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SITTING DAYS—2011

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>8, 9, 10, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 2, 3, 21, 22, 23, 24</td>
</tr>
<tr>
<td>May</td>
<td>10, 11, 12</td>
</tr>
<tr>
<td>June</td>
<td>14, 15, 16, 20, 21, 22, 23</td>
</tr>
<tr>
<td>July</td>
<td>4, 5, 6, 7</td>
</tr>
<tr>
<td>August</td>
<td>16, 17, 18, 22, 23, 24, 25</td>
</tr>
<tr>
<td>September</td>
<td>12, 13, 14, 15, 19, 20, 21, 22</td>
</tr>
<tr>
<td>October</td>
<td>11, 12, 13, 31</td>
</tr>
<tr>
<td>November</td>
<td>1, 2, 3, 21, 22, 23, 24</td>
</tr>
</tbody>
</table>

RADIO BROADCASTS

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FORTY-THIRD PARLIAMENT
FIRST SESSION—SECOND PERIOD

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

Senate Officeholders

President—Senator Hon. John Joseph Hogg

Temporary Chairs of Committees—Senator Hon. Alan Baird Ferguson

Kay Boyce, Patricia Margaret Crossin, Mary Jo Fisher, Michael George Forshaw,
Annette Kay Hurley, Stephen Patrick Hutchins, Helen Evelyn Kroger, Scott Ludlam,
Gavin Mark Marshall, Julian John James McGauran, Claire Mary Moore, Louise Clare Pratt,
Hon. Judith Mary Troeth and Russell Brunell Trood

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 Robert James Brown

Deputy Leader of the Australian Greens—Senator Christine Anne Milne

Leader of the Family First Party—Senator Steve Fielding

Chief Government Whip—Senator Anne McEwen

Deputy Government Whips—Senators Carol Louise Brown and Helen Beatrice Polley

Chief Opposition Whip—Senator Stephen Shane Parry

Deputy Opposition Whips—Senators Judith Anne Adams and David Christopher Bushby

The Nationals Whip—Senator John Reginald Williams

Australian Greens Whip—Senator Rachel Mary Siewert

Family First Party Whip—Senator Steve Fielding

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

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
<th>Term expires</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abetz, Hon. Eric</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
</tr>
<tr>
<td>Adams, Judith Anne</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Arbib, Hon. Mark Victor</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>ALP</td>
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<tr>
<td>Back, Christopher John</td>
<td>WA</td>
<td>30.6.2011</td>
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<td>Barnett, Guy</td>
<td>TAS</td>
<td>30.6.2011</td>
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<td>Bernardi, Cory</td>
<td>SA</td>
<td>30.6.2014</td>
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<tr>
<td>Bilyk, Catryna Louise</td>
<td>TAS</td>
<td>30.6.2014</td>
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<td>Birmingham, Simon John</td>
<td>SA</td>
<td>30.6.2014</td>
<td>LP</td>
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<td>Bishop, Thomas Mark</td>
<td>WA</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Boswell, Hon. Ronald Leslie Doyle</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>NATS</td>
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<td>Boyce, Suzanne Kay</td>
<td>QLD</td>
<td>30.6.2014</td>
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<td>QLD</td>
<td>30.6.2011</td>
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<td>Brown, Carol Louise</td>
<td>TAS</td>
<td>30.6.2014</td>
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<td>Brown, Robert James</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>AG</td>
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<td>Bushby, David Christopher</td>
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<td>30.6.2014</td>
<td>LP</td>
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<td>Cameron, Douglas Niven</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
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<td>Carr, Hon. Kim John</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>ALP</td>
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<tr>
<td>Cash, Michaelia Clare</td>
<td>WA</td>
<td>30.6.2014</td>
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<td>TAS</td>
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<td>Collins, Jacinta Mary Ann</td>
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<td>Conroy, Hon. Stephen Michael</td>
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<td>Coonan, Hon. Helen Lloyd</td>
<td>NSW</td>
<td>30.6.2014</td>
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<td>Cormann, Mathias Hubert Paul</td>
<td>WA</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Crossin, Patricia Margaret</td>
<td>NT</td>
<td></td>
<td>ALP</td>
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<tr>
<td>Eggleston, Alan</td>
<td>WA</td>
<td>30.6.2014</td>
<td>LP</td>
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<td>Evans, Hon. Christopher Vaughan</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
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<td>Farrell, Donald Edward</td>
<td>SA</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Faulkner, Hon. John Philip</td>
<td>NSW</td>
<td>30.6.2011</td>
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<td>Feeney, David Ian</td>
<td>VIC</td>
<td>30.6.2014</td>
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<td>Ferguson, Hon. Alan Baird</td>
<td>SA</td>
<td>30.6.2011</td>
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<td>Fielding, Steve</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>FF</td>
</tr>
<tr>
<td>Fieravanti-Wells, Concetta Anna</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Fifield, Mitchell Peter</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>LP</td>
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<tr>
<td>Fisher, Mary Jo (1)</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
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<tr>
<td>Furner, Mark Lionel</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>ALP</td>
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<tr>
<td>Hanson-Young, Sarah Coral</td>
<td>SA</td>
<td>30.6.2014</td>
<td>AG</td>
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<td>Heffernan, Hon. William Daniel</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>Hogg, Hon. John Joseph</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>ALP</td>
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<tr>
<td>Humphries, Gary John Joseph (4)</td>
<td>ACT</td>
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<td>LP</td>
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<td>Hurley, Annette Kay</td>
<td>SA</td>
<td>30.6.2011</td>
<td>ALP</td>
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<tr>
<td>Hutchins, Stephen Patrick</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Johnston, Hon. David Albert Lloyd</td>
<td>WA</td>
<td>30.6.2014</td>
<td>LP</td>
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<tr>
<td>Joyce, Barnaby Thomas Gerard</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>NATS</td>
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<td>Kroger, Helen</td>
<td>VIC</td>
<td>30.6.2014</td>
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<td>Ludlam, Scott</td>
<td>WA</td>
<td>30.6.2014</td>
<td>AG</td>
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<td>Lundy, Kate Alexandra (4)</td>
<td>ACT</td>
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<td>ALP</td>
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<td>Macdonald, Hon. Ian Douglas</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>LP</td>
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<td>McEwen, Anne</td>
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<td>30.6.2011</td>
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<td>Senator</td>
<td>State or Territory</td>
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<td>Party</td>
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<tr>
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<td>McGauran, Julian John James</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>McLucas, Hon. Jan Elizabeth</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>ALP</td>
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<tr>
<td>Marshall, Gavin Mark</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>ALP</td>
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<tr>
<td>Mason, Hon. Brett John</td>
<td>QLD</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Milne, Christine Anne</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>AG</td>
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<tr>
<td>Minchin, Hon. Nicholas Hugh</td>
<td>SA</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Moore, Claire Mary</td>
<td>QLD</td>
<td>30.6.2014</td>
<td>ALP</td>
</tr>
<tr>
<td>Nash, Fiona Joy</td>
<td>NSW</td>
<td>30.6.2011</td>
<td>NATS</td>
</tr>
<tr>
<td>O’Brien, Kerry Williams Kelso</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>ALP</td>
</tr>
<tr>
<td>Parry, Stephen Shane</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>LP</td>
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<tr>
<td>Payne, Marise Ann</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>LP</td>
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<tr>
<td>Polley, Helen Beatrice</td>
<td>TAS</td>
<td>30.6.2011</td>
<td>ALP</td>
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<td>Pratt, Louise Clare</td>
<td>WA</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Ronaldson, Hon. Michael</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>Ryan, Scott Michael</td>
<td>VIC</td>
<td>30.6.2014</td>
<td>LP</td>
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<td>Scullion, Hon. Nigel Gregory</td>
<td>NT</td>
<td>30.6.2011</td>
<td>CLP</td>
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<td>Sherry, Hon. Nicholas John</td>
<td>TAS</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Siewert, Rachel Mary</td>
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<td>30.6.2011</td>
<td>AG</td>
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<tr>
<td>Stephens, Hon. Ursula Mary</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Sterle, Glenn</td>
<td>WA</td>
<td>30.6.2011</td>
<td>ALP</td>
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<td>Troeth, Hon. Judith Mary</td>
<td>VIC</td>
<td>30.6.2011</td>
<td>LP</td>
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<td>Trood, Russell Brunell</td>
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<td>30.6.2011</td>
<td>LP</td>
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<td>Williams, John Reginald</td>
<td>NSW</td>
<td>30.6.2014</td>
<td>NATS</td>
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<td>SA</td>
<td>30.6.2014</td>
<td>ALP</td>
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<td>Wortley, Dana Johanna</td>
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<td>30.6.2011</td>
<td>ALP</td>
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<td>Xenophon, Nicholas</td>
<td>SA</td>
<td>30.6.2014</td>
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</tbody>
</table>

(1) Chosen by the Parliament of South Australia to fill a casual vacancy vice Amanda Eloise Vanstone, resigned.
(2) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Ian Campbell, resigned.
(3) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Christopher Martin Ellison, resigned.
(4) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

PARTY ABBREVIATIONS
AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Liberal Party; FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

Heads of Parliamentary Departments

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—A Thompson
GILLARD MINISTRY

Prime Minister
Deputy Prime Minister and Treasurer
Minister for Regional Australia, Regional Development and Local Government
Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate
Minister for School Education, Early Childhood and Youth
Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate
Minister for Foreign Affairs
Minister for Trade
Minister for Defence and Deputy Leader of the House
Minister for Immigration and Citizenship
Minister for Infrastructure and Transport and Leader of the House
Minister for Health and Ageing
Minister for Families, Housing, Community Services and Indigenous Affairs
Minister for Sustainability, Environment, Water, Population and Communities
Minister for Finance and Deregulation
Minister for Innovation, Industry, Science and Research
Attorney-General and Vice President of the Executive Council
Minister for Agriculture, Fisheries and Forestry and Manager of Government Business in the Senate
Minister for Resources and Energy and Minister for Tourism
Minister for Climate Change and Energy Efficiency

Hon. Julia Gillard MP
Hon. Wayne Swan MP
Hon. Simon Crean MP
Senator Hon. Chris Evans
Hon. Peter Garrett AM MP
Senator Hon. Stephen Conroy
Hon. Kevin Rudd MP
Hon. Dr Craig Emerson MP
Hon. Stephen Smith MP
Hon. Chris Bowen MP
Hon. Anthony Albanese MP
Hon. Nicola Roxon MP
Hon. Jenny Macklin MP
Hon. Tony Burke MP
Senator Hon. Penny Wong
Senator Hon. Kim Carr
Hon. Robert McClelland MP
Senator Hon. Joe Ludwig
Hon. Martin Ferguson AM, MP
Hon. Greg Combet AM, MP

[The above ministers constitute the cabinet]
GILLARD MINISTRY—continued

Minister for the Arts
Hon. Simon Crean MP
Minister for Social Inclusion
Hon. Tanya Plibersek MP
Minister for Privacy and Freedom of Information
Hon. Brendan O’Connor MP
Minister for Sport
Senator Hon. Mark Arbib
Special Minister of State for the Public Service and Integrity
Hon. Gary Gray AO, MP
Assistant Treasurer and Minister for Financial Services and
Supernannuation
Hon. Bill Shorten MP
Minister for Employment Participation and Childcare
Hon. Kate Ellis MP
Minister for Indigenous Employment and Economic
Development
Senator Hon. Mark Arbib
Minister for Veterans’ Affairs and Minister for Defence Science
and Personnel
Hon. Warren Snowdon MP
Minister for Defence Materiel
Hon. Jason Clare MP
Minister for Indigenous Health
Hon. Warren Snowdon MP
Minister for Mental Health and Ageing
Hon. Mark Butler MP
Minister for the Status of Women
Hon. Kate Ellis MP
Minister for Social Housing and Homelessness
Senator Hon. Mark Arbib
Special Minister of State
Hon. Gary Gray AO, MP
Minister for Small Business
Senator Hon. Nick Sherry
Minister for Home Affairs and Minister for Justice
Hon. Brendan O’Connor MP
Minister for Human Services
Hon. Tanya Plibersek MP
Cabinet Secretary
Hon. Mark Dreyfus QC, MP
Parliamentary Secretary to the Prime Minister
Senator Hon. Kate Lundy
Parliamentary Secretary to the Treasurer
Hon. David Bradbury MP
Parliamentary Secretary for School Education and Workplace
Relations
Senator Hon. Jacinta Collins
Minister Assisting the Prime Minister on Digital Productivity
Senator Hon. Stephen Conroy
Parliamentary Secretary for Trade
Hon. Justine Elliot MP
Parliamentary Secretary for Pacific Island Affairs
Hon. Richard Marles MP
Parliamentary Secretary for Defence
Senator Hon. David Feeney
Parliamentary Secretary for Immigration and Citizenship
Senator Hon. Kate Lundy
Parliamentary Secretary for Infrastructure and Transport and
Parliamentary Secretary for Health and Ageing
Hon. Catherine King MP
Parliamentary Secretary for Disabilities and Carers
Senator Hon. Jan McLucas
Parliamentary Secretary for Community Services
Hon. Julie Collins MP
Parliamentary Secretary for Sustainability and Urban Water
Senator Hon. Don Farrell
Minister Assisting on Deregulation and Public Sector
Supernannuation
Senator Hon. Nick Sherry
Minister Assisting the Attorney-General on Queensland Floods
Recovery
Senator Hon. Joe Ludwig
Parliamentary Secretary for Agriculture, Fisheries and Forestry
Hon. Dr Mike Kelly AM, MP
Minister Assisting the Minister for Tourism
Senator Hon. Nick Sherry
Parliamentary Secretary for Climate Change and Energy
Efficiency
Hon. Mark Dreyfus QC, MP
SHADOW MINISTRY

Leader of the Opposition                     Hon. Tony Abbott MP
Deputy Leader of the Opposition and Shadow Minister for Foreign Affairs and Shadow Minister for Trade Hon. Julie Bishop MP
Leader of the Nationals and Shadow Minister for Infrastructure and Transport Hon. Warren Truss MP
Deputy Leader of the Opposition in the Senate and Shadow Minister for Employment and Workplace Relations Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate and Shadow Attorney-General and Shadow Minister for the Arts Senator Hon. George Brandis SC
Shadow Treasurer                                Hon. Joe Hockey MP
Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House Hon. Christopher Pyne MP
Shadow Minister for Indigenous Affairs and Deputy Leader of the Nationals Senator Hon. Nigel Scullion
Shadow Minister for Regional Development, Local Government and Water and Leader of the Nationals in the Senate Senator Barnaby Joyce
Shadow Minister for Finance, Deregulation and Debt Reduction and Chairman, Coalition Policy Development Committee Hon. Andrew Robb AO, MP
Shadow Minister for Energy and Resources Hon. Ian Macfarlane MP
Shadow Minister for Defence Senator Hon. David Johnston
Shadow Minister for Communications and Broadband Hon. Malcolm Turnbull MP
Shadow Minister for Health and Ageing Hon. Peter Dutton MP
Shadow Minister for Families, Housing and Human Services Hon. Kevin Andrews MP
Shadow Minister for Climate Action, Environment and Heritage Hon. Greg Hunt MP
Shadow Minister for Productivity and Population and Shadow Minister for Immigration and Citizenship Mr Scott Morrison MP
Shadow Minister for Innovation, Industry and Science Mrs Sophie Mirabella MP
Shadow Minister for Agriculture and Food Security Hon. John Cobb MP
Shadow Minister for Small Business, Competition Policy and Consumer Affairs Hon. Bruce Billson MP

[The above constitute the shadow cabinet]
SHADOW MINISTRY—continued

Shadow Minister for Employment Participation Hon. Sussan Ley MP
Shadow Minister for Justice, Customs and Border Protection Mr Michael Keenan MP
Shadow Assistant Treasurer and Shadow Minister for Financial Services and Superannuation Senator Mathias Cormann
Shadow Minister for Childcare and Early Childhood Learning Hon. Sussan Ley MP
Shadow Minister for Universities and Research Senator Hon. Brett Mason
Shadow Minister for Youth and Sport and Deputy Manager of Opposition Business in the House Mr Luke Hartsuyker MP
Shadow Minister for Indigenous Development and Employment Senator Marise Payne
Shadow Minister for Regional Development Hon. Bob Baldwin MP
Shadow Special Minister of State Hon. Bronwyn Bishop MP
Shadow Minister for COAG Senator Marise Payne
Shadow Minister for Tourism Hon. Bob Baldwin MP
Shadow Minister for Defence Science, Technology and Personnel Mr Stuart Robert MP
Shadow Minister for Veterans’ Affairs and Shadow Minister Assisting the Leader of the Opposition on the Centenary of ANZAC Senator Hon. Michael Ronaldson
Shadow Minister for Regional Communications Mr Luke Hartsuyker MP
Shadow Minister for Ageing and Shadow Minister for Mental Health Senator Concetta Fierravanti-Wells
Shadow Minister for Seniors Hon. Bronwyn Bishop MP
Shadow Minister for Disabilities, Carers and the Voluntary Sector and Manager of Opposition Business in the Senate Senator Mitch Fifield
Shadow Minister for Housing Senator Marise Payne
Chairman, Scrutiny of Government Waste Committee Mr Jamie Briggs MP
Shadow Cabinet Secretary Hon. Philip Ruddock MP
Shadow Parliamentary Secretary Assisting the Leader of the Opposition Senator Cory Bernardi
Shadow Parliamentary Secretary for International Development Assistance Hon. Teresa Gambaro MP
Shadow Parliamentary Secretary for Roads and Regional Transport Mr Darren Chester MP
Shadow Parliamentary Secretary to the Shadow Attorney-General Senator Gary Humphries
Shadow Parliamentary Secretary for Tax Reform and Deputy Chairman, Coalition Policy Development Committee Hon. Tony Smith MP
Shadow Parliamentary Secretary for Regional Education Senator Fiona Nash
Shadow Parliamentary Secretary for Northern and Remote Australia Senator Hon. Ian Macdonald
Shadow Parliamentary Secretary for Local Government Mr Don Randall MP
Shadow Parliamentary Secretary for the Murray-Darling Basin Senator Simon Birmingham
Shadow Parliamentary Secretary for Defence Materiel Senator Gary Humphries
Shadow Parliamentary Secretary for the Defence Force and Defence Support Senator Hon. Ian Macdonald
| Shadow Parliamentary Secretary for Primary Healthcare | Dr Andrew Southcott MP |
| Shadow Parliamentary Secretary for Regional Health Services and Indigenous Health | Mr Andrew Laming MP |
| Shadow Parliamentary Secretary for Supporting Families | Senator Cory Bernardi |
| Shadow Parliamentary Secretary for the Status of Women | Senator Michaelia Cash |
| Shadow Parliamentary Secretary for Environment | Senator Simon Birmingham |
| Shadow Parliamentary Secretary for Citizenship and Settlement | Hon. Teresa Gambaro MP |
| Shadow Parliamentary Secretary for Immigration | Senator Michaelia Cash |
| Shadow Parliamentary Secretary for Innovation, Industry, and Science | Senator Hon. Richard Colbeck |
| Shadow Parliamentary Secretary for Fisheries and Forestry | Senator Hon. Richard Colbeck |
| Shadow Parliamentary Secretary for Small Business and Fair Competition | Senator Scott Ryan |
CONTENTS

MONDAY, 21 MARCH

Chamber

Committees—
Environment and Communications Legislation Committee—Meeting ........................................ 1201
Senators’ Interests Committee ........................................................................................................ 1201
Australian Commission for Law Enforcement Integrity Committee—Meeting ............................ 1201
National Broadband Network Companies Bill 2010 ........................................................................ 1201
Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011—
Second Reading .............................................................................................................................. 1201
Business—
Rearrangement .............................................................................................................................. 1232
Defence Legislation Amendment (Security of Defence Premises) Bill 2010—
Second Reading ............................................................................................................................. 1232
Third Reading .................................................................................................................................. 1233
Australian Civilian Corps Bill 2010—
Second Reading .................................................................................................................................. 1233
In Committee ..................................................................................................................................... 1239
Third Reading ..................................................................................................................................... 1241
Business—
Consideration of Legislation ........................................................................................................... 1241
Screen Australia (Transfer of Assets) Bill 2010—
Second Reading .................................................................................................................................. 1242
Third Reading ..................................................................................................................................... 1243
Business—
Rearrangement .............................................................................................................................. 1243
Corporations and Other Legislation Amendment (Trustee Companies and Other Measures) Bill 2011—
Second Reading .................................................................................................................................. 1243
Third Reading ..................................................................................................................................... 1243
Business—
Rearrangement .............................................................................................................................. 1244
Health Insurance Amendment (Compliance) Bill 2010—
Second Reading .............................................................................................................................. 1244
Third Reading ..................................................................................................................................... 1251
Sex and Age Discrimination Legislation Amendment Bill 2010—
Second Reading ............................................................................................................................... 1251
Ministerial Arrangements ................................................................................................................ 1258
Questions Without Notice—
Australian Greens ......................................................................................................................... 1260
Distinguished Visitors .......................................................................................................................... 1262
Questions Without Notice—
Libya .................................................................................................................................................. 1262
Carbon Pricing .................................................................................................................................. 1263
Japan Natural Disasters ...................................................................................................................... 1265
Carbon Pricing .................................................................................................................................. 1266
Indigenous Health ............................................................................................................................. 1269
Taxation ............................................................................................................................................ 1269
Economy .......................................................................................................................................... 1270
Asylum Seekers ............................................................................................................................... 1272
Committees—
National Broadband Network Committee—Resolution of Appointment.................... 1332
Crimes Legislation Amendment Bill 2010 [2011] .................................................... 1332
Law and Justice Legislation Amendment (Identity Crimes and Other Measures)
Bill 2010 [2011]—
Assent ......................................................................................................................... 1332
Committees—
Environment and Communications Legislation Committee—Rearrangement .......... 1332
National Vocational Education and Training Regulator Bill 2010 [2011]—
Report of Education, Employment and Workplace Relations Legislation Committee... 1333
Combating the Financing of People Smuggling and Other Measures Bill 2011—
Legal and Constitutional Affairs Legislation Committee—Report ............................ 1333
Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy)
Bill 2011—
Report of Economics Legislation Committee ............................................................ 1333
Business—
Rearrangement ........................................................................................................ 1333
Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011... 1334
Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction
Levy) Bill 2011—
Second Reading ....................................................................................................... 1334
In Committee ........................................................................................................... 1346
Adjournment—
Military Service ....................................................................................................... 1371
Iraq ......................................................................................................................... 1373
Meningococcal Disease ............................................................................................ 1376
Documents—
Tabling ...................................................................................................................... 1377
Indexed Lists of Departmental and Agency Files ....................................................... 1382
Departmental and Agency Contracts ........................................................................... 1382
Questions on Notice
Defence: Hospitality—(Question Nos 117 to 119) ....................................................... 1383
Strategic Indigenous Housing and Infrastructure Program—(Question No. 217) ........ 1383
Christmas Island Resort Pty Ltd—(Question No. 372) .............................................. 1384
Christmas Island—(Question No. 373) ..................................................................... 1385
Christmas Island—(Question No. 374) ..................................................................... 1386
Christmas Island—(Question No. 375) ..................................................................... 1387
Australian Communications and Media Authority—(Question No. 385) ............... 1387
Child Support—(Question No. 2800) ................................................................. 1388
Monday, 21 March 2011

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 10 am and read prayers and made an acknowledgement of country.

