up our resources and this means we only have one opportunity to share the profits with Australians, and we will share it with all Australians.

I will move to the matter on everyone's lips today, particularly with the disastrous capsizing of a boat off Christmas Island, where approximately 130 people who were on board went into the water. Unfortunately, that is more and more becoming a reality and we need to deal with this issue. Fortunately, we have many brave men and women in the Australian Defence Force involved in the rescue and also men and women involved in the Customs department dealing with the rescue professionally and in a competent manner, picking those people up out of the water. For a long time now we have been willing to sit down with those opposite to negotiate a process to alleviate the threat, deal with the issue of border protection and combat the insidious trafficking by people smugglers who originate in Asia.

When it comes to how we deal with this, the Labor government is the only party that is willing to confront this issue and deal with offshore processing. I know those opposite indicate that they are willing to have some form of offshore processing, but when it comes to the point they are belligerent. Their bloody-mindedness in not being willing to sit down, negotiate and resolve it is stark. They are not even game to come to the table. They make these superficial claims and disingenuous offers to sit down and negotiate, but we cannot bring about a solution unless they are prepared to negotiate in good faith.

Included in our proposal to the opposition is the possibility of looking at Nauru and a review of temporary protection visas, which are coalition policies, as you would be aware, Acting Deputy President Crossin. This is an offer that has been continuously rejected by those opposite. We can only assume those opposite see more political
benefit in continued boat arrivals than in pursuing their stated policies. They cannot deny that the High Court decision last year made all offshore processing illegal, including in Nauru.

We saw an attempt today by the Leader of the Opposition in the House of Representatives to put forward a bill. They were inferring that they wanted to resolve this issue and referred to countries that were signatories to the UNHCR refugee provisions. One of those countries is Somalia. Can you imagine sending refugees to the likes of Somalia? They would not even get to the coastline if they were trying to arrive on those shores with the pirates that surround the country. This shows the disingenuousness of those opposite in coming up with a solution to get this matter resolved. The only resolution is to sit down with the government of the day and resolve this matter, as we did when we were in opposition. However, we will not get a solution to this matter while you continue to play politics, as you always do, and continue down the road of disingenuousness. You allow yourselves to be continuously belligerent and bloody-minded so we cannot get a resolution to this insidious issue that confronts all of us in this country at this time.

Senator IAN MACDONALD: I move:

That the Senate take note of the report.

I am glad that the Senate adopted my motion to have the report printed without me having to give reasons why it should be printed. I am grateful that my powers of persuasion were not required to achieve success in getting that motion passed. A lot of the very good work of the Scrutiny of Bills Committee becomes a bit superfluous when you find that because of the guillotine a lot of the bills are dealt with in this chamber before the Scrutiny of Bills Committee report is tabled. But the Alert Digest—and I will not do more than bring this to the attention of senators—makes some very interesting comments on the Financial Framework Legislation Amendment Bill (No. 3) 2012 that is currently before the chamber and being dealt with as a matter of urgency.

All parties understand why it is urgent. But dealing with bills, particularly bills that have such enormous consequences, on the run, so to speak, can raise certain problems. The committee—and, I must confess, this was not the brilliance of the committee members so much as the brilliance of the legal advisers to the committee and of the committee secretary and staff—pointed out some issues in relation to the Financial Framework Legislation Amendment Bill (No. 3) that really should be considered by all senators. So I draw that particular Alert Digest to the attention of senators.

Also, the Military Court of Australia (Transitional Provisions and Consequential Amendments) Bill and another related bill, the Military Court of Australia Bill, have also been dealt with in some length by the committee on the advice of the legal adviser. Some of the issues there about undue trespass on rights and liberties would make interesting reading, and I urge senators to
look at that. There are issues about fair trial, detention clauses and punishment causes in those bills that could well be looked at. With those very short remarks, I urge senators to have a look at the Alert Digest and the report and perhaps in their contributions to those bills in the chamber give some consideration to the matters raised.

Question agreed to.

Finance and Public Administration Legislation Committee

Report

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (16:57): I present the interim report of the Finance and Public Administration Legislation Committee on the performance of the Department of Parliamentary Services, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator POLLEY: by leave—I move:

That the final report of the Finance and Public Administration Legislation Committee on its inquiry into the performance of the Department of Parliamentary Services be presented by 28 November 2012.

Question agreed to.

Senator POLLEY: I move:

That the senate take note of the report.

I seek leave to have my tabling statement incorporated in Hansard.

Leave granted.

The statement read as follows—

The Senate referred the inquiry into the performance of the Department of Parliamentary Services (DPS) to the committee in June 2011. The committee received both public and confidential submissions. These submissions covered a range of issues including the sale of the billiard tables and management of the heritage of Parliament house.

The committee, to date, has held two public hearings. At the first hearing in November 2011, the committee heard evidence from Mr Romaldo Giurgola, Mr Hal Guida and Ms Pamille Berg. The committee particularly wishes to thank Mr Giurgola, Founding Partner of Mitchell/Giurgola & Thorp and Design Principal for Parliament House, for making himself available to speak with the committee.

The evidence provided by Mr Giurgola, Mr Guida and Ms Berg highlighted the design process for the building which encompassed not only the architecture but also the furnishings, art program and landscape design. The evidence also pointed to the architect's concerns for the survival of the design integrity of the building as it nears its 25 year anniversary.

Mr Giurgola argued that there were no effective checks and balances to ensure that any changes to the building are undertaken to preserve its inherent architectural and design integrity.

At its hearing on 2 May 2012, the committee canvassed heritage issues with outside experts.

The committee also sought evidence from DPS on the sale of the billiard tables, the culture within the Department and touched on heritage issues, including the completion of the Central Reference Document.

The committee considers that it has not completed its inquiry as there are some issues still to be explored. One of the issues is the delivery of information services and equipment.

The committee has received little evidence to date but notes that the Presiding Officers have initiated a review of information services for Parliament House. The committee also notes the Parliament-wide survey of DPS services being conducted by ORIMA Research.

The committee therefore seeks an extension of time to finalise its examination of outstanding matters.

However, there are two significant issues which the committee discusses in this report:

the sale of two billiard tables in 2010; and the overarching heritage strategy for the protection of the design integrity of Parliament House.
In relation to the heritage issues, the report canvases issues but does not make any recommendations as the committee considers that further evidence is required in relation to specific projects before it can make any recommendations on heritage issues.

Nevertheless, the committee has made one recommendation for the completion of the Central Reference Document (CRD).

The CRD was first commissioned by the former Joint House Department in 1999 and the draft was completed in 2004. Some eight years later the draft is still to be finalised.

The CRD will provide an enduring record of the architect's design intent for Parliament House to be used to govern the approach to proposed changes to the building.

This is a significant document and its completion should be undertaken as a matter of urgency given the age of Mr Giurgola and other members of his design team.

I commend the report to the Senate.

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

Leave granted.

Senator FAULKNER (New South Wales) (16:58): I just want to speak to this. As I have indicated around the chamber, I will speak briefly. I am well aware that Senator Whish-Wilson will soon make his first speech to the Senate. In my very brief remarks today, I want to focus on chapter 2 of the report that has been brought down by the F&PA committee relating to the disposal of two billiard tables. On 22 July 2010, two billiard tables were removed from the staff recreation room. In the following month, on 9 and 26 August, the tables were sold through an online auction site with no consideration of their heritage value. At Senate estimates on 21 February 2011, the F&PA committee members questioned officers of the Department of Parliamentary Services about the heritage value of these items. Ms Judy Konig, then the chief financial officer, said: 'We have a policy that requires the heritage assessment of any items that the department is getting rid of or that have been declared surplus. In this case, these were assessed as having no heritage value.' DPS undertook to provide on notice to our committee a copy of the heritage assessment. The heritage assessment provided to the committee consisted of a pen script annotation that said: 'Given tables purchased by PHCA around 1989 and are about 20 years old, thus no heritage value.' That was signed but not dated by the disposal delegate. At the next estimates hearings, on 23 May 2011, and after further questioning, DPS witnesses were unable to provide to the committee the exact date the assessment was made, but later in the hearing the Deputy Secretary of DPS, Mr David Kenny, informed the committee that the undated annotation had been written after 21 February, so it was after the estimates hearing in February. In fact, Mr Kenny said it was 'not long after the estimates hearings'.

The fact is, only after sustained questioning at the committee did DPS finally admit, despite earlier misrepresentations, that no heritage assessment had been made before the billiard tables were sold off. Worse still, the committee established that a heritage assessment was created; it was fabricated to conform with the misleading evidence that had originally been given to the committee. So the Senate Finance and Public Administration Legislation Committee had been deliberately misled by officers of the Department of Parliamentary Services. A heritage assessment had not been undertaken but it had been dishonestly fabricated.

I am sorry to say that this represents the worst and most disgraceful behaviour I have ever seen from an agency or from any witnesses at a parliamentary committee. All this was from a parliamentary department which should be setting the best example of
all. Madam Acting Deputy President and honourable senators, this has been a shameful and dishonourable episode, and the Senate should not treat it lightly. This falsification passed all the department's checking and oversight measures and then was presented to the committee. In fact, the committee learnt that after it had asked to see the purported heritage assessment a senior DPS officer asked a subordinate employee to create a document that was then presented as a heritage assessment allegedly made before the sale. The truth is: the Department of Parliamentary Services failed to act in line with DPS policy, failed to act with common sense and, most importantly, failed to act with integrity. I know of no other comparable example of evidence being fabricated or deliberately designed to deceive and mislead a Senate committee. This is the lowest of the low. How shameful it is that this whole episode relates to a parliamentary department, the Department of Parliamentary Services!

Finally, I look forward not only to Senator Whish-Wilson's first speech but also to the finance and public administration committee over the next six months continuing to finalise its inquiry into the performance of DPS, particularly its consideration of issues such as bullying and harassment, staff selection processes and the management of heritage values here in Parliament House.

In the interests of other senators who would like to contribute to the debate, I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**FIRST SPEECH**

**The PRESIDENT** (17:04): Order! Before I call Senator Whish-Wilson I remind honourable senators that this is his first speech; therefore, I ask that the usual courtesies be extended to him.

**Senator WHISH-WILSON** (Tasmania) (17:04): I would like to begin by acknowledging that we meet on the traditional lands of the Ngunawal people and by paying my respects to the custodians of culture and country past and present. The extraordinary living cultural heritage of this land extends back many thousands of years and enriches the lives of all Australians today. I thank all the friendly Senate staff who have helped me in the last few weeks and the good senators who are in the chamber to listen to my speech today. All the senators here have been in my shoes at some time, as have hundreds of senators before them throughout Australia's parliamentary history—and Lin soon will be. No doubt most have also acknowledged what a rare privilege it is to be in such a position. When I arrived home in Launceston on Friday evening last week after my first few days in the Senate, my daughter, Bronte, asked me how I felt. The first thing that came to mind was that I felt lucky to have been afforded such a great opportunity to represent the Tasmanian and Australian people and to have the chance to make a difference to our nation.

Big moments in your life are for reflection. My first reflection is that I feel very privileged to have a loving family and many friends to support me, good health and a rich tapestry of life experiences, some of which I want to share with the Senate. As a little boy I lived in the Red Dog days of Western Australia's early 1970s, but I have lived and worked all over the world—as a labourer in the Western Australian mines, as a stockbroker in New York and Hong Kong, as a farmer, as a stay-at-home dad and as a university lecturer. I have been lucky enough to have been brought up by my family, and to bring up my own family, in one of the most beautiful places on the planet, Tasmania, where my family roots go deep.
Today I bring this experience, and my passions, to the Australian Greens and to the Senate. I never really planned or expected to be a politician but, rather, have been drawn into public life by a series of community campaigns and chance events. The most recent was the decision of Bob Brown to retire from the Senate. In his first speech to this Senate chamber 16 years ago, Senator Brown lamented that a lack of awareness and political commitment was preventing serious and irreversible human-made climate change. It is fitting that, in just a few days’ time, we will finally have a price on the pollution that drives global warming, after over 40 years of talking and inaction. The Australian parliament, led in many ways by Bob Brown and Christine Milne, has shown great leadership in taking the first important step in investing in a better future for our grandchildren.

Showing leadership on important issues that you feel deeply passionate about should be what politics is all about. This has always been Bob Brown’s message, and will be his lasting legacy.

I believe history will accord him an honoured place amongst the most well-respected and successful political leaders this country has produced. I thank you for being here today, Bob, and I look forward to having a glass of fine Tasmanian wine with you following this.

I have been lucky that Bob and other mentors have offered me guidance over the years. I would especially like to acknowledge Tasmanian MHA Kim Booth and Senator Christine Milne, both of whom I campaigned with in 2010. Working with both of these seasoned Greens politicians has been a great learning experience for me, revealing the degree of dedication, energy and skill required to be an effective parliamentarian. I have also learnt a great deal from many hardworking members of the Greens party, many of whom in Tasmania have become close friends.

Gandhi once famously said: 'You must be the change you want to see in the world.' A simple statement, but from my experience nothing better encapsulates the philosophy and spirit of the Greens.

The actions of Greens members to conserve natural environments, prevent pollution and help the less fortunate—including those desperate souls who risk everything to escape persecution and create a better life for themselves in our privileged and prosperous nation—are just a few examples of how the Greens are clearly focused on promoting the common good.

There is a reward for this hard work. Several years back, at the height of the legal battle to save the Wielangta forest, I remember hearing Bob Brown talking of how he didn’t feel anger towards his detractors. Rather, he felt sad for them. This was because they did not share his special gift—an enduring and meaningful relationship with nature, from which he drew so much of his personal strength. I’m today wearing a Wielangta eagle badge, given to me by Bob. To me this is a symbol of Greens struggle and perseverance. There are millions of voters across Australia who share similar values and a connection with nature.

As a passionate surfer, my deepest and most enduring bond is with the ocean. We are truly a nation girt by sea. I love our Australian and wild Tasmanian coastlines and I have been fortunate enough to have visited and surfed most of the world’s oceans. I feel happiest when I am in the sea. It is also a place that I have been humbled, stared down my deepest fears, and where I feel my strongest connection with the forces and majesty of nature. Many surfers, divers, and fishermen share that same connection.
fact, we all share an important bond with the ocean. It is integral to sustaining life on this planet. And the ocean keeps giving, and we keep taking.

But this special relationship won’t last forever unless we cherish it and treat it with the respect it deserves. Overfishing, ocean acidification and pollution all threaten our rich, life-supporting marine ecosystems. Nothing is a clearer demonstration of the fallacy that environment and economy are in conflict. Unless we protect our oceans, the communities they sustain cannot flourish. I would like to take this opportunity today to say that if you love the ocean, then please give something back. Every little thing helps.

I would like to pay my special respects to those who have given something back, especially the work done by Dr Rex Campbell, Paul Maddock and Dr Thomas Moore at the Surfrider Foundation, Rebecca Hubbard at Ocean Planet Tasmania, and the many other good people I have worked with at these, and other marine conservation organisations over the years. They are all people who have been relentless in protecting our world’s oceans, waves and beaches. They are also living proof that commitment, community, and a bond with nature can bring significant meaning to your life.

Respecting those with a deep commitment to the natural environment will be critical to understanding and solving many of today’s environmental conflicts. Nowhere is this more apparent than in my beautiful home state of Tasmania. Recently I heard a well-known Tasmanian identity on radio, labelling those who oppose new developments in Tasmania’s world-famous national parks as 'economic vandals'. Others have used the same phrase to describe conservationists opposing open-cut mining in the Tarkine wilderness area—an area of recognised World Heritage significance—and the clear-felling of our rare ancient forests in the Weld and Florentine. The irony of this statement is that these so-called 'economic vandals' are largely responsible for the preservation of Tasmania’s world-famous landscapes and thriving ecosystems, which today deliver a significant economic boon to Tasmania.

There is a 'premium' on wildness in the world today, and few would dispute that our national parks, World Heritage areas and other conservation areas are the best assets we own in Tasmania, or that this is what distinguishes Tasmania from the rest of this great nation. Our wild areas are worth millions of dollars in tourism revenue, and help create thousands of jobs. They are also directly linked to the Tasmanian 'clean green' identity, originally promoted by Christine Milne in the 1980s, which is so critical and crucial to marketing our high-value, world-class agribusiness products.

It is estimated the conservation of our remaining forest reserves could also bring in billions of dollars in carbon-offset revenues into the future. By refocusing the extraction of our high-conservation-value native forests onto sustainable management, the world will continue to experience these magnificent places, and by doing so we could receive revenues to invest in schools, hospitals and programs for reskilling workers. Tasmania is on the cusp of this reality today. But this will require courageous political leadership, and a price on carbon pollution. So rather than attacking conservationists, economists like myself should be thanking them.

It sounds simple, but some respect and acknowledgement would be a good start to any future dialogue on controversial economic projects in Tasmania. Since I am assuming the Senate seat vacated by one of the country's most prominent
environmentalists, much attention in recent weeks, especially in the media, has been focused on my background and path to green in politics. One thing I have learnt over recent years is that many paths lead to being green in terms of both philosophy and action. It is my experience that no-one has a monopoly on what it means to be an environmentalist or a social change activist. The common thread, however, is that most of these people can point to an event or a significant turning point that has shaped their life's journey or worldview.

On reflection, my journey to this place today started in the late 1990s when as a young stockbroker in New York I experienced an epiphany of sorts. The year was 1997. My company, the late Merrill Lynch, decided to restructure our Australian team and send me home to Melbourne. I am a person who values loyalty and after all my hard work I was gutted. On the day before my departure I was offered what was then a dream job, working as part of a global mining research team for UBS Bank Switzerland. I was given five quiet minutes to myself in the recruitment office to consider my new offer. I was standing and staring out the window of the south tower of the World Trade Centre watching the Staten Island ferry cross the Hudson feeling the hum of this vibrant city when the realisation came to me and I was finally brave enough to admit it to myself: I felt unhappy and unfulfilled. The pursuit of a bigger salary, bonuses and living the high life in New York meant little to me. I not only wanted to go home but from that moment I determined to change my life, pursue a different course and seek a deeper meaning. I have since found this meaning in nature and in the Greens.

A few years later when a 737 fully laden with fuel and passengers struck the south tower of the World Trade Centre that moment came back to haunt me. The horror of September 11, the war in Afghanistan and the incarceration of citizens without trial had a deep impact on my life and thinking. I marched in a rally for the first time in my life as a banker in Sydney in protest against the spin-fuelled madness leading up to the invasion of Iraq in 2003. Later, arriving at Circular Quay one morning on the Manly ferry, I remembered seeing a slogan 'No War' painted on the roof of the Opera House by two young doctors who opposed the Iraq war. The bravery of their act was the inspiration for my decision to finally downshift, move to Tasmania and seek a new direction in my life. I decided to plant some vines, go surfing and, most satisfyingly, be a stay-at-home dad.

The Tamar Valley was a perfect backdrop to my sea change. As many friends told me, I was living the dream. It is hard to believe how important a small patch of vineyard soil has become to my life, a tiny but vibrant ecosystem that has become an extension of myself. Studying such subjects as botany, plant physiology, soil science and chemistry at Charles Sturt University was a revelation, totally altering my worldview. Suddenly growing things is what seemed important as I found inspiration in nature's simplest and most ancient forms. It also helped to be working in the Tasmanian wine industry with its bunch of characters and fabulous creative people many of whom shared a similar philosophy and passion for rural life. I treasure those friendships.