COMMITTEES

Environment and Communications Legislation Committee
Meeting

Senator McEWEN (South Australia) (10.01 am)—by leave—On behalf of Senator Cameron, the chair of the Senate Environment and Communications Legislation Committee, I move:

That the Environment and Communications Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today.

Question agreed to.

Senators’ Interests Committee
Australian Commission for Law Enforcement Integrity Committee
Meeting

Senator PARRY (Tasmania) (10.01 am)—by leave—on behalf of respective committees, I move:

That—
(a) the Standing Committee of Senators’ Interests be authorised to meet during the sitting of the Senate today, from 10 am, for a private briefing; and
(b) the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity be authorised to hold a public meeting during the sitting of the Senate today, from 12.30 pm.

Question agreed to.

NATIONAL BROADBAND NETWORK COMPANIES BILL 2010

TELECOMMUNICATIONS LEGISLATION AMENDMENT (NATIONAL BROADBAND NETWORK MEASURES—ACCESS ARRANGEMENTS) BILL 2011

Second Reading

Debate resumed from 2 March, on motion by Senator Jacinta Collins:

That these bills be now read a second time.

Senator BIRMINGHAM (South Australia) (10.02 am)—As the first speaker on a Monday morning in this place it would usually be a pleasure to rise and say, ‘It is a pleasure to speak on this legislation.’ Unfortunately, however, this is flawed legislation designed to pursue and implement a bad policy. It is not a pleasure to do so, because it is disappointing to once again be in this place debating a matter in which the government is attempting to spend billions upon billions of taxpayer dollars. By doing so, this government will plunge this nation further into debt and it will create a giant new taxpayer funded monopoly on the basis of its belief that this is the only way to provide faster broadband services for Australians when there are in fact many other ways.

I speak, of course, of the National Broadband Network and the National Broadband Network Companies Bill 2011 and the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011. For the NBN, as it has become known, to be built it will require around $27 billion in equity funding from the Commonwealth government. The NBN Co. will need to borrow a further $10 billion to roll out the network. In addition, the NBN Co. is currently in a much-delayed negotiation with Telstra over a further deal for access to Telstra equipment and a transfer of infrastructure that is worth
around $11 billion. All up, this is about a $50 billion venture that the government is involved in.

It is worth the chamber reflecting on that for just a moment—$50 billion. This will all be funded, one way or another, by debt through the $27 billion that the government will be borrowing—because it is already in debt and deficit—to pump equity into the NBN and it will be a debt that every Australian family and taxpayer will directly owe. The NBN Co. will raise $10 billion by borrowing from the equity market. It is not seeking equity investments and it is not seeking investors—it will simply borrow $10 billion from the financial markets. That will be debt that a 100 per cent government owned company will owe. The funds provided to Telstra will overwhelmingly need to be borrowed—whether it is $11 billion, $12 billion or $13 billion. We do not know the nature of that arrangement with Telstra, but what we do know is that that money will need to be borrowed by NBN Co. for it to be able to pay Telstra.

Basically, what we have here is a $50 billion debt package from this government to roll out fibre across the country in the fictitious belief that this is the only way it can get reasonable broadband services to all Australians. Let me state again, as I have stated in this chamber many times before, and as Mr Turnbull, Mr Abbott and others have stated, that the coalition believes that it should be a government priority to ensure that all Australians have access to fast, affordable and reliable broadband services.

The truth is that many Australians already do have those services. This government is going to spend billions of dollars duplicating services and infrastructure that are already there, and rolling it out to people and places that already enjoy faster broadband, rather than focusing its efforts in the areas of market failure and ensuring that it spends taxpayers’ money wisely in the places where fast broadband does not currently reach and probably will never reach on a commercial basis. That is where there is room for government investment—targeted, careful government investment focused on the people who might otherwise miss out. But no—this government sees the need to do the whole lot itself in this massive wasteful exercise. This is why it is a disappointment to speak on this legislation this morning because we will see tens of billions of dollars of debt unnecessarily borrowed and spent to build something that could be done in a properly regulated private infrastructure investment arrangement.

I will turn to these two bills that are before us today. The National Broadband Network Companies Bill 2010 governs the ownership, operations and legal status of the NBN Co.—the Commonwealth owned builder and operator of this broadband network. It limits NBN Co. to business activities directly related to supplying wholesale communications services—or, at least, that is what the government claims. I will shortly turn to some of those claims that highlight the flaws evident in this bill. It also sets out some of the conditions for the possible privatisation of this network. I will also turn to some of those issues shortly.

The Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011 amends the Competition and Consumer Act 2010 and the Telecommunications Act 1997. It requires NBN Co. to business activities directly related to supplying wholesale communications services—or, at least, that is what the government claims. I will shortly turn to some of those claims that highlight the flaws evident in this bill. It also sets out some of the conditions for the possible privatisation of this network. I will also turn to some of those issues shortly.
I say that it is flawed because the legislation does not deliver what the government promises—far from it. The government proclaims that this will be a wholesale only network, yet it leaves scope for mission creep in the NBN’s activities. It leaves scope for the NBN Co. to start to provide retail services in a number of different ways. The government claims that this will be set up in a manner to be privatised at a later stage and yet has agreed, in a deal with the Australian Greens, to put so many provisions and hurdles in the way of that privatisation that there really is a question as to whether it will be able to reasonably be privatised.

Let me go through some of the particular concerns that the coalition has with this package of legislation. Firstly, we are concerned that this bill will prevent appropriate parliamentary and public scrutiny and oversight of the NBN Co. This is the largest public works project in Australia’s history. As I said, it is a $50 billion project, with the overwhelming majority of that $50 billion being borrowed money. The government has already rejected calls for a decent cost-benefit analysis of this project either by Infrastructure Australia or by the Productivity Commission. The government chose to release only 160 pages of the 400-page NBN Co. business plan. The government asked MPs who were briefed to sign confidentiality agreements. The government has been incredibly secretive about the details surrounding this project and incredibly reluctant to submit it to any type of decent scrutiny or oversight.

Now we have this bill which seeks to have the NBN Co. defined as a corporate body rather than as a public authority, thereby exempting it from FOI laws. This is despite the fact that the NBN will be for the foreseeable future—for the length of time that probably any of us are likely to be in this place—a 100 per cent government owned entity. Unfortunately, the recommendation in the Senate committee’s report and the amendment proposed by the Australian Greens has the effect of making the NBN completely immune in practical terms from the Freedom of Information Act. The amendment proposed by the Australian Greens, which we understand the government has persuaded them to put up, has the effect of making exempt all documents of the NBN that can be described as being in relation to its commercial activities. Quite clearly, basically everything that the NBN does could be defined as being in relation to its commercial activities. The NBN is meant to be a commercial entity, so you would expect all of its operations to in some way, shape or form be commercial activities. That would therefore mean that everything could potentially be exempt under the definition from the Greens.

We believe that this parliament, the public and the fourth estate should have proper oversight of this NBN. We will seek to ensure that, just as schemes such as the Snowy Mountains scheme—which Senator Conroy so often likes to cite in relation to prior infrastructure projects—had decent parliamentary oversight, this one should as well. The Parliamentary Standing Committee on Public Works should be entitled to have oversight of the NBN and should not be prevented from having that oversight. We seek to ensure that freedom of information requests are reasonably dealt with in a manner that allows the public, the Fourth Estate and the parliament reasonable access to ensure that the operations and activities of NBN Co. are undertaken in a proper way in accordance with what the government claims will be the case. We also have concerns about how this legislation may hurt private retail service providers by allowing the NBN Co. to extend its mandate. This is the issue of mission creep that I spoke of earlier.
The government has repeatedly attempted to assure the parliament, the public, the media, telco carriers and the market generally that the NBN would provide only a wholesale layer 2 bitstream service to retail service providers and that it would not deal directly with end customers. But the restrictions placed on NBN Co. in these bills are unclear in some places and unduly expansive in others. For instance, NBN Co. will be able to supply network services directly to gas, water and electricity utilities, transport operators and road authorities even though the provision of such services to these entities is an existing and valuable business opportunity for Telstra, Optus and other Australian carriers. The bill does not specify in clear language that NBN Co. must limit its products to layer 2 service supply to retail service providers for the purpose of providing services to end users. The bill even makes it possible and easy for people beyond these utilities, should they manage to meet these relatively easy definitions of carriage service providers to directly purchase their services from NBN Co. as well.

We will challenge the government in the committee stage to live up to its promise that this is a wholesale-only network and to support amendments that will ensure: that this network can only provide services of a wholesale nature to retail service providers that can then be onsold to customers; that the NBN Co. should not have direct retail relationships with customers; and, further, that the NBN Co. should be limited, as the government has made clear, to the provision of layer 2 bitstream services. This is a very important technical point: to allow the NBN to move up the product chain and engage in that type of mission creep would be to allow the NBN to get into some of the most profitable areas of the retail market. The NBN, if it is to be a truly wholesale carrier, needs to operate purely and entirely at this layer 2 bitstream service in providing services; otherwise, it has the capacity to start to undercut the profitability of retail service providers.

Let me be quite blunt in relation to this space. We want to make sure that this NBN and this structure do not repeat any of the mistakes of the past. This parliament has already dealt with the structural separation issues around Telstra. That legislation was debated at the end of last year. If we go back over that debate, both sides of parliament should acknowledge that some of the issues around Telstra’s structure were mishandled in its transition from a government entity through its corporatisation to its ultimate privatisation. There were opportunities under governments of both persuasions to fix the problem, but that was not done. We do not want to see those mistakes repeated in this process. We will hold the government to what it claims will be the case: actually having a wholesale-only provider of the basic service and allowing the retail market to go and do what it does best, which is to provide competitive, innovative services and to be in charge of the development of new, innovative product. To do that, you need the NBN Co. providing a basic flat service to all of them.

We are also concerned that this bill will prevent competition in that space by preventing private competitors entering the market. The so-called level playing field, or cherry picker, provisions of these bills will mean that any company building a new network offering services of 25 megabits per second or higher will have to meet the same technical standards as NBN Co., make available the same basic layer 2 wholesale services as NBN Co. is meant to be making available and allow competitors non-discriminatory access to their networks at prices set by the ACCC. Mandating prices and reducing returns will of course prevent private investment in new networks that could otherwise
lead to many Australians getting faster broadband much sooner than if they were to wait for the NBN. It will stifle innovation in the telecommunications sector by mandating which technologies must be used.

It is important to note in these concerns that it is not a case of saying that the NBN should not be rolled out in some places but is simply indicating that the coalition has concerns about preventing competitor companies from rolling out services in places. Canberra is a case in point. The Senate committee inquiry heard very compelling evidence from service providers in Canberra, who provide direct services already from the fibre services that are rolled out, that they will be threatened by this legislation. Their profitability will be threatened. They themselves will have to undertake major structural changes to be able to continue to operate if this legislation passes. We do not think it is reasonable to stifle private operators who in the past have provided decent services to the community and private operators who seek in the future to provide better competitive services to the community. Those operators should be entitled and enabled to get on with doing what they do best, and that is providing good, efficient and competitive services.

We are also concerned, as I flagged earlier, that this bill will make it harder to sell off the NBN. Initially, of course, this was going to be a 50 per cent private owned company. That was the government’s first approach. When they realised that no private operator was ever going to invest in it, it became a 100 per cent government owned company with the belief that it would be sold off once it was finished. However, subsequent backroom deals with the Australian Greens have seen significant barriers created for future privatisation. There is a real question as to whether the government even truly believe that it should become a private entity at any stage. We will pursue those concerns during the committee stage and seek to ensure that the limitations placed on future governments in dealing with this behemoth of an instrumentality are removed so future governments and future parliaments have the freedom and flexibility to do what needs to be done to fix this issue and to sell off parts of the NBN, if that is the best thing for the Australian public.

In closing, let me make it clear that the coalition believe this is a flawed policy and we have serious concerns about many aspects of these bills. I look forward to going through those concerns in detail in the committee stage. We will continue to vigorously argue that there is a better way than $50 billion taxpayer funded, debt funded investment in this sector to provide reasonable, fast, efficient, competitive broadband services to all Australians. Even though it is probably way too late, we once again urge the government to see common sense and to come onboard with a cheaper, more efficient and better way to do that.

Senator CAMERON (New South Wales) (10.22 am)—Once again we see the opposition in their negative carping mode in this debate on the National Broadband Network Companies Bill 2011 and the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011. They are not prepared to accept the proposition that NBN Co. will deliver massive change, massive improvements to productivity and massive benefits to the Australian community. Again we see—and I am surprised that Senator Birmingham is engaging in this—the misinformation that is coming out about cost. As a threshold issue, Senator Birmingham raised the issue of cost and then he finished with a $50 billion figure that he plucked out of the air because it sounds a bit scary.
The reality is that the cost of building the NBN without Telstra coming in as a partner was $43 billion. That was confirmed by McKinsey-KPMG in their implementation study. The government released that study in May 2010. It also indicated that, with NBN coming on board, the cost is $35.9 billion. This is a huge amount of money, but this is a huge project. It has huge potential and huge gains for the Australian economy.

Greenhill Caliburn, who evaluated the NBN corporate plan, found that the plan provided the government with a reasonable basis on which to make a commercial decision about NBN Co. So this is not some flight of fancy by the government; this is about us saying that this is the approach that will deliver the benefits to the community in relation to broadband across this country. What Greenhill Caliburn said is that the NBN Co.’s corporate plan has been completed to high professional standards, providing the level of detail and analytical framework that would be expected from a large listed public entity evaluating an investment opportunity of scale. It is an investment opportunity of scale that is providing opportunities for the whole country. Yet what do we get from the opposition—negative, carping criticism and nitpicking. They cannot bring the arguments to bear as to why this should not go ahead so they resort to carping criticism.

The two bills that we are dealing with, which are known in shorthand as the NBN Co. bill and the NBN access bill, are extremely important to allow this project to go ahead. We have heard the opposition and we have heard the issues that they are raising. In my view those issues are carping, negative, minor criticisms about whether there is a wholesale-only approach to the NBN—the argument that there would be mission creep. I have to say to you: I bet lots of people want the mission of the NBN to succeed, and if that mission can be as wide as possible in delivering decent NBN access to the community they would be quite happy that that creeps out across the community in a very quick, efficient and effective way.

In relation to the anti-cherry-picking proposals—again, typically from the opposition in their support of their big business mates, this time Telstra and Optus—they want them to be able to go in and carve out the best parts of the NBN, which would make it extremely expensive to have one wholesale price around the country. So it is typical: when big business get into the ear of the opposition, they just concede and they run big business’s line, and that is what Senator Birmingham has been doing this morning. I will come to the issue of volume discounting later. The issues of scrutiny and privatisation are, again, issues that are at the margins of delivering such a magnificent benefit to the people of Australia.

The government has established the NBN to address not only an industry failure but a longstanding market failure in this country. Senator Birmingham stands up here and says, ‘Well, we could do it some other way.’ I say: you had 11½ years to find another way to do this and you failed miserably, you failed completely and you failed terribly in providing any support for broadband across this country. What did that failure do? It left this country lagging against other advanced countries in the OECD and around the world—lagging behind broadband speeds, lagging behind the capacity to provide information in the community and information across business, lagging on productivity and efficiency. The coalition failed miserably across the whole economy. Not just on broadband but on productivity and efficiency, the coalition were complete failures. They were complete failures on providing the jobs of the future—the jobs that are important to position our economy and provide
opportunities for future generations to engage. What do we get when the Labor Party and the government deal with this issue? We get negative, carping criticism. There has been failure from the opposition in the past on health, on education and on regional development. The evidence to the committee was that this will revolutionise health and education services across the country and provide fantastic opportunities for regional Australia. That is what the wholesale platform that is the NBN will provide to this country—opportunities for the future for business and opportunities for a better society.

We are ensuring that there will be effective retail competition, something that the coalition in 11½ years again failed to deliver. NBN Co. will operate on a wholesale-only, open and equivalent access basis. We understand the need for competition. We understand that that competition has to be at the retail level. That is what should be done. Because the coalition failed over 11½ years to deal with the wholesale aspect of the provision of broadband to the community, we have dealt with that. This bill provides the basis for delivering the NBN across the country.

The National Broadband Network Companies Bill 2011 limits the NBN Co. to a focus on wholesale-only telecommunications activities. It is clear in the bill. It sets out the Commonwealth ownership arrangements and provides for the eventual sale of the Commonwealth’s stake in the NBN once the NBN rollout is complete. It provides a thorough process, including parliamentary scrutiny, to deal with these issues. The bill works in tandem with the NBN Companies Bill and the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill.

On 10 February this year, the Senate referred the National Broadband Network Companies Bill 2010 and the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2010 to the Senate Environment and Communications Legislation Committee, which I chair, for inquiry and report. Our committee report was tabled last Thursday, 17 March. The committee advertised its inquiry and invited submissions from key industry players. We held public hearings in Canberra and in Sydney. We state in our report that submitters and witnesses were unanimous about the importance of the passage of the bills. There was not the negative, carping criticism that we get from the coalition but enthusiasm, support and appreciation for the fact that this government has done something that the coalition could not do in 11½ years in government: provide access to broadband right across the country.

The submitters and witnesses stressed the importance of broadband for business, health, education and research purposes, especially in the rural and regional areas. We heard from education and small business groups. The Group of 8, a coalition of leading Australian universities, described many possibilities for the NBN. They said:

High-speed broadband network provides the capacity for distant doctors or patients—or midwives for that matter—to have real-time interactions with specialist colleagues in an urban setting if they need it. … Broadband connectivity allows clinicians, wherever they are, to engage in things like grand rounds—when patients of interest are discussed in teaching hospitals, people who are not physically in that building can connect in real time and participate in the questions and answers …
There was no equivocation from the universities or from the professors of medicine in the universities. There was no carping criticism from them. They want this. They know that it is delivering. They know the opportunities that it will provide them with. They are desperate to get this. That is the difference between the people who stand to benefit from this and the coalition and their carping, negative approach.

Also, the inquiry heard from the Association of Catholic School Principals of New South Wales. I quote from them:

E-learning is truly already a reality in our schools. We have moved from paper to e-books to personalised learning and now to e-publishing in a relatively short time. Scalability is necessary to allow us to continue to grow, as I said, and to provide 21st century skills …

The NBN will provide that scalability. The NBN will provide an opportunity for our schools to grow. The NBN will provide an opportunity for our students to have access to the best tutors anywhere in this country—the best tutors anywhere in the world—on specific projects. The education professionals understand the importance of the NBN, even if the coalition do not.

The Council of Small Business Organisations of Australia talked about the greater bulk of small businesses wanting access to affordable high-speed broadband—for competitive reasons as much as anything else. They know the benefits that this will provide. They know that it is affordable. They know it is needed. They know it is necessary for the future of our economy and the future for our kids.

In their evidence, the ACTU said:

An NBN program which provides for universal access and a universal wholesale price, we say, would be the best method to ensure that Australians have equality of access to broadband technology.

And equality of access to broadband technology is so important. It should not just be for those that can afford the high prices that have predominated under the coalition. It should not be for those in big business who use broadband. It should be for everyone, because working-class kids in this country should have the same access as do the children of the privileged in this country. They should have access to telecommunications and broadband networks that provide them with the opportunity to use their skills, their intelligence and their capacity in an equal way to kids who have parents who can afford to buy that process now.

Notwithstanding the broad support for the bills—and it was very broad support—there were a number of concerns raised by some of the current telcos. Well, why wouldn’t they raise their concerns? They are vested interests that the coalition continue to pander to. I have to say that, when I heard Telstra waxing lyrical about the problems of a vertically integrated NBN, I thought to myself, ‘The hypocrisy of Telstra talking about vertical integration and lack of competition! The hypocrisy!’ Telstra are the organisation that the coalition built, with the Mexican gang up there running Telstra and telling the coalition what they would accept and what they would not accept—standing over the coalition when they were in government and telling them that they were not going to allow broadband access across the country. The coalition were stood over and done over by Telstra. We were not stood over, we were not done over, and we have stood up for the Australian public. We will not pander to the vested interests of Telstra, Optus or anyone else in relation to this process.

There are a number of issues detailed in the report, but they generally cover the wholesale obligations of NBN, including the wholesale supply exemptions for utilities. This is because NBN Co. is allowed to sell
access to utilities for services that enable the utilities to monitor their own networks. As the minister said in the debate in the other place, the exemption is needed because, under the existing legislation, utilities may do things that would otherwise make them carriers or carriage service providers without being classified as carriers or carriage service providers. The bill simply allows NBN Co. to treat them as carriers or carriage service providers.

The exemption will also support the growth of smart infrastructure management, including smart management of electricity supply, and the exemption will put pressure on telcos to give utilities the services they need—the services that they did not get under the coalition, the services that were so-called spear carriers for competition. The coalition could never provide the dynamism in the telecommunications sector that would provide those services to the utilities.

The committee supported the utilities exemption, noting that the utilities will still have the choice to purchase network management services from retail service providers or through other intermediaries. The challenge is out there now for Telstra and Optus to meet the commercial needs of the utilities. If they can meet the commercial needs of the utilities then the argument that the utilities should have access will disappear because it will be there based on market opportunities.

There were concerns raised about the definition of services that the NBN Co. can provide. We took the view that it is potentially problematic to define this sort of highly technical matter in primary legislation. Nevertheless, the government’s instructions to NBN Co. are extremely clear that the company will offer open and equivalent access to wholesale services at the lowest levels in the network stack necessary to promote efficient and effective retail competition via layer 2 bitstream services.

Concern was also raised by those opposite about the conditions for selling NBN Co. Under this legislation, the minister must declare that the NBN is built and fully operational. There has to be a report from the Productivity Commission. There has to be a parliamentary joint committee that examines the report, and the finance minister must determine that conditions are suitable for sale. I have to say that the conditions agreed to by the Senate provide a reasonable balance between flexibility for government and the NBN Co. and regulation in the public interest.

Another issue raised in submissions was concern that, under the proposed amendments, NBN Co. could offer volume discounts that would favour the largest service providers; however, a volume discount cannot be offered by NBN Co. unless it is in accordance with the arrangements set out in a special access undertaking which had been approved by the ACCC.

Part 3 of the bill relates to level-playing-field arrangements. The level-playing-field arrangements are intended to ensure that NBN Co. will remain commercially viable while meeting its stated objective of providing fixed-line fibre access to 93 per cent of Australian homes. Peak groups such as the Telecommunications Users Group and the Internet Society of Australia believe that the arrangements would be in the best interests of the end users and the NBN as a whole.

I conclude by saying that this legislation is important. This legislation is about dragging us into the 21st century. This legislation is about dealing with the incapacity of the pre-
vious government to deliver national broadband services across this country.

Senator FISHER (South Australia) (10.43 am)—Loath as I am to start by stating a negative, I feel compelled to do so. We in the coalition are not broadband deniers but we are NBN sceptics. There is a big difference. We in the coalition want all Australians to have access to faster, cheaper and reliable broadband but we have no faith at all in the government’s ability to achieve that through the NBN. So, yes—we are NBN sceptics and properly so.

Our concerns about the National Broadband Network Companies Bill 2011 and the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011 revolve around the way in which they undercut the government’s repeated reassurances about the NBN: firstly, that the NBN will be subject to examination, scrutiny and transparency; and secondly, that NBN Co. will deliver wholesale-only services and will not compete in the retail market. There are several aspects of these bills that directly undermine each of those repeated reassurances given by this government. I will focus on a couple of those aspects this morning.

The exemption—which others have mentioned—that it is proposed be given to utilities would allow utilities like gas and electricity service providers to access services directly from NBN Co. That exemption effectively would allow NBN Co. to step into what could otherwise be the shoes of retailers who would then provide those services on to utilities. In seeking this exemption, the utilities are seeking an exemption for the use of broadband for their own internal purposes. To justify the exemption, they use arguments such as: ‘We provide essential services, we are different and we do not need anyone else—for example, retail service providers—to add anything to or change anything from the sort of service that we can get direct from NBN Co.’ That is very well and good, but wouldn’t everyone like to have that sort of access without the necessity to have a retail service provider in the middle?

Little debate has been had about the fact that this exemption would not only apply to government owned utilities; it would also allow privatised utilities to access broadband directly from NBN Co. The arguments from the utilities, whilst very well intended on behalf of their members, are pretty much not more than: ‘We are special, we are different, we provide services upon which you rely very much and you would not like to do without us at any point in time.’ I am afraid the arguments are not much more sophisticated than that.

The consequences of granting the exemption would be that NBN Co. would be allowed to stand in the shoes of a would-be retail service provider. The Energy Networks Association, a peak body representing utilities, particularly in gas and electricity, has spoken of its doubt that retail service providers would be able to provide the sort of stuff that the energy networks need for their own internal broadband consumption. However, that was hotly contested at the inquiry to which Senator Cameron referred, by witnesses who gave evidence to the inquiry that they would, effectively, love to bid for that space and they want to be given the opportunity to demonstrate that they can provide the services that the utilities would value. But the trouble with the bill and the exemptions as written is that they would deprive retail service providers of that opportunity. So you have NBN stepping into the shoes of what would otherwise be retailers, directly undermining the government’s repeated reassurances that NBN will be wholesale only and will not compete in the retail sector.
Interestingly enough, the Energy Networks Association, which Senator Cameron would no doubt have included in his conga line of supporters for NBN, in stating in its submission its opposition to coalition amendments to get rid of the exemption, listed the following as one of its three reasons for supporting the exemption:

The federal opposition’s proposed amendments—to get rid of the exemption—may have the effect of deterring energy network businesses from using the National Broadband Network.

How does that define Energy Networks Association as one of a conga line of supporters for NBN? What they are effectively saying is, ‘If you do not provide the NBN to us on the terms and conditions we want, we do not want it at all.’ Later in their submission they said:

While each energy network business will make its own decisions regarding the most cost-effective and technically feasible communications technology for their requirements and circumstances, the NBN is an important candidate technology being considered by many energy businesses.

So, even if the exemption is granted, these guys are not even sure that they will want to use it. At the very best, they are saying: ‘Yes, we might use it if you give it to us on the terms and conditions that we want. But if you don’t give it to us on the terms and conditions that we want—in other words, if you don’t grant the exemption we want—then we probably won’t use the NBN at all.’ How is that support for a $43 billion taxpayer investment? It sounds pretty much like, ‘We’ll tolerate it if we have to,’ at best.

Another aspect of these bills which undermines the government’s repeated reassurances that the NBN will be transparent and that the NBN will be wholesale only and will not compete with the retail market is the proposal in these bills to give licences to carriage service providers. Witnesses to our Senate inquiry properly pointed out that there is nothing in the terms and conditions attached to being a carriage service provider that compels a body so licensed to on-sell those services to the public. Putting it another way, that means that there is nothing that forces a licensed carriage service provider to become a retailer, if you like, and to on-sell. That leaves open the door for a body to obtain a licence as a carriage service provider and access services from NBN Co. directly for its own internal use. Once again, if that were to eventuate it would mean that NBN Co. would be standing in the stead of other retail service providers. NBN Co. would be going way beyond being wholesale only and would be competing in the retail market, a second very clear breach of the government’s repeated reassurances that NBN will be wholesale only and will not compete with the retail market.

As to transparency, the provisions in the bill that we are supposed to believe will allow eventually privatisation of the NBN Co. and the NBN are so onerous as to say loudly and clearly—in capital letters written in lemon juice between the lines of the legislation; you just have to iron it and it will come out in brown—that the NBN will never be sold. The NBN cannot be privatised unless and until the relevant minister, whomever that may be, declares that the NBN is complete—how long is a piece of string; how long is this fibre going to be?—and fully operational. It requires the minister of the day to declare that the NBN is complete and fully operational. It also requires the finance minister to declare that the market conditions are suitable. Like I said, it is written in lemon juice. Just iron it and you will find that the NBN under this government is destined to never be sold. Why don’t they just fess up?

This government has the hypocrisy to suggest that if the NBN ever is privatised
then it should properly be subject to a Productivity Commission review—finally; at last. It will probably never be realised under this government, because the NBN will not be privatised. But, if it were to be, they are saying that they might then, and only then, allow a Productivity Commission review—finally, some scrutiny. What hypocrisy from the government while it continues to evade pretty much any decent level of scrutiny. The NBN Co. CEO, Mike Quigley, has protested. He reckons that he has scrutiny enough, thanks very much. He told the Financial Review that he does not want every man and his dog having a look at the internals of his operation. It is not his operation; it is the operation of the Australian taxpayers and it deserves to be subject to the sort of scrutiny that every government owned enterprise is subject to.

Hence also our amendments in respect of the freedom of information laws, to ensure that the pup that this Labor government has sold the Greens in terms of so-called freedom of information reassurances is not realised, because that pup will turn into a dog and it will not result in any sort of freedom of information access to NBN Co. As my colleague Senator Birmingham has said, what activity of NBN Co. will not be deemed to be commercial in that environment? So much for transparency.

Transparency could have been made possible earlier by subjecting this expenditure of taxpayers’ money to scrutiny by the Public Works Committee. This Labor government, instead of debating its proposed exemption through the House of Representatives and achieving exemption that way—if the House of Representatives so decided—ran to its friend the Governor-General. The Governor General is, as I understand it, able to provide exemption to scrutiny from the Public Works Committee on prescribed bases which include, in a subsection of the Public Works Committee Act, where the Governor-General is satisfied that an authority of the Commonwealth is engaging in trading or other activities or is providing services in competition with other bodies. It goes on to say that the Governor-General may make regulations declaring that the act does not apply to that authority.

Of course, that is what the Governor-General went on to do. Why did she go on to do it? The explanatory statement attached to the message that went to the Governor-General from the government when they wanted to go in a way that did not subject their proposed exemption from the Public Works Committee to proper debate—for example, in the House of Representatives—claimed: ‘NBN Co. is trading and providing services in competition with privately owned telecommunications firms, including competing in the fixed-fibre broadband sector throughout Australia as a wholesale-only open access network provider.’

Propped up by the provisions of this bill, you have a government owned monopoly proposed to benefit from anti-cherry-picking provisions which would legislate out any prospective competition whatsoever to NBN Co. The anti-cherry-picking provisions would legislate away any possible competition from so-called privately owned telecommunications firms. How can this government stand up in front of the Australian people and seriously claim that NBN Co. is going to be providing services in competition with the private sector competing in fixed-fibre broadband as a wholesale-only open access network provider? Come on. The Australian taxpayer is stumping up for NBN and NBN Co., and NBN and NBN Co. are given legislative fiat to ride roughshod over any other competitor, dare they even think about it. These two bills make a mockery of the basis on which the government ran cap in hand to the Governor-General to seek—and
subsequently be granted—exemption from scrutiny by the Public Works Committee. That exemption ought be reconsidered and it ought be seen as the hypocrisy from this government that it indeed is.

In concluding my contribution to the debate, I note with regret and deep concern the many aspects of these bills that undermine the government’s repeated reassurances that the NBN will be transparent, that it will be a wholesale-only service and will not compete with the retail sector. These bills do nothing to reinforce any of those promises. In fact, they shred them. On that note I will continue to fight for the coalition’s right to be NBN sceptics.

Senator McEWEN (South Australia) (10.59 am)—I rise today to contribute to this debate about the National Broadband Network Companies Bill 2011 and the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill. Here we have another package of bills designed to bring about the establishment of Australia’s National Broadband Network. I am always pleased to have the opportunity to talk about the National Broadband Network, the NBN, because it is such an exciting initiative and it offers so much potential both in public policy and in economic development for Australia. It has been a long time in the hatching and this is just one set of legislation to bring about fruition of the NBN.

On 7 April 2009, the Labor government announced that it would establish a company that would invest up to $36 billion over the next eight years to build and operate a wholesale-only, open-access National Broadband Network. From the outset the government said that it would introduce legislation that established governance, ownership and operating arrangements for the wholesale-only NBN company and for the access regime to facilitate open access to the NBN for retail-level telecommunication service providers. The two bills in debate today address those particular areas.

As we all know, or should know, the National Broadband Network is a fundamental nation-building reform. It will pave the way for Australia to move into the high-speed digital age. The Gillard Labor government is aiming to ensure that 93 per cent of all Australian premises will have access to high-speed, fibre based internet services for the benefit of businesses, communities and individuals. The remaining seven per cent of Australians premises will benefit from increased internet speeds by fixed wireless or satellite, depending on where they live. Once the rollout of the NBN is complete, Australian internet speeds will soar up to 100 megabits per second—some 50 times faster than most people experience today. It has been said many times in this chamber, and I am not shying away from saying it again, that the NBN and the high-speed internet technologies that it entails are the railways and highways of our time. The NBN project is the single largest nation-building infrastructure project in Australian history and the technologies have the potential to transform every aspect of our lives including business, health, education and government services, and it will serve Australia for the future.

The NBN will also increase national productivity and help us to build a stronger, modern, resilient economy. The two bills that are being discussed today are part of the crucial steps to make sure that Australia no longer relies on its ageing copper telecommunications network. It has been proven that as a result of our dated network, our broadband performance is severely falling behind in comparison with international standards and so the federal government wants to prepare Australia for the future. For that reason, we need to ensure that all of the bills associ-
ated with the NBN that are proposed by the government are passed through the Senate.

Individually, each of the bills in discussion today has significant purposes that will aid the rollout of the NBN. The National Broadband Network Companies Bill 2011 contains provisions to ensure that NBN Co. operates on a wholesale-only basis. It establishes a regulatory framework for ownership, governance and operation of NBN Co. along with its subsidiary corporations. Additionally, the bill provides that the Australian government must retain full ownership of NBN Co. until its rollout is complete and it establishes the framework for the eventual sale of NBN Co. The National Broadband Network Companies Bill 2011 delivers a staged process to limit the activities of NBN corporations during the build phase and a staged process which will create transparency as NBN corporations move towards private ownership. Those processes involve considerable consultation and public enquiry—for example, by the Productivity Commission and the parliamentary joint committee on the ownership of NBN Co.

The companion of the companies bill is the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2010. While this bill contains three parts, the primary purpose of the second bill is to amend the Telecommunications Act 1997 and the Competition and Consumer Act 2010 to introduce new access, transparency and non-discrimination obligations relating to the supply of wholesale services by an NBN corporation.

As a member of the Senate Environment and Communications Legislation Committee, I have been part of many of the inquiries into the broadband legislation since the NBN project was initially launched by the Labor government. The report from the most recent inquiry, into the two bills that we are debating today, was tabled out of session last week. The bills were referred to the environment and communications legislation committee early in February. It has been an important of the process of rolling out the NBN that all of the legislation associated with it has been subject to scrutiny by the Senate committee. After advertising for submissions, 24 were received, and subsequently the committee held public hearings in Sydney and Canberra to hear from witnesses.

Submitters and witnesses to the inquiry were unanimous about the importance of the passage of these bills through the Senate. The importance of high-speed broadband for business, health, education and research purposes, particularly in rural and regional areas, was stressed in the majority of submissions and the committee was able to take evidence from witnesses along those lines. For example, witnesses Professor Stanton and Professor Griffiths from the Group of Eight, a coalition of leading Australian universities, highlighted the importance of broadband for health services and health research. I quote them:

High-speed broadband network provides the capacity for distant doctors or patients—or midwives for that matter—to have real-time interactions with specialist colleagues in an urban setting if they need it ...

I can imagine how that will improve the delivery of health services to Australians who live in more remote communities. Professors Stanton and Griffiths continued by saying:

Broadband connectivity allows clinicians, wherever they are, to engage in things like grand rounds—when patients of interest are discussed in teaching hospitals, people who are not physically in that building can connect in real time and participate in the questions and answers.

In regard to medical research, the professors said that superfast broadband would speed
up trials and research immensely. Again I quote them: They said, in respect of medical research:

... it can take years to get thousands of people in a normal randomised control trial. We can do online automated randomised control trials with people in their houses in a few months.

That is an exciting opportunity in the area of medical research that would otherwise be unavailable to Australian medical researchers—one that the federal opposition appears to wish to deny to researchers and, indeed, people throughout Australia who could participate not only in the research itself but in the benefits of that research.

As I already mentioned, superfast broadband services are going to help a multitude of sectors. Mr Strong, from the Council of Small Business Organisations of Australia, noted the many opportunities which broadband brings to small businesses. I quote him:

“There are 2.4 million small businesses—
in Australia.
They are diverse, but I think I can say with confidence that the greater bulk of them want—
access to affordable and high-speed broadband—
for competitive reasons as much as anything.
Mr Strong also advocated for those who run their businesses from regional areas and said that broadband would change the way they work entirely. I quote Mr Strong again:

“Women on farms ... I have seen a few of them use the internet quite well to sell products ... and I know one young man is manufacturing and selling golf clubs online and doing quite a good job of it.”

Would we want to deny the innovative small business people out there in our community, particularly those in regional and rural areas, who will be able to benefit from the better access to high-speed broadband that the National Broadband Network could give them?

I do not think any Australians would want to do that, but apparently there are some Australians in the Senate chamber that do. An affordable, superfast broadband connection would help all small businesses, particularly those who rely heavily on the internet, to stay abreast of their markets.

Further submissions and witness statements to the inquiry continued to reiterate the importance of high-speed broadband across all sectors. In relation to the benefits that the NBN will have on the education sector, Ms Saab, from the Association of Catholic School Principals in NSW, stated:

E-learning is truly already a reality in our schools. We have moved from paper to e-books to personalised learning and now to e-publishing in a relatively short time. Scalability is necessary to allow us to continue to grow, as I said, and to provide 21st century skills ...

Ms Saab continued:

Our school cannot meet the needs of the 21st century learner with 20th century infrastructure. Hence, the broadband is so important to us. Students are, as we know, the very greatest asset we have. The children of Australia, we believe, deserve an education that enables them to be global citizens of the 21st century. The 21st century classroom is currently grinding to a 20th century halt without fast reliable access to the internet.

Ms Saab has encapsulated in those comments exactly what the National Broadband Network will bring to our education sector.

Finally, in quoting witnesses at the inquiry conducted by the Senate Environment and Communications Legislation Committee, I note that the ACTU in its appearance at one of the hearings stressed that the NBN would help bridge the gap in access to the internet. The ACTU said:

... if you examine the current take-up rates of access to broadband, it falls as the income of your family falls. In other words, low-income families or people on ordinary incomes were much less likely to have a home broadband connection than people who are more well off. In our view, that is
an unsustainable outcome and not an outcome which promotes social utility. An NBN program which provides for universal access and a universal wholesale price, we say, would be the best method to ensure that Australians have equality of access to broadband technology.