But my ideal was soon to be shattered when in 2004 I found myself suddenly thrown into what has now been an eight-year community campaign at first questioning, then opposing, the proposal by Tasmanian logging giant Gunns Ltd to build one of the world's largest pulp mills in the Tamar Valley very close to our family home and business. If built, this pulp mill would dump up to 50 billion litres of industrial waste into
Bass Strait each year just upwind of a seal colony, a popular surf break and fishing areas. Pulp mills have developed nasty reputations over the years all around the world, and deservedly so. Their history of polluting waterways with toxic effluent and making local residents sick from foul odours and noxious emissions is legendary. After visiting pulp mills in New Zealand myself on a fact-finding mission, I became extremely concerned about the impact that such a large-scale industrial development with its thousands of truck movements a day would have on the beautiful Tamar Valley, especially on the reputation of local vineyards, tourism operators and agribusinesses which rely so heavily on a clean and green image.

I was shocked at how rational, sensible people seeking answers were soon treated with contempt, were publicly attacked and ultimately were officially ignored when the Lennon Labor government abandoned due process, ditching the independent umpire to fast-track the pulp mill proposal through parliament in 2006 by special legislation for Gunns. I remember well the words that celebrated author and activist Richard Flanagan, a consistent champion supporting those opposed to this deeply divisive proposal, penned to my father. Richard said:

\[\text{It may well be that lies are quick and the truth is slow, but the truth is also inexorable and undeniable. The lesson of history is that the truth is ultimately always heard – I take my compass in this life not from despair but from hope.}\]

Only later did the truth emerge surrounding the reasons for Gunns' special fast-track legislation. Gunns had pulled out of the proper Resource Planning and Development Commission because it was deemed 'critically non-compliant' in many areas and was unlikely to receive approval for its pulp mill without addressing additional key risks identified in the independent assessment process. Many of these proposal risks remain unresolved. It is the key reason Gunns Ltd lacks a social licence for its project today.

It was always going to be a difficult fight for a community against a large, aggressive and litigious corporation, the government and other entrenched, powerful vested interests in Tasmania. But fight it we did and this fight continues. I commit myself to continue this confrontation with those who would destroy our natural world for higher short-term profits. Gunns' pulp mill proposal has become one of Australia's most public, bitter and controversial environmental battles. The pulp mill debate took a longstanding forestry conflict over the use of high-conservation forests for woodchips, out of mind and out of sight for so many, and landed it squarely in the backyard of many Tasmanians. The whole state, and indeed nation, was drawn into the conflict over Tasmania's ancient forests.

The pulp mill issue has both touched and reflected on just about every aspect of Tasmanian life and in many ways it is a mirror image of other disturbing environmental conflicts in Australia today: coal seam gas exploration, a controversial LNG plant in the Kimberley, coal ports abutting the Great Barrier Reef and offshore drilling for oil and gas in marine protected areas. One positive is that we can learn many lessons from the pulp mill saga in Tasmania. Do not cut environmental and other planning corners, because you will ultimately be held responsible for your actions and it will cost you in the long run. Listen to, respect and generally address the concerns of all stakeholders. Do not assume jobs and shareholder wealth should always be put before environmental and social concerns. In the end, unless the environment and the community are respected, jobs and wealth
will fail. Passionate and informed people will fight to uphold their values. Expect this.

Whilst I have strongly opposed the pulp mill project on deeply felt ethical, social and environmental grounds, I accept that the cause of much of this environmental conflict in Tasmania and elsewhere in the country, lies in a lack of immediate and clear alternative job and business opportunities. I did not nominate to become a Greens parliamentarian simply to be part of a protest movement, nor to just question or oppose bad projects or policy. I am here today because I feel, given my business background and unique combination of life experiences, a responsibility to propose smart, sustainable alternative opportunities for employment and human wellbeing.

When campaigning with Senator Christine Milne in the 2010 federal election I learnt we had much in common, not least our connections with rural Tasmania. We shared a view that the Australian Greens must commit to developing platforms for progressive business development. It is important to stress that this does not mean I support economic growth for growth's sake or that I believe in free market philosophies; I do not. The idea that economic growth and the common good are the same thing is a dangerous one. People need much more than money and products for their health, happiness and wellbeing.

The philosophy underlying free market economics in its purest form has proven to be catastrophic to both global financial markets and to the lives of many people around the world. My first-year finance students at university could point this out. The lessons from the ongoing global financial crisis must be learnt; none more so than that governments must play an important role in regulating market behaviour.

We all need meaningful work and fulfilled lives. It is time to develop, in a mature and measured way, a new economic narrative on how we can best achieve this. Einstein once famously stated, 'We cannot solve problems by using the same kind of thinking we used when we created them.'

Looking at the world's economy and markets today, it is hard to deny that we have deep-seated structural problems. I feel my old discipline of economics, in which I have met and worked with so many good people at various universities, has in some respects lost its way and could play a much stronger leadership role in tackling these problems. I respect the integrity and independence of economic research, knowledge for knowledge's sake, but I would challenge that too little economic research is applied to the realities of the problems of our world today.

I suspect neither governments nor academics will, however, play the biggest role in the move to a more sustainable future economic footing for our global economy. Much of this responsibility will lie with corporations. The business community already has a significant responsibility to their owners and workers but the future will increasingly require a larger mandate than corporate self-interest. Although it will take time, I am confident that, with the right incentives and discourse, many businesses will be an integral part of the new economy that respects limits to growth and ecological sustainability, and promotes human wellbeing.

So arriving in the Australian parliament at this time in history comes with a special set of responsibilities. There is much hard work to do, not least in my home state of Tasmania, where pessimism about the economy has lately prevailed. My recently announced portfolio responsibilities of tourism, trade, small business and
competition policy, waste and Tasmanian marine issues will put me in a good position to work and deliver positive outcomes for both Tasmania and Australia. I look forward to working with my fellow Greens parliamentarians and indeed all senators in this chamber to seek new positive solutions and directions for Tasmania and Australia, ecologically, economically and socially. I hope that the future is bright green.

Finally, I would like to pay the biggest homage to those loved ones closest to me, who will ultimately share the burden of my work: Natalie, my lovely wife, best friend and life partner, who has supported me for so many years; my two rascal kids, Bronte and Finn; my brother, David, and my sister, Kerri; and the two most important mentors and influences of my life, my mother, Rosemary, and my father, Tony, who have always shown me unconditional love. If every child were lucky enough to have such parents, the world would be a much better place.

Thank you.

COMMITTEES
Treaties Committee
Report

Senator BIRMINGHAM (South Australia) (17:31): On behalf of the Chair of Joint Standing Committee on Treaties I present the 126th report on Treaty relating to the Anti-Counterfeiting Trade Agreement tabled on 21 November 2011.

Ordered that the report be printed.

Senator BIRMINGHAM: I move:

That the Senate take note of the report.

In taking note of this report on the Anti-Counterfeiting Trade Agreement—or ACTA, as it has become known—which was tabled in the Australian parliament on 21 November 2011, I highlight that this is a particularly noteworthy report of the Joint Standing Committee on Treaties. It is noteworthy because it deals firstly with just one treaty, the ACTA treaty or agreement. Secondly, most significantly, it is noteworthy because it does not recommend ratification at this time but instead takes the unusual step for JSCOT in outlining a range of steps that the treaties committee believed should be taken prior to further consideration regarding potential ratification of the treaty.

This is unusual. It is a positive step from JSCOT in taking a treaty seriously and giving it the type of consideration necessary for these serious agreements. It is also positive in that it recommends a pathway forward and provides recommendations not just for the ACTA agreement but also for Australia's treaty, made in the process, that hopefully will encourage greater scrutiny and consideration of future agreements.

ACTA is an agreement designed to strengthen intellectual property standards around the world. It focuses, in particular, on trademark and copyright enforcement and establishes a legal framework for intellectual property enforcement. These are important issues and ones which I and the coalition have strong views about. We support such objectives: the protection of the intellectual property basis for many parts of our economy and for many individuals who are the developers and holders of such intellectual property.

ACTA has received strong support from Australia's performing arts community. All members of the community strongly support the need to protect the rights of the performing arts sector. It is certainly not ACTA's intent that the committee has expressed concern about. I think I can speak on behalf of all members of the committee in saying that there is a genuine belief in wanting to see IP enforcement enhanced to the best available standard.
The committee, however, is concerned that the text of ACTA potentially has a number of flaws and the committee is not yet convinced that the agreement in its current form would definitively be in Australia's national interest. Therefore the committee, in this report, asks for further analysis and clarification. In particular, the committee has noted the existing Australian Law Reform Commission inquiry into copyright and the digital economy, which is due to report in the not too distant future, and hopes that the ALRC inquiry will inform future consideration of ACTA.

The committee has expressed its concern about the lack of clarity in some places regarding the text and also about certain exclusion provisions to protect the rights of individuals and ACTA's potential to shift the balance in the interpretation of copyright, intellectual property and patent law. The committee has made nine recommendations in this report, the most important being that this treaty should not be ratified by Australia until: the treaties committee has received and considered independent and transparent assessment of ACTA's economic and social benefits and costs; the ALRC report has reported on its inquiry into copyright and the digital economy; and the Australian government has provided clarification of some of the terms used in the treaty.

I note that this is a unanimous report that entails some give and take on all sides. Some members of the committee are perhaps more hopeful that we will see a conclusion of ACTA than others. I certainly fall into the category of those who hope we will ultimately see something that provides a greater global strengthening of our copyright and IP laws, which can be done in harmony with other countries and provide greater protection for those who develop and should rightly have some ownership of their IP into the future. But I do commend the treaty secretariat as well as all of my fellow members and senators on JSCOT for the spirit in which they approached this task.

The treaties committee has also made some recommendations to provide for some particular exclusions in the event that an ACTA is eventually ratified by the government. These exclusions relate to how patents are treated in the application of civil enforcement and border measures as well as ensuring that products produced in Australia as a result of the invalidation of a patent or a part of a patent in Australia are not subject to the counterfeiting prohibition enactor. Finally, the exclusions ensure that the expression 'counterfeit enactor' is not applied to generic medicines entered or eligible for entry on the Australian Register of Therapeutic Goods.

I note on that last point that specific evidence was heard during the JSCOT hearings, and particular submissions were made regarding the treatment of generic medicines. I think that is an important area that I hope that the information provided by the government on this agreement in the future—and I hope it will be provided—covers some more specific consideration of its impact on the sector. I do particularly thank those in the generic medicine sector who provided particular evidence to the committee on those issues.

As I indicated, the committee has also taken an eye to the future and suggested that there are some lessons to be learned in the treatment of future agreements. It has suggested and recommended that future natural interest analyses of treaties, where the treaties clearly intend to have an economic impact, should actually include some assessment of the economic benefits and costs of the treaty. If not, and no assessment has been undertaken, at the least there should be a statement explaining why it
was not undertaken or was unable to be undertaken. This has been an important factor in the committee's deliberations on this, with some members of the committee particularly concerned to have clearer evidence of the economic implications of this agreement.

There has also been some serious consideration given to the international reaction to ACTA, and indeed there is much international dispute about this agreement. Australia is not the only place where the agreement has been knocked back. Indeed, it comes from countries numerous in number, and many countries whose approaches you would expect Australia to take note of. Accordingly, the committee has recommended that in any future agreement or any future consideration of the agreement Australia should also have regard to the ratification status of the ACTA agreement, particularly in the EU and also in the United States. I do note that a range of European countries, including Germany, Switzerland, Poland, the Czech Republic, the Slovak Republic and Holland have taken positions of suspending consideration of ACTA, or indeed are doing similar things and seeking further information.

In closing, as I indicated this is a significant report of the treaties committee. I think it shows that the treaties committee is keen to ensure that its work in this parliament is work that enhances Australia’s treaty-making process and that ensures appropriate scrutiny is applied to treaties that Australia enters into. I hope that the recommendations provided will be taken seriously. I hope that the recommendations will also be acted upon swiftly, because I do think that at its heart the intentions of ACTA are important and I would hope that the government, working if need be with others who have developed this treaty, can bring something back to the treaties committee to recommend ratification in the not-too-distant future once the various recommendations have been acted upon and taken into consideration. I commend the report to the Senate.

Senator LUDLAM (Western Australia) (17:41): I would just like to add a few comments to those of the deputy chair of the committee on behalf of the Australian Greens.

I suppose I will lead off with where Senator Birmingham left off. I suspect that his view is that his glass is half full on the eventual ratification of ACTA; I can assure the chamber that mine is half empty. I do not believe that this is a document that should come into force, and I am extremely pleased that the Joint Standing Committee on Treaties has done something quite unusual; it is unusual that the committee would have produced such a strongly worded document with so many conditions attached to the treaty being ratified by the Australian government. This is one instance where in the interests of a unanimous report—and this is a committee that is very collegial and that does try to bring all views to a consensus—I eventually elected simply to work with the recommendations that we had, and I am very pleased with them.

It is an agreement that attempts to create a global standard for intellectual property rights. It kicked off in 2007 with a discussion draft that was distributed in complete secrecy to lobbyists in the IP industry. In May 2008 that document was leaked through the wikileaks website, and the general public got its first look at it. So it is an agreement that was born effectively in secrecy and has remained there until not that long ago. It is called the anticyttering agreement, but you might be surprised to know that it has got nothing whatsoever to do with currency fraud. It is in fact a proposal for an extremely
strict global intellectual property rights enforcement regime.

The Australian government has signed this agreement and, almost alone in the world, still believes that it should be ratified without delay. The Joint Standing Committee on Treaties unanimously and strongly disagrees with this view. The committee took evidence from some of Australia's best minds on copyright counterfeiting and patent law and has today presented a unanimous report that distils many of the compelling reasons why I believe ACTA should not come into force.

DFAT, on the other hand—the department; the negotiators who spoke to the committee and who were quite generous with their time and came back for a second helping after the committee was unsatisfied with their first presentation—are optimistic that ACTA will come into force some day. In fact, the two occasions the department gave evidence to the committee were characterised by a kind of surreal, gritted teeth sort of optimism. The committee has thoroughly examined the text, the arguments and the positions taken by other governments, and we see the writing on the wall. I quote:

... there appears a very real possibility that ACTA will not be ratified by sufficient countries in order to come into existence.

Australia risks being out there, effectively completely alone in its support for this flawed instrument. Our recommendations revolve around a strong set of preconditions that would need to be met in order for the committee to consider or reconsider whether or not the agreement should be passed. I draw the chamber's attention specifically to recommendation 8: That the Anti-Counterfeiting Trade Agreement not be ratified by Australia until—and there are three serious preconditions there. Firstly, the treaties committee has requested and would propose to then consider an 'independent and transparent assessment of the economic and social benefits and costs of the Agreement referred to in Recommendation 2'. That is the first thing. Somebody needs to go back and do some homework. At no stage was the committee able to be provided with information sector by sector as to the economic and social winners and losers of signing up to an instrument such as this. The work had not been done, and on a number of occasions we were told that it probably could not be. For something such as this, it is not enough to simply proceed on some kind of blind ideological faith that all forms of trade agreement are uniformly good for all people in all countries, and that was the proposition that seemed to be advanced to JSCOT, with nothing to back it by way of formal or quantitative evidence.

The second part of recommendation 8 goes to the review into copyright that is currently being undertaken by the Australian Law Reform Commission. That is an issue that is quite central to the way that this instrument would operate if it did come into force. We believe that the committee, before it opens up the question of whether ACTA actually should be ratified again, should have in its possession that important piece of work by the ALRC. Thirdly, we propose that the Australian government issue notices of clarification in relation to the terms of agreement as recommended in other parts of the report. So we have put together quite a comprehensive list of things that the government and its trade negotiators, if they are insisting on proceeding with this instrument, should come back and clarify and provide. They should just be upfront and let the Australian public know—in this instance through the committee—what exactly it is and who exactly it is who will be benefiting from this treaty should it pass.
We heard a great deal of evidence about the fact that no reforms to Australian laws would need to be made in order for this agreement to come into force, and therefore it is appropriate for us to wave it through. Setting aside the arguments that were put by several witnesses that actually this is about imposing quite an onerous and flawed IP regime of other countries that would be effectively setting the standard, what the committee found is that in fact we would need to move several amendments to acts through the Australian parliament because of severe problems that would be thrown up if this agreement came into force. For example, the parliament would need to legislate to formally exclude patents from the application of civil enforcement and border measures components of the act or agreement. This is, I think, something that we just were not able to get through to those who represented the government in the committee hearings. Secondly, the parliament would need to legislate to ensure that products produced in Australia as a result of the invalidation of a patent or part of a patent in Australia are not subject to the counterfeiting prohibition in ACTA. This is a treaty so breathtaking in its vagueness and ambiguity that the people that we took evidence from simply were not able to settle the question as to whether ACTA would apply or influence patent law at all. The negotiators believe it does not, but it is nowhere in the document. Thirdly, the parliament would need to legislate to ensure that the expression 'counterfeit' in ACTA—which is a curious choice of words, as I am sure you agree—is not applied to generic medicines entered or eligible for entry on the Australian Register of Therapeutic Goods. We had the generic medicine producers give quite compelling evidence to us that in fact this agreement trespasses all over the kind of work that they do to bring inexpensive medicines into Australia.

Senator Birmingham was quite right when he noted the experience of other countries overseas in their interpretations of ACTA, where it is quite severely on the way out. It is one of the reasons that we believe Australia should not ratify this agreement at all, because at the present time, if we did so, we would find ourselves the only country in the world that did so. Some governments, on the other hand, do appear to be listening to their populations. Europe and the United States have seen large and persistent demonstrations. In Germany there were demonstrations in 40 towns in June, and 100,000 people came out across Europe in February, 25,000 or so of them in Munich. People are organising around the world to block this treaty. The European Parliament's chief investigator into ACTA recommended against it coming into force because the intended benefits do not outweigh the potential threats to civil liberties, and there were resignations: the first rapporteur, Kader Arif, resigned in protest when the EU signed ACTA. This is an agreement that is seen as being extremely problematic around the world.

We have not in the committee gone very much into detail and did not directly address the Trans-Pacific Partnership Agreement, which many are aware is coming down the pipeline directly behind ACTA, but I think this is the first domino being pushed over into the TPPA, and I think it heralds some very significant flaws there as well. There is a great deal wrong with this treaty, and I urge members of the public to read the JSCOT report. It is very interesting reading, largely thanks to the work of the chair, the deputy chair and the cross-party MPs who came to the meetings and the hearings. I would particularly like to thank the staff of that committee, who are exceptionally
diligent in the work. Lastly I thank the witnesses. There was very, very high-quality testimony provided to the committee from some of the best minds in the country. On ACTA we learned a great deal from Dr Matthew Rimmer, Dr Hazel Moir and Dr Palombi from the ANU. I would like to mention Dr Kimberlee Weatherall and Anna George from the University of Sydney, who provided us with real insights from the perspective of former diplomats at the WTO. Lastly, I acknowledge Ellen Broad from the Australian Digital Alliance, who have done a great deal of work in drawing together common-sense arguments from around the world. I thank the chamber for the opportunity to comment, and I thank the other members and the chair of the committee for putting this document together. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

AUDITOR-GENERAL’S REPORTS

Reports Nos 53 and 54 of 2011-12

The ACTING DEPUTY PRESIDENT (Senator Fawcett) (17:51): In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General:

No. 53—Performance audit—Records management in the Australian Public Service.