In those comments from the ACTU we can see that the NBN is a classic Labor government initiative, because it is directed entirely at ensuring inclusion across the community and ensuring that people who are not doing so well have access to the technologies that will enable them to participate in the community and in all aspects of community life in the same way that those of us who are somewhat better off are able to do. It is a social initiative as much as it is an economic initiative, and it is one that the Senate should stand behind.

After looking at both the companies bill and the access bill in depth and listening to submitters and witnesses, the committee recommended that both bills be passed. The committee also recommended, however, that the passing of the bills be subject to an amendment passed through the House of Representatives regarding the application of the Freedom of Information Act to NBN Co. for the access bill. The federal Labor government wants to make certain that the NBN will be for the benefit of all Australians. In fact, when an exposure draft of the companies bill was released for public comment in February 2010, some concerns were raised about certain aspects of the bill. In response to those concerns, the government has made significant changes to the bill from the initial draft—for instance, by strengthening the status of NBN Co. as a wholesale-only business. The government is taking great pains to make sure the community understands what is being included in these bills and has an opportunity to comment on them.

The foundations and rollout of the NBN have already begun in various places across the country. My Tasmanian colleagues would be the first to tell you that the first services provided over the NBN were launched in their home state in August last year. I am pleased to say that, in my own state of South Australia, Willunga has been selected to be one of the first release sites for the NBN. The people of Willunga are very happy about being included as a first release site. Residents of Willunga overwhelmingly embraced the rollout of the test network, with 84 per cent signing up for the optic fibre connection, after years of putting up with inadequate and ineffective internet speeds, which was all the previous Liberal government could provide them. We know that two more South Australian suburbs, Modbury and Prospect, will be included in the rollout of the next 19 mainland sites. We look forward to seeing the benefits to those communities in South Australia.

There has been considerable legislation already passed in regard to the rollout of the National Broadband Network, and one of the most significant achievements for the government so far in this regard which will ensure that this delivers competition to the telecommunications sector in Australia was the passage of the Telecommunications Legislation Amendment (Competition and Consumer Safeguards) Bill in 2010. That was a very significant day in Australia’s telecommunications history because, of course, passing that part of the legislation was integral to separation of the wholesale and retail arms of Telstra and paved the way for the overall integration of the NBN. It was a step in the government’s plan to deliver the NBN which we promised in the 2007 federal election. Our promise then was to partner with the private sector to deliver a national broadband network and in particular to ensure competition in the sector through an open access network that provided equivalence of access charges and scope for access seekers to dif-
ferentiate their product offerings. As I said before, these two bills today are part of making that promise to the Australian people a reality.

I am very proud to be a supporter of the National Broadband Network. As I said before, it is a real point of difference between the Labor government and the coalition opposition in having a vision for the future of Australia, ensuring all Australians have equal access to this incredibly important initiative and ensuring that we take advantage of the opportunities that modern telecommunications will provide to a very big country like Australia in the delivery of education services, health services, economic development and competition between small businesses.

It is disappointing that this week, another week in the federal parliament, has started with the coalition again carping, whingeing and nay-saying about important public policy initiatives being rolled out by the Labor government. But that is what we have come to expect from the coalition, because they have no comprehensive plan at all for dealing with Australia’s future telecommunications needs. Every time we have a piece of legislation to do with the National Broadband Network we get coalition senators on the other side of the Senate chamber trying to knock it, trying to set us back, trying to keep all Australians back in the 20th century and trying to again fluff up the carrier pigeons that they keep over there because they think that that is the way forward.

Thank goodness there is a Labor government. Thank goodness there is a Labor government that is absolutely committed to rolling out the best possible telecommunications infrastructure for Australia. We welcome scrutiny of our legislation, whether by a Senate committee, by the Australian Competition and Consumer Commission or by the Joint Committee on the National Broadband Network. We welcome scrutiny and we will participate with the Australian community to ensure that the best possible telecommunications infrastructure for the future is rolled out by the government.

Senator LUDLAM (Western Australia) (11.18 am)—I am pleased to rise and speak on the National Broadband Network Companies Bill 2010 and related bill this morning. It is nice to be speaking about something positive. I cannot unconditionally declare Australian Greens support for these bills, because this is very much a work in progress. I understand there are a certain number of government amendments that have not yet been circulated, which I think are designed to address some of the concerns that the committee had—but, because we have not yet seen those amendments, it is very difficult to pass judgment on them. So I am going to keep my comments fairly general.

This debate has been several years in the pipeline. What we are hoping is that this debate will close the long and drawn-out preliminary phase of the rollout of the National Broadband Network. If the parliament ends up supporting these bills, I think it is safe to say we will be in new territory. As the construction schedule ramps up, and the network begins to light up around the country, I am strongly hoping that two things will happen. Firstly, the new joint committee will be investigating how well the predictions in the NBN business plan actually map onto reality. Up until now we have been discussing a hypothetical infrastructure project, a broadband network that existed only on paper. That of course is beginning to change. Anyone who spent any time at all going through the business plan will have noted the extraordinary scale-up and size of the workforce in the middle and the later years of the rollout implicit in the concept of taking this project past 93 per cent of premises in the country.
Passing these bills, if the parliament does so, will put us onto the on-ramp. And now, of course, it is incumbent on the parliament to hold this government to its word, remembering the old adage that no battle plan survives contact with the enemy—or, in this case, with reality. I think the joint committee will be an important part of that accountability process, and I congratulate Senator Xenophon for putting that idea forward as part of his agreement with the government late last year. I look forward to working with the new chair, Mr Oakeshott, and the rest of the committee members as that work gets underway.

I think the second thing that will happen is that the debate will shift from questions of competition policy and disputes over competing commercial self-interest to the uses to which Australians will actually put this network. That is the debate that I think most of us have really been looking forward to. With the rules of conduct settled, we get down to the really interesting question: what will the Australian people, businesses, educators, health professionals, environmental consultants, transport planners, energy utilities, artists, musicians and community broadcasters do with this technology? We have been joined this morning for the debate by a couple of classrooms full of students—good morning! This network is for these folk, and I am interested to know what young people will do with this technology, because it is something that we have simply not seen before in Australia. I will return to some of these questions at the end of my remarks, but I mention them here with a sense of anticipation because I think we are going to see remarkable things.

I would also like to note at this point that the release of the exposure draft was a good idea. I think that is generally good practice. We support that principle, and the government was able to deal with a lot of issues and concerns that the industry raised—and some quite significant concerns that the Greens raised. That means that most of what we are debating today is, while not quite at the margins, not quite the big-picture issues that have been dealt with.

I would like to deal with some of the specific issues, some of which Senator Birmingham raised in his speech. I know that there were some coalition amendments circulated to deal with some of these issues. As I said at the outset, I believe there are government amendments about to be circulated that will attempt to address some of the issues that I am going to canvass here, and that Senator Birmingham canvassed, but I will go through them in general and we will have to wait until the committee stage to see what the government has come up with.

We support in principle the provisions of the bill in relation to cherry picking, with some reservations. The economics of the National Broadband Network are premised on the principle of cross-subsidisation, and that has underpinned public works in Australia from the beginning—for the last century or so, really—whether it be water, gas, roads, electricity or postal services. And despite attempts to roll back this principle, we are strongly supportive on grounds of equity. Basic services and utility services should be the same cost whether you live in Wentworth or Wiluna. That is something that markets, and sometimes governments for that matter, are not always capable of or interested in providing. The government’s intention here, we understand, is to use the easy markets to subsidise the hard ones which private companies would not find profitable. We saw with the HFC rollout that we had two competing telecommunications carriers rolling parallel networks down parallel streets in the lucrative parts of the country while ignoring everywhere else. That is the kind of infrastructure provision that we are not interested
in providing here. I have found a few hard-line ideologues on the far Right who object to this interference in their ethereal free market, but most people seem to accept the idea of using cross-subsidisation to push metro quality services well out into regional areas. This of course gives rise to some very hard questions about how to treat market participants who turn up in future to overbuild the NBN in lucrative inner-city areas without taking on the public interest obligation of providing services in unprofitable markets in the bush. This is a network for everybody, and we agree with that. Our view on this matter is in alignment with the government: it should be prevented unless certain, very strict conditions are met.

Telstra has proposed amendments repealing the cherry-picking provisions entirely, in an irony that the Senate Environment and Communications Legislation Committee found quite entertaining—and it is perhaps the strongest confirmation we have had yet that the provisions should stay just as they are. Reservations, though, are that players like PIPE Networks and TransACT were not trying to cherry pick, and I do not think the government intended to catch them. These are people who were here already; they were trying to run businesses well before this new network came along. The government is proposing exemption criteria which will condition the way in which the cherry-picking provisions apply. This is one of those areas where, at the moment, we do not have any indication of what those are—we will have to wait and see whether that is going to work.

The committee spent quite a bit of time discussing the issue of discrimination, volume discounts and efficiencies. This is a very serious issue because it threatens to undermine the whole point of the network or at least return us to the bad old days where a monopolistic incumbent favoured one provider over another with volume discounts. These deals always seem to end up favouring the large over the small and end up consolidating market power in fewer and fewer hands. At this stage I have to give the benefit of the doubt to the government and acknowledge that it was quite clearly not the government’s intention, but plenty of submitters raised it as an issue and we still do not have a solution or anything on the table to show that this will not occur.

Whether it comes to a committee stage amendment when we get around to debating this tomorrow, we are very keen that these matters be reported in detail every so often. The Greens introduced into the CCS bill we debated late last year provisions for a rolling review. We reserved the right to bring these issues back to parliament if the provisions are not working as intended. If it turns out that either volume discounts or other discounts are being applied unfairly and it is disadvantaging certain players in the market—generally speaking, from past experience they will be advantaging large players at the expense of smaller ones—then we want those things reviewed. We reserve the right to bring those provisions back to parliament if the market is dysfunctional and not working as the government intended.

I understand that the government certainly does not intend for that to be the case. We are looking for a monopoly provider at the wholesale level and as much competition as we can manage at the retail level. That seems to be the model the government is pursuing. But, if it does not work out that way, then we will not have too much time to fix it. That is going to need to be repaired.

The committee also spent a great deal of time considering the issue of scope creep, the expansion of the NBN Co. out of its wholesale box and into retail markets. The questions really are: who gets to buy layer 2 ser-
services, do they have to be a reseller, can they onsell it to others and can they use it for their own good? Although it is very evident that it is the government’s intention that layer 2 is the layer in the stack that NBN Co. will operate at, it is actually spelt out nowhere in the legislation. It is an assumption. It is another issue that many submitters raised.

From my point of view the committee hearings were quite useful in clarifying this issue. As you would expect, Telstra and Optus ran strong arguments objecting to any perceived scope creep. The thing is though that, if a utility needs the services from NBN direct, it should be able to get them. It is for the management of networks, whether they be electricity networks or water networks. I do not think anybody really believes that Water Corporation in WA and the electricity networks around the country plan to become telco resellers. We are reasonably confident that allowing utilities to buy these services for the provision of network management services only maintains the integrity we are seeking to keep.

Selling to anybody with a carrier licence probably is a little more complicated, but if a retail service provider or Telstra or Optus want to bid against the NBN Co. in the utility business to provide that service because they think they can value-add and provide justification for their mark-up and for being there, they should be absolutely entitled to do so. With the drafting of the bills at the moment they can do that. They are not prevented from competing. It is just that NBN Co., if the utilities want them there, will be in that space.

The same goes for an entity with a carrier licence intending to buy these services for their own internal use. If a RSP can bundle up services, value-add and justify the mark-up that they will place on them then it should have the right to bid for that business, as the bill allows. The question, of course, is: should these entities be forced to deal with a retailer who will insert themselves into the value chain with their own mark-up if their services are not required? That is a difficult one. The submitters who put their case rested their arguments on the greater public benefit of competition without recognising that actually competition still applies; they are free to compete. Given the depth of feeling around the issue, this is another one we would like included in the review. If there is ambiguity about whether those matters will be reported on under the amendments we placed into the CCS bill last year then we want it explicitly spelt out so that the parliament, the general public and the industry know whether the provisions are being abused.

Senator Birmingham addressed freedom of information in his remarks as well. This issue has had quite a lot of airtime since David Crowe in the *Australian Financial Review* revealed that NBN Co. would not be caught by the Freedom of Information Act because of its status as a corporation rather than a government department. The government argued that it did not intend to exclude the NBN from freedom of information legislation; it just happened to turn out that way. So it negotiated with us to bring it into the domain of FOI. We sought to fix this issue in the House of Representatives, and I thank the government for the spirit in which it went into those negotiations and the House Independents, who supported the Greens amendments.

What we sought to do was to have the NBN treated the same way as any other government business enterprise, whether that be CSIRO or Australia Post, which carries out part of its operations on a commercial basis. We tweaked the definition of ‘commercial practice’ as it is currently read in the FOI Act to remove reference to competition—since, as a state monopoly, the NBN will not actu-
ally be in competition with anybody—but we still wanted the normal operations of the act to apply.

Senators might have noted—Senator Birmingham certainly did—the highly critical comments of Mr Turnbull on the way through the House debate. He pointed out that the way in which modern interpretation of the FOI Act treats commercial information means that we were according NBN Co. an unacceptably low threshold of disclosure. I admit that that is something that disturbs me as well. I had not been aware that it was something that kept the conservative side of politics awake at night, but I will take the point. Commercial information is accorded almost sacred status in the FOI Act and elsewhere in public policy. The assumption is always against disclosure. No harm to anyone needs to be demonstrated. It is as though commercial secrecy should automatically trump the public interest.

I should say that our reading of the drafting of the FOI Act is that it is not even commercial secrets that need to be withheld; it is commercial information—anything relating to the running of the business should automatically be precluded from public disclosure. So it is an attitude curiously at odds with theories of free markets which assume that everyone in the market is given maximum access to information so that they can go out and make their rational, self-interested decisions. That strand of thinking obviously never made it into the FOI Act. I recognise that these concerns stray well into a different portfolio and are not strictly a concern of the communications minister, who just wants to get the bill through. But I think we will need to open this issue up again in the committee stage when we get to it tomorrow, to have the FOI Act itself amended to make sure that, as far as NBN Co. is concerned, the presumption is that commercial information will be released unless it can be demonstrated that some harm will be caused if it is released.

I think applying some kind of threshold test so that the assumption is not automatically that disclosure will be refused is probably the best way to strike the balance. The coalition are proposing amendments that provide complete exposure to NBN Co. to freedom of information requests, and I think that that is straying too far in the other direction. So we are going to try and find somewhere in the middle that allows commercially sensitive material, or material which would be destructive if it were released, to be withheld. Those arguments can be made and appealed. But let us do away with this blanket of secrecy that somehow accords sacred status to commercial information just because a business is being run.

I am hoping that that will satisfy the concerns of the opposition. I am hoping it meets the objectives of the government to presumably not have NBN Co. opened up to repeated hostile or malicious FOI requests, or whatever the concern is. Hopefully we will set something of a precedent in the way that the FOI Act operates as well.

On the issue of privatisation, I will only revisit these clauses briefly to note that it is the very strong view of the Australian Greens and many others that this network should stay in public hands. So that I am not accused of just playing to some vague leftwing stereotype, I would like to spell out why we believe this. The simplest explanation is one of purpose of the NBN Co. itself.

Senator Ian Macdonald—You want to go back to the Telecom days.

Senator Ludlam—Senator Macdonald, just listen and maybe you will learn something.

The Acting Deputy President (Senator Hutchins)—Order! Go through the chair, Senator.
Senator LUDELAM—I do apologise, Mr Acting Deputy President. Through you: Senator Macdonald might learn something. The simplest explanation is one of purpose of the NBN. The primary overriding purpose of the National Broadband Network being publicly owned is to serve as an open-access, wholesale telecommunications provider to the entire Australian population. When it screws something up, the taxpayers have the right, through us, to call the company’s management before budget estimates committees and to amend its parent acts, including the ones that we are debating today, to bring it back into line. That is a degree of democratic control over the NBN Co. on behalf of not just the rest of the industry and its potential competitors but all Australians, and that is something that we should not give up lightly.

As soon as you privatise it by law, its primary purpose becomes to maximise its return to shareholders. It will do this by doing what Telstra did—leveraging the benefits of its incumbency into other markets. It will explore scope creep. It will push the boundaries. And that is why you did not hear a market outcry when the Greens got these provisions into this bill last year—in fact, quite the reverse. Coalition senators in particular might be interested to note the number of market players who have supported the protections against automatic privatisation because it protects their interests, because they do not want to be dealing with another Telstra situation. Telstra should never have been privatised, and what we are doing here partly fixes that mess.

The provisions that we put in, recognising that we cannot bind a future parliament to do one thing or another, were to remove the expectation of privatisation. It is not automatic anymore. That process will be initiated as a decision of the government of the day. Previously in the exposure draft we had an automatic privatisation process that rolled out that would automatically sell our interest down. That has gone. We wanted the Productivity Commission to conduct a public interest test and to feed their work into a joint parliamentary committee for report on the costs and benefits of the sale. Imagine assessing whether it is in the public interest to sell down our stake in the NBN Co. We think that is worth doing. The third thing that we proposed was that any sale should be submitted to a vote in this parliament so that the Australian people through their representatives, no matter how one-sided the numbers might appear on the day, can at least have their voices heard. That was all that we could realistically do, and I still find it amazing that some commentators and coalition MPs panned the idea of even doing a public interest test to assess whether the sale was a good idea or not. We think that is sensible.

To close, I think a couple of points are in order. The fact is that the network itself is a physical piece of infrastructure: it is glass and steel, it is powered by coal and it is transmitted through holes in the ground. We might imagine that cyberspace is some kind of ethereal realm or some frictionless virtual world that kind of frees us from the physical bonds of gravity and makes the whole place sustainable. But let us remember that this technology is embedded in quite prosaic fossil-fired technology. We need to see the same kind of ambition, vision and indeed risk-taking that we are seeing in telecommunications policy applied to the energy and transport sectors. When that happens, we will know that we have turned the ship and that we are truly on the way to a post-carbon economy. Instant telecommunications to anywhere in the world can be a big part of that vision, but only if we front up to the fossil underpinnings of the internet and do not pretend that it is somehow divorced from the rest of the world.
Probably the less I say about coalition opposition to this project the better. I think it is part of the quite destructive obstructionism that has characterised the Abbott era. Opposition spokesperson Malcolm Turnbull has brought a sharp and quite technologically literate critique to the project and he has certainly made the debate much more interesting. But pretending that wireless can compete with fixed fibre and offering nothing up by way of an alternate policy except a bucket of money to hand out to commercial providers and hope that they serve up decent service in the bush I think is a welcome confirmation that the Greens and the House Independents did the right thing in backing Julia Gillard over Tony Abbott last year.

Finally, to pick up some of the threads that I introduced at the outset, in wondering what Australians would do with a national broadband network I want to open up some larger questions. There is an undercurrent out there that is wondering, justifiably, why we would want to blow tens of billions of dollars on faster video streaming. I have seen it declared that the killer application for the NBN will be nothing more than IPTV, video streamed, faster, on demand from anywhere at any time, and that that is the bandwidth demand that justifies bringing glass fibre to your door. I strongly disagree. In fact, if I thought that was the case I probably would have advised my party room to vote against this package and everything that has come before. That world view that the internet is just about faster and more diverse television recalls the very early days of television in which presenters sat awkwardly in front of the camera and read radio scripts because that was the medium they knew and the audience was familiar with. I think this is another one of those moments. The internet is not like more channels of television, because it is fundamentally not a broadcast technology. Potentially it can actually do profound things to our democracy. Let us remember one thing that it will start to do, which is blur the boundaries of the nation state, because the whole planet is coming online. Australia is an extremely wealthy nation and we have our digital divide here. There is a planetary digital divide that is even more profound. But the number of internet users worldwide doubled between 2005 and 2010, and there are now nearly two billion people online. That is tremendously exciting. Of those, 400 million speak in Chinese. This connects us to the planet in ways which I do not think we are quite prepared for.

Senator IAN MACDONALD (Queensland) (11.38 am)—In this debate, and it is a debate, there is one aspect of the contribution by Labor Party members with which I agree, and that was when Senator McEwen said that this legislation was typical Labor government legislation. I agree with her entirely. It is dysfunctional, it is uncosted, it is not planned and it is ad hoc. We hear from Senator Ludlam, the other part of the Labor-Greens coalition that runs this country at the present time, that the National Broadband Network Companies Bill 2011 that we are all here debating is not actually the bill we are going to vote on. Senator Ludlam knows, and I am glad that he let the cat out of the bag, that the bill is being amended as we speak.

So what are we supposed to be debating here when the bill has provisions that none of us, not even Senator Ludlam, have even seen? That is typical Labor Party legislation—I could not agree more with Senator McEwen. When it is a bill dealing with a commercial enterprise introduced by a minister who has had completely nil experience in commercial activities, you can only shake your head and say, yep, it is a typical Labor enterprise. Senator Conroy is a lovely fellow—a truck driver, I think he was. Certainly he worked with the Transport Workers
Union. I suspect Senator Sterle would probably disagree that he was ever a truck driver. But his experience in dealing with business is obviously very limited. The whole course of this bill typifies that.