No. 54—Performance audit—The engagement of external debt collection agencies: Australian Taxation Office.

COMMITTEES

Education, Employment and Workplace Relations References Committee

Rural and Regional Affairs and Transport References Committee

Government Response to Report

Senator WONG (South Australia—Minister for Finance and Deregulation) (17:51): I present the following two government responses to committee reports. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—

Primary Schools for the Twenty First Century: Government Response to the Interim Report Senate Education, Employment and Workplace Relations Committee

Recommendation 1

The committee majority recommends that all quarterly reports on maintaining state spending on primary school infrastructure be made available immediately.

Response

Disagree

Information in the quarterly reports is provided by the States in confidence and on the understanding that it would only be made public, in respect of a particular state, if the Commonwealth decided to impose a sanction on that state for failure to meet its benchmark.

Recommendation 2

The committee majority recommends that when the next round of P21 funding is made available the remaining P21 program funds be provided directly to those government schools choosing to manage their own projects to completion.

Response

Disagree

With over 99 per cent of all P21 projects having commenced as at 31 December 2010, providing schools with funds directly, particularly where contractual commitments are already in place, would serve little benefit. In its August 2010 interim report, the BER Implementation Taskforce recommended that projects not yet committed should be delivered in accordance with a pre-BER ‘business as usual’ approach to capital works and that school stakeholders should be more involved in decision making.
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<th>Recommendation</th>
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<td><strong>Recommendation 3</strong>&lt;br&gt;The committee majority recommends that the government immediately require all state and territory education authorities and Block Grant Authorities to publish breakdowns of all individual P21 project costs.</td>
<td>&lt;br&gt;&lt;br&gt;Note: In its August 2010 interim report, the BER Implementation Taskforce recommended that in the interest of transparency and public accountability, each education authority publish school specific project cost data related to BER P21 in a nationally common structure with consistent definitions. The Government has agreed to put in place a nationally common structure with consistent definitions. This structure was published in January 2011 with the agreement of education authorities. <strong>Agree in part</strong> Consistent with the response to recommendation 3, the Government has agreed to put in place a nationally common structure for reporting on project costs. This structure was published in January 2011 with the agreement of education authorities. The Government does not agree to release original applications as they pre-date detailed tendering and procurement processes and buildings were not designed or costed in detail at that point. In addition, the original applications and project costs may have been subjected to variations for a number of valid reasons and this will not be evident in this information. <strong>Note</strong> This issue was covered in the terms of reference of the Joint Committee of Public Accounts and Audit (JCPAA) Inquiry into the Auditor-General Act 1997. While that inquiry lapsed with the prorogation of the Parliament on 19 July 2010, it would be appropriate for government to respond to this issue through any recommendations arising from that inquiry.</td>
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| **Recommendation 4**<br>The committee majority recommends that DEEWR release original applications and project costs as P21 projects are completed, together with an explanation regarding any contract cost variations. | The Government has agreed to implement this recommendation made by the Taskforce in its August 2010 interim report. **Noted** In its August 2010 interim report, the BER Implementation Taskforce recommended that the government immediately require all state and territory expenditure of Commonwealth money. This should include enhancing the powers of the Auditor-General to ‘follow the money trail’ to ensure value for money is achieved by the Commonwealth for state expenditure of Commonwealth monies. **Recommendation 6**<br>The committee majority recommends that the BER Implementation Taskforce be given access to all costings and be able to examine all relevant contracts to enable it to properly discharge its function to ensure the community that value for money is being achieved. **Recommendation 7**<br>To ensure that further taxpayer money is not subject to waste and mismanagement, the committee majority recommends that the release of any further BER funding be delayed until the BER Implementation Taskforce reports to the Minister for Education in August 2010. **Recommendation 8**<br>The committee majority recommends that the BER Implementation Taskforce be given access to all costings and be able to examine all relevant contracts to enable it to properly discharge its function to ensure the community that value for money is being achieved. **Recommendation 9**<br>The committee majority recommends that the BER Implementation Taskforce be given access to all costings and be able to examine all relevant contracts to enable it to properly discharge its function to ensure the community that value for money is being achieved. | **Response**<br>The Government further notes that the BER Implementation Taskforce was established by the Australian Government in April 2010 with the express purpose of assessing value for money aspects of individual projects, as well as systemic issues, and ensuring allegations of waste are fully investigated. With the ongoing work of the Taskforce, a Senate inquiry, two state parliamentary inquiries, an Australian National Audit Office audit and the various audits being undertaken within jurisdictions the BER is a heavily scrutinised program. **Agree**<br>The Government established the BER Implementation Taskforce to provide an additional level of scrutiny over the implementation of the BER program, assessment of value for money and the use of Australian Government money. In its August 2010 interim report, the Taskforce noted that it is receiving cooperation from Education Authorities to access costings and relevant contracts. **Disagree**<br>The BER Implementation Taskforce released its interim report on 6 August 2010. The Government has accepted and will implement in full all 14 recommendations. The report stated that the BER program is delivering much needed infrastructure to school communities while achieving the primary goal of economic activity across the nation." The Government will continue to consider recommendations from the Taskforce regarding any future payments. **Agree**<br>The BER implementation Taskforce interim report was made publicly available when it was released on 6 August 2010. The...
Recommendation 8
The committee majority recommends that the BER Implementation Taskforce report be made publicly available when it is presented to the Minister for Education.

Agree
The BER implementation Taskforce interim report was made publicly available when it was released on 6 August 2010. The Taskforce’s first full report was also made publicly available when it was released on 15 December 2010.

Recommendation 9
In order to fully examine the systemic failure of Commonwealth oversight mechanisms, the committee majority recommends that a judicial inquiry be established to inquire into whether the BER program has achieved value for money.

Disagree
The Government believes a judicial inquiry is a long and expensive exercise that is unnecessary for a program that has already been subject to an Australian National Audit Office investigation and federal and state parliamentary inquiries. The Government established the BER Implementation Taskforce to provide an additional level of scrutiny over the implementation of the BER program, assessment of value for money and the use of Australian Government money. The independent chair of this taskforce has testified that all 22 Education Authorities are fully cooperating with his inquiries and making all requested documentation available. The Taskforce comprises specialist expertise from the building and construction industry, economists, Quantity Surveyors and contract law experts.

Senate Rural and Regional Affairs and Transport References Committee report on Investment of Commonwealth and State funds in public passenger transport infrastructure and services

Government Response
On 4 December 2008 the Senate referred the following matter to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 18 June 2009:

- The investment of Commonwealth and state funds in public passenger transport infrastructure and services, with reference to the August 2005 report of the House of Representatives Standing Committee on Environment and Heritage, Sustainable Cities, and the February 2007 report of the Senate Standing Committee on Rural and Regional Affairs and Transport Committee, Australia’s future oil supply and alternative transport fuels, including:
  - an audit of the state of public passenger transport in Australia;
  - current and historical levels of public investment in private vehicle and public passenger transport services and infrastructure;
  - an assessment of the benefits of public passenger transport, including integration with bicycle and pedestrian initiatives;
  - measures by which the Commonwealth Government could facilitate improvement in public passenger transport services and infrastructure;
  - the role of Commonwealth Government legislation, taxation, subsidies, policies and other mechanisms that either discourage or encourage public passenger transport; and
  - best practice international examples of public passenger transport services and infrastructure.

The Committee’s report was tabled on 20 August 2009 and made nine recommendations. The Government response is set out below.

Recommendation 1
That the Commonwealth recognise the cost-effectiveness of the 'TravelSmart' behaviour change program and consider reinstating funding for it from an appropriate department.

Response
Noted.

TravelSmart was delivered in conjunction with local governments under the Greenhouse Gas Abatement Program (GGAP). The Wilkins Review, Strategic Review of Australian Government Climate Change Programs of 31 July 2009.
2008, recommended that the GGAP terminate in 2008-09. The GGAP subsequently ended.

The Commonwealth Government's view is that travel behaviour change measures, such as the TravelSmart projects, are most effectively developed and applied at a local/regional level by State, Territory and Local governments.

The Commonwealth Government recognises there may be benefit in sharing information on travel projects at a national level and will continue to explore opportunities with State and Territory governments.

**Recommendation 2**

The Commonwealth in future negotiation of HACC agreements should be mindful of –

- the effectiveness of present community transport services;
- future transport needs of groups targeted by community transport;
- appropriate balance between community transport, regular public transport and taxis to meet those needs; and
- appropriate division of responsibilities, actions and funding to meet those needs.

**Response**

Noted.

Transport services are available to frail older people and younger people with disabilities, and their carers, through the current Home and Community Care (HACC) program. Assistance is provided with transportation either directly (for example, in a vehicle provided or driven by an agency worker or volunteer) or indirectly (taxi vouchers).

On 2 August 2011, the Commonwealth Government, in partnership with states and territories, signed the National Health Reform Agreement (NHRA). The NHRA cements the commitments made by all governments at the 13 February Council of Commonwealth Governments’ meeting, to work together to reform the health system to ensure its future sustainability.

Under the NHRA the Commonwealth assumed full funding and policy responsibility for basic community care maintenance and support services for older people from 1 July 2011 and will assume operational responsibility from 1 July 2012 in all states and territories except Victoria and Western Australia.

States and territories will be responsible for funding care services for younger people (non-Indigenous people under 65 years and Aboriginal and Torres Strait Islander people under 50 years) – such as younger people with disabilities – wherever they are receiving care.

These changes are part of broader aged care reforms which will include consideration of future arrangements for community transport under HACC to ensure the creation of a nationally consistent, integrated and coordinated aged care system. Proposals in the Productivity Commission’s report, Caring for Older Australians, which was released on 8 August 2011, may also inform future reforms to HACC services.

On 18 March 2011, the Commonwealth Government launched the National Disability Strategy which outlines a 10-year national policy framework to improve the lives of people with disability, promote participation, and create a more inclusive society. The Strategy will guide public policy across governments and aims to bring about change in all mainstream services and programs as well as community infrastructure. A key policy direction under the Strategy involves the creation of ‘a public, private and community transport system that is accessible for the whole community’.

**Recommendation 3**

The Commonwealth Government in consultation with the states/territories and other stakeholders should establish a national transport research body suitable to be a national centre for detailed research into world’s best practice public transport and active transport.

**Response**

Noted.

The present arrangements provide for national transport research through various means.

As a national transport research body, the Bureau of Infrastructure, Transport and Regional Economics (BITRE) is conducting research on public transport issues as part of its research

The Commonwealth Government is collaborating with the states and territories, which have primary responsibility for public transport delivery and management.

In late 2009, the Australian Transport Council (ATC) endorsed the Australian Strategic Transportation Agenda for Research and Technology. In addition, the Council Chair will write to the Chair of the Australian Research Council (ARC) annually seeking ARC’s consideration of ATC’s strategic transportation research themes when determining ARC funded research.

Recommendation 4

Commonwealth funding for public transport should only occur in the context of overall funding for infrastructure projects that meet a strict merit-based criteria. These include an objective assessment of the broader community and economic benefits and the degree to which the sponsoring state government has adopted an integrated, inter-modal, best-practice approach to transport planning and management. The Commonwealth can only make such decisions in the context of broader judgments regarding all competing infrastructure projects that have national significance.

Response

Noted.

The Commonwealth Government has made infrastructure investment a key national priority, and has initiated and implemented a strategic approach to national infrastructure development.

Integral to this national strategic approach is Infrastructure Australia's work in identifying both infrastructure gaps that hinder economic growth, and investment priorities for the coordinated delivery of national infrastructure investment.

Acknowledging the vital function of Infrastructure Australia, the Government provided an additional $36 million in the 2011-12 Budget to enhance its role in planning and advising governments and the community on infrastructure investment opportunities.

Infrastructure Australia's mandate has also been expanded to include the production of an enhanced priority list to identify projects through top-down analysis of nationally significant infrastructure needs, only considering projects that exceed $100 million, are flagship, or demonstrate unique national interest characteristics.

Part of Infrastructure Australia's development of a long term integrated approach to infrastructure investment will be to develop a national public transport strategy. This proposed strategy will be aimed at improving service standards through better use of existing infrastructure and investment in new infrastructure.

Recommendation 5

The Government should investigate options for tax incentives for public transport including estimating their likely effects on people's travel behaviour.

Response

Noted.

The report of the Australia's Future Tax System review (the Tax Review) made no specific recommendations in relation to tax concessions for public transport, although it did report on the taxation of transport more generally.

On 4 and 5 October 2011, the Government held a Tax Forum to continue the tax reform debate and discuss ways to build on the Government's substantial tax reform agenda. The forum focussed on the broad sweep of topics in the Tax Review, with sessions discussing personal tax, transfer payments, business tax, state taxes, environmental and social taxes, and tax system governance.

Issues regarding transport taxes, including congestion charging, road pricing, and fuel excise were debated. Issues relating to road pricing and user charging are largely a matter for state and territory governments.

Recommendation 6

Government support for behavioural change programs ('TravelSmart') should include measures to encourage 'buy-in' by employers in
promoting sustainable transport in their workforces.

Response
Noted.

Please refer to response to Recommendation 1.

Recommendation 7
The Government should amend the car fringe benefits tax (FBT) statutory formula to remove the incentive to drive excessively to reach the next FBT threshold.

Response to Recommendations 7, 8 and 9
Agree.

In the 2011-2012 Budget the Government announced a measure to remove the unintended tax incentive for people to drive more than they need to in order to obtain a larger tax concession, by reforming the statutory formula method for valuing car fringe benefits (implements Recommendation 9(b) of the Review of Australia's Future Tax System).

When an employer makes a car available to an employee for private use, a car fringe benefit will generally arise and be subject to FBT. Car fringe benefits are currently valued under either the operating cost method or the statutory formula method.

Under the operating cost method, the taxable value of the benefit is based on the cost of owning and operating the car, reduced by the portion which relates to the business use of the vehicle. Employers are required to substantiate the business use of the vehicle by maintaining a log book for a specified period.

The statutory formula method is designed to provide employers with a low compliance cost alternative to the operating cost method, eliminating the need to maintain a vehicle log book. It removes the need to explicitly distinguish between the business and private use of a vehicle.

Recommendation 8
In relation to FBT of cars by the statutory formula method – the Government should state the purpose of making the tax concessionary (noting that whether the tax should be concessionary, and whether there should be a statutory formula for the sake of easy compliance, are different questions); the Government should investigate and report on what the likely effects on consumer behaviour would be if the concessionary aspect of car FBT was reduced or removed.

Response
Please refer to response to Recommendation 7.

Recommendation 9
The Government should change FBT rules so that the scope of exemptions is consistent between car transport and public transport.

Response
Please refer to response to Recommendation 7.

Additional Comments – Australian Greens – Dissenting Recommendations
Senator Ludlam of the Australian Greens provided additional comments to the Senate Inquiry and proposed replacing Recommendation 4 in the committee report with three recommendations of his own.

'Recommendation 4' already incorporates the views expressed in these recommendations while allowing for a more complete consideration of potential infrastructure projects within a broader transport planning and infrastructure framework. It is noted that the Australian Greens' recommendation to reinstate the funding for the 'Travelsmart' behaviour change program has been responded to in the government response to Recommendation 1.

Australian Greens Recommendation 1
The Commonwealth make infrastructure funding available for public transport, subject to strict merit-based criteria.

Response
Noted.

As discussed in the current Recommendation 4, the Commonwealth Government has made a significant funding commitment towards the development of priority national infrastructure projects through the Nation Building Program and through the advice provided by Infrastructure Australia. The Commonwealth Government has invested unprecedented amounts into public transport projects through the Building Australia...
Fund and Nation Building Program. This includes more than $7 billion investment in new funding for the planning, development and construction of nine rail projects in Sydney, Melbourne, Adelaide, Brisbane, Perth and the Gold Coast.

Public transport funding will continue to be a consideration of the Commonwealth Government through the next phase of the Nation Building Program from 2014-15 to 2018-19, contingent on meeting strict merit based criteria, such as the principles in the National Urban Policy (NUP). Nationally significant infrastructure needs will continue to be identified by Infrastructure Australia in the future.

**Australian Greens Recommendation 2**

Proposed Commonwealth funding for public transport be subject to an objective assessment of the broad community and economic benefits and the degree to which the sponsoring state or territory government has adopted an integrated, inter-modal, best-practice approach to transport planning and management.

**Response**

Noted.

As discussed in the current response to Recommendation 4, the Commonwealth Government takes a strategic approach to infrastructure development and investment, with Infrastructure Australia being integral to this process. Infrastructure Australia's recently expanded role includes the development of a national public transport strategy, which will build on the NUP and the COAG Reform Council's review of capital cities strategic planning systems. Decisions on investment of future public transport projects will consider the extent to which the proposals meet these nationally agreed principles.

**Australian Greens Recommendation 3**

The Commonwealth recognise the cost-effectiveness of the 'Travelsmart' behaviour change program and reinstate it's funding, building on the valuable work undertaken in this programme to date.

**Response**

Noted.

Please refer to the Government response to Recommendation 1 in the committee's report.

"The Commonwealth Government's view is that travel behaviour change measures, such as the TravelSmart projects, are most effectively developed and applied at a local/regional level by State, Territory and local Governments".

**DOCUMENTS**

**Tabling**

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

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

**COMMITTEES**

**Government Response to Report**

Senator WONG (South Australia—Minister for Finance and Deregulation) (17:51): I present the government's response to the schedule of government responses outstanding to parliamentary committee reports presented by the President on 25 November 2011 and seek leave to have the document incorporated in Hansard.

Leave granted.

The documents read as follows—

**GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS**

**RESPONSE TO THE SCHEDULE TABLED BY THE PRESIDENT OF THE SENATE ON 25 NOVEMBER 2011**

Circulated by the Leader of the Government in the Senate

Senator the Hon Chris Evans

27 June 2012

**A CERTAIN MARITIME INCIDENT**

(Senate Select)

**Report on a Certain Maritime Incident**

The government response is being considered.
AGRICULTURAL AND RELATED INDUSTRIES (Senate Select)

Pricing and supply arrangements in the Australian and global fertiliser market—Final report

The government response is being considered and will be tabled in due course.

AUSTRALIA’S CLEAN ENERGY FUTURE LEGISLATION (Joint Select)

Advisory report on the Clean Energy Bills and the Steel Transformation Bill 2011

The government response was given during the debate on the bill.

AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY (Joint Statutory)

Inquiry into the operation of the Law Enforcement Integrity Commissioner Act 2006 – Final report

The government response was tabled in the Senate and in the House of Representatives on 9 February 2012.

Report on the inquiry into integrity testing

The government response was presented out of sitting in the Senate on 22 February 2012 and tabled on 27 February 2012.

COMMUNITY AFFAIRS LEGISLATION

National Health Reform Amendment (National Health Performance Authority) Bill 2011 [Provisions]

The government response will be given during the debate on the bill.

Food Standards Amendment (Truth in Labelling—Palm Oil) Bill 2010

The Government does not intend to respond to the bill as it has been removed from the House of Representatives Notice Paper in accordance with Standing Order 42.

Family Assistance and Other Legislation Amendment Bill 2011 [Provisions]

The bill was passed in Parliament on 21 November 2011.

COMMUNITY AFFAIRS REFERENCES

Consumer access to pharmaceutical benefits

The government response was presented out of sitting in the Senate on 22 February 2012 and tabled on 27 February 2012.

Gene patents

The government response was presented out of sitting in the Senate on 6 December 2011 and tabled on 7 February 2012.

The social and economic impact of rural wind farms

The government response is being considered and will be tabled in due course.

Disability and ageing: Lifelong planning for a better future

The government response is being considered and will be tabled in due course.

The effectiveness of special arrangements for the supply of Pharmaceutical Benefits Scheme (PBS) medicines to remote area Aboriginal Health Services

The government response is being considered and will be tabled in due course.

Review of the Professional Services Review (PSR) Scheme

The government response was presented out of sitting in the Senate on 6 March 2012 and tabled on 13 March 2012.

Inquiry into Commonwealth funding and administration of mental health services

The government response is being considered and will be tabled in due course.

The regulatory standards for the approval of medical devices in Australia

The government response is being considered and will be tabled in due course.

CORPORATIONS AND FINANCIAL SERVICES (Joint Statutory)

Review of the Managed Investments Act 1998

The Committee has agreed that a response is no longer required.
The structure and operation of the superannuation industry
The Committee has agreed that a response is no longer required.

Inquiry into aspects of agribusiness managed investment schemes
The government response is being considered and will be tabled in due course.

Statutory oversight of the Australian Securities and Investments Commission
The government response is being considered.

Access for small and medium business to finance
The government response is being considered and will be tabled in due course.

Statutory oversight of the Australian Securities and Investments Commission
The government response is being considered and will be tabled in due course.

CYBER-SAFETY (Joint, Select)
High-wire act: Cyber-safety and the young – Interim report
The government response was presented out of sitting in the Senate on 20 December 2011 and tabled on 7 February 2012.

Review of the Cybercrime Legislation Amendment Bill 2011
The government response will be given during the debate on the bill.

ECONOMICS LEGISLATION
Food Standards Amendment (Truth in Labelling Laws) Bill 2009
The government response is being considered and will be tabled in due course.

Corporations Amendment (No. 1) Bill 2010 [Provisions]
Addressed in summing up speech and by letter from the Hon David Bradbury MP to Senator Cormann which was tabled in the Senate on 18 November 2010.

Annual reports (No. 2 of 2010)
The government response is being considered.

Notice of payments of recompense for personal injuries: Provisions of Schedule 4 of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further Election Commitments and Other Measures) Bill 2011
The bill was passed in Parliament on 22 June 2011.

Customs Amendment (Anti-Dumping) Bill 2011
The government response is being considered.

Annual reports (No. 2 of 2011)
The government response is being considered and will be tabled in due course.

ECONOMICS REFERENCES
Consenting adults deficits and household debt – links between Australia’s current account deficit, the demand for imported goods and household debt
The government response is being considered and will be tabled in due course.

Milking it for all it’s worth—competition and pricing in the Australian dairy industry
The government response was presented out of sitting in the Senate on 3 February 2012 and tabled on 7 February 2012.

Access of small business to finance
The government response is being considered and will be tabled in due course.

The regulation, registration and remuneration of insolvency practitioners in Australia: the case for a new framework
The Government’s interim response and Options Paper was tabled on 14 June 2011. The Government released a Proposals Paper on 14 December 2011 outlining a significant package of reforms, and is currently drafting legislation to address the underlying issues raised by the Senate Inquiry.

Competition within the Australian banking sector
The government response is being considered and will be tabled in due course.
The asset insurance arrangements of Australian state governments

The government response is being considered and will be tabled in due course.

The impacts of supermarket price decisions on the dairy industry—Final report

The government response was presented out of sitting in the Senate on 3 February 2012 and tabled on 7 February 2012.

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION

Social Security Amendment (Income Support for Regional Students) Bill 2010

The government response will be given during the debate on the bill.


The government response was given during the debate on the bill.


The government response was given during the debate on the bill.

EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES

Provision of childcare

The government response is being considered and will be tabled in due course.

Primary schools for the Twenty First Century Program—Final report

The government response was tabled in the Senate on 27 June 2012.

ELECTORAL MATTERS (Joint Standing)

Implications of the Parliamentary Electorates and Elections Amendment (Automatic Enrolment) Act 2009 (NSW) for the conduct of Commonwealth elections

The government response is being considered and will be tabled in due course.

The 2010 Federal Election: Report on the conduct of the election and related matters

The government response is being considered and will be tabled in due course.

ENVIRONMENT AND COMMUNICATIONS LEGISLATION

Product Stewardship Bill 2011

The government response was given during the debate on the bill.

ENVIRONMENT AND COMMUNICATIONS REFERENCES

Sustainable management by the Commonwealth of water resources

The government response is being considered.

The adequacy of protections for the privacy of Australians online

The government response is being considered and will be tabled in due course.

The koala – saving our national icon

The government response is being considered and will be tabled in due course.

Recent ABC programming decisions

The government response is being considered and will be tabled in due course.

The capacity of communication networks and emergency warning systems to deal with emergencies and natural disasters

The government response is being considered and will be tabled in due course.

ENVIRONMENT, COMMUNICATIONS AND THE ARTS REFERENCES

Forestry and mining operations on the Tiwi Islands

The government response was presented out of sitting in the Senate on 19 December 2011 and tabled on 7 February 2012.

The impacts of mining in the Murray-Darling Basin

The government response is being considered and will be tabled in due course.
ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES

Living with a salinity – a report on progress: the extent and economic impact of salinity in Australia

The government response was presented out of sitting in the Senate on 12 April 2012 and tabled on 10 May 2012.

About time! Women in sport and recreation in Australia

The government response is being considered and will be tabled in due course.

ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS STANDING

Conserving Australia–Australia’s national parks, conservation reserves and marine protected areas

The government response is being considered and will be tabled in due course.

FINANCE AND PUBLIC ADMINISTRATION LEGISLATION

Plebiscite for an Australian Republic Bill 2008

The government response is being considered.

Annual reports (No.2 of 2009)

The government response was presented out of sitting in the Senate on 24 January 2012 and tabled on 7 February 2012.

Exposure drafts of Australian privacy amendment legislation: Part 1 – Australian privacy principles

The government response was tabled in the Senate on 10 May 2012.

Public Service Amendment (Payments in Special Circumstances) Bill 2011

The government response will be given during the debate on the bill.

Exposure drafts of Australian privacy amendment legislation: Part 2 – Credit reporting

The government response was tabled in the Senate on 10 May 2012.

FINANCE AND PUBLIC ADMINISTRATION REFERENCES

Staff employed under Members of Parliament (Staff) Act 1984

The government response is being considered.

Native vegetation laws, greenhouse gas abatement and climate change measures

The government response was presented out of sitting in the Senate on 16 January 2012 and tabled on 7 February 2012.

The administration of health practitioner registration by the Australian Health Practitioner Regulation Agency (AHPRA)

The government response was presented out of sitting in the Senate on 19 January 2012 and tabled on 7 February 2012.

The Government’s administration of the Pharmaceutical Benefits Scheme

The government response is being considered and will be tabled in due course.

FINANCE AND PUBLIC ADMINISTRATION STANDING

Annual reports (No.1 of 2008)

The government response was tabled in the Senate on 13 March 2012.

Annual reports (No. 2 of 2008)

The government response is being considered.

FOREIGN AFFAIRS, DEFENCE AND TRADE (Joint Standing)

Human rights in the Asia-Pacific: Challenges and opportunities

The government response was tabled in both houses on 9 February 2012.

Inquiry into Australia’s relationship with the countries of Africa

The government response was tabled in the House of Representatives on the 22 March 2012 and in the Senate on 10 May 2012.

Inquiry into Australia’s trade and investment relations with Asia, the Pacific and Latin America

The government response is being considered.
FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION


The government response was given during the debate on the bill.

Autonomous Sanctions Bill 2010 [Provisions]

The government response is being considered.

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES

The Torres Strait: Bridge and border

The government response is being considered.

Defence’s request for tender for aviation contracts

The government response was tabled in the Senate on 9 February 2012.

Incidents onboard HMAS Success between March and May 2009 and subsequent events—Part II

The government response was tabled in the Senate on 9 February 2012.

FUEL AND ENERGY (Senate Select)

The mining tax: Still bad for the economy – Still bad for jobs – Second interim report

The government response was tabled in the Senate on 13 March 2012.

GAMBLING REFORM (Joint, Select)

First Report: The design and implementation of a mandatory pre-commitment system for electronic gaming machines

The government response was presented out of sitting in the Senate on 4 May 2012 and tabled on 10 May 2012.

LAW ENFORCEMENT (Joint Statutory)

Examination of the annual report of the Australian Crime Commission 2009-10

The government response was tabled in both houses on 10 May 2012.

LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION

Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010 [Provisions]

The government response was given during the debate on the bill.

Provisions of Schedule 4 of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Bill 2010

The bill was passed in Parliament on 10 May 2011.

Sex and Age Discrimination Legislation Amendment Bill 2010 [Provisions]

The government response was given during the debate on the bill.

Combating the Financing of People Smuggling and Other Measures Bill 2011 [Provisions]

The government response is being considered and will be tabled in due course.

Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Bill 2011 and related bills [Provisions]

The government response was given during the debate on the bill.


The government response was given during the debate on the bill.

Crimes Legislation Amendment Bill (No. 2) 2011

Recommendation was addressed by addendum Explanatory Memorandum.

Deterring People Smuggling Bill 2011

The government response is being considered and will be tabled in due course.

LEGAL AND CONSTITUTIONAL AFFAIRS REFERENCES

The road to a republic

The government response is being considered.
Review of government compensation payments
The government response was presented out of sitting in the Senate on 29 November 2011 and tabled on 7 February 2012.

Donor conception practices in Australia
The government response is being considered and will be tabled in due course.

A balancing Act: provisions of the Water Act 2007
The government response was presented out of sitting in the Senate on 27 March 2012 and tabled on 10 May 2012.

Review of the National Classification Scheme: achieving the right balance
The government response is being considered and will be tabled in due course.

Australia’s arrangement with Malaysia in relation to asylum seekers
The government response was presented out of sitting in the Senate on 13 June 2012 and tabled on 18 June 2012.

International parental child abduction to and from Australia
The government response was presented out of sitting in the Senate on 30 March 2012 and tabled on 10 May 2012.

MEN’S HEALTH (Senate Select)
Report
The government response is being considered and will be tabled in due course.

MIGRATION (Joint Standing)
Immigration detention in Australia – A new beginning – Criteria for release from detention – First report of the inquiry into immigration detention
The government response is being considered.

Immigration detention in Australia – Community-based alternatives to detention – Second report of the inquiry into immigration detention
The government response is being considered.

Immigration detention in Australia – Facilities, services and transparency – Third report of the inquiry into immigration detention
The government response is being considered.

Enabling Australia – Inquiry into the migration treatment of disability
The government response is being considered.

NATIONAL BROADBAND NETWORK (Joint Standing)
Review of the rollout of the National Broadband Network – First report
The government response was tabled in the House of Representatives on 1 March 2012 and in the Senate on 13 March 2012.

NATIONAL BROADBAND NETWORK (Senate Select)
Another fork in the road to national broadband – Second interim report
The government response is being considered and will be tabled in due course.

Third report
The government response is being considered and will be tabled in due course.

Fourth interim report
The government response is being considered and will be tabled in due course.

Final report
The government response is being considered and will be tabled in due course.

NATIONAL CAPITAL AND EXTERNAL TERRITORIES (Joint, Standing)
Etched in stone? Inquiry into the administration of the National Memorials Ordinance 1928
The government response is being considered and will be tabled in due course.
PUBLIC ACCOUNTS AND AUDIT (Joint Statutory)

Report 417—Review of Auditor-General’s reports tabled between February 2009 and September 2009

The government response is being considered and will be tabled in due course.


The government responded by issuing an executive minute.


The government response was done by Executive Minute.


The government response is being considered and will be tabled in due course.

Report 424: Eighth biannual hearing with the Commissioner of Taxation

The government response is being considered and will be tabled in due course.

Report 426: Ninth biannual hearing with the Commissioner of Taxation

The government response is being considered and will be tabled in due course.

PUBLIC WORKS (Joint Standing)


The government’s response was dealt with in the expediency motion.

Report 4/2011—Referrals made May to June 2011—Proposed fit-out of new leased premises for the Human Services portfolio at Greenway, Australian Capital Territory—Proposed fit-out of new leased premises for the Australian Taxation Office at the site known as 55 Elizabeth Street, Brisbane, Queensland—Proposed contamination remediation works, former fire training area, RAAF Base Williams, Point Cook, Victoria—Proposed Specific Nutritional Capability Project for Defence Science and Technology Organisation at Scottsdale, Tasmania

The expediency motion for the approval of works has been agreed by the Parliament. The government does not propose to make any further response.

Public works on Christmas Island

The government response is being considered.

REGIONAL AND REMOTE INDIGENOUS COMMUNITIES (Senate Select)

Final report 2010

The government response is being considered.

RURAL AFFAIRS AND TRANSPORT LEGISLATION

Airports Amendment Bill 2010 [Provisions]

The government response was tabled in the Senate on 13 March 2012.

Exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011

The government response was presented out of sitting in the Senate on 25 November 2011 and tabled on 7 February 2012.

RURAL AFFAIRS AND TRANSPORT REFERENCES


The government response is being considered and will be tabled in due course.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES

Iraqi wheat debt – repayments for wheat growers
The government response was tabled in the Senate on 21 June 2012.

**Implications for the long-term sustainable management of the Murray-Darling Basin system – Final report**

The government response is being considered and will be tabled in due course.

**Investment of Commonwealth and State funds in public passenger transport infrastructure and services**

The government response was tabled in the Senate on 27 June 2012.

**Rural and regional access to secondary and tertiary education opportunities**

The government response was tabled in the Senate on 13 March 2012.

**The possible impacts and consequences for public health, trade and agriculture of the Government’s decision to relax import restrictions on beef – First report**

The government response is being considered and will be tabled in due course.

**The possible impacts and consequences for public health, trade and agriculture of the Government’s decision to relax import restrictions on beef – Final report**

The government response is being considered and will be tabled in due course.

**RURAL AND REGIONAL AFFAIRS AND TRANSPORT STANDING**

**Australia’s future oil supply and alternative transport fuels – Final report**

The government response was presented out of sitting in the Senate on 28 May 2012 and tabled on 18 June 2012.

**SCRUTINY OF NEW TAXES (Senate Select)**

**The mining tax: A bad tax out of a flawed process**

The government response was tabled in the Senate on 13 March 2012.

**The carbon tax: Economic pain for no environmental gain – Interim report**

The government response is being considered and will be tabled in due course.

**The carbon tax: Secrecy and spin cannot hide carbon tax flaws – Final report**

The government response is being considered and will be tabled in due course.

**STATE GOVERNMENT FINANCIAL MANAGEMENT (Senate Select)**

**Report**

The Government does not intend to respond to the report because of the time elapsed since the report was tabled.

**TREATIES (Joint Standing)**

**Report 100 – Treaties tabled on 25 June 2008 (2)**

The government response is being considered and will be tabled in due course.

**Report 110 – Treaties tabled on 18, 25 (2) and 26 November 2009 and 2 (2) February 2010**

The government response was tabled in both houses on 9 February 2012.

Senator LUDLAM (Western Australia) (17:52): I wanted to take note of the government’s response to the Rural and Regional Affairs and Transport References Committee report, *Investment of Commonwealth and state funds in public passenger transport infrastructure and services*. I move:

That the Senate take note of the document.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Membership**

The ACTING DEPUTY PRESIDENT (Senator Fawcett) (17:52): I have received a letter from a party leader requesting changes in the membership of committees.

Senator WONG (South Australia—Minister for Finance and Deregulation) (17:52): by leave—I move:

Appropriations and Staffing—Standing Committee—

Appointed—Senator Singh
Corporations and Financial Services—Joint Statutory Committee—
   Appointed—Senator Urquhart
Gambling Reform—Joint Select Committee—
   Appointed—
    Senator Thistlethwaite
   Participating members: Senators Bilyk, Brown, Cameron, Faulkner, Furner, Gallacher, Marshall, McEwen, Moore, Polley, Singh, Stephens and Sterle
Public Accounts and Audit—Joint Statutory Committee—
   Appointed—Senator Pratt
Rural and Regional Affairs and Transport Legislation Committee—
   Discharged—Senator Urquhart
   Appointed—
    Senator Thorp
   Participating member: Senator Urquhart
Rural and Regional Affairs and Transport References Committee—
   Discharged—Senator Urquhart
   Appointed—
    Senator Thorp
   Participating member: Senator Urquhart.
Question agreed to.

BILLS

Legislative Instruments Amendment (Sunsetting Measures) Bill 2012
   First Reading
Bill received from the House of Representatives.

Senator WONG (South Australia—
    Minister for Finance and Deregulation) (17:53): I move:
That this bill may proceed without formalities
and be now read a first time.
Question agreed to.
Bill read a first time.

Second Reading

Senator WONG (South Australia—
    Minister for Finance and Deregulation) (17:53): I move:
That this bill be now read a second time.
I seek leave to have the second reading
speech incorporated in Hansard.
Leave granted.
The speech read as follows—
This Government is committed to reducing red
tape and unnecessary regulation on industry and
small business.
We recognise that Australia’s 2.7 million small
businesses are this nation’s economic engine
room, employing over 5 million Australians and
making up a third of our economy.
These businesses comprise hard working men
and women who, through their time and efforts,
are building a career and a better future for their
families.
This Government is doing its part to make sure
business owners can get on with growing their
enterprises, not spending time searching for
relevant assistance or wading through
unnecessary red tape.
The Prime Minister recently announced the
creation of the Small Business Commissioner to
provide a direct voice to Government and a one-
stop shop for small business services and
information. And it took this Labor Government
to ensure small business is represented in Cabinet.
This Bill is another step in the process to
reduce unnecessary regulation, in an orderly,
efficient and consultative way. It will provide a
clear process to assess, renew or allow to ‘sunset’
the thousands of pieces of subordinate legislation
currently on the statute books.
In 2003, the Legislative Instruments Act was
enacted to establish a consistent system for the
registering, tabling, Parliamentary disallowance
and sunsetting of Commonwealth legislative
instruments.
The sunsetting provisions of the Legislative
Instruments Act provide that most legislative
instruments sunset, or automatically cease, after
10 years. This limit was introduced to ensure that
legislative instruments are regularly reviewed and only remain operative if they continue to be relevant.

This 10 year limit on validity remains appropriate.

However, at the time of enactment, the Government of the time did not accurately assess the number of legislative instruments in existence, apart from those 663 already published in hard-copy in the Statutory Rules series.

This Labor Government has prioritised extensive work to discover and register a large number of additional instruments, consistent with our commitment to clearer laws. These were instruments made under previous governments which were for the first time made publicly accessible by this government – so that small businesses and indeed all members of our community would have ready access to the laws to which they are subject.