Senator McEwen also said that this discharged a Labor Party promise before the 2007 election. Hang on, Senator McEwen: if you go back and have a look at exactly what the Labor Party promise was before the 2007 election, it was to deliver a fast broadband service for a cost of $4.7 billion. That was the commitment—$4.7 billion. What are we up to now? It is $55 billion, by best estimates. Senator Cameron was talking about some lesser figure, but they conveniently forget that, to get this up and running, in addition to the dodgy figures being promoted as the cost of the NBN they are going to pay Telstra anything from $11 billion up to, as I read in a report the other day, some $16 billion. I notice that in the weekend press Telstra are now not even saying they are going to be part of the deal. Remember, this was all to be done by 1 July. I see Telstra are not even having their meeting now until perhaps, at the earliest, September. So we are going to fiddle around not knowing exactly what this is going to cost the Australian people.

Senator Ludlam referred to the children in the gallery and said that they will benefit substantially from a fast broadband network. We all agree that everybody in Australia wants a fast broadband network, but we want a network that people can afford. Someone has to pay the $55 billion. Before our Senate inquiry into this, people came to us starry eyed, all keen for the NBN, and when you asked them whether they knew how much it was going to cost and who was going to pay for it they looked a bit crestfallen and said, ‘Well, no, we just want it; we know it is going to be good.’ Of course it is going to be good—any fast broadband network would be good. In fact, if the coalition had won the 2007 election, this network would be up and running now at a cost of $5 billion, which would have meant that the students and the mums and dads could afford to pay for it.

We do not know what the mums and dads of these students watching this debate are going to have to pay for this NBN, because it is $55 billion—but remember the Labor Party promised $4.7 billion. That has blown out by some $50 billion. What is worse, the Labor Party promised they would get a commercial return on that $55 billion, and they would pay back all the money that they would have to borrow to get it. It just does not make business sense. That is why the Labor Party has refused to get a cost-benefit analysis done. If it is so good, why oh why wouldn’t Senator Conroy get a cost-benefit analysis done? It would prove to the world what he has been saying. He says yes it is good and yes it is affordable. The best way of demonstrating that is to get an independent cost-benefit analysis done. He has continually refused to do that, and that in itself demonstrates that this will not be cost effective.

Senator Cameron and Senator McEwen both raised the old class warfare arguments that the Labor Party is so good at: ‘We are looking after the poor people. We are giving this fast broadband network. It’s not just the rich companies that will be able to have the fast broadband.’ That is all part of the Labor Party’s socialist class warfare mantra—which, I might add, nobody else in Australia follows these days, apart from the Greens. How can you get affordable broadband to all Australians when you have a $55 billion price tag on it, one which they guarantee they will make a commercial return on? Of course, promises by the Labor Party are completely irrelevant these days. We all remember how the Prime Minister, two days before the last election, hand on heart, hand on the Bible—I don’t think she uses a Bible,
so whatever she believes in—said, ‘There will be no carbon tax under a government I lead.’ What do we have now? A carbon tax. So how can any promise of the Labor Party be accepted?

Senator McEwen spoke about Tasmania. The Tasmanians are going to start to find out what the cost of the NBN is. Sure, it has been operating for about a year now. But there has been no charge for the NBN. It has been given to them for free in Tasmania. Even then, the number of people signing up to the NBN has been disappointing from the government’s point of view.

The National Broadband Network Companies Bill has been very clearly explained by both Senator Birmingham and Senator Fisher. The clear fallacies in the bill, the inadequacies in the bill, have been pointed out. The volume discounts are causing great concern, as is the suggestion that enterprises like ACTEW will be prejudiced in their current economic and business case by this bill, which simply has not been thought through. As Senator Ludlam said, trying to defend his mates in the Labor Party, ‘I am sure they did not intend it.’ But that is just typical of the Labor Party. All of these things are done. Nobody looks through them, nobody thinks about them, and we find a bill that is being amended as we speak, as we are debating it. We do not know what it is going to be. The Labor Party and the Greens might know what it will be, although Senator Ludlam confessed that not even he knew. So what are we doing here debating something that is still being written?

Senator Ludlam talked, as did the Labor Party contributors, about freedom of information, about making this public and open and accountable. After all, this is not some private company’s money. This is not some investor’s investment in a commercial enterprise. This is the money of every single Australian taxpayer. Every mum and dad in Australia has an interest in how this money is being spent. We are entitled to know how it is being spent by this group that wants to be faceless, that wants to hide behind the veil of commercial-in-confidence. What can be commercial-in-confidence when you are running a monopoly? You do not have anyone to compete with. You are there on your own. It does not matter what people know about your business; they cannot take advantage of it because you are a monopoly—you are the only one in the business. That is what we are ending up with under this typical socialist Labor Party legislation. It is a monopoly business which is going to run telecommunications in Australia.

The Senate Environment and Communications Legislation Committee examined this bill. The government wants this enterprise to be a monopoly. Of course, the Greens have never made any secret about the fact they want the government to always own it, because they believe in socialism, in government ownership of enterprises. The Labor Party used to, but they got out of that 20 or 25 years ago. But they are being brought back into it now, because it is now the Greens, led by Senator Brown, who run this government. They want governments to own commercial enterprises, but they will not have any competition. So who cares about commercial secrets?

We said to a number of witnesses: ‘When you deal with a monopoly, don’t you run the risk of going back to the old PMG/Telecom days when Australian telecommunications were light-years behind the rest of the world? That was because a government monopoly ran our telephone system.’ I can remember when, in the old days, you would turn a handle on the telephone and about five different people on the party line could pick up the phone. That was the state of telecommunications when the government last had a mo-
monopoly on telecommunications in this country.

We have progressed because there has been competition. The competition out there is fierce and that is why we are getting all of these new technologies. Because the Labor Party is being urged by the Greens—and I know a lot of Labor Party people do not agree with us; I do sympathise with them, but the Greens are calling the tune—we will have this monopoly that will not be subject to any competition. What will be their incentive to get with the latest technology? There will be absolutely none. They will just charge what they like and make whatever profits or losses they like. They will not have to compete with anyone at all. Why would they invest in new technology? Why would they be bothered? Of course they will not be bothered, and the chances of it ever being privatised are slipping by the day. As my colleagues on this side have pointed out, it can only be privatised if that great business brain Senator Conroy or whoever follows him in this field—it will be someone with equally good private business expertise I am sure, and I say that cynically—certifies that it is fully operational and complete. Of course that will never happen. It will never be complete, so it will never be privatised. The Minister for Finance and Deregulation—currently Senator Wong, with a great commercial background—will have to certify that market conditions are suitable.

There are a lot of good people in the Labor Party. I love them all. But you cannot say that they are great businessmen. Their background in coming here is either the union movement or working for another politician. Yet these are the people who are going to tell us when market conditions are suitable—now come on! This is typical Labor Party socialist legislation.

You have only got to look around. When we all leave this place and go out into the real world, when parliament is not sitting, we talk to young people who wander around with their laptops. We even do it ourselves. Sorry; where is the NBN fixed-line connection to them? Everyone, except parliamentarians these days, seems to have these iPad things which are even lighter and smaller than laptops. I cannot see the NBN being connected to them either.

Clearly, there are new technologies coming in all the time. I have got no idea what they are going to be, but people out there understand that day by day, almost hour by hour, there are new technologies coming. People are flocking to them. They do not include fixed-line NBN work. They include all of the latest things that are happening in competition in an industry that is very competitive. So what is happening in Australia? We are going to be locked into $55 billion of investment that the taxpayers will have to pay for—not the Labor Party, not the NBN executives, not all those people who think it is a good idea but don’t want to pay for it—while the industry will have moved on. Technology will walk around Australia. We will have a government monopoly running the show, as we did back in the old Telecom days, which does not have to make a profit, does not have to compete and does not have to get up with the latest, and Australia will be taken back again.

There were a lot of other things that came out of the Senate committee inquiry into this bill that I would like to debate. Unfortunately, time is going to beat us again in this debate. Perhaps we will have some opportunity in the committee stage of the debate. I am not sure if Senator Xenophon, who I see has just entered the chamber, is aware of this. Senator Xenophon, save your time. Do not bother debating this bill, because we learnt five minutes ago from the Greens section of
the government that there is new legislation being written as we speak. What we are sup-
posed to be debating I am not quite sure about. Senator Ludlam himself even said, ‘I
can’t really say too much because the legisla-
tion is not before us.’ What are we doing here? Again, I agree with Senator McEwen.
It is typical Labor Party socialist legisla-
tion—completely dysfunctional, completely
unthought through, completely without even
a modicum of business or commercial hon-
esty.

We went through the issue of the retailers. Of course, the whole thing was that the NBN
was going to be wholesale only. That is fal-
ling apart as we speak, again because Sena-
tor Conroy had no idea about all of these
issues which, if he had gone out to the indus-
try, they could have told him about. It cer-
tainly came up in the Senate committee hear-
ings. The Labor Party are now rushing back
at the last hour, as we speak on the bill, after
it has already been passed by the other house
of parliament—a great lot of scrutiny they
did over there, obviously! The government is
amending the bill again. That is typical of
this whole sorry saga of the NBN.

The $4.7 billion we were promised by the
Labor Party before the 2007 election is now
some $55 billion. You cannot go back in his-
tory, unfortunately, but if the coalition had
won that 2007 election the NBN—fast
broadband to every home in Australia—
would be up and running today. It would be
almost 12 months old now and it would be
there at an affordable price, taking account
of the existing networks that had been put in
place by the existing providers. It would
have been a competitive network that would
have ensured that Australians could expect
that we would keep up with the latest tech-
nology in the future. But here we are debat-
ing a bill entrenching a government monop-
olgy, with provisions that not even the Greens
part of the government are currently aware
of. They have no idea of what the legislation
is. It will be another rush job done on the
run, and that will mean that we will end up
with all the same sorts of problems that we
have seen in the past with this NBN fiasco
that has been thrust upon us by the Labor
Party at a cost of $55 billion. Senator McE-
wen, I certainly agree with you: it is typical
Labor Party legislation.

Senator XENOPHON (South Australia)
(11.58 pm)—We live in a rapidly changing
world, and the government’s desire to create
a national broadband network is a response
to this speed of change. Globally, we are
more interconnected than we have ever been.
I believe it is essential that Australia prepares
itself for the future. That said, the NBN
would be an extraordinary investment into a
technology that has its supporters and also its
critics. Because the investment will require
tens of billions of taxpayer dollars, it is not
going to be like any other business. Nor
should it behave like any other business.

This brings me to an area I have signifi-
cant problems with. We need to remember
NBN Co. will be equally owned by all Aus-
tralians, and I believe it should treat all cus-
tomers equally. That is why I do not believe
NBN Co. should be allowed to provide some
carriers with preferential pricing, terms or
conditions. Under the current arrangements
telcos which showed the ability to provide a
quantifiable efficiency may be entitled to a
better price or service from NBN Co. I be-
lieve this is fundamentally wrong. Govern-
ments should not be providing sweeter deals
to one retail business over another. I under-
stand the ACCC will prepare ‘guidelines’ for
any exemptions to the non-discriminatory
provisions, but I do not believe this is good
enough. Individual cases will not be scruti-
nised and any breaches will only come be-
fore the ACCC if they are raised and, by
then, it may be too late. After all, how do you
prove ‘efficiency’? How do you quantify
‘efficiency’? I think it is very important that we do not make the mistakes that were made with the privatisation of Telstra, where we had a vertically integrated monopoly, in effect. I think it is very important that in the context of this legislation we set the framework very clearly in ensuring that there is not discrimination in pricing.

Under the legislation, exemptions may be provided under a very broad term which currently has no framework for how it would be applied. I am concerned that the companies that will be best suited to demonstrating efficiency will be the larger established telcos. We should not be setting up arrangements which favour the large telcos at the expense of small or newer players. It would entrench the big telcos’ positions and set up barriers for smaller telcos who often are so crucial for providing innovation and new products and services. They are so critical in driving competition in the marketplace.

I understand that in business wholesalers provide goods or services at different rates depending on the retailer, but NBN Co. is not like any other business. It is owned, in effect, by the taxpayer, and governments should not be playing favourites. Is it not inevitable that the big telecommunications providers, such as Telstra and Optus, will be the ones who will benefit most from such an exemption? I note that the CEO of NBN Co., Mr Mike Quigley, has publicly stated that volume discounting will not occur; however, the provision for it still exists within the legislation. I think that is highly problematic. Volume discounting means that the Telstras and Optuses of this world could be able to access the NBN at different rates or terms and conditions based purely on the fact that they hold the majority of the market. This is my concern: the big players will continue to dominate the telecommunications market and the smaller providers will be pushed out. The end result will be bad for consumers. For too long Telstra has dominated the industry and consumers have paid the price.

I note the opposition’s concerns around the potential for the intention of NBN Co. to be wholesale-only to be undermined by some aspects of this legislation—the National Broadband Network Companies Bill 2011 and the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011. I can see the opposition’s argument that allowing utilities direct access to NBN Co. means that the role of NBN Co. will go beyond that of a wholesaler. However, my understanding is that the legislation will enable utilities wholesale access to NBN Co. for ‘necessary and desirable’ uses only—for example the road network and rail system monitoring. More details are needed about the process which determines what is ‘necessary and desirable’ and to have sufficient safeguards to ensure that it does not cover such things as the telephones and internet in the head office. Further, any cost savings to utilities by allowing them to access NBN Co. as a wholesaler rather than having to go through a retail service provider would, I suspect, result in lower costs for their customers.

Similarly, I understand the opposition has concerns about provisions which allow corporations who are willing to invest in their infrastructure and obtain a carrier’s licence wholesale access to NBN Co. The issue of scope creep is something I am concerned about and will continue to consider as we go into the committee process.

Finally, on the issue of cherry picking, I note the opposition’s concerns that it may be anticompetitive, but I do also note that this is a significant taxpayer funded investment which must be protected to some extent. I believe that the removal of price discrimination provisions and volume discounting may
provide the competition needed at the retail end which will allay any need utilities and corporates have to access NBN Co. directly. After all, if the retail service providers offer competitive deals to the Westpacs, Australia Posts and Origins of this world, they will not see any need to invest and become carriers themselves.

I believe the NBN is a good idea. We need to invest in broadband technology that will allow Australia to stay in line with telecommunications developments internationally, allow businesses to be able to compete internationally and allow households to have access to the internet at speeds we once thought out of this world but which are now mainstream in so many countries. But the legislation that supports this technology needs to be watertight. We need to ensure the system works profitably but also fairly. I cannot accept that preferential pricing or conditions are fair.

There is a lot at stake here, and Australian governments do not have a good track record when it comes to telecommunications. There was AUSSAT, which was later described by former Prime Minister Paul Keating as ‘a billion-dollar piece of space junk’, and there is no doubt that the privatisation of Telstra created a vertically integrated monopoly in our telecommunications market. That is not just my view; it is also the view of the OECD, which found:

... despite an enviable record of deregulation, Australia stands almost alone in allowing a historic monopoly to continue to dominate its telecommunications.

That is one reason why we need to break that up. That is why I supported the structural separation of Telstra. I believe that was the right thing to do because it has so simply constrained our telecommunications industry and allowed the domination of Telstra in telecommunications.

It is worth referring to the explanatory memorandum for this legislation. Page 1 says:

Structural separation may, but does not need to, involve the creation of a new company by Telstra and the transfer of its fixed-line assets to that new company. Alternatively it may involve Telstra progressively migrating its fixed-line traffic to the NBN over an agreed period of time and under set regulatory arrangements, and sell or cease to use its fixed-line assets on an agreed basis. This approach will ultimately lead to a national outcome where there is a wholesale-only network not controlled by any retail company—in other words, full structural separation in time. Such a negotiated outcome would be consistent with the wholesale-only, open access market structure to be delivered through the National Broadband Network.

I note that other senators—and I am sure Senator McEwen will shout me down if I am wrong—made reference to the importance of having open access with the National Broadband Network. My interpretation of ‘open access’ means ensuring that there is not price discrimination. That is quite critical.

The explanatory memorandum is in black and white but it seems that some of the provisions of these bills go against the very grain of the fundamentals of this legislation. The NBN will structurally separate Telstra and nothing that happens through preferential pricing or some other measure should be allowed to benefit the big telcos at the expense of smaller players.

I note that there are provisions in these bills concerning privatisation. This is an important issue. We do not want a repeat of history where a short-term political decision is made that ends up costing us all dearly in the longer term, as I believe we saw with the privatisation of Telstra. In summary, it is possible to have a good idea but to execute it badly. My concern when it comes to preferential pricing and conditions is that we are seeing just that.
Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness) (12.07 pm)—The government’s National Broadband Network policy will deliver access to high-speed broadband for all Australians and will also deliver structural reform of the telecommunications industry to promote for the first time sustainable retail level competition. Together, the National Broadband Network Companies Bill 2011 and the Telecommunications Legislation Amendment (National Broadband Network Measures—Access Arrangements) Bill 2011 will ensure that NBN Co. delivers the government’s objectives. The NBN Companies Bill sets out key obligations on NBN Co. to limit it and focus it on wholesale-only telecommunications. It also covers the government ownership and provides for the eventual sale of the Commonwealth’s stake in the company, including clear parliamentary oversight.

The NBN access arrangements bill establishes clear supply equivalence and transparency obligations for NBN Co. that will ensure it can provide a robust platform for vigorous retail competition. The bill also sets out obligations for providers of superfast fixed line networks to ensure they operate under comparable regulatory arrangements to those applying to NBN Co.

The government believes that the bills strike an appropriate balance between controlling NBN Co.’s operations and providing sufficient flexibility to respond to market circumstances. The government supported the Australian Greens amendment to the NBN access bill to add NBN Co. as a prescribed authority under the FOI Act with an exemption for documents in relation to its commercial activities. This is in addition to the usual oversight activities applying to such a government business enterprise and the two parliamentary committees the government has established to monitor the NBN.

The government welcomes appropriate scrutiny of NBN Co.’s operations. The government welcomes the report of the Senate Environment and Communications Legislation Committee and its recommendations that the bills should be passed. However, the government does not support the amendments to the bills proposed by coalition senators in their minority report. These amendments have already been rejected in the House.

The government also believes that it is important that utilities should, if they wish to, be able to purchase basic connectivity services from NBN Co. for their sole internal use. Banning this, as the opposition proposes, could inhibit the deployment of smart infrastructure. The government also opposes the opposition’s proposed amendment that NBN Co. should be restricted through statute to operating at layer 2 in the telecommunications technology stack. It is clear from the government’s statement of expectations to NBN Co., and from NBN Co.’s corporate plan, that NBN Co. must operate at layer 2. However, some of the technical functionality that NBN Co.’s customers want operates at layer 3. A simple black-and-white layer 2 rule and statute would therefore be inflexible and counterproductive. If such certainty is required in the future, the NBN Companies Bill provides that the minister can make a licence condition on what services NBN Co. must and must not supply.

The government also rejects the opposition’s amendments to provisions in the NBN access arrangements bill designed to deliver a level playing field in the rollout of superfast fixed-line networks. Removal of the level-playing-field provisions will undermine the government’s policy that NBN Co. deliver uniform national wholesale prices, as
well as NBN Co.’s business case which provides for a cross-subsidy from high-value areas to less profitable areas, like most of regional Australia. This will lead to less equitable outcomes for regional Australians and less robust retail competition.

Without these provisions, many communities would get a non-NBN solution and could be serviced by a single, vertically integrated provider that does not provide access to other providers. This means that end users serviced by the provider would not have access to the same kinds of service outcomes that would be available to end users on the NBN. Responding to a comment made by the Senate Environment and Communications Legislation Committee that the level-playing-field arrangements could be further clarified, we have been engaging with industry on this matter, and the government will shortly be introducing amendments in the parliament to address this.

The government also rejects the opposition’s proposed amendments to the provisions dealing with the possible future privatisation of NBN Co. The opposition’s proposals would simply enable a future coalition government to sell NBN Co. as quickly as possible, regardless of the needs of regional and rural Australians and the public benefit from restructuring the telecommunications market. The effect of this removal would also remove the right of a future parliament to disallow any sale. The government considers that a sale decision is best made in the future by the government and parliament of the day.

The opposition’s view that any discrimination that aids efficiency should be struck out of the NBN legislation shows an inherent misunderstanding of how these provisions will work. Discrimination based on efficiency has long been recognised to promote competition and innovation in the market.