Due to the large number of instruments registered in the years immediately following commencement of the LIA, sunsetting will cause the mass expiration of over 6,300 instruments from 2015, with two peaks in 2016 and 2018.

As the legislation was structured in 2003, assessing which legislative instruments remain necessary would put unnecessary strain on industry, business groups and other stakeholders, as well as Government.

The Productivity Commission in its 2011 Report 'Identifying and Evaluating Regulation Reforms' expressed concern about the mass expiry of instruments from 2015. They identified an increased risk that instruments will be remade without adequate review and without proper consultation with business and other stakeholders.

The Commission noted that the sheer quantity of instruments required to be remade by government increases the risk that business and other stakeholders will not have sufficient time to make a meaningful contribution to any review.

Consistent with the recommendations of the Productivity Commission, the purpose of this Bill is to smooth these sunsetting peaks, and encourage high quality consultation before regulations and legislative instruments are remade. It is also intended to ensure the information on the Federal Register of Legislative Instruments is current.

The specific measures in this Bill are as follows.

Firstly, this Bill will smooth sunsetting peaks by simplifying sunsetting dates. For instruments that were registered in bulk when the Register commenced in 2005, sunsetting dates will be spread out to reduce the number of instruments that expire at the same time and provide ample time for proper review and consultation.

The Bill also establishes a new default rule for regulations and legislative instruments. They will now sunset on their date of registration, making sunsetting dates easier to calculate.

Secondly, the Bill will insert a new provision into the Act to provide for thematic reviews. The introduction of thematic reviews was recommended by the Productivity Commission. By contributing to these reviews, key stakeholders will be able to actively participate in the regulation of their sector and contribute to consistency in regulation making.

Under this new provision, the Attorney-General can declare a common sunset date for a number of legislative instruments if satisfied that the instruments will be subject to a single review. The new aligned sunsetting date must be within five years of the sunset date of the earliest sunsetting instrument. The Attorney-General's declarations will be tabled in Parliament for public scrutiny and be open to disallowance by either House of Parliament.

Thematic reviews will provide industry and business with the opportunity to engage in one comprehensive review process, instead of having to provide comment on up to dozens of separate regulations, without a view of the wider regulatory framework.

Thirdly, the Bill will allow for the efficient repeal of spent and redundant instruments on the Federal Register of Legislative Instruments. According to the Office of Legislative Drafting and Publishing, approximately 40% of the 40,000 titles on the Register are either spent or redundant, but to a person looking for information on the Register, these instruments appear to be in force.
To ensure the Register accurately represents the current state of the law, the Bill provides for the automatic repeal of instruments and provisions which have commenced in full and whose only effect is to amend or repeal other instruments. This amendment will only apply to instruments and provisions that are created after the Bill commences.

For instruments already contained in the Register, the Bill will enable the creation of a specific regulation to effect a bulk repeal of instruments which are spent or redundant. Bulk revocation will only occur after extensive consultation. The Attorney-General will also need to be satisfied that the instruments are in fact spent or redundant.

Regulations that effect a bulk repeal will be tabled in Parliament and open to disallowance by either House of Parliament.

Finally, the Bill clearly communicates the requirements for explanatory statements that accompany legislative instruments. It is these statements that help businesses and individuals understand the effect of legislative instruments.

But too often in the past these materials have been confusing or apparently contradictory, forcing business to spend time and money obtaining advice on their legal obligations. By setting out clear requirements for explanatory statements, the Government will reduce the effort necessary to understand what steps are necessary to comply with the law.

Although this Bill may be largely technical, it will support efficient and effective consultation processes applying to all delegated legislation – much of which has a direct and significant affect on individuals, business and the community.

This Government is determined to keep our economy strong, and recognises the essential contribution of hard working individuals in our small business sector in keeping us the envy of the developed world.

This Bill is yet another example of Government working with the community to create a clear, understandable and fair framework for doing business in Australia.

Debate adjourned.
of study in mathematics, statistics and science from 1 January 2013.

The Bill removes eligibility for Commonwealth supported places and the Higher Education Loan Program schemes for Australian citizens who will not be resident in Australia.

To support continued growth in the higher education sector the Government is increasing the maximum student contribution amount for units of study in mathematics, statistics and science from 2013.

All students will pay the same student contribution amount for maths and science units of study regardless of when they commenced their course of study.

The Government believes the reduction in student contributions for maths and science that commenced for students starting a course of study from 1 January 2009 was not delivering value for money.

The majority of students undertaking maths and science units in 2009 and 2010 were not enrolled in a maths or science course of study, nor were they studying an education course. It is clear the policy was not substantially increasing the number of maths and science graduates in the workforce as intended and it was not improving the supply of quality maths and science teachers.

In 2011, the Prime Minister asked the Chief Scientist, Professor Ian Chubb AC, to advise on ways to encourage increased enrolments in mathematics, statistics and science courses at university and school.

The Government considered the Chief Scientist's advice and announced a $54 million response as part of the 2012-13 Budget to improve student engagement in maths and science.

To improve the supply of qualified graduates entering maths and science teaching at school, the Government will fund projects and courses that improve the quality of teacher training.

To ensure the Australian Mathematical Sciences Institute (AMSI) continues to provide support to mathematics researchers and students, the Government will fund AMSI to provide scholarships and a range of intensive short courses for later year university maths students.

The Government will also fund innovative partnerships between universities and schools that are experiencing difficulty in engaging students in science and maths, have poor outcomes in maths and science, or have low numbers of students going on to further study in these disciplines.

These initiatives ensure universities receive more money to support the teaching of maths and science so Australia has people highly skilled in these disciplines. This will be critical to developing a knowledge based economy and ensuring future generations are also equipped with these skills.

The Government is removing eligibility for Commonwealth supported places and the HELP schemes for Australian citizens who do not reside in Australia.

The Government believes its funding priority should be to support those students who are most likely to pursue careers in Australia, repay their HELP debts and use their education to benefit Australia's workforce and economic needs.

Students undertaking study as part of a formal exchange or who are engaged in a study abroad program for some of the units in their course, including those students receiving assistance through the OS HELP scheme, will not be affected by this change.

The estimated number of people who may be affected by this change is relatively small. However, with the removal of all limits on the number of undergraduate places in bachelor level courses and growth in online delivery of courses, it is important to clarify the eligibility conditions for Commonwealth support before there is further growth in the number of students who do not live in Australia and are being assisted by the Government.

There are around three quarters of a million Australians living overseas permanently or long term. In the last three years over 120,000 Australians left the country with the intention of permanently residing overseas. The Government does not believe it is appropriate that they continue to receive large subsidies toward obtaining a higher education degree from an Australian university while they are overseas.
The small number of students who are not resident in Australia and are currently enrolled in Commonwealth supported places or are accessing HELP will continue to be eligible for the schemes for the duration of their current course.

This amendment complements last year’s changes to the Act clarifying that Australian citizens are not entitled to Commonwealth support or to access HELP when they are undertaking courses of study primarily at an overseas campus.

STATUTE STOCKTAKE (APPROPRIATIONS) BILL (NO. 1) 2012

The Statute Stocktake (Appropriations) Bill (No. 1) 2012 is the fifth Statute Stocktake Bill since 1998, and forms part an ongoing process to clean up the statute book by repealing legislation that is redundant.

The Bill also furthers the Government's deregulation agenda. The Government has stepped up its deregulation reform program, including the progress made at the Business Advisory Forum in May 2012, and the Prime Minister’s Economic Forum in June 2012. The Government considers that it is important that continued progress is made in this important area.

The Bill would, if enacted, repeal:

- 93 redundant Appropriation Acts from 1984 to 1999;
- 35 redundant Supply Acts from 1984 to 1997; and
- 3 Acts containing redundant special appropriations from the Treasury portfolio.

The Bill would also continue the Government's commitment to a regularly review special appropriations and maintain effective legislative housekeeping, including by repealing 3 superannuation related provisions containing 2 redundant special appropriations from the Finance portfolio.

Regarding the 128 Appropriation and Supply Acts from 1984 to 1999, this Bill would repeal as many as 13 Appropriation and Supply Acts for one financial year (for example, in 1992-1993) and as few as 6 Appropriation and Supply Acts for other financial years (for example, the 4 financial years between 1994-1996 and 1997-1999).

The Bill does not appropriate any money, rather it seeks to repeal whole Acts, and to repeal special appropriations within Acts, that are redundant.

In addition to the Appropriation Acts that will be repealed by this Bill, the Government is reviewing Appropriation Acts since 1999-2000 to determine whether more recent Appropriation Acts are also redundant and could be repealed.

I commend the Bill.

TAX LAWS AMENDMENT (INVESTMENT MANAGER REGIME) BILL 2012

In January 2010, the Australian Financial Centre Forum released a report titled Australia as a Financial Centre.

This has become known as the "Johnson Report" in recognition of Mark Johnson's leadership of the Forum and his subsequent leadership of the Australian Financial Centre Task Force.

The Johnson Report concluded that Australia had arguably the most efficient and competitive financial services in the Asia Pacific. This is reflected in the fact that, even in this era of the mining boom, the financial services sector is the largest single contributor to GDP of any sector in the economy.

Despite these strengths, the Johnson Report observed that the sector could benefit from becoming more export oriented.

One of the key initiatives aimed at making the sector more outward oriented was the Investment Manager Regime.

This initiative will put Australian fund managers in a stronger position to manage not just funds being invested in Australia — but funds invested in other countries. This will maximise the benefits flowing to the Australian workforce and Australian consumers of financial products.

In addition, the initiative will reduce tax uncertainty for widely held foreign funds investing in passive Australian investments.
This legislation contains two schedules, which contain the first two elements of the Investment Manager Regime.

Schedule 1 will prescribe the tax treatment of conduit income of widely held foreign funds. These amendments will apply to the 2010-11 and later income years.

The amendments are designed to ensure that the complex tax issues that can currently arise do not operate to discourage foreign funds from engaging the services of an Australian intermediary, for instance an investment manager.

These amendments will ensure that investment income of a foreign entity is not subject to tax in Australia simply because it engages an Australian advisor, where that income would not otherwise have an Australian source.

Schedule 2 will address the uncertainty surrounding the impact of United States accounting standard ASC 740-10 — the amendments are often referred to as the FIN 48 measures. These measures will apply to the 2010-11 and earlier income years.

The amendments in Schedule 2 remove the potential for uncertainty regarding the Australian tax treatment of certain foreign fund income and will allow foreign investors to move forward in their arrangements with confidence of their Australian tax position relating to earlier years.

The proposed amendments are designed to clarify the taxation treatment of certain income of foreign funds which have not lodged a tax return or have had an assessment made of their income tax liability.

Where the conditions of the provisions are met, certain types of investment income and gains will be exempt from Australian tax. In addition, losses or outgoings in respect of certain investments will be disregarded.

Full details of the measures in this Bill are contained in the explanatory memorandum.

The ACTING DEPUTY PRESIDENT (Senator Fawcett): In accordance with standing order 111, further consideration of these bills is now adjourned to the first day of the next period of sittings commencing on 14 August 2012.

Senator WONG (South Australia—Minister for Finance and Deregulation) (17:55): I move:

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

Question agreed to.

National Broadcasting Legislation Amendment Bill 2010

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

COMMITTEES

Procedure Committee

Report

Senator PARRY (Tasmania—Deputy President of the Senate and Chairman of Committees) (17:56): I move:

That the recommendations of the Procedure Committee in its first report of 2012, be adopted as follows:

(1) That the temporary order relating to the consideration of private senators’ bills, agreed to on 22 November 2010, be extended till the end of the first sitting week in 2013.

(2) That the following amendment of standing order 57(1)(d) operate as a temporary order from the first sitting week in August 2012 till the end of the first sitting week in 2013:

After subparagraph 57(1)(d)(vi), insert:

(via) At 12.45 pm, non-controversial government business only.

(3) That standing order 74(3) be amended as follows, with effect from the first sitting day in 2013:

(3) The reply to a question on notice shall be given by delivering it to the Clerk, a copy shall be supplied to the senator who asked the question, and the publication of the reply is then authorised, and the question and reply shall be printed in Hansard.
(4) That the order of the Senate of 6 October 2005 be amended as follows:

**Storage of Senate documents**

The Senate authorises the storage outside Parliament House by the National Archives of Australia of documents laid before the Senate, provided that the storage of those documents is under the control of the Department of the Senate and microfilm or digital copies of them are available within Parliament House.

I wish to speak briefly to this motion and draw to the attention of the Senate that there are some amendments to the standing orders effected through this motion, which have been explained quite adequately by the Procedure Committee report, and I encourage senators to read those matters if they have not already done so.

I also indicate that arising from the report the committee has requested the President of the Senate under standing order 17 to refer two matters to the Procedure Committee. I will just briefly highlight these matters. The first is consideration of the capacity of a Senate minister who is representing as to whether or not the notice of question should be given to the minister in advance, and some other matters relating to some procedures concerning the temporary order in relation to question time.

The second matter will be in relation to the examination of the operation of the routine of business of the Senate—basically a review of that. We have asked the President to refer those matters to us and at some stage, with the concurrence of the committee, I will be writing to all senators seeking input in relation to, particularly, the routine of business of the Senate.

In moving the motion I commend the report containing the other matters for senators to familiarise themselves with.

**Senator LUDLAM** (Western Australia) (17:58): Obviously much of what Senator Parry has just presented is sensible and will contribute to the more efficient running of the chamber, but there is one matter that I do want to draw the chamber's attention to, effectively by way of a dissent to the procedures report that has just been tabled. In March of this year one of the recommendations of the 150th report of Privileges Committee, of which I am a member, proposed to the Procedures Committee to examine the ambiguity—in my view the quite dangerous ambiguity that has opened up—in the issue of the way that matters are referred from this chamber via the President through the chamber to the Privileges Committee. Quite a dangerous situation has opened up here in that the role of the President in referring these matters or assigning precedence to these matters has become quite ambiguous. The role of the chamber in ascertaining whether these matters go to the committee has become somewhat ambiguous, and I think it is a great shame that the Procedures Committee passed up the opportunity and the direct referral from Privileges to take a look at those matters, to take its time and to ensure that we do not see a repeat of what occurred last year in November.

I do not believe necessarily that it is appropriate to simply sit back and say, 'No, the situation is fine; it's not broken; it doesn't need fixing,' after the events that occurred. I would simply like to note that there are some differences of views here. I do not propose to go through and argue them here now, but I think this is a matter that we at some stage will need to return to. I thank the chamber.

Question agreed to.
Financial Framework Legislation Amendment Bill (No. 3) 2012

Second Reading

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

Senator WRIGHT (South Australia) (18:00): I rise to speak on the Financial Framework Legislation Amendment Bill (No. 3) 2012. This legislation has been introduced to respond to the changed political and fiscal landscape brought about by the High Court decision in the case of Williams and the Commonwealth. The Williams case was centred on a challenge to government funding of the National School Chaplaincy and Student Welfare Program, which was held to be invalid under this High Court decision. However, the decision has far broader implications than this, and I will return to a discussion about the school chaplains program in due course.

The Australian Greens believe that this High Court decision is a change for the better. We welcome the Williams decision. It sends a clear message that the executive cannot, as it has done in the past, simply spend funds without adequate parliamentary scrutiny. Increasingly, executive government in Australia has been funding a diverse set of programs according to a set of guidelines rather than enabling the funding through specific legislation. It is the scope of this increasingly relied upon power which has been challenged in this decision.

The Australian Greens welcome the opportunity to rebalance the relationship between the executive and the parliament that this decision has provided. It is a decision which asserts the primacy and role of parliament and it is a good decision for democracy. However, we understand that the decision has caused uncertainty about hundreds of spending programs which were established under the previous regime. It is clear that good governance dictates that those programs require certainty and clarity to enable them to continue to operate effectively. Given the large number of programs identified as being potentially affected by this decision, over 400, we understand that the government urgently needed to come up with a practicable and workable solution to validate those programs. We appreciate that the mechanism provided by this bill is an appropriate option.

We do, however, have significant concerns if, in the future, the government continues to use a regulatory mechanism for new programs, as is provided for in this bill. While it is true that a regulation comes before the parliament, it cannot be debated unless it is subject to a disallowance motion. The end result of the debate is solely that the regulation may be allowed or disallowed, and there is no scope for amendment. In that case, there is limited scope for true parliamentary scrutiny, where those in this parliament would have the capacity to bring for consideration suggested amendments that could improve the program of address perceived flaws or unintended consequences. The importance of parliamentary scrutiny as a function of government accountability and responsibility was emphasised in the judgement of Justice Crennan of the High Court, who was one of the majority, who describes the many conventions and practices of parliament which contribute to this scrutiny, and I quote:

Accountability of the Executive arises not only from the requirements under the Constitution affecting the Executive mentioned above, but also from various conventions of Parliament, the established mechanisms of parliamentary debate...
and question time, and the requirement that members of the Executive provide information to Select Committees of both Houses of Parliament. Leaving aside appropriation legislation, Bills are conventionally introduced to Parliament, and their purposes explained, by the Minister responsible for their initiation in the House of which the Minister is a member, or by a delegate in the House of which the Minister is not a member. They are then the subject of parliamentary scrutiny and debate. The ultimate passage of a Bill into law may involve a number of compromises along the way, reflected in amendments which secure the Bill's final acceptance. Parliament's control over expenditure is effected through the legislative process.

The practical workings of a system of government which is both responsible and democratically representative are not static, and have given rise to a more general and flexible sense of "responsible government" to indicate a government which is responsive to public opinion and answerable to the electorate. The mechanisms and layers of accountability described above permit the ventilation, accommodation, and effective authorisation of political decisions. The notion of a government's mandate to pass laws and to spend money rests both on democratic representative government and on the relationship between Parliament and the Executive, involving, as it does, both scrutiny and responsibility. Whilst the Executive has the power to initiate new policy and to implement such policy when authorised to do so, either by Parliament or otherwise under the Constitution, Parliament has the power to scrutinise and authorise such policy (if it is not otherwise authorised by the Constitution), and the exclusive power to grant supply in respect of it and control expenditure. The principles of accountability of the Executive to Parliament and Parliament's control over supply and expenditure operate inevitably to constrain the Commonwealth's capacities to contract and to spend.

The Greens accept that it is necessary to act swiftly to respond to the uncertainty regarding existing programs this decision has brought about but that it is then prudent to provide for some breathing space to enable time for a considered review of the decision, its implications and appropriate responses. First, it is by no means certain that this bill sufficiently addresses the principles enunciated in the High Court decision and that merely regulating future spending will be sufficient to enable 'parliamentary engagement in the formulation, amendment and termination of programs for the spending of money'. There is certainly some speculation from various legal commentators that it will not prove to be sufficient. The Bill in itself has not been subject to proper scrutiny. It has passed through the house in approximately three hours, and it gives the executive broad powers to spend public moneys, with the only check on program spending occurring through the regulation process. Essentially, it sets the lowest possible bar for establishing these programs using subordinate legislation.

I welcome the indication given by Senator Wong earlier on behalf of the Attorney-General that the government will work through implementation issues to establish some guidelines as to which programs may be suitable for establishment by regulation and which would require legislation. But, notwithstanding these assurances that the government does not consider the regulation-making power embodied in this legislation to be unbounded, the concerns of the Australian Greens are not allayed. Clearly there is a need for careful consideration of which programs may require legislation because of their scope, their complexity or their cost, and which may be appropriately established by regulation. There is also a need for some flexibility to enable the executive government to respond speedily—for instance, in matters of urgency such as natural disasters.

It is for that reason that the Australian Greens felt it was prudent to keep our options open in respect of any future
spending program that the government seeks to regulate rather than bring to the parliament. We do know, however, that this is an important milestone in the relationship between executive government and the parliament, allowing for more scrutiny of the actions of executive government, and it would be unacceptable and regressive to relinquish it at this stage.

I will be moving amendments in the committee stage. These will enable the government to use regulations to validate the existing programs, including any which have been possibly overlooked in the urgency of this response, up until 31 December 2012, but the Greens amendments will then require legislative authority for any new programs which are to commence on or after 1 January 2013. The effect of these amendments will be to provide the flexibility and urgency needed by the government and ensure the forward funding of already established programs beyond the end of the year but then require that all future programs must be established using the highest point of parliamentary scrutiny—that is, legislation—after 1 January.

The Greens do not support the amendment proposed by the opposition. Our advice is that this sunset clause would potentially prohibit the making of ongoing contractual arrangements that would take effect beyond the end of the year. This would have an adverse effect on existing programs, potentially curtailing their ability to continue their activities and functions beyond the next six months. It could impede the government's ability to enter into further contracts under existing programs and introduce more uncertainty. Despite the assurances of Senator Brandis that this would not be a consequence, this is not the advice we have received and this is not an outcome that the Greens are willing to risk.

Essentially, the amendments proposed by the Greens will provide a six-month breathing space in which all interested parties can consider and seek advice as to the best way forward and what criteria should be applied in determining whether to regulate or legislate in the future. In doing so, we would not be locking in a situation where all such programs may be established on the basis of regulation, the lowest bar for scrutiny, and thus we would not be squandering this opportunity offered by this landmark case to maximise the parliament's ability to scrutinise the executive.

I now turn to the National School Chaplaincy and Student Welfare Program. The Australian Greens have consistently raised concerns about the chaplaincy program since its inception by the Howard government and through its significant expansion under the current government. I acknowledge the important role played by Mr Ron Williams, the plaintiff in the case, who initiated the High Court challenge as the father of six children in the public school system. He has evidenced great courage, I think, in taking on what has been described as a David-and-Goliath battle in pursuing his principles. The Australian Greens do not believe that the program is in the best interests of students in our secular public education system. The qualification requirements for the program are wholly inadequate. This court decision has offered the government an opportunity to overhaul the chaplaincy program and to ensure that the millions of dollars being spent are actually to the benefit of schools and their students.

There is no doubt that Australian young people are increasingly under pressures which affect their wellbeing and mental health. In surveys they cite many issues which concern them, including bullying, relationships, sexuality and family
relationships. Appropriate assistance and support are vital. The Australian Greens maintain that it is better public policy to replace the existing program with an alternative program that seeks to assist students and is delivered by professionals with appropriate qualifications. Schools and students may need counsellors with appropriate university qualifications. Other schools with large bodies of students who do not speak English as a first language may need assistance from people with relevant language qualifications. Essentially, the Australian Greens want the funds from the program spent but spent in ways that offer better value to our nation's schools and students.

To that end, I move the second reading amendment on sheet 7250 circulated by the Australian Greens:

At the end of the motion, add:

but the Senate considers that the National School Chaplaincy and Student Welfare Program should be replaced with a program offering genuine counselling and other assistance to students by professionals with appropriate tertiary qualifications.

Senator WONG (South Australia—Minister for Finance and Deregulation) (18:12): I thank all senators for their contribution to the debate on the Financial Framework Legislation Amendment Bill (No. 3) 2012. I will be brief. There were just a few issues that were raised in the context of debate which I should respond to. The first is Senator Brandis's complaint as to the legal advice not being provided. I place on record that the government has offered him on more than one occasion in relation to this bill a briefing by the Acting Solicitor-General, which he has not taken up.

The second is in relation to Senator Brandis's comments on the regulation-making power. I am advised that the regulation-making power in the bill remains with the Governor-General as per section 65, I think, of the financial management and accountability legislation. I think a couple of Senator Brandis's comments on this issue suggested that not even a minister but an official could make a regulation. The delegation power to which he refers relates only to the ability of an official so delegated to enter an agreement after such an agreement would be authorised by regulation.

The third point I would make is in relation to the scope of Williams, which Senator Brandis made some comment on. I think it is important not to conflate this debate with a number of other issues. The Williams decision stands for the proposition that government expenditure and programs need legislative support. This legislation before the chamber deals with that issue. It is true, as Senator Brandis referenced, that there was also discussion in that case as to whether the Commonwealth's executive power is limited by reference to the legislative heads of power. However, that matter has not been determined by the High Court and I think it is important in the discussion that the legislative response to the Williams case do not conflate those two issues—the government has not done so.

In relation to the sunset clause, I make a number of comments. Senator Brandis asserted in his speech in response to my comment that the sunset clause would not prevent the executive entering into arrangements which extend beyond the sunset day—he quoted from NSW v Bardolph. That case does not stand for the proposition on which he is relying. In particular the passage to which he was referring—which I think was, as he says, a paragraph out of the decision of the Chief Justice in Williams—refers to the Bardolph case. The Bardolph case stands for a proposition which relates to the contracts:
... in 'the ordinary course of administering a recognised part of the government of the State'.

The example there, I am advised, relates to departmental running costs. That is what the Bardolph case referred to. The bill before the chamber is not about spending in relation to departmental running costs. The listed programs in schedule 2 do not include such agreements and spending.

The senator also suggested that therefore the sunset provisions, which he has included as part of the coalition's position, would have no effect on the chaplain's case. That is not the view of the government on advice. The view of the government on advice is that the effect of the coalition's amendment would be to prevent the government entering into contracts to fund the chaplains program that exists beyond 31 December 2012. That would mean the government would not be in a position to enter into contracts, as is typically the case for the chaplains program, for a three-year period. I am surprised, given the opposition's support for the chaplains case, that they are persisting with this amendment and, if they had the opportunity of the briefing that was offered and perhaps a little more time to have the discussion internally, I suspect they may not have. I thank the Australian Greens for taking, on that issue, the responsibility position.

Finally, in response to the second reading amendment moved by the Australian Greens, the government has made clear we are not supportive of that amendment. We have made changes, however, of which I know Senator Milne and Senator Wright are aware, which introduce a requirement for a certificate IV qualification in relation to the delivery of this program. I believe those changes were made by Minister Garrett earlier this year.

I commend the bill to the Senate.

The ACTING DEPUTY PRESIDENT: The question is that the amendment moved by Senator Milne on sheet number 7250 to the motion 'That the bill be read a second time' be agreed to.

The Senate divided. [18:22]

(The Acting Deputy President—Senator Fawcett)

Ayes .................8
Noes .................40
Majority ..............32

AYES
Di Natale, R
Hanson-Young, SC
Ludlam, S
Milne, C
Rhiannon, L
Waters, LJ
Whish-Wilson, PS
Wright, PL (teller)

NOES
Bilyk, CL
Bishop, TM
Boyce, SK
Brandis, GH
Brown, CL
Bushby, DC (teller)
Cameron, DN
Carr, KJ
Cash, MC
Colbeck, R
Collins, JMA
Crossin, P
Edwards, S
Evans, C
Farrell, D
Fawcett, DJ
Fierravanti-Wells, C
Fifield, MP
Furner, ML
Gallacher, AM
Heffernan, W
Kroger, H
Lundy, KA
Macdonald, ID
Madigan, JJ
Marshall, GM
McEwen, A
McKenzie, B
McLucas, J
Moore, CM
Parry, S
Payne, MA
Pratt, LC
Singh, LM
Smith, D
Stephens, U
Thistlethwaite, M
Thorp, LE
Urquhart, AE
Wong, P

Question negatived.
Original question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the
I move opposition amendment (1) on sheet 7252:

(1) Schedule 1, item 2, page 5 (after line 15), at the end of Division 3B, add:

**32F Sunset provision**

This Division ceases to have effect on 1 January 2013.

I am not going to repeat the observations I made in my speech in the second reading debate in which I foreshadowed this amendment. Suffice to say that the effect of this amendment would be to sunset the operative provisions of the act to 31 December this year. The opposition propose this amendment for reasons that have been recited by me and indeed Senator Wright in the contribution she just made: given the significance and complexity of the High Court's decision and the very large range of programs, many hundreds of programs, which are potentially affected by it, and given my lack of confidence in the legal effectiveness of this bill to repair the constitutional gap that the High Court identified last week—a view I share with Professor Anne Twomey, Professor of Constitutional Law at the University of Sydney—it seems to me to be a prudent and appropriate course for the parliament and, in particular, for the government to have an opportunity to take more thorough advice on the effect of the High Court's decision and to consider which of the many programs set out in the proposed regulation require a specific statutory foundation. That can be done in the spring sitting of parliament. So, according to the opposition's amendment, this temporary solution would operate for some six months into the future. As I say, we have doubts about its efficacy, but for the time being it is the best the government has been able to come up with, and we do want to assist the government and indeed future governments in dealing with the problem the High Court has identified.

Can I respond quickly to Senator Wong's observation in closing the second reading debate. Senator Wong has told me that the government has advice that, if the legislation were to be sunsetted, no contract could be validly entered into which involved obligations that would take effect beyond the sunsetting period. That is not, in my view, correct advice. It is inconsistent with the decision in the Bardolph case, which I referred to before. The minister's rejoinder to me in her response—and, in fairness to Senator Wong, she is not the author of that rejoinder—is inaccurate and reflects a lack of understanding of the principle at work. I might also say, Minister Wong, that your observation that the extent to which the executive power to spend is limited by the section 51 heads of legislative power is unsettled is also wrong. In fact, that is the very issue that was resolved in the Pape case and the very issue that lay at the heart of the High Court's decision last week in the Williams case. Indeed, the proposition that you say was unsettled was in fact a proposition advanced by the Commonwealth of Australia in argument in the Williams case as being a settled proposition of constitutional law. I do not know who is advising the government in relation to this matter and I do not mean any disrespect to officers, but the advice that has been relied upon in the Senate is, to those who have read the case and studied it and studied the arguments in it, demonstrably wrong. The opposition is confident that the sunsetting of this legislation is the appropriate course and will not put at risk any Commonwealth contractual obligations which might extend beyond the sunsetting period and will not put at risk any of the programs, including the chaplaincy program, which are the subject of the bill.

To anticipate, I also say that the opposition does not support the Greens
amendment. Let me explain why. The Greens amendment, as I understand it, contains two elements. The first of them is unnecessary because that is what the bill itself does, whether sunsettled or not sunsettled. The second element of the amendment, which requires specific legislative support for identified Commonwealth programs—that is the law already. That is the law the High Court confirmed last week in the Williams case. One does not need to write into a statute a proposition of constitutional law that the High Court has lately declared to be the case. Any future government, whether it be a Liberal-National Party government or a Labor-Greens government, will be bound by the same legal principles as the High Court announced in the Williams case. The extra words that you propose, Senator Wright—if I may say so with respect—are unnecessary, because the High Court has told us that the law is consistent with the statutory words that you propose to include. For those reasons the opposition will not support the Greens amendments. For the reasons I earlier recited, the opposition thinks that the objective that you, Senator Wright, and your colleagues in the Greens party are trying to achieve is best achieved by the sunsetting measure which is the subject of my amendment. For the reasons I have explained, any advice that to sunset this clause would put contractual obligations or payment obligations at risk is simply wrong.

Senator WRIGHT (South Australia) (18:32): As I foreshadowed in my second reading speech, the Greens do not support the amendment proposed by the opposition, because our advice is that the sunset clause would potentially prohibit the making of ongoing contractual arrangements that would take effect beyond the end of the year. This would have an adverse effect on existing programs, potentially curtailing their ability to continue their activities and functions beyond the next six months. Notwithstanding the assurances of Senator Brandis and the coalition that his legal advice is right and the legal advice provided to the Greens is wrong, I am not satisfied it is appropriate to take a risk on that. One of the reasons this legislation has been introduced into the parliament is to create certainty in a climate where there is a great deal of uncertainty about the continued funding of some of these programs. The Greens are not willing to take the risk of an outcome whereby the government's ability to enter into, under existing programs, further contracts that would go beyond the end of the year is jeopardised. For that reason the Greens will not be supporting the opposition amendment.

Senator IAN MACDONALD (Queensland) (18:33): I acknowledge to the Greens that this is an element of law far beyond my capabilities, but I suspect the legal advice they are talking about is the same legal advice the government has been given. With no disrespect to the government advisors, their legal advice is not always the very best. Senator Brandis has had a very distinguished legal career and he is a Senior Counsel.

I am simply urging the Greens to take note of the good legal advice that Senator Brandis is offering for free. I suggest, with no disrespect to whoever is advising the government, that Senator Brandis's advice—and he has briefly explained the nature of it—should be followed. We all want the same thing, but the coalition are concerned that we do not get into this same problem again. There are elements of this bill which must make the Greens, as they make us, very nervous—some of the very wide powers that are being given to the government in the rushed through approach to dealing with this issue.
I did not intend to take part in this debate, but I think the Greens are on the same track as us. For some reason, however, the government has been able to convince them by putting forward some advice. I just think that, if we do not want to be back here within the next six months, amending this bill yet again—as we do with most of the legislation this government ram through the parliament—it is better to pass the opposition amendment today and then have another look at it within the next six months. If we are all happy with it in six months—there is nothing political about this; we are trying to help the government get to the conclusion we all want. It is just a procedural thing. Our suggestion of a sunset clause would, I think, help the whole chamber, the whole government and the whole of Australia get to where we all want to go.

Senator CORMANN (Western Australia) (18:37): I draw the attention of the chamber to the fact that the government's track record in relation to this whole issue and the implications of the Pape decision by the High Court do not instil a lot of confidence in the way the government handles these matters. The government told us for months that it was very confident about the legal sustainability of its Malaysia people-swap deal and then the High Court threw it out. The Pape decision was some years ago now. Senator Wong is the minister who was at the table during the Senate Finance and Public Administration Legislation Committee's estimates hearings. I asked questions of the Minister for Finance and Deregulation and the Secretary of the Department of Finance and Deregulation about the checks and balances that are in place to make sure that, when the Commonwealth goes into new areas of expenditure, there are appropriate heads of power—so that the new areas of expenditure are consistent with the Commonwealth's constitutional powers to expend taxpayers' money.

This Labor government has done nothing since the Pape decision to make sure it has its house in order. Now we have this legislation before us. We understand the need to facilitate speedy passage and we are doing that. But we have before us legislation which, quite frankly, some very eminent constitutional lawyers, including Professor Anne Twomey, have expressed serious concerns about. We are offering an opportunity here to say, 'Okay, let us have the quick fix, but let us have the opportunity to revisit this in a more considered fashion.' The sunset clause amendment moved by our colleague the shadow Attorney-General, himself a very eminent and senior lawyer in Australia—a Senior Counsel, as Senator Macdonald has observed—has provided an opportunity to resolve this.

I thought it important to place on record that the performance of the finance minister, in particular, and the finance department in dealing with these issues since the Pape decision has not given us a lot of confidence that the government is properly dealing with these matters. There are of course serious issues with this bill as well.

The CHAIRMAN: The question is that opposition amendment (1) on sheet 7252 be agreed to.

The Committee divided. [18:43]

(The Chairman—Senator Parry)

Ayes ......................31
Noes ......................37
Majority.................6

AYES
Abetz, E
Birmingham, SJ
Boyce, SK
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C

Bernardi, C
Boswell, RLD
Bushby, DC (teller)
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Thursday, 27 June 2012

AYES
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Payne, MA
Ryan, SM
Sinodinos, A
Williams, JR

NOES
Bilyk, CL
Brown, CL
Carr, KJ
Collins, JMA
Di Natale, R
Farrell, D
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Stephens, U
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS
Wright, PL

PAIRS
Back, CJ
Fisher, M
Heffernan, W
Feeney, D
Siewert, R
Conroy, SM

Question negatived.

Senator WRIGHT (South Australia) (18:46): by leave—I move Australian Greens amendments (1) to (3) on sheet 7251 together:

(1) Schedule 1, item 2, page 3 (line 26), omit "the regulations", substitute "an Act, or the regulations if those regulations are made before 1 January 2013".

(2) Schedule 1, item 2, page 3 (line 28), omit "the regulations", substitute "an Act, or the regulations if those regulations are made before 1 January 2013".

As I indicated in my speech on the second reading, these amendments are designed to ensure that, from 1 January 2013, any new program must be established in legislation. Initially, this will set the bar appropriately high, consistent with the principles enunciated by the High Court, and then allow time for all interested parties to consider carefully what regime should be instituted for future programs. In such a way we can work together to achieve an appropriate considered response which will have effect in the future, enshrining an appropriate degree of parliamentary scrutiny of executive spending of public money.

The CHAIRMAN: The question is that Australian Greens amendments (1) to (3) on sheet 7251 be agreed to.

The Committee divided. [18:52]

(Ayes: 8; Noes: 45; Majority: 37)

AYES
Di Natale, R
Ludlam, S (teller)
Rhiannon, L
Whish-Wilson, PS

NOES
Bernardi, C
Bilyk, CL
Brown, CL
Carr, KJ
Colbeck, R
Crossin, P
Eggleston, A
Farrell, D
Fierravanti-Wells, C

Bishop, TM
Cameron, DN
Carr, RJ
Colbeck, R
Crossin, P
Eggleston, A
Farrell, D
Fierravanti-Wells, C

Bishop, TM
Cameron, DN
Carr, RJ
Colbeck, R
Crossin, P
Eggleston, A
Farrell, D
Fierravanti-Wells, C

Bishop, TM
Cameron, DN
Carr, RJ
Colbeck, R
Crossin, P
Eggleston, A
Farrell, D
Fierravanti-Wells, C

Bishop, TM
Cameron, DN
Carr, RJ
Colbeck, R
Crossin, P
Eggleston, A
Farrell, D
Fierravanti-Wells, C

Bishop, TM
Cameron, DN
Carr, RJ
Colbeck, R
Crossin, P
Eggleston, A
Farrell, D
Fierravanti-Wells, C
Question negatived.
Bill agreed to.
Bill reported without amendment; report adopted.

Third Reading
Senator WONG (South Australia—Minister for Finance and Deregulation) (18:56): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

BUSINESS
Consideration of Legislation
Senator WONG (South Australia—Minister for Finance and Deregulation) (18:56): I move government business notice of motion No. 2:
That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Tax laws Amendment (Managed Investment Trust Withholding Tax) Bill 2012, allowing it to be considered during this period of sittings.
I might take the opportunity, Senator Cormann, to briefly put on the record the reasons for the exemption from the cut-off.

Senator Cormann: Take 20 minutes.
Senator WONG: I won't take 10 or 20 minutes, I promise.
with this measure as part of TLAB No. 2.' This government is in complete chaos. This government is incompetent. This government is dysfunctional. This government has not got a clue what they are doing. Last week the government removed this proposed doubling of the withholding tax on managed investment trusts from the TLAB. Then it turned around and said, 'We've changed our minds again. We want to pursue this measure after all.'