The NBN access arrangements bill already contains safeguards to address the concerns. Under the bill, NBN Co. cannot offer a volume discount unless it is in accordance with a framework that has been approved by the ACCC as part of NBN Co.’s special access undertaking. Further, any differentiated deals must be published so there will be full transparency and the ACCC and access seekers can take action if they consider that the rules have been breached.

The government will be proposing some amendments that will further strengthen the ability of the NBN to deliver on its nation-building objectives, that will improve the operation of the bills and that will deliver further certainty for industry and the community. For example, a series of amendments clarifies the operation of the level-playing-field provisions, ensuring they are focused more tightly on local access networks, targeting residential and small business customers, and that minor extensions to existing superfast networks, and connections of new customers to existing networks will not be subject to the provisions. As indicated last December, the government will also propose amendments to the level-playing-field provisions to add a wholesale-only requirement. I look forward to debating these amendments in committee.

The passage of these bills, as recommended by the Senate legislation committee, will provide certainty for NBN Co. and industry and facilitate the rollout of the NBN so we can get on with delivering the benefits of superfast broadband for all Australians.

Debate (on motion by Senator Arbib) adjourned.

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

Senator ARBIB (New South Wales—
Minister for Indigenous Employment and
Economic Development, Minister for Sport
and Minister for Social Housing and Home-
lessness) (12.14 pm)—I move:

That intervening business be postponed till af-
fter consideration of the following government
business orders of the day:
No. 4—Defence Legislation Amendment (Secu-
ritivity of Defence Premises) Bill 2010
No. 5—Australian Civilian Corps Bill 2010
No. 6—Screen Australia (Transfer of Assets) Bill
2010.

Question agreed to.

DEFENCE LEGISLATION
AMENDMENT (SECURITY OF
DEFENCE PREMISES) BILL 2010

Second Reading

Debate resumed from 27 October 2010,
on motion by Senator Farrell:

That this bill be now read a second time.

Senator JOHNSTON (Western Australia)
(12.15 pm)—The opposition supports the
Defence Legislation Amendment (Security of
Defence Premises) Bill 2010. Indeed, we
have a very fine committee report from the
Senate Foreign Affairs, Defence and Trade
Legislation Committee. I will say very
briefly, in the short time I have to talk about
this—because it is non-controversial—that
this legislation arose from two high-profile
incidents. Firstly, there was the theft of 10
LARS rocket launchers, wherein a former
army captain was imprisoned in relation to
21 offences relating to the theft of those
rocket launchers. Secondly, the other major
incident that brought this legislation on—or
the mischief to be arrested, if you like, which
is behind this legislation—was the arrest and
charging of five individuals with planning an
armed attack on the Holsworthy army base,

for which three of those people were con-
victed. The offences in question were both
extremely serious and stood out as matters
demanding a response. Indeed, there was a
Defence response, with an internal inquiry.

The legislation brought forward quite
properly by the government and the minister
is to provide protection to defence bases and
facilities. The facilities and infrastructure of
the defence estate support the activities of
over 90,000 people right across Australia. In
relation to the estate, Defence in its submis-
sion to the committee noted that it is:
... the largest and most complex land and property
holding in Australia. It provides the facilities
which directly enable the generation, projection
and sustainment of operational capability. The
Defence estate also supports our personnel, pro-
viding them with a safe place to work and their
families to live.

There are approximately 88 major defence
bases or defence premises in Australia. The
defence estate, which covers 3.4 million hec-
tares of land, comprises approximately 370
owned properties and an additional 350 un-
der lease. The estate includes 34,000 struc-
tures and consists of training areas; com-
mand headquarters; airfields; ship repair and
wharfing facilities; accommodation; depots;
warehouses; explosive ordnance storehouses;
training, education, research and testing fa-
cilities; and office buildings. The estimated
gross replacement value of the estate is over
$64 billion.

Accordingly, you can see the nature of the
importance of this legislation, which,
amongst other things, strengthens the legal
regime for Defence Force members who may
be required to use force involving death or
grievous bodily harm, establishes a statutory
regime of search and seizure powers and
updates the existing trespass offence and
associated arrest powers in the Defence Act
1903. The powers introduced in the new part
confer security functions including identity
and authorisation checks and search and seizure powers on three classes of officials otherwise termed ‘defence security officials’, including defence contracted security guards, security authorised members of the Defence Force and defence-security-screening employees who are Australian Public Service employees of the Department of Defence.

The role of defence contracted security guards is principally restricted to performing the consensual security functions. The non-consensual powers are largely reserved for the security authorised members of the Defence Force and the defence-security-screening employees. Whilst all three classes of officials are empowered to use force in restricted circumstances, including that to restrain and detain a person, the principle that underlies such action is that such force shall be necessary and reasonable. The power to use force likely to cause death or grievous bodily harm is restricted to security authorised members of the Defence Force, only in the context of a current or imminent attack on defence premises which is likely to cause death or serious injury to persons on those defence premises. Other defence security officials are not so empowered or authorised. So, broadly speaking, we have defined circumstances where particular and specified defence security personnel can exercise lethal force in circumstances which must be necessary and reasonable, which I think is a great benefit to establishing a clear matrix and legislative framework for people to go about the business of protecting our national interest.

In closing, the committee made a number of recommendations, all of which are very important. But the particular one I want to draw attention to is the need for the Department of Defence to bring forward memorandum of understanding so that there is a clearly identified matrix on the table as to how matters should proceed between state and federal police and then defence personnel in dealing with such threats. I look forward to seeing and being told about memorandum of understanding between state and federal police officers, relating to defence locations around Australia in particular states, as to what the proforma activity and standard operating procedure will be in the interaction between police and those authorised defence personnel who have the capacity to do non-consensual searches and who also, in reasonable and necessary circumstances, use lethal force. I commend this bill and I commend the government on its amendments.

Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness) (12.21 pm)—in reply—I thank Senator Johnston for his comments on and support for the Defence Legislation Amendment (Security of Defence Premises) Bill 2010. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

AUSTRALIAN CIVILIAN CORPS BILL 2010

Second Reading

Debate resumed from 15 November, on motion by Senator McLucas:

That this bill be now read a second time.

Senator BACK (Western Australia) (12.22 pm)—I rise to support the Australian Civilian Corps Bill 2010 and, in so doing, I have a couple of comments about a couple of risk provisos that I believe should be put into place. Firstly, this is an example of what Australians do best. We are innovative overseas. We do not tend to impose our standards
overseas and we have great capacity in the history of being able to use local resources and work with local communities to achieve the goals. This bill will in fact allow a process in which this can be happening in a more organised and formal fashion. It also allows a tremendous conjunction between Defence, policing agencies, and public and private sectors in delivering the sort of aid and assistance that we believe would be necessary as a result of this act being passed.

The regions where I believe we should be most active are those where Australia has its sphere of influence—that is, in the Pacific Islands, South-East Asia and, to some extent, India and the Middle East. I would urge that we do not go too far beyond those boundaries. The types of incidents are obvious, especially those of natural disasters of the types that we have seen in our region in recent times. Can I also urge that there are other incidents that are unrelated to natural disasters where Australia has a proud history and where I think, under the auspices of this bill, we can be even more active—for example, a disease called the Nipah virus, which was detected in Malaysia some years ago. It was a virus disease affecting pigs and, through direct contact with pigs, humans. Through the excellence of Australian researchers under the auspices, as I understand it, of the Australian Biosecurity CRC for Emerging Infectious Disease where they worked with the Malaysians, and the integrated efforts of scientists around the world, they discovered what the disease was. It is a disease of some interest in Australia, because the Nipah virus is very closely related to the Hendra virus—an example where a corps properly established would quickly be even more active. I can also think of another example in the agricultural context where Australians can do what we do best, with regard to new crop rotations, minimum tillage, use of fertilisers and water conservation and that is to actually apply what we have succeeded with in this country to regions of the world where it will have its greatest benefit. I would urge acceptance of the bill so as to expedite that.

The benefits to recipients are enormous, to families, to communities in the recipient areas and to governments. But there are also enormous benefits to the providers. One of the great disadvantages of being an island is that not enough of us get off it and not enough people actually come to understand what the challenges are overseas. I am not talking about the holiday to Bali; I am talking about experiencing life in other communities around the world. Therefore there are enormous benefits to people who are expert in what they are doing here in Australia actually applying that expertise and learning something of the culture of people in our region. They themselves are enriched as a result of this experience.

I do have some provisos. I want an understanding of the risks that are involved. For example, there must be very careful screening of would-be candidates and those who want to participate. I would say that there would have to be thorough briefing in advance and early selection of team leadership for whatever project is contemplated. There needs to be a clear statement of objectives so that people have something in addition to goodwill and their own expertise. They must understand what they are there to do, what the KPIs are and the expected time frames involved. The deployment must be safe for all participants. It must have adequate protection: legislative protection, health and insurance and other protections. At the same time there must be support for families at home. As one who has worked overseas a good deal of my career, I know the pressure that goes on families remaining and they are all too often forgotten. Having said that, as with any military deployment there is the
essence and the essential of some degree of post-deployment debriefing and counselling.

I have a couple of recommendations, if I may. There should be developed a register of interested persons and their areas of expertise so that well in advance of Australia making a decision under this act to deploy people we know who is available, what their expertise is and what the limits might be. The best way of establishing that is some sort of online facility where expressions of interest could be sought. It will then allow the department to do that preliminary vetting that is so necessary to make sure that the person is appropriate to the task and is capable of surviving in the overseas country, let alone lending their expertise. I mentioned the identification of potential project leaders. They may come from the public sector, the private sector; they may come from defence; they may come from policing organisations. But they should be identified and their availability understood, so that expectations are matched to deliverables. Country specific templates for countries for all participants could well be worked on in advance so that people understand the risks and they understand the opportunities of the employment they are contemplating when they are there and after they have returned. Given the brevity of time, my last recommendation would be to ensure that no lessons are lost, that anybody becoming contractually bound to participate in a project of this nature would also agree to actually prepare a report on their deployment within a limited period of time of returning—eight weeks would appear to me to be reasonable—so that they get the maximum benefit and the country in which they have been deployed gets the benefit but, most importantly, we learn lessons. I commend the bill to the Senate.

Senator TROOD (Queensland) (12.28 am)—It is a great pleasure indeed to be able to speak to the Australian Civilian Corps Bill 2010, because it is legislation which I think appeals to the ‘better angels’ of most senators. Sadly, in this place there are not too many occasions when we all feel comfortable about the fact that we are supporting legislation which has an element of great idealism. I think this particular legislation contains that element of idealism, so I am particularly pleased to speak to it today.

The broad idea of an Australian civilian corps, I assume, is based on the great American idea of a peace corps—which, as you will recall, Madam Acting Deputy President, was an idea that emerged from the Kennedy campaign for election to the presidency in 1959-60 and became rapidly an idea which many people embraced as something that reflected the idealism of the American people and that could make a very practical contribution to America’s role in the international arena.

We all recall Mr Sargent Shriver, who became the first director—and was a distinguished director—of the American Peace Corps. He was a Kennedy brother-in-law, as I remember. When he died, I think last year, many of his obituaries drew attention to his very distinguished service as the senior official in the American Peace Corps and went on at great length about his contribution and the great success that he made of the Peace Corps.

The Australian Civilian Corps has, it is fair to say, rather more prosaic origins. It comes, as I understand it, from the government’s 2020 Summit in April 2008 and was announced by former Prime Minister Rudd in October 2009. I do not think it is being churlish to say that this is one of the better ideas from the 2020 Summit. Indeed, it is one of the few ideas that have found their way into legislation. Regardless of its origins, I think we can recognise that this is a good idea and a strong idea, and it is one that
the coalition is very pleased to support. It recognises and highlights the reality that when natural disasters and crises occur around the world, particularly when there are conflicts involved, assistance to alleviate human suffering is often a vital requirement.

As we contemplate events around Australia—although this bill is directed to external activity—and think about the earthquake in Christchurch and the earthquake and subsequent tsunami in Japan, and the terrible suffering that those events have created, we see that they underscore the assistance that the Australian Civilian Corps will provide to people who may need it.

Civilian assistance early on in a crisis, and after an event or a tragedy of the kinds that have occurred recently in our region, often helps with rebuilding. It helps to stabilise a situation and can give great encouragement to countries when they need to recover. The idea that there ought to be a discrete and specific Australian corps, a scheme in which idealistic Australians can be involved in helping recovery, is a very good one. It is a practical and innovative way of addressing what is clearly, and sadly, an important growing international need.

The report of the Senate Foreign Affairs, Defence and Trade Legislation Committee on this bill supported the bill enthusiastically. It was a unanimous report. It made a series of recommendations about the way in which the bill could be improved. The government has accepted some of those, and I welcome that, but it has chosen not to accept others. I will say a bit more about that in a moment, but there are two concerns that I want to raise in the early stages of my remarks which reflect general concerns within the coalition about the bill. One relates to the direct financial impact that the bill might have. The explanatory memorandum notes that there is no direct financial impact. On the other hand, in AusAID’s Focus Online there is a note that $52 million will be provided for the rapid deployment of Australian civilians into overseas disaster and conflict affected countries. That seems to be inconsistent with the declarations within the explanatory memorandum. Perhaps the minister would care to make an observation about that when he makes his closing remarks. I note that, in his contribution, Senator Back made the point that it is vital that those who might commit themselves to this task be provided with a great deal of security. We are particularly concerned to know how the security of the civilians who sign on to the corps will be provided—how they will be protected during the course of their operations. That seems to me to be a vital concern.

The second broad question relates to a potential conflict of interest in the legislation. The legislation is cast in a way whereby the Director-General of AusAID will primarily be the responsible party. He will create a register, as I understand it, of those who wish to volunteer for this kind of activity. The legislation makes clear—and I do not have any particular objection to this—that people employed by AusAID could in fact become part of the Civilian Corps. That makes a great deal of sense, because there is a tremendous amount of expertise within AusAID that could be very useful in circumstances of the kind we are contemplating in this piece of legislation.

None of that concerns me terribly much. What does raise some questions is the matter of who determines whether the person deployed overseas goes as an employee of AusAID or as a member of the ACC and what kinds of implications might follow from the fact that an AusAID person is taken offline—what sort of impact might it have on their responsibilities within AusAID itself. It seems to me that the director-general is potentially in a difficult situation. He—or she, but for the moment he—is in a situation
where he has to make decisions as to whether having AusAID employees is in the interests of his agency or whether to have people with similar kinds of expertise as volunteers on the register. These are matters that need a bit of clarification.

The Senate report made 11 recommendations, as I noted. I was very delighted to see that the government at least fully accepted four of them. It partially accepted two of the recommendations but rejected four of the recommendations. I want to spend a few moments making a few remarks on some of the recommendations that were rejected or partially rejected. Regarding the first recommendation of the report, the committee was of the view that the legislation should include a statement on the humanitarian and developmental purpose for establishing the Australian Civilian Corps. This recommendation was made by several of the submissions to the committee, most notably by World Vision. It commended itself to the committee because this is an exciting new venture that deserves some sort of clarity of statement about the intention behind the legislation. Why the government would reject that possibility is somewhat confusing to me. I would have thought it was something the government would readily agree to.

The second recommendation from the report, which was only partially agreed, related to values of the ACC in relation to the Australian Public Service. I do not often find myself in this place supporting the suggestions of the CPSU, or indeed any other union within the organisation. But the CPSU made a recommendation to the Senate committee suggesting that a stronger connection should be made within the legislation between the ACC values and those of the Australian Public Service. The committee supported that suggestion, and I think it is something that the government might have turned its mind to.

Recommendation 5 was not agreed to by the government. It relates to what I call the no disadvantage test that might be applied in these circumstances. The committee recommended that the legislation ensure that members of the Public Service, or indeed other employees, would not be disadvantaged in terms of their entitlements should they decide to commit themselves to an ACC deployment. It seems to me fundamental and without contest that, if an idealistic Australian chooses to make a commitment of this kind and chooses to become involved in the ACC, they should not suffer any kind of work or professional disadvantage in doing so. The committee was very strongly of the view that this was something that ought to be included in the legislation and, sadly, the government has chosen not to accept that recommendation.

Finally, and along much the same lines, recommendation 8 of the committee’s report suggested that the bill contain provisions governing the protection of whistleblower rights, prohibition on patronage and favouritism and promotion of employment equity. This is one of the recommendations which was only partially accepted by the government. The recommendation in relation to patronage and favouritism was accepted. The government chose not to accept the recommendation with regard to whistleblowers or the promotion of employment equity. There is an explanation in the government’s response. I do not find it particularly persuasive. I would have thought that these were elementary requirements that might well have been accepted and found favour with the government in the implementation of the legislation.

With those reservations, I say that the coalition enthusiastically supports this piece of legislation. Senator Back, in his contribution to the debate, made some very good points. I am not in a position to comment on the ob-
servations he made in the earlier part of his speech with regard to viruses of one kind or another, but I am sure they were very incisive and insightful and should also recommend this legislation to the government. I suggest that the observations I have made about the concerns we have about the bill should also be taken seriously in resolving this legislation.

Senator JOHNSTON (Western Australia) (12.42 pm)—As you can see, Madam Acting Deputy President, the opposition is very supportive of this interesting and important piece of legislation, the Australian Civilian Corps Bill 2010, which formalises our relationship with our overseas neighbours and others who become affected adversely by natural events, disasters and all manner of conceivable mayhem where our expertise is required to deliver some assistance. Indeed, we think of Japan, we think of tsunamis and we think of all sorts of things that have occurred in our recent past that have required us to get aboard aircraft and to be delivered into foreign lands and to administer services and expertise.

I want to say thank you to Senator Trood and Senator Back. Obviously they have taken some great time to study this legislation and participate in the committee reports surrounding it. They are much wiser and more knowledgeable than me with respect to these matters. I also want to support the issues that Senator Trood raised with respect to a fundamental threshold issue: the protection of our personnel overseas. The legislation appears to be light on with respect to that, may I say. The conflict and overlap between the Australian Civilian Corps personnel and AusAID appears to be ill defined, if I can say that. Having said that, I do not want to detract from the benefits of formalising and putting on the table a template of rules and a structure for our assistance overseas. The explanatory memorandum to the bill states:

The Australian Civilian Corps Bill 2010 ... creates a legal framework for the employment and management of Australian Civilian Corps employees.

Australian Civilian Corps employees will be a unique category of Commonwealth employee, engaged for specified periods to work in crisis environments overseas before returning to their regular employment.

This is clearly a very positive formalisation of what has been, to a very large extent, an ad hoc situation.

A couple of other issues that come to me through the legislation include that the report is contained within AusAID. Again this underlines Senator Trood’s concerns with respect to the operation. Annually we have to sift through the AusAID report to see what ACC employees have been getting up to and how they have been managed and what matters they have undertaken. Can I also say that the values as espoused within the legislation but unspecified are awaiting the regulations, as is the code of conduct. These are two very important things, yet the legislation goes on to deal with what will happen if there is a breach of the code of conduct. So we have legislation setting out the punitive response for a breach of yet undefined codes of conduct. I find that rather curious.

Having said all of that, as you can see, Madam Acting Deputy President, the opposition is very supportive of formalising these matters, as it appears there will be ever-increasing call upon our expertise to travel overseas and to provide assistance to our near neighbours and further. Thank you.

Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness) (12.45 pm)—The Australian Civilian Corps is an important new capability that will enable Australia to more effectively respond to requests for assistance following
natural disasters and conflict. For this initiative to be successful, the Australian Civilian Corps Bill 2010 provides for a framework for the effective and fair employment and management of Australian Civilian Corps employees. The bill has been considered by the Senate, the Scrutiny of Bills Committee and the Senate Foreign Affairs, Defence and Trade Legislation Committee. The Foreign Affairs, Defence and Trade Legislation Committee received submissions from the Community and Public Sector Union and the Australian Red Cross, amongst others. In response to a number of recommendations made by the Foreign Affairs, Defence and Trade Legislation Committee, amendments to the bill will be moved. The amendments will provide Australian Civilian Corps employees with the right to seek external review of disciplinary decisions made by the AusAID Director-General concerning those employees. The external review arrangements and the powers of the reviewer will be substantially similar to those under the Public Service Act that currently apply in relation to misconduct decisions concerning Australian Public Service employees.

To address the concerns raised by the committee, other minor amendments to the bill will also be moved. These minor amendments include an express requirement to include reasons in any notice of termination of employment with the corps. Another amendment makes it explicit that a Commonwealth employee cannot be compelled to serve in the corps and participation in the corps is entirely voluntary. In addition, an amendment will be moved to expressly prohibit patronage and favouritism in relation to Australian Civilian Corps employees.