We have to remember that it was former Prime Minister Kevin Rudd—whom I know you support, Mr Acting Deputy President Cameron—and Minister Bowen who reduced this tax in order to attract investment for important infrastructure across Australia. It was former Prime Minister Kevin Rudd and Minister Bowen who thought it was important to have a tax rate of 7½ per cent for managed investment trusts because of the need for Australia to be an attractive destination to invest in. We need to attract more private investment for hospitals, for our major roads, for electricity generation, for office buildings—including energy efficient green buildings—and for tourism infrastructure. Our tourism sector is struggling right now, in case the government has not noticed, and here we have this incompetent, high-taxing, high-spending, dysfunctional Labor government saying: 'We want to whack yet another tax on the tourism industry. As if the carbon tax was not enough to hurt the tourism industry, let's whack on another tax—and not only that; we're so incompetent about managing this process that we don't know how to pursue tax legislation through the Senate. One day we say we want it, then we say we don't and then we want it again.'

This is not the way to run a government. How can anyone have any confidence in this government? No wonder confidence levels across Australia are so low. No wonder people across Australia are lacking confidence to spend and to invest. This is not a motion that the Senate should support. The government, since the budget, have had ample time to introduce this bill and have it considered by the House of Representatives and by the Senate through a normal and proper process. The government should not be so incompetent as to require a circumvention of our normal procedural rules. The government want us to give them an exemption from a very important set of standing orders. Why? Because they could not get themselves organised in a proper way and because they are so chaotic these days that none of them really know how to run the affairs of government.

This is yet another massive Labor Party tax increase. It is a doubling of the withholding tax on managed investment trusts. As I have mentioned, it was this current government that only two years ago said the rate should be 7½ per cent. It has been at 7½ per cent only since 2010-11. So we have had 2010-11 and 2011-12, and from 2012-13 it should be 15 per cent? This should go through the proper processes of the Senate. It should go through a Senate inquiry. The Senate Economics Legislation Committee should have the opportunity to hear evidence from relevant stakeholders, from people who can provide some information and some advice to the Senate about what the implications of this latest Labor Party tax grab will be on the economy, on investment in important infrastructure and so on.

The Labor Party cannot escape the fact that, since the government made this announcement back in early May as part of the budget, billions of dollars of planned investment has already been put on hold. This latest Labor tax grab initially could not even get the support of the Australian Greens. Even the Australian Greens, who are
hardly known to be resistant to tax increases in a general sense, took the view, so I am told and so the minister conceded in question time here last week, that they had some concerns about the government's proposal to double the withholding tax on managed investment trusts, which puts our tax rates out of step with the relevant tax rates imposed in our competitor countries in the region.

This is a government that is supposedly committed to making Australia a financial services hub in the region. I tell you what: if you want to be an attractive destination for investment, if you want to be a genuine financial services hub in the region, one of the things you need is a stable taxation policy and taxation administration framework. You have to have a certain predictability and stability around your taxation arrangements. This is a government which in 2010-11 said the tax rate on these types of investments should be 7½ per cent, then told us in May 2012 the rate should be 15 per cent, then told us last week, 'No, no—we got that wrong. We scrapped that. We'll go back to where we were;' and then said, 'No, we actually want to double it again.' That sort of zigzag approach to taxation policy is combined with all these other ad hoc Labor Party tax grabs. There have been more than 20 tax grabs since the Labor Party won government in 2007. This zigzag approach to taxation policy, this chopping and changing, sends a terrible message to foreign investors about our brand and image as a safe and attractive destination for investment.

The reason why this government is constantly in a rush to get more cash, the reason why this government has to be constantly casting around for new opportunities to raise more cash, is that spending is out of control. This government does not know how to live within its means. This is a government that inherited a very strong budget position back in 2007, a budget position with no net government debt after the Howard-Costello government had paid off $96 billion worth of Hawke-Keating debt. So no net government debt is the position that this government inherited. There was a $22 billion surplus and $70 billion of past surpluses invested in the Future Fund. The position that the Labor government inherited back in 2007 was such that the government was actually receiving net interest payments to the tune of $1 billion. If you have a close look at the budget papers you will see that when the Labor Party won government in 2007 the position that the coalition left behind was one where the government had collected in net terms $1 billion worth of interest payments. Now, after 4½ years of massive and record deficits, heading towards $145 billion worth of government net debt, this government is planning to spend nearly $30 billion in net interest payments. They have to pay nearly $30 billion over the next four years just to service the debt that their incompetent and dysfunctional Labor administration has accumulated over the last 4½ years.

That is the reason for this mad rush. That is the reason why this government always want to cut corners. That is the reason why this government do not want to follow proper process. That is the reason why they are constantly asking the Senate to do away with standing orders. It is because they are so desperate to get their hands on some more cash as quickly as possible, even though this is a very short-sighted approach.

Quite frankly, we have some serious doubts—and so do industry experts and analysts—as to whether this particular bill that the government wants to rush through the parliament so desperately will actually raise the money that the government says it will raise. When you keep on lumping one
tax hike on top of another, it eventually has an impact on your level of economic growth. As you impact on Australia's sovereign risk profile, as you make our taxation arrangements less competitive internationally, as you impact on the level of investment coming into Australia, our economy eventually will grow less strongly. As our economy grows less strongly—guess what?—not only is that bad for everyone; it is actually bad for the government too because the government starts collecting less revenue.

Conversely, if we were actually focused on ensuring an internationally competitive taxation framework, one that was stable, predictable and had internationally competitive rates that could attract more investment, we could grow our economy more strongly. The beauty of that is that, when you grow your economy more strongly, that is good for the government not only because the government ends up collecting more revenue but also because the government collects more revenue without the need for all these new and ad hoc Labor Party taxes.

There was a time when this Labor government were trying to make people believe that somehow they were committed to genuine tax reform, that somehow they were committed to making our tax system simpler and fairer. The former prime minister—who I know you have a very fond opinion of, Mr Acting Deputy President Cameron—told us that the Henry tax review was all about delivering a fairer and simpler tax system. Instead, all we have had under this government over the last 4½ years is one ad hoc new tax grab after the other.

It started in April 2008 with the alcopops tax. Do you remember the alcopops tax? It was the biggest budget tax grab in the initial Labor budget. It was supposed to stop binge drinking. There was not going to be any more binge drinking as a result of the alcopops tax. We have had a whole plethora of taxes from the Labor Party. There was the increased luxury car tax, the tax on the North West Shelf gas project, the flood tax, the mining tax, the carbon tax—you name it. There was also the doubling of the withholding tax on managed investment funds.

All of these Labor Party tax grabs have got to stop. The Senate should not be complicit with this high-spending, high-taxing, dysfunctional, incompetent Labor government executive which is just, quite frankly, taking us for mugs. The Senate should take seriously its responsibility to scrutinise the sorts of proposals that the government is putting forward here. We have to make sure that there are no unintended consequences. We need to make sure that we go into this with our eyes wide open.

The only way we can make judgments on these sorts of bills with our eyes wide open is if we go through proper process. Proper process is not something that this government understand. This government get themselves into trouble again and again because they do not know how to follow proper process. The Senate should not be party to that. We have some established processes. We have some established ways to deal with this sort of legislation.

If the government thought that this piece of legislation was such a high priority, why did they not introduce it in budget week? Why did they wait until the day before we were due to rise? Why did they wait until the Wednesday in the last sitting week before the winter break to bring on this bill if they thought it was such a high priority? If it was such a high priority, they could have brought this bill on earlier. They could have enabled us to send this to a Senate economics
committee inquiry, which would have been the appropriate way to go.

That is what should still happen. The Scrutiny of Bills Committee tonight, I am led to believe, was going to consider what would happen with this legislation. Obviously our recommendation was going to be that this bill be referred to an inquiry by the Senate Economics Legislation Committee. This is clearly now an attempt by the government to short-circuit all of that. This is clearly an attempt by the government to prevent the proper scrutiny of this legislation and to force it through the parliament before we are due to leave tomorrow night.

I urge the Greens to reflect very carefully on this. In years to come, do they really want people to look back at this? In a sense, the Greens might think, 'The damage is done, so we might as well just keep at it.' These are the Greens who, over the three years of the Howard government, when the Howard government had a majority in the Senate, complained bitterly and said how evil it was when there was a level of time management for various pieces of legislation. We did that on 36 occasions in three years. This government, together with the Greens, have done it on 36 occasions in a fortnight. The Labor Party and the Greens have gagged debate on 135 bills since 1 July last year. That is the sort of perversion of process that is going to lead to inferior outcomes.

I really encourage senior Labor senators and senior members of the government to have a look back at what they said when they were in opposition—Senator Evans in particular. The Leader of the Government in the Senate, Senator Evans, once gave a speech to the Subiaco branch of the Labor Party, which I read very carefully, in which he promoted the virtues and the great importance of the Senate committee work and of properly scrutinising legislation that comes before the Senate. In fact, he said that both in opposition and in government the Labor Party supported the role of the Senate as an important institution which is there to scrutinise the activities and the performance of the government. And here we are—this government is desperate to get its hands on some more cash without the Senate being given the opportunity to properly assess the implications of that for our economy, for investment and for jobs moving forward.

We are not going to be party to that. We think this bill deserves proper scrutiny. We think this tax grab goes against the things former Prime Minister Rudd and the former minister in this area, Minister Bowen, said were important. That needs to be properly scrutinised. So here we go: we had the then Prime Minister, Kevin Rudd, and the then minister in this area, Minister Bowen, say to us that it was critically important to reduce the tax rate to 7½ per cent and now we have Prime Minister Gillard, Minister Shorten and Mr Bradbury telling us we desperately need to double it. Somebody has to be wrong. Either Mr Rudd and Mr Bowen were wrong—and I would like members on the other side to say whether that is their view—or now Ms Gillard, Mr Shorten and Mr Bradbury are wrong.

The truth of the matter is that the Labor Party's time in government has had a terrible impact on our public finances. People across Australia instinctively know that whenever the Labor Party gets into government they stuff up our public finances. After the Labor Party has been in government for a couple of years, deficits come in and come in and the debt keeps blowing out. People across Australia instinctively know that after a period of Labor government the coalition has to come in and fix things up. We are not going to be complicit with the Labor Party in ramming tax bills like this through the parliament without having submitted them to
proper scrutiny. We want to make sure that the impact of this sort of tax increase on investment in key infrastructure across Australia is properly understood and that people across Australia are very well aware of the implications before we are called to vote on this bill. I think every senator in this chamber should make it their business to properly understand the implications of this bill before they vote on it. The motion which is before the chamber must be opposed because it has been designed to be rammed through the Senate without proper scrutiny, something that the Senate should not be supporting. (Time expired)

Senator IAN MACDONALD
(Queensland) (19:18): I want to support the comments made by my colleague in relation to this motion to avoid the normal processes of the Senate and deal with the bill without giving it appropriate scrutiny. It is certainly a bill that requires scrutiny. As Senator Cormann has quite rightly pointed out, this is another backflip by a government that does not know what it is doing. A former Labor government, the Rudd Labor government, reduced the tax from 15 per cent to 7½ per cent amid great fanfare that it was reducing taxes. Not two years later, the Gillard Labor government is now reinstating the 15 per cent, doubling the tax, as part of their insatiable appetite for new taxes on the Australian people.

If ever there were a bill needing proper scrutiny by the Senate Economics Legislation Committee, it is this bill. For that reason I urge the Senate not to support this motion but to vote against the motion so that it can go through the normal—

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Cameron) (19:20): Order! I propose the question:

That the Senate do now adjourn.

Asbestos

Senator URQUHART (Tasmania) (19:20): Every day Australians are being exposed to asbestos fibres—through a parent drilling into a wall to bury a hook and hang a picture, through a full refurbishment of a bathroom, when the fibro walls are ripped off the joists, or through a full demolition, when the skip may be filled with asbestos which has been hidden at the bottom to avoid extra tipping costs. Every day, everyday Australians are being exposed to asbestos fibres. A devastating statistic is that more Australians have died of asbestos related disease than were killed in World War II. These everyday Australians have died because, through no fault of their own, they have inhaled microscopic asbestos fibre fragments which can enter even the smallest air passages in the lungs, where they embed in lung tissue. The fibres are highly resistant to removal by the lungs' natural cleaning processes. Over time, embedded asbestos fibres irritate the lung tissue, causing a number of diseases. The incidence of these diseases has not yet peaked in Australia and it will continue to increase unless action is taken now. We must decrease and eventually eliminate all exposure to asbestos.

On 29 October 2010, the then Minister for Tertiary Education, Skills, Jobs and Workplace Relations, Senator Evans, announced the establishment of a national review into the management of asbestos. The review was tasked with assessing current activities and research in the area of asbestos management and to make recommendations for the development of a national strategic plan to improve asbestos awareness, management and removal. Senator Evans said that 'it's time that we took a long-term, strategic approach to these important issues'.
Well, the work has been done by the review. It reports later this week.

Today I hosted some members of the Asbestos Management Review group: Paul Bastian, the Australian Manufacturing Workers Union National Secretary; Lindsay Fraser, Assistant National Secretary, Construction, Forestry, Mining and Energy Union; Michael Borowick, Assistant Secretary, Australian Council of Trade Unions; and Tanya Segelov, Managing Partner of the Adelaide office of Turner Freeman Solicitors. Importantly, they brought with them to Canberra Serafina Selluca, an asbestos disease sufferer. Their message to members of parliament and senators from all sides of politics is to support the forthcoming recommendations from the review.

I acknowledge Serafina's courage and honesty in sharing her story with us today. It was April 2007 and at only 37 years old—having never worked with asbestos in her life, having never cleaned the clothes of a partner who worked with asbestos and having never to her knowledge been exposed to asbestos—Serafina was diagnosed with mesothelioma. Serafina said that around this time she felt well apart from a nagging cough. Her doctor thought she had active pneumonia and did some tests. The doctor was sure all would be okay. It was not.

Her doctor told her it could be cancer. But it did not appear to be cancer. After more tests and a biopsy, Serafina, aged 37, as I said, and the mother of four young children, was diagnosed with mesothelioma. She asked her doctor what that was—she was unaware. Her doctor explained that mesothelioma is a cancer of the pleura; that it typically grows quickly and spreads widely before symptoms appear, making its early diagnosis and effective treatment very difficult; that there is no cure; and that the average survival time after diagnosis is only six to 18 months. Serafina's treatment involved chemotherapy and an operation to remove one lung followed by 30 treatments of radiotherapy. All seemed well until two years ago, when Serafina had a recurrence. Another tumour had appeared. More chemotherapy was required before the tumour was able to be removed, along with some of her ribs, last year.

As I said earlier, Serafina had never worked with asbestos and to her knowledge had never been exposed to asbestos. Her only recollections were from her childhood in Sydney's suburbs. Around 1977, when she was just seven years old, her dad built a fibro garage at the family's Randwick home. With her two brothers, Serafina played around in the offcuts while her father was building the shed. It was 1977 and he was oblivious to the dangers, as were the children. When the family moved to Sutherland and lived in an old fibro house, the kids did as kids do—played around the house, in the yard and in the shed. The shed was also made of fibro, and there were bits of the wall that were broken off—lots of fun for kids to pull and poke at. Her dad relined the inside of the shed, with no idea of the dangers he was working with or exposing his precious family to. It is these situations, these innocent exposures as a child, which are probably to blame for Serafina's mesothelioma. Her two brothers and mother have both tested clear for any asbestos related disease. Serafina told of how she had received compensation from James Hardie. But, with sadness in her voice, she then went on to say that that would not change her outcome but that it gave her some comfort to know that her children will be able to be looked after and that her husband will not have to struggle as much if a time comes when she is no longer here.
Importantly, I was not the only one Serafina was able to share her story with today. This afternoon, the Prime Minister made time to hear Serafina's story. Flanked by the members of the review I mentioned earlier, this was Serafina's chance to share her struggle. And it was her chance to urge the Prime Minister to act swiftly and move to enact the review's recommendations. The findings and recommendations will be reported to government later this week. The review has built on work already being undertaken at the Commonwealth, state and territory levels. It seeks to complement the development of harmonised workplace health and safety laws, including regulations and codes of practice relating to asbestos management and removal in the workplace, as well as the Tasmanian government's response to the 2010 report, *Improving asbestos management in Tasmania*. And its final report will represent a once-in-a-generation opportunity for this Labor government to implement a national asbestos authority.

The National Asbestos Summit was convened in June 2010 by the Australian Council of Trade Unions, by my union, the Australian Manufacturing Workers Union, and by the Cancer Council of Australia. It was unanimously agreed at that summit that a national asbestos authority should initially be established as an independent authority with the appropriate powers to coordinate and enforce the removal of asbestos-containing materials from our built environment: at work, at home and in public and commercial buildings.

In the discussions with the delegation today, it was argued that the authority would work best as an independent body, as a statutory authority. This would allow for the family home, the local footy club, office buildings and the local village hall to be covered under its auspices. The activities of the authority could be overseen by a board of management consisting of representation from key stakeholders: from unions, the community, asbestos disease support groups, health groups and government. Crucially, it was raised that the authority must be given powers to educate and raise awareness amongst the community; audit and plan removal from government premises; require disclosure of asbestos-containing materials in the residential sector; manage waste disposal; and make workplaces safer. That is because we know that asbestos-containing materials remain prevalent throughout Australia. Prior to its phasing out in the mid-1980s and ban in 2003, Australia was one of the highest users of asbestos in the world. The unfortunate circumstance arises when materials that are cheap to mine and manufacture are used without analysis of their environmental affects.

The incidence of mesothelioma has not yet peaked in Australia. Australia has the highest per capita incidence of mesothelioma in the world. There is no threshold of exposure to asbestos for the causation of mesothelioma. Increasingly mesothelioma is being diagnosed in persons whose only exposure was through home renovations, just like Serafina. This review is the culmination of many years of struggle by asbestos related disease sufferers, by their unions, by their supporters, by their lawyers and—crucially with a terminal disease—by their family and friends. I thank members and officials of my union, the AMWU, for their strong leadership in seeking to take Australia towards a safe asbestos-free environment. I strongly urge the Prime Minister to favourably consider the recommendations in the review, in particular the proposal for a national asbestos authority whose work will ensure that fewer—or, preferably, no—everyday Australians are exposed to asbestos fibres.
Anzac Day

Slape, Mr William

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (19:29): I want to talk about the Anzac Day ceremony held at Hellfire Pass in Thailand this year. As you know, Mr President, I have been there before, six times in the last eight years, and I thank you for allowing me to lay a wreath on behalf of the Senate both at the dawn service at Hellfire Pass and at 10 am at the Kanchanaburi War Cemetery service. It was a great trip, with 25 people in total. Sadly, there were only two former prisoners of war there this year, Snow Fairclough and Neil McPherson. On the evening of 24 April, the night before Anzac Day, we had a gathering and dinner at Home Phu Toey, a resort owned by Khun Kanit, a Thai man who was a great friend of 'Weary' Dunlop. Sitting opposite me at the table was Snow Fairclough and I was telling him how, about two years ago, we had taken Cliff Lowien there, a good friend now from Yamba. Cliff was a prisoner back in those days on the Thai-Burma railway. I was telling Snow that Cliff had been only 17 years of age, and Snow said, 'Yes. We had a few apprentices on the job. Young fellas'. They are magnificent men, still with a sense of humour, given what they went through during that horrid time as prisoners of war constructing that railway line of 415 kilometres from Thailand to Burma, on which some hundred thousand men—some 90,000 Asian labourers and more than 12,000 allied prisoners of war—lost their lives.

It was great to be there again with the two former prisoners of war I have mentioned. We travelled on a bit afterwards. It was a really good Anzac Day, with a big crowd of probably 1,100 or 1,200 people. In a foreign land like that and a couple of hundred kilometres from the city, that is a huge crowd. The museum is magnificent. It was opened on 24 April 1998 by then Prime Minister John Howard and then Nationals leader and Deputy Prime Minister Mr Tim Fischer.

We got home on the Thursday, about a week later. On the Saturday I went to phone my friend Bill Slape, who manages the Hellfire Pass Memorial, but he did not answer his phone. I thought that was very odd. We had become good friends. I first met Bill in February 2004 when I was in Thailand. I took a friend by the name of Barry Green, from Parkes in western New South Wales, out there to see Hellfire Pass. On the Monday morning my wife said to me that she had just got an email, and we could understand then why Bill had not answered his phone: sadly, a few hours earlier he had died. He was swimming laps in the pool. I was speaking to Ayr, his wife, who is a lovely lady, just two weeks ago. Ayr was in Brisbane, she was telling me, when she got the call at eight o'clock in the morning: 'Ayr, Mr William, he has drowned.' She thought, 'How could he drown? He is a 62-year-old excellent swimmer.' Obviously, he had a heart attack. I know that about six months ago he came back to Brisbane to have a larger stent put in his heart. Who knows what went wrong, but it was a very sad time.

I would like to pay tribute to Bill Slape. Bill was born on 21 July 1950. His Vietnam War service was from 23 December 1969 to 17 December 1970. Bill served in 131 Divisional Locating Battery and in 9th Battalion, Royal Australian Regiment. In 2003, I think, Bill became the manager of Hellfire Pass Memorial, which is where I got to know him. Bill had so much pride in that museum. He called the Thai men his 'boys'. There were half-a-dozen men who worked with Bill, maintaining the facility, building new steps and looking after the place. It is a
magnificent war memorial. Just prior to going over, Bill said, 'Could you bring about six Australian caps. I need them for my boys.' He said, 'A bottle of single malt Scotch is always good for my boys as well.' I do not know whether that was for him or the boys or what but I think they might have enjoyed a nip of Scotch at the end of a day's work in that hot climate.

Bill took so much pride in his work. There were so many visitors each year from all around the world: Europeans, of course—the Dutch were prisoners of war of the Japanese; visitors from Australia and Britain; and from Indonesia—the Dutch East Indies as it was called in those days. There were so many visitors to the Hellfire Pass Memorial to go through the museum, to look at the 200 square metres of wall there and see the whole story, to see the film that shows about every 10 minutes and learn about the history of our prisoners of war during that terrible time from 1939 to 1945. Bill took so much pride in his work there. He enjoyed his work. He would sometimes ring me up and say, 'Look, this is not right; what can you do about it?' I would say, 'What do you want me to do about it?' 'No, you can't say that to the minister; I might lose my job,' he would say.

I find it concerning that there is not an Australian flag flying there. Australia put the funds in to build the memorial. I think it was close to a couple of million dollars but we do not have an Australian flag flying there. In time, I would like to see several flagpoles erected there with, perhaps, a Thai flag in the middle, a bit higher than the others because it is in Thailand, and have the flag of every country that participated in the construction of the railway line during the Second World War. That is something to look at in the future. Bill was a great fellow and my sympathies go to Ayr and his family. It was a terrible shock. As I said, at half past six or seven o'clock in the morning he went off to his swimming pool, as he did every day. He was a very fit type of bloke who did not carry any excess weight. He worked hard. It was a sudden death while he was swimming laps.

I would like to pay tribute to Ayr. When I was speaking to her a couple of weeks ago she was very upset about the loss of her husband; it was a terrible trauma for her, being such a sudden death. They were a very close couple. Ayr works in the Hellfire Pass Memorial Museum. She speaks wonderful English, and of course being a Thai lady she speaks fluent Thai and is a great communicator with the workers there. It was a sad time. As I said, it was a bit strange when Bill did not answer his phone. It was not that I rang him every day of the week, probably once every couple of months, but that was the sad timing of it all. We really never know, do we, when something like this will strike.

Can I just say thank you, Mr President, for allowing me to represent the Senate. I do hope that next year the government sends a representative there. Last year we had the Governor-General; the year before, I was there; and I was there this year, of course. Since the Labor Party has been in government, no-one has been to Hellfire Pass for Anzac Day. I can understand it in earlier years because it was under military rule. But next year is the 70th anniversary of the cutting of Hellfire Pass, a huge rock cutting. I do not know how man could ever perform such a function, to cut such a huge rock cutting.

It commenced on Anzac Day in 1943, so Anzac Day next year is the 70th anniversary of the commencement of the cutting of Hellfire Pass, where 68 Allied prisoners of war were bludgeoned to death while they cut that Hellfire Pass cutting. They called it Hellfire Pass because, when they looked in,
all the lamps were burning at night and the picks and the drills were going and so on. The soldiers would look down and say it looked just like being in hell. Its proper name is Konyu Cutting, but Hellfire Pass is the name we know it by.

I do hope that next year the government has a representative there— even you, Mr President. You would be a great representative to have there on Anzac Day next year at Hellfire Pass. That would be most pleasing. I do hope you consider that, to represent the Australian government there as we remember the 70th anniversary of the commencement of the cutting of Hellfire Pass.

In closing, I just express my sincere sympathies to Ayr, Bill Slape’s wife; to all Bill’s many, many friends; and to the many, many people who had the privilege and the honour to meet Bill Slape. He was a wonderful outgoing fellow, a tremendous friend. He welcomed everyone and showed them round the museum. He knew the history of Hellfire Pass and the whole construction of the Thai Burma railway. He knew it off by heart and inside out. He was a great ambassador for Australia and a great promoter of the history of war. We should remember Bill and what he did for our country, his service to our country and then in these later years his management of Hellfire Pass. My thoughts are with you, Bill. To Ayr and the family, as I said: my sincere sympathies.

Year in Review

Senator DI NATALE (Victoria) (19:39): Today is almost a year in the job, and I thought I would take this opportunity to do something that is quite rare in politics, and that is reflect on my first year in the Senate. It is a great day to be able to do that—to do it on the same day that my colleague Senator Peter Whish-Wilson gave his first speech to the parliament, which is a special moment and feels like it was only a few weeks ago for me. I went back and had a look at my first speech. I tried to look at what some of the things were that I identified as important for me personally to pursue in this place and at how much progress I have made in a year in this place.

I have to say that it was a great privilege to be here to see the passage of the climate change legislation. One of the aims that was very clear for me was to come into this place and get some action on climate change. We saw that earlier this year with the passage of the climate change legislation—a huge privilege.

Of course, health and multiculturalism are two of my other areas of interest. I will talk a little bit about both of those and particularly the issue of multiculturalism, given where we are at the moment and the very sad time with the deaths of people seeking refuge in this country.

On the area of dental health, something that the Greens made part of their agreement with the Labor Party in government, we were fortunate enough to get a National Advisory Council on Dental Health established. I think it is important to pay tribute to the many people involved in that council. One of the things I have realised is that there are a number of people outside politics who contribute their time, often unpaid, to improve the health and wellbeing of this nation. I think that often goes unacknowledged, and now is an opportunity to acknowledge their hard work. As a result of that advisory council we got a blueprint about what should happen in the area of dental health.

Dental health is one of the great reform challenges that still face this nation. It is right up there with the Disability Insurance Scheme and one of the greatest reforms since
Medicare, should we manage to achieve it. Through the negotiations on the private health insurance rebate we were fortunate enough to get a $150 million commitment to dental care. The changes to the private health insurance legislation were welcome, in our view. One of the things that we need to do is ensure that we protect and enshrine universal coverage when it comes to health in this nation. Through the budget, we were fortunate enough to get a half-a-billion-dollar investment in dental care, which will mean that low-income Australians can access dental care, many for the very first time, and we will be able to make a significant impact on dental waiting lists.

So we have achieved some significant gains in this space. I have to say that it has been an honour to be able to advance this issue, something that I feel very strongly about, something that in a wealthy nation like Australia needs urgent attention. We also advocated for a number of dentists who were caught up in the audits of the Chronic Disease Dental Scheme. It is one of those small issues that many people will not know much about, but to have the opportunity to try and remedy a significant injustice to people has been, again, something that I have been very lucky to be able to do.

Very early in my term I was involved with my first Senate committee hearing, which was on the deferral of listings of PBS medication. It gave me some insight into the work that the Senate committee system does right around the country in a number of areas. The Senate committee system is very precious. It is unique to this place and it needs to be protected, because the committee system does such tremendous work.

I was involved in two significant campaigns. I think it is important to give the government credit for its initiatives on plain packaging, which have led the world. The plain-packaging reforms gave me the opportunity through the Senate committee process to spar with tobacco lobbyists. I have to say that it is one of the memories I have in the first year of the job—to have the opportunity to look some tobacco executives in the eye and to essentially take them to task on what was a very necessary public health reform.

In the area of alcohol, we worked very hard on trying to get some movement in the area of pricing and improving alcohol labelling, things which are really important public health interventions. We are working very hard to try and get some movement in that space. I was lucky enough to introduce my first bill, a bill that would essentially ban the Australian government from investments in the tobacco industry through the Future Fund. We think it is really important, if the government is to continue doing the good work it has done on tobacco control, for it to take the next step and ensure that it does not invest at the moment in the order of $200 million in companies like Philip Morris and British American Tobacco. Developing that bill has been an interesting learning curve. Hopefully, watching its passage through this place, who knows—we may even see some major reform in that area.

In health we have pursued a transparent agenda, trying to make some changes to the way the pharmaceutical industry interacts with the medical profession. It is really important in 21st century Australia that individuals have the confidence to know that the relationship they have with their health professional has not been compromised through inducements and offers of overseas flights in the guise of education. We have also wanted to see that transparent agenda extend to community pharmacies, which do terrific work. We need to get more transparency around the pharmacy
agreement, an agreement worth $15 billion to taxpayers.

In gambling reform, another of my portfolio areas, we have seen the best and worst of minority government. We saw a group of independent voices come to the parliament with a strong desire to reform poker machines. We have seen some movement but nowhere near enough. I have had the honour to change the debate a little in this area by ensuring that the issue of $1 debts is firmly on the national agenda.

One of the great opportunities in this job is giving voice to issues that may not necessarily dominate the national political landscape. It is a great privilege for me to stand here and give voice to the issue of West Papua. Tomorrow I hope to found a parliamentary group that will bring together like-minded people and begin to seek justice for the people of West Papua. You know when you are being visited regularly by the Indonesian embassy that you are making inroads on an issue; likewise, today to be able to announce a bipartisan group of politicians who seek to advance the issue of drug law reform; and, one of the joys of this job, to advance issues that may not necessarily be politically popular but on which we know there are politicians who are keen to cooperate.

The community do not see the amount of cooperation which exists behind the scenes. Often the line is drawn in question time when we assume our roles and people shout across the chamber, but people do not see the cooperation that exists across the party lines.

In closing, I have to say it has been a great learning curve and a great privilege to be here to negotiate with government on some important reforms—climate change and dental health—on which I am very keen to see some progress. It highlights the importance of a power-sharing arrangement, where different voices exist in the parliament and can bring different perspectives on issues that often belong to many people in the community.

It is with some sadness that I make this speech because I believe multiculturalism is one of the things that make this country a great place, yet today we are debating refugees and asylum seekers. I know there is no straightforward answer to this. It is a gravely difficult dilemma. I am pleased to see that there may be some progress made on the issue, that there is now agreement we may need to work with our neighbours in Malaysia and Indonesia to ensure that we have legal safeguards for people while they are being processed, that we need a regional solution and that we need to increase our humanitarian intake. I believe it is also important to acknowledge that, despite our best efforts, regardless of the policy settings we have in place, some people will continue to take risks and Australia has a duty and an obligation to offer them protection.

Thebarton Senior College

Senator GALLACHER (South Australia) (19:49): I rise tonight to speak about the Thebarton Senior College, a unique public secondary school located in South Australia's Western suburbs. It is the only site in South Australia that provides an intensive English language course in a secondary school for recently arrived refugees and migrants. The college also specialises in the provision of the South Australian Certificate of Education, SACE, VET courses and is a registered training organisation. Students of the school can gain credit for nationally accredited courses in information technology, building and construction, engineering, multimedia, hospitality and business and community services, making it an ideal learning venue for adult students looking for a way into
TAFE or university or for those looking to build up the qualifications and skills necessary to get into apprenticeships or the workforce.

The school has around 1,000 full-time students and some part-time students who bring the total figure to approximately 1,300 students, along with 140 staff. The students are aged 16 to 60 plus, with a majority in the 18 to 24 age group. Thebarton Senior College offers an intensive English language program called the New Arrivals Program, a Centrelink approved activity, which extensively covers English language, literacy and numeracy for newly arrived migrants and refugees. The full-time program lasts 12 to 18 months and prepares newly arrived students for further study or is an important pathway into apprenticeships or work. Once students complete the program, they can continue on to stage 1 or stage 2 SACE subjects, giving them the opportunity to move into TAFE or university, or students can do VET courses to help them move into the workforce or to relevant apprenticeships. This year, around 266 students are enrolled in the New Arrivals Program, with the program reaching its peak enrolment figures last year with 370 students. A majority of the students in the program are here under humanitarian visas, a small number are business migrants and a few have come directly from community detention. Some of these students have experienced torture or trauma, and some have spent a significant amount of time in refugee camps. That is just one of the special circumstances that this college has to deal with.

Another is dealing with newly arrived students with varying levels of competency in the English language. In fact, 51 different languages are spoken by the students of Thebarton Senior College, who obviously come from many different cultures and countries all over the world. Some of the new arrivals come to the school with a good knowledge of the English language; others have reading and writing skills in their own language but none in English, which at least gives them the building blocks to learn a new language; and some have no reading or writing skills either in their own language or in English. At present, there are around 22 classes in the New Arrivals Program. Each class groups students with similar levels of English knowledge. To ensure that they are placed in appropriate classes, the New Arrivals Program students are assessed a few days after enrolment. Twenty bilingual school service officers are employed at the college to help communicate to teachers any issues relating to the new-arrival students.

The program offers more than just the extensive English lessons. Students are also given a large range of life-skill lessons which the college's principal, Kim Hebenstreit, says ensure that 'a whole lot of settlement issues are covered'. These lessons include having police talk to the students and provide information about the law. There are also lessons in understanding Centrelink, finances and banking, and in raising awareness of gambling, health issues and other service issues. Along with these life skills, a wide range of support services are offered to students, including midwives, clinical psychologists, housing specialists, financial counsellors and a specialised counselling service, Survivors of Torture and Trauma Assistance and Rehabilitation Services, or STTARS.

The new-arrival students can learn valuable leadership skills through the Rotaract Club for Global Peace, which is linked to the local Rotary club. The club enables students to do things like meet with elderly Australians who might never have had the chance to meet a person from Africa or Afghanistan. Assistant Principal Mrs Eva Kannis-Torry said:
It's a positive for community building and dispelling myths around immigration.

Another unique aspect of the New Arrivals Program is that, one day a week, students attend one of their classes in the Adelaide CBD. It gives these students the opportunity to get orientated in the city and go on city based excursions. Aside from the New Arrivals Program, the college is also a place for adult students to return to school and get their SACE or VET qualifications in a welcoming, multicultural and adult environment.

The school is always looking at new ways to attract new students and to help existing students realise their goals. Principal Hebenstreit says that one of the great success stories of the college is that they have implemented a number of SACE completion packages. This includes a program created for computer game buffs. These students are learning how to make games and how to critically assess them, amongst other things. They are meeting the English and numeracy requirements of the SACE through a familiar medium—a computer gaming environment. It is giving some people who have become socially isolated the opportunity to meet other people with similar interests, and it is giving them the chance to move onto further studies, like going on to do a certificate II or certificate IV in information technology.

The college is an attractive option for adult learners because of the broad range of subjects it offers. It is also one of only three schools in South Australia that is a registered training organisation. The staff work closely with local businesses, building relationships to give students opportunities and, importantly, contacts for work placements. Through work placements, the students can gain experience and build references which leave them better placed to find employment. An apprenticeship broker is on hand at Thebarton to help the students.

Thebarton Senior College's impressive streak does not end there. It is also recognised as a United Nations Global Peace School that teaches explicitly about peace and human rights. It is why days like Harmony Day, World Refugee Day and the International Day of Peace are so important to the school. It gives teachers the chance to highlight the importance of multiculturalism at the school. At the students' induction, they are told of the importance of keeping the peace. Principal Hebenstreit said:

They know here that the ultimate crime really is to breach peace. What our students have suffered from most is violence. They've seen stuff that nobody has to see or put up with.

This leads to the issue of how the college deals with discipline issues. As Assistant Principal Eva Kannis-Torry said, 'Where you have an adult environment and your values are around respect and peace, you can't have punishment as the go-to tool when things go wrong,' adding that 'some of these students have been punished by experts'. Instead, the college uses restorative practices as a way of dealing with any issues—that is, asking why things went wrong and what can be done to fix them. It can be a long, drawn-out process, but it is the most effective way of teaching these students, many who have experienced significant trauma. It is important to be compassionate and empathetic, reintegrating them into society so they are able to live in and deal with the problems we all face. Despite the fact that there are so many different cultures and backgrounds, the college says any conflicts amongst students are very rarely politically or culturally motivated. RTO Manager and Assistant Principal Gaye Becis says she thinks that the college has fewer issues than the average high school.

Currently, the school is in the very early stages of building a new library—it will be a modern, flexible library, which the school
expects to be completed in 2014—because, importantly, the school has also seen the benefits of this government's Building the Education Revolution, the $16.2 billion investment in our country's educational future. Over $1.7 million went into modifying the language centre to better suit the needs of the school. As Principal Hebenstreit says:

The wonderful thing about this BER initiative is that we now have new arrivals learning English—

(Time expired)

Question agreed to.

Senate adjourned at 20:00

DOCUMENTS

Tabling

The following document was tabled by the Clerk:

QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Job Network**
*(Question No. 1805)*

Senator Abetz asked the Minister representing the Minister for Employment Participation, upon notice, on 13 April 2012:

Can individual customers being assisted by Job Network request from their service provider a copy of all positions applied for on their behalf; if not, why not.

Senator Ludwig: The Minister for Employment Participation and Childcare has provided the following answer to the honourable senator's question:

The Employment Services Deed 2009-2012 states that "...the (Employment Services) Provider must allow Participants and Employers who are individuals to access Records that contain their own Personal Information, and provide them with copies of such Records if they require, except to the extent that Commonwealth legislation would, if the Records were in the possession of the Commonwealth, require or authorise the refusal of such access by the Commonwealth."

If an Employment Services Provider has in their possession Records of positions applied for on behalf of the Participant or job seeker, they should provide copies of those Records to that Participant or job seeker on request.