In relation to a couple of the questions that Senator Trood raised, I am advised that the budget impact is $52 million, which is in program expenditure. This bill creates the regulatory framework for the employment of the corps. Funding comes from core AusAID funding. In relation to the appointment of the director-general and any conflict of interest, my advice is that the director-general is best placed to make operational decisions and all staffing decisions. Obviously this will be based on the register and the framework which I have just mentioned. Regarding security of our personnel, which of course the government takes seriously at all times, processes are in place. There will be pre-deployment planning and assessment of security. Security recommendations will then be made to the Director-General of AusAID. Adequate security plans will be put in place based on a risk mitigation strategy, and the government will have an opportunity to approve the plans. I commend the bill to the Senate.

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness) (12.49 pm)—I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill and a correction to the explanatory memorandum. The memorandum was circulated in the chamber earlier today. I seek leave to move government amendments (1) to (9) on sheet BT277 together.

Leave granted.

Senator ARBIB—I move:

(1) Clause 5, page 3 (after line 22), after the definition of overseas, insert:

Presiding Officer means:
(a) the President of the Senate; or
(b) the Speaker of the House of Representatives.
(2) Clause 17, page 7 (line 9), omit “employees; and”, substitute “employees.”.

(3) Clause 17, page 7 (lines 10 to 17), omit paragraph (6)(c).

(4) Clause 17, page 7 (lines 18 to 21), omit sub-clause (7).

(5) Page 7 (after line 28), after clause 17, insert:

17A Review of decisions relating to breaches of Australian Civilian Corps Code of Conduct

(1) A person who is, or has been, an Australian Civilian Corps employee is entitled to review, in accordance with the regulations, of any of the following decisions:

(a) a determination that the person breached the Australian Civilian Corps Code of Conduct when the person was an Australian Civilian Corps employee;

(b) a decision to impose a sanction on the person for breaching the Australian Civilian Corps Code of Conduct when the person was an Australian Civilian Corps employee.

(2) However, a person is not entitled to review under this section of a decision to impose a sanction that consists of termination of the person’s employment as an Australian Civilian Corps employee.

(3) The regulations may prescribe exceptions to the entitlement.

Note: For example, the regulations might provide that there is no entitlement to review if the application for review is frivolous or vexatious.

Person or committee to conduct a review

(4) The Director-General must arrange for:

(a) a person; or

(b) a committee constituted in accordance with the regulations;

...to conduct a review under this section.

(5) The Director-General must not arrange for a person to conduct a review under this section unless the Director-General is satisfied that the person has appropriate knowledge, skills and experience.

(6) A review under this section must not be conducted by a person if the person is:

(a) the Director-General; or

(b) an APS employee in AusAID; or

(c) an Australian Civilian Corps employee.

(7) The Director-General must not arrange for a committee to conduct a review under this section unless the Director-General is satisfied that each member of the committee has appropriate knowledge, skills and experience.

(8) A review under this section must not be conducted by a committee if a member of the committee is:

(a) the Director-General; or

(b) an APS employee in AusAID; or

(c) an Australian Civilian Corps employee.

Powers and procedures

(9) Without limiting subsection (1), regulations made for the purposes of that subsection may provide for the powers available to a person or committee that conducts a review under this section.

Recommendations in a report on a review

(10) A person or committee that has conducted a review under this section (the reviewer) may make recommendations in a report on the review but does not have power to make any binding decision as a result of the review, except as provided by the regulations.

(11) If the reviewer is not satisfied with the response to recommendations contained in a report on a review under this section, the reviewer may give a report on the matter to:

(a) the Minister; and
(b) either or both of the following:
   (i) the Prime Minister;
   (ii) the Presiding Officers, for presentation to the Parliament.

(6) Clause 23, page 10 (line 10), before “The Director-General”, insert “(1)”.

(7) Clause 23, page 10 (after line 13), at the end of the clause, add:
(2) The notice must set out the ground or grounds for the termination.

(8) Clause 27, page 13 (after line 6), at the end of the clause, add:
(4) Paragraph (2)(a) does not apply to a grant of leave to an employee unless the employee has requested the leave.

(9) Page 15 (after line 8), after clause 29, insert:
29A Prohibition of patronage and favouritism
A person exercising powers under this Act or the regulations:
   (a) in relation to the engagement of Australian Civilian Corps employees; or
   (b) otherwise in relation to Australian Civilian Corps employees;
       must do so without patronage or favouritism.

Question agreed to.
Bill, as amended, agreed to.
Bill reported with amendments; report adopted.

Third Reading
Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness) (12.50 pm)—I move:
That this bill be now read a third time.

Question agreed to.
Bill read a third time.
(which is necessary to facilitate consolidation and restructuring in the industry) and for the Australian Securities and Investments Commission to process the voluntary transfers.

If the voluntary transfer regime is not in place in sufficient time before the deeming provision expires, a number of affected trustee companies will be unable to legally operate their subsidiaries or carry out the necessary consolidations. While the transitional regulation may be able to be temporarily extended if the Governor-General in Council agrees, the industry requires the certainty of a legislated voluntary transfer regime.

Further, the Payment Systems (Regulation) Regulations 2006 which protects participants in the ATM system sunsets in March 2011, as regulations made for the purposes of section 51(1)(a)(ii) of the Competition and Consumer Act 2010 last for two years. To allow ATM participants to continue to comply with the Reserve Bank of Australia’s ATM reforms a legislative change to the Payment System (Regulation) Act 1998 is required.

SCREEN AUSTRALIA (TRANSFER OF ASSETS) BILL 2010

Second Reading

Debate resumed from 28 February, on motion by Senator Feeney:

That this bill be now read a second time.

Senator BRANDIS (Queensland) (12.52 pm)—The Screen Australia (Transfer of Assets) Bill 2010, which has the opposition’s support, has the purpose of transferring certain assets from Screen Australia, the entity which—under the Kemp-Brandis reforms, if I may call them so—replaced Film Australia, to the National Film and Sound Archive. It also renames the National Film and Sound Archive to the National Film and Sound Archive of Australia, lest anybody be in any doubt as to which country it belongs.

The National Film and Sound Archive of Australia, as we must now call it, is a magnificent cultural institution whose significance I think is not widely appreciated—at least, perhaps, beyond the hallowed halls of Canberra. It contains some 1.6 million archival items from Australia’s audio and visual heritage. In fact, when I had the honour of being the minister for the arts in the last year of the Howard government, one of the occasions I will remember most fondly was listing a number of new items as flagship items in the National Film and Sound Archive, including—I will never forget—what I regard as one of Australia’s most beloved popular songs, the Aeroplane Jelly song. Were it later in the evening and the times not so serious, I might almost be tempted to give the Senate a rendition of it. But I will restrain from the temptation of rendering the Aeroplane Jelly song, the strains of which recall my childhood. Also on that occasion I had the pleasure of entering the Majestic Fanfare, the wonderful piece of orchestral music that has introduced the ABC’s morning radio news for generations of Australians, on the national archives’ list of special archival audio-visual recordings. But I digress.

The purpose of this bill is to include among the transfer of various assets from Screen Australia to the National Film and Sound Archive of Australia a film collection in Screen Australia’s archive of some 5,000 items, to augment the existing collection held by the National Film and Sound Archive of Australia of some 300,000 films. Those include items as various as the earliest known film of a Melbourne Cup race, in 1897, and what is acknowledged to be the world’s first feature film, The Story of The Kelly Gang, which was made in 1906. The opposition are very pleased to support this bill, as we have and will continue to provide our very strong support to the National Film and Sound Archive of Australia, as we should now call it, and indeed to Screen Australia.

Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport...
and Minister for Social Housing and Homelessness) (12.55 pm)—I thank Senator Brandis for that very passionate contribution. I also thank other senators for their contributions and commend the Screen Australia (Transfer of Assets) Bill 2010 to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

BUSINESS

Rearrangement

Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness) (12.56 pm)—I move:

That intervening business be postponed till after consideration of the Corporations and Other Legislation Amendment (Trustee Companies and Other Measures) Bill 2011.

Question agreed to.

CORPORATIONS AND OTHER LEGISLATION AMENDMENT (TRUSTEE COMPANIES AND OTHER MEASURES) BILL 2011

Second Reading

Debate resumed from 3 March, on motion by Senator McLucas:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (12.57 pm)—The coalition supports the Corporations and Other Legislation Amendment (Trustee Companies and Other Measures) Bill 2011. This bill amends the trustee company provisions in chapter 5D of the Corporations Act 2001 to correct some oversights and unintended outcomes flowing from the 2010 reforms in the regulation of trustee corporations. They include allowing corporate groups with multiple trustee company subsidiaries to transfer the business of those subsidiaries into one licensed entity, providing administrative processes for the voluntary transfer of estate assets and liabilities as a whole rather than individually, altering existing transfer of business provisions by enabling such a transfer to state and territory public trustees in cases of failing licence trustees, requiring that a prospective licensee write to the minister responsible for administering chapter 5D explaining how it satisfies certain criteria before the Governor-General considers making a regulation to list the applicant as a licensed trustee company, clarifying and strengthening the magnitude of penalties, and clarifying the powers of trustee companies to charge for preparing tax returns and to draw management fees and common funds administration fees from capital as a last resort.

These changes are necessary reforms to improve the federal regulatory framework of the sector following the change from state and territory jurisdiction. It is good housekeeping. With those few words, I commend the bill to the Senate.

Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness) (12.58 pm)—I thank Senator Cormann for his contribution. I commend the Corporations and Other Legislation Amendment (Trustee Companies and Other Measures) Bill 2011 to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.
BUSINESS

Rearrangement

Senator ARBIB (New South Wales—Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness) (12.59 pm)—I move:

That government business order of the day No. 2, the Sex and Age Discrimination Legislation Amendment Bill 2010, be postponed to a later hour.

Question agreed to.

HEALTH INSURANCE AMENDMENT (COMPLIANCE) BILL 2010

Second Reading

Debate resumed from 3 March, on motion by Senator McLucas:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (1.00 pm)—It is quite intriguing to be debating this bill, the Health Insurance Amendment (Compliance) Bill 2010, in this non-controversial slot, because it has had a very difficult birth in this parliament. This is, in fact, a 2008-09 budget measure which has been before us on a number of occasions before. In fact, I have dealt with it in the previous parliament myself. The reason I am speaking to this particular bill today on behalf of the coalition is in representation of Senator Fierravanti-Wells, who is absent from the Senate this week.

This Health Insurance Amendment (Compliance) Bill, of course, has been subject to much debate for a variety of reasons in the previous parliament. The bill seeks to implement the increased Medicare compliance audits from the 2008-09 budget. This measure proposed to increase Medicare compliance audits from 500 to 2,500 per year and increase powers to secure documents from doctors to substantiate Medicare claims. As the Department of Health and Ageing has highlighted, there has been considerable growth of the MBS over recent times. From 2004-05 to 2008-09, the number of MBS items has grown by 23 per cent, the number of providers has grown by 15 per cent, MBS transactions have grown by 17 per cent and there was a 43 per cent increase in the value of MBS claims. With $15 billion worth of taxpayers' money spent on Medicare each year—clearly growing rapidly—it is, of course, appropriate that there are robust mechanisms in place to investigate and discourage incorrect or false claims.

Separate to investigating clinical issues, as is the case with the Professional Services Review, the compliance process is, of course, focused on inappropriate billing and claiming. The government has claimed that 20 per cent of practitioners do not respond in relation to compliance audits or refuse to cooperate with requests to substantiate benefits paid. They further argue that Medicare does not currently have the power to make medical and health practitioners comply with such requests. Based on this information, we agree that there is a case to make legislative changes. However, the documents required to substantiate claims may, of course, contain patient clinical information, which is why we rightly need to approach this matter with some caution.

This bill was first released as an exposure draft back in April 2009 and referred to the Senate Community Affairs Committee for inquiry. The exposure draft generated a very strong response. The main concerns were with respect to third parties viewing patient clinical information and the impact this may have on the practitioner-patient relationship. The majority report also raised questions about Medicare staff qualifications and capacity to interpret and make judgments regarding clinical records.
An important point made in evidence to the committee is that the MBS is complex and a significant proportion of incorrect claims appear not to be deliberate. When things are complex and burdensome, these things can sometimes happen inadvertently. There are large demands on health practitioners and their offices, and there will inevitably be some administrative errors from time to time. It is important to stress in this debate that incorrect claims are not necessarily the result of fraudulent activity. There is a continuing role for government to simplify the MBS and provide sufficient education and guidance regarding its interpretation.

These are common-sense measures to improve compliance without the patient privacy issues resulting from using patient records as part of an audit process. In balancing the needs of patient privacy and proper use of taxpayers’ funds, the coalition proposed a number of amendments to enhance safeguards in this legislation, which the government has now largely included in amendments to the bill which is now being presented to this parliament.

As a result of the amendments proposed by the coalition, Medicare must consult with relevant professional bodies about the types of documents that contain information relevant to ascertain whether payments should have been made. Requests for information and documents must now be made in writing. Notice must include the reason for the CO’s concern about the payment and explain the actual issue that the person is required to substantiate. Notice to produce documents will not include requests for information but whether the particular service was clinically relevant. A person may provide Medicare with additional information to substantiate an amount claimed.

There were other amendments to this bill approved by the Senate at the time but rejected by the minister. This is where I came in. I see the Deputy Clerk is smiling; he would well remember his invaluable assistance in helping me draft some of these amendments at the time. These proposed amendments to the Health Insurance Act were intended to allow the parliament to disallow items on the general medical services table and for the previous items and associated rebates to be revised. The amendments were instigated by the minister’s arbitrary halving of rebates for cataract surgery. Unfortunately at the time—as is often the case with this government and, in particular, Minister Roxon—the minister refused to consult and negotiate with doctor and patient groups or allow for greater parliamentary scrutiny of the drastic cuts she was seeking to impose on cataract rebates through the general medical services table. The government blocked amendments that we put forward in that context in both the Senate and the House of Representatives.

Just to make the point in relation to this particular issue, this remains an unresolved policy issue for this parliament. The current circumstance is that this government, or any other government, can cut government rebates through the Medicare Benefits Schedule irrespective of whether or not those cuts have the support of the parliament. In relation to the cuts at the time of rebates for cataract surgery, it was obvious that the government’s proposed cuts did not have the support of the Senate. In fact, the Senate will pass a motion to disallow the particular cuts that the government was trying to get through the parliament. The circumstance is that the Senate is not in a position to disallow cuts to Medicare rebates without actually having those Medicare rebates disappear from the MBS altogether, which is of course a highly unsatisfactory situation because in practice it means that the Senate cannot do anything about the Labor government’s at-
tempts to cut rebates through the MBS without creating the uncertainty and the highly unsatisfactory circumstance where the MBS item numbers disappear from the MBS altogether.

It all sounds very technical, but this has actually got real impacts on real people, because the level of MBS rebate will determine how much patients across Australia will have to pay for particular medical services. The lower the rebate, if the fee remains the same or increases further, the larger the out-of-pocket expense. The larger the out-of-pocket expense the less likely that some people will be able to afford access to often very important healthcare services. Certainly the proposed cut of 50 per cent to the cataract surgery rebate to start off with from Nicola Roxon and the Labor government would have made it nigh impossible for thousands and thousands of mostly senior Australians to afford and access life-changing cataract surgery. Given the number of healthcare procedures that get rebated through the MBS, you can see in a flash what sort of impact this can have on patients across Australia, across a broad spectrum of healthcare services where there is a Medicare rebate which is invariably less than the fee that is being charged by the provider. To have a system in place at the moment where the government can cut those Medicare rebates irrespective of what the Senate or the House of Representatives think about that and not to give the Senate a proper opportunity to disallow any cuts made and to revise the previous rebate which was in place before the government sought to make that cut is a highly unsatisfactory circumstance and one which will have to be resolved at some point in the future. Certainly the coalition will continue to raise this issue moving forward.

The minister refused to support the Senate’s amendments to the original bill on the issue that I have just described, and that prevented the original bill from passing the previous parliament. As far as cataract surgery is concerned, eventually the minister was forced into a backdown. She was forced to negotiate with patient groups and doctors and arrived at a compromise position. The action of the coalition, with the support of the Greens, Senator Xenophon and Senator Fielding, forced the government to go back to the negotiating table to make sure that there was a more reasonable compromise. However, who knows what the circumstances might be in the future if the government tries to pull a similar stunt which would hurt patients across Australia?

The legislation before us provides that the Medicare CEO must have a reasonable concern that the benefit paid for service exceeds the amount that should have been paid. It is important to know that Medicare cannot randomly conduct compliance audits. The audits are only to ascertain that a service claimed was actually undertaken. Under section 129AAD(9), clinical relevance of the service cannot be taken into account. That is a matter that is appropriately a judgment for the relevant healthcare professional. The CEO must also take advice from a medical practitioner employed by Medicare on what types of documents may be requested for the purposes of this bill. Section 129AAD(6) stipulates that any documents that contain clinical information do not have to be produced to anyone other than an employee of Medicare Australia who is a medical practitioner.

Under this legislation, Medicare can only compel the production of relevant documents if the person has been given a reasonable opportunity to respond to a written request to produce relevant documents. The bill does not stipulate a record-keeping requirement; however, under section 129AAD the notice to produce documents must specify the details of each professional service for which documentary evidence is required; the rea-
sons for the concern that an amount paid may exceed the amount that should have been paid; the information relevant to ascertaining whether amounts paid should have been paid; how the document, extract or copy is to be produced; and the period within which, and the place at which, the document, extract or copy is to be produced.

It is appropriate that there is clarity for health professionals as to what needs to be provided and the reasons for it. The explanatory memorandum does specify that Medicare is working with the AMA and other stakeholders to develop guidelines about the types of information that may be required to substantiate claims. It is stated that the guidelines will emphasise that patient records and clinical information should only be provided where absolutely necessary. The coalition does emphasise the importance of this point and the need to carefully monitor and scrutinise the use of clinical information once this measure is implemented. The confidentiality of the doctor-patient relationship should remain paramount.

Another change this bill makes is to introduce penalties for debts that exceed $2,500. This threshold is justified in the explanatory memorandum on the basis that it reflects the point at which mistaken claims may become routine, or reflective of poor administration or decision making. Section 129AEA(1)(d) allows for a higher threshold to be specified by regulation. As Medicare rebates grow, it is important that the threshold is reviewed so that it reflects as accurately as possible the point where incorrect claims are more than incidental or the result of isolated administrative mistakes. The penalty is to be 20 per cent of the debt.

The financial penalties in this bill are intended to encourage early and voluntary identification and repayment of incorrect claims. Where a person voluntarily contacts Medicare to inform them that an incorrect payment or claim has been made, the penalty is reduced in full. If the person voluntarily informs Medicare after being contacted but before notice is given to produce documents, the penalty is reduced by 50 per cent. Finally, if the person voluntarily informs Medicare after notice is given but before the end of the period specified in the notice, the base penalty is reduced by 25 per cent. In addition, to improve compliance and reduce recidivism, there are circumstances where the base penalty can be increased. If a practitioner does not respond to a notice, the full amount of the services identified become repayable and the penalty is increased by 25 per cent. Similarly, if a practitioner has been unable to substantiate an amount paid for other services in the previous 24 months and the total amount repaid exceeds $30,000, the penalty for the current amount is increased by 50 per cent.

Whilst the government may be focused on the compliance of health practitioners when it comes to Medicare items, it is less forthcoming with transparency when it comes to its own actions and proposals. In fact, the government has directly undermined not only medical practitioners in relation to Medicare but the fundamental principles on which Medicare has been built. Under the government’s first version of health reform last year—or the process that was in place for the review of the review to find out the draft plan which would eventually be put to COAG—GP surgeries would have lost $58 million in Medicare practice incentive payments for after-hours patient care. The then president of the college of GPs, Chris Mitchell, was reported on 15 July 2010 as saying that removal of the Medicare incentive payment will have ‘enormous implications for the role of the GP’ and ‘has the potential to have an impact on the viability of general practice to deliver the services out-
side normal opening hours’. In fact, Dr Mitchell went further and said it would ‘jeopardise the fragile availability of after-hours services in some areas and potentially increase the burden on ambulance call-outs and emergency department presentations’.

In her press conference on 22 February 2011, the Prime Minister stated that Medicare Locals will become fund-holding organisations. The government has refused to specify the services for which Medicare Locals will have fund-holding responsibility. This is a significant departure from the existing model of fee-for-service and patient choice and creates enormous uncertainty for doctors and patients. The Prime Minister also implied that Medicare Locals will provide coordinated care and address the issue of patients having to provide records to different health-care professionals. It is unclear from this comment whether Medicare Locals will have access to patient records, have copies of patient records or be able to compel doctors to provide patient records. Given that these so-called legal entities will be staffed by teams of bureaucrats, it does again give rise to concerns about the use of clinical information without consent by people other than medical practitioners.

The intent of this bill today is to ensure that taxpayers’ funds are used appropriately. This is from a minister who allocated $29.5 million to advertising health reform proposals that were never delivered. This is from a minister who has spent hundreds of millions of dollars on superclinics that are still not operational and in many cases will erode the viability of existing services. This is from a government that has wasted billions of dollars putting pink bats into people’s roofs and taking them out again. This is from a government that will spend over $20 billion in interest payments on its debt over the next four years alone. Incredibly, this government’s unprecedented waste and mismanagement make the $70.3 million savings from this measure look like a rounding error. Whilst the government today is trying to place scrutiny on doctors and those on the front line, it is the Gillard government and Minister Roxon who are more deserving of intense scrutiny for their array of policy failures and unimaginable waste.

A number of amendments have been adopted, addressing key concerns with the original version of this bill. The coalition will not oppose the bill before us today but we will continue to scrutinise its implementation and the government’s actions in relation to Medicare which undermine patient privacy and choice and give rise to waste. The coalition will continue to pursue the unresolved policy issue, which I mentioned earlier in my speech, which effectively makes it impossible for the Senate to pass judgment on decisions by the government to cut patient rebates through the Medicare Benefits Schedule without creating the unsatisfactory consequence of removing those rebates altogether.

We ought to create a circumstance where the Senate has the capacity to disagree with the government’s proposed cuts to Medicare rebates and where any such disagreement, expressed through a successful disallowance motion, would revive the MBS rebates that were in place before that disallowance took effect. With those few words—I am quite surprised that this legislation eventually made it into the noncontroversial slot in this chamber—I confirm that the coalition will not be opposing this bill.

Senator SIEWERT (Western Australia) (1.19 pm)—The Greens support the need to ensure the integrity of the public revenue expended on Medicare services. Expenditure on the Medicare scheme was over $14 billion in 2008-09 and it has grown by more than a billion dollars per annum over the last two

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SENATE
Monday, 21 March 2011

CHAMBER
years. We believe that compliance audits are necessary checks to confirm that a medical practitioner was eligible to provide a Medicare service, that the service was actually provided and that it met the requirements of the Medicare item paid in respect of the service.

We understand that, at present, many practitioners voluntarily cooperate with Medicare Australia during compliance audits; however, on average, 20 per cent of practitioners either do not respond or refuse to cooperate with a request for documents. When this occurs, Medicare Australia does not have the authority to require the production of relevant documents and cannot confirm that the Medicare payment is correct. The Greens believe that health reform has to be underpinned by a greater understanding of health needs, and we believe that payments should be monitored and measured by their relevance to patients’ needs, not those of the provider and the number of services they are willing or able to perform. We believe that this particular process can fulfil a number of requirements.

In 2007-08, 81,224 providers generated nearly 280 million MBS services. New groups of practitioners, such as allied health practitioners, are also now able to provide Medicare-eligible services. It does not seem unreasonable for the taxpayer to want to be sure that the services being paid for are audited. In 1996-97, the Australian National Audit Office found that non-compliant MBS payments equated to around 1.3 to 2.3 per cent of expenditure. According to the National Audit Office, this suggests that current levels of annual non-compliant payments could be at least $170 million to $300 million per annum—a not insignificant amount of money.

The Greens believe that requiring providers to verify their claims when there are specific concerns about the claims is in fact a reasonable and responsible way of protecting the public purse. We agree with the view of Medicare Australia that the consequences of not having a penalty system for non-criminal acts resulting in incorrect claims is that providers can repeatedly make incorrect claims with little or no adverse outcome other than possibly having to repay moneys specifically identified as having been incorrectly received. Similarly, the Greens accept the view of the Department of Health and Ageing, which has argued that the key risks to the integrity of the Medicare scheme need to be addressed by establishing a simple, cost-effective administrative mechanism to deal with incorrect Medicare payments, which constitute a significant risk to Medicare expenditure.

The debate here is about potentially conflicting public interest principles. There are the interests of Medicare consumers in the maintenance and integrity of the health system and the public interest in the confidentiality of the communications in the doctor-patient relationship and the medical records of the patient. The Public Interest Advocacy Centre has proposed changes that would appropriately balance the public interest in the integrity of Medicare and the public interest in the maintenance of public confidentiality and privacy of health records.

This issue took a considerable amount of time at the hearings of the committee inquiry looking into the Health Insurance Amendment (Compliance) Bill 2010—that is, confidentiality and, obviously, the need to access records to verify them. I note that, during the Senate inquiry, the Consumer Health Forum of Australia stated that they do not believe that privacy would be compromised under the changes outlined in the bill. They say that consumers are fully aware of the need to ensure a sustainable health system that has checks and balances in place. It is entirely in
the public interest for the MBS compliance procedures to be implemented. As outlined previously, the Greens understand that Medicare Australia is working on guidelines to look at the sensitivities around privacy, and we welcome this. We are pleased to see that the government has included a provision that medical advisers should have oversight of all audits.

This issue is further complicated by the health services amendment bill which has been introduced into the parliament and which also deals with the issue of electronic records and how Medicare can access patient records for clinical and non-clinical information. Since that bill was first introduced into the parliament things have been moving on, and I have been trying to look at this bill in light of the other bill that we will be dealing with in the not-too-distant future, which is currently the subject of a committee inquiry. Having said that, having another bill that makes further changes makes the bill we are currently debating a little bit more complicated for us. Obviously we need to go back to the other bill and ensure that it is consistent with this bill.

We believe that these records need to be carefully handled. While we accept what the Consumers Health Forum says around consumers knowing and appreciating the fact that there needs to be some sort of compliance process, I have had phone calls from consumers and I know that they are concerned about the release of clinical records. Therefore, while consumers are supportive of the auditing process, we also need to make sure that we do have measures in place to protect people’s privacy. The Greens are pleased to see that the government picked up on a number of the amendments suggested by the Senate inquiry and that they have been incorporated into the bill, which we think goes some way to addressing the concerns that were raised during the Senate inquiry. It has been suggested to us that there could be a two-stage process in looking at electronic records. Firstly access to information that is not clinical records could be looked at and then subsequent decisions could be made if there needed to be further detail.

During the inquiry the issues were also raised of who did and did not get access to records, how easy it was to access electronic records and whether the process of accessing electronic records would be made easier. The point was made that some doctors still do not have electronic record and data collection. It would make the process a lot easier if all doctors had electronic data collection and if that was in fact mandatory; however, the government has not gone that far. We have decided we will not move subsequent amendments to this bill, because the government has picked up on some of the recommendations.

The Greens will continue to monitor the way the government puts in place measures to protect patients’ privacy. Unfortunately, we have already seen some examples where patient records have been inappropriately accessed. We want to ensure that does not happen. We appreciate that we need to find a balance and we are looking at the next bill to ensure that that balance is maintained. We appreciate the fact that the government is taking on board, as is Medicare Australia, the issues around privacy and trying to find that balance. We will monitor that closely. We will support this bill, but we will continue to observe and monitor implementation closely.

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary for Immigration and Multicultural Affairs and Parliamentary Secretary to the Prime Minister) (1.28 pm)—I would like to thank senators for their contributions to the debate on the Health Insurance Amendment (Compliance)
Bill 2010. Transparency and accountability are at the core of this government’s health reforms—that is, transparency about how we spend taxpayers’ dollars and how we account for all healthcare services, whether delivered in public hospitals or in the community. This bill calls for transparency and accountability from healthcare practitioners who provide Medicare services.

This bill is a reintroduction of a largely identical bill introduced in the 42nd Parliament. This version incorporates parliamentary amendments which were agreed to or moved by the government during the parliamentary debate on the bill. On average, 20 per cent of practitioners contacted by Medicare Australia do not respond to, or refuse to cooperate with, a request to substantiate a Medicare benefit paid for a service. When this occurs, Medicare Australia does not have any authority to require a practitioner to comply with the request. This means there is no way to confirm that the Medicare benefit is correct. This means there is no way to confirm that public money is being spent appropriately.

There has been significant debate and stakeholder consultation on this bill and a full inquiry by the Senate Community Affairs Legislation Committee. Importantly, amendments to this current bill acknowledge the need for Medicare to take advice from Medicare professionals from within the organisation and to use the profession to assist doctors in responding to an audit. This bill does not introduce any record-keeping requirements. It will be up to the person who receives the notice to decide what documents they have available to substantiate the service. This bill is not retrospective and will apply only to Medicare services provided after the commencement of this bill.

There is no reason why the parliament should not consider the legislation, which marks a further important opportunity for greater transparency to ensure taxpayers’ money is spent appropriately on the healthcare services they expect. I acknowledge the support that this bill is attracting.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

SEX AND AGE DISCRIMINATION LEGISLATION AMENDMENT BILL 2010

Second Reading

Debate resumed from 28 October, on motion by Senator Lundy:

That this bill be now read a second time.

Senator CAROL BROWN (Tasmania) (1.31 pm)—I rise to make my contribution on the Sex and Age Discrimination Legislation Amendment Bill 2010. The bill we are debating today amends the Sex Discrimination Act 1984 to strengthen protections against sexual harassment, establish breastfeeding as a separate ground of discrimination and extend protections against discrimination in work on the ground of family responsibilities.

As the explanatory memorandum sets out, the Sex Discrimination Act, which has been in place for over 25 years, has been an important tool in addressing discrimination and changing attitudes about the participation of women and men in a range of areas of public life. The Sex Discrimination Act, like other antidiscrimination laws, has been an important mechanism in changing community perceptions and providing protection for men and women so they can fully participate in the social, economic and public life of Australian society.
This bill broadens the constitutional basis of the Sex Discrimination Act to provide equal protection for women and men from sex discrimination. As I begin my contribution today, firstly, welcome the support of those opposite for this important piece of legislation. To have their support for this important piece of legislation is something that all Australians will be happy to hear. Indeed, all Australians will be happy that both sides of politics are sending a message that discrimination will not be tolerated in a modern Australian society. This bill forms part of the Gillard Labor government’s commitment to support working families by placing adequate protections in the workplace. As the Attorney-General, the Hon. Robert McClelland, pointed out:

We hope that this does lead to a cultural change to recognise the idea of a fair go for all regardless of sex, age or family responsibilities or any other circumstances.

The bill will enhance protections against discrimination by broadening the prohibition on discrimination on the grounds of family responsibilities beyond termination of employment. Protections will be expanded to now include other forms of direct and indirect discrimination, and discrimination in all areas of work.

It will also give the Australian Human Rights Commission the power, with the leave of the court, to intervene in proceedings relating to discrimination on the grounds of family responsibilities at a time when it is becoming more common for men to seek special arrangements with respect to their jobs to play a more active role in child-rearing arrangements. This bill gives both men and women the opportunity to play an active role in raising children, without the fear of reprisal or discrimination from their employer. This amendment to the act will help to break down the barriers and provide parents with an increased number of options when determining working arrangements after the birth of a child.

This amending legislation is particularly important as it comes on the back of our historic paid parental leave scheme, which, for the first time, will provide parents with government funded paid parental leave. Also for the first time, the bill will also make breastfeeding a separate ground of discrimination, which I am pleased has finally been implemented. It means that women can undertake their child-rearing duties without fear of reprisal or discrimination. The changes to the act will also ensure that men and women receive equal protection from sex discrimination in the workplace, at school and in the wider community.

It will also strengthen the act to provide greater protection for men and women from sexual harassment. The Minister for Employment Participation and Childcare and the Minister for the Status of Women, the Hon. Kate Ellis MP, has stated that the bill:

… recognises that sexual harassment does take place far too often within Australian workplaces but that there are also changing forms of harassment with the advent of new technologies.

This bill will make amendments to extend protection against sexual harassment to students, regardless of their age. It will remove the requirement that the person responsible for the harassment must be at the same educational institute as the victim of the harassment. It will protect works from sexual harassment by customers, clients and other persons with whom they come into contact in connection with their work. The bill will also amend the test for sexual harassment so that harassment occurs if a reasonable person would anticipate the possibility that the person harassed would be offended, humiliated or intimidated.

The bill also includes amendments to establish for the first time at a federal level the
position of a stand-alone Age Discrimination Commissioner. This position will be located within the Australian Human Rights Commission. Our moves to establish a dedicated Age Discrimination Commissioner is recognition of the changing demographics in Australian society as well as of the need to provide protection to our senior Australians. This bill is another step in providing a fair and equitable Australia, no matter what a person’s age or sexual orientation may be. The Age Discrimination Commissioner will have the responsibility of advocating on behalf of all Australians who face age discrimination no matter what their age is, whether they are young or old. This bill builds upon the Labor government’s Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008, which made changes to the Commonwealth law to ensure that people were not discriminated against because of their sexuality. The changes were implemented and allowed same-sex couples the same access as heterosexual couples to Commonwealth superannuation, child support, the PBS safety net and the Medicare safety net, as well as to many other areas of common law.

While we have undertaken these important reforms for same-sex couples as part of Commonwealth law and strengthened the Sex Discrimination Act as part of the legislation we are debating here today, we recognise that there is still more work to be done. As a part of their inquiry into the bill, the Senate Legal and Constitutional Affairs Legislation Committee made a number of recommendations which have implications for other areas of federal antidiscrimination law. The Attorney-General has made it clear that the government will address these recommendations as part of the work on Australia’s human rights framework to streamline federal antidiscrimination legislation into a single consolidated, comprehensive act.

In conclusion, I look forward to working as part of the Labor government to provide for people an increased protection against discrimination. The bill implements important reforms in the areas of age and sex discrimination. It will help deliver conditions to create a more equitable and productive workforce, which is in the best interests of all Australians. These are reforms which highlight the government’s strong commitment to fostering an inclusive Australia. The bill will also ensure that our antidiscrimination laws are the most appropriate, by bringing them into the 21st century. The government is serious about discrimination. That is why we are making these changes to the Sex Discrimination Act as well as continuing our work on Australia’s human rights framework. I commend the bill to the chamber.

Senator BARNETT (Tasmania) (1.39 pm)—I stand today to speak to the Sex and Age Discrimination Legislation Amendment Bill 2010. As the Deputy Chair of the Senate Legal and Constitutional Affairs Legislation Committee, I had the privilege of reviewing this bill. It was referred to our committee on 13 September last year and we were due to report on 8 February 2011. That was extended to 22 March 2011, I think for good reasons. As has been noted, the aims and objectives set out in the Attorney-General’s second reading speech are certainly supported in principle—to strengthen the protections against sex discrimination and sexual harassment, for both women and men, and to introduce a new dedicated position of Age Discrimination Commissioner. Of course, this is something that we have supported for some time on the coalition side. I will be speaking more about that shortly, including about the costs and the impact on the Commonwealth.

The Senate committee had to review the report that was undertaken by the committee in 2008—I think it was 26 June 2008. We
had been referred an inquiry into the effectiveness of the Sex Discrimination Act in eliminating discrimination and promoting gender equality at that time. We gave due consideration—very thoughtful consideration—to that bill. I remember that at hearings in Canberra and in Melbourne we had a range of witnesses, including from the business community, the education sector, the church community, civil rights organisations and across the board. It was a very comprehensive inquiry. You might remember it well, Madam Acting Deputy President Fisher. We sat next to each other at the Melbourne hearings and you made some very pertinent observations which I well remember and no doubt others will as well.

This report and this bill are on the back of the bill that was passed subsequent to that inquiry, but not without a dissenting report from the coalition. Yes, we did support some aspects of that bill, but we opposed vehemently some other aspects of it. I want to say on the record that the Liberal senators, in our report, took a consistent approach. Firstly, we supported the provisions of the bill which would make technical amendments to the Sex Discrimination Act to implement some recommendations of that Senate report. I specifically refer to three of those recommendations. The first was to provide equal coverage to both men and women. The second was to establish breastfeeding as a separate ground of discrimination. The third was to protect students from sexual harassment, regardless of their age and whether they are harassed by someone from their own or another educational institution. In that regard I refer to the excellent hearing that the Joint Standing Committee on Cyber-Safety held this morning in parliament—where we had Facebook, ninemsn, Microsoft and Yahoo!7 as witnesses, together with Dr Clarke, who was appearing in a personal capacity, although he has been chair of the Australian Privacy Foundation—which highlighted the importance of protecting the interests of children and ensuring safety and security while online.

The dissenting Liberal senators noted in their report that the bill would also implement other recommendations—recommendations 13 and 18—to expand the scope of the Sex Discrimination Act, to broaden the definition of sexual harassment; the bill would expand the powers of the Australian Human Rights Commission; and it would provide an exemption to preserve the operation of state and territory laws regarding official records of a person’s sex. I will come to that in a moment.

The Liberal senators made it very clear that we do not support those provisions of the bill which would either expand the scope of the Sex Discrimination Act or broaden the definition of sexual harassment unduly. We did not see adequate evidence presented at the inquiry of any systemic or widespread discrimination on the grounds of family responsibilities, or circumstances of particular sexual harassment, which are not currently adequately addressed by existing legislation. When I talk about ‘existing legislation’, I mean federal, state or territory legislation, because we cannot just look at this in a prism, in and of itself, by itself; we must see it as a whole. That is why I made those observations.

The coalition senators on the committee have been consistent on this. We do not always get our own way, but these committee inquiries are very valid, they make a lot of sense, and we are very pleased to be part of them. In many cases in our committee we come up with unanimous recommendations, and they have been adopted by this government, for which we are thankful. But we did present a dissenting report in 2008. It is on
the public record. It is available on the Senate website. We noted:
There is little to no legislative gap in coverage with respect to sex discrimination and sexual harassment.

In fact:
... there are overlapping ... obligations, under federal, state and territory anti-discrimination legislation ...

That is why we need to look at this very carefully, make sure that we get our facts right and prepare and draft legislation that will actually work. It has to be consistent and not necessarily mirror states and territories but ensure that there is not a duplication, an overburdening, of regulation for those individuals affected and indeed the businesses affected.

I will come shortly to the effect on business, including small business. We are a party of supporters of small business in particular and microbusiness. About 82 per cent of small business, the last time I looked, is actually microbusiness. What impact will this have on microbusiness? What impact will this have on small business? I will come to that in a moment.

We have expressed concern that the combined effect of the recommendations relating to sexual harassment and family responsibilities would be to impose a significant compliance cost on employers and, in our view, it would encourage and facilitate unfounded claims. That is a concern we have. We have not as yet been told that there is evidence to say that this will not happen. We would like to be convinced that it will not happen, but we are very fearful, in the absence of any clear basis for these changes that are set out in this legislation, or evidence of systemic failure of the current legislative regime, about any implementation of those recommendations. Maybe others have a different view. Perhaps there is evidence of different views, and we would like to see it. Maybe others in this place and in the coalition are aware of it, but, based on the evidence put to the committee, we have not been fully convinced of that fact.

Scott Barklamb, from the Australian Chamber of Commerce and Industry, presented at our 2008 inquiry. He presented very forcefully and cogently on behalf of the chamber his views that the changes proposed at the time, in 2008, would put up costs for business, whether they be large or small. We all know that it is a lot easier for the big boys. It is a lot easier for big business to deal with these changes, whether they are to do with sex discrimination or age discrimination or other changes in the workplace. It is hard for microbusiness and small business in particular.

There are two million-odd small businesses in Australia. That is fantastic. They need all the support they can get. I know that in Tasmania, my own state, there are over 30,000 small businesses, and they are the lifeblood of their communities. They need support and encouragement. If we send messages to them through this legislation or other legislation that we do not really care about their interests—and this applies whether or not they appeared before a Senate committee. Guess what? They are busy operating their businesses. We cannot expect them to drop everything and fly to Canberra, Sydney, Melbourne or somewhere—the ‘golden triangle’—whether from a regional area of Tasmania or from some other regional area of Australia, to present their views. Come on, let’s give them a break.

Nevertheless, as legislators and policymakers, we must take their views into account. We did that in 2008, and we said the costs were burdensome in terms of the rules, the regulations, that apply to those businesses. They want a fair go for their employees—of course they do, whether they are proprietors
of small businesses, large ones or microbusinesses—and that is what we coalition senators are trying to give them.

As members of the coalition, we realise that they are the lifeblood of our communities, particularly in the rural and regional parts of Australia. When we come into this place, it is often said that we are acting in and of ourselves, in our own world, in our own glass chambers. But we want to do what is in their best interests, not just because it is easy for us as legislators to write up this legislation and say, ‘Yes, that would be the easy way to go.’ No, sometimes it is hard. Sometimes the legislation should be a little more complex, and a little bit more thought should perhaps be given to the interests of small business and microbusiness, because they are the families, they are the people, who have their necks on the line. They mortgage their homes and they mortgage their businesses to invest, and they need a fair go all round. That point was well made back in 2008 and, frankly, we have not had adequate representation from the business community to the committee inquiry on this very legislation. If we are just going to bulldoze full steam ahead, I would like to know and be convinced by the minister that their interests have been properly and fully recognised and acknowledged. I would like to have it put on the record by the minister concerned that those interests have been protected.

Likewise, I want to say the same about the education sector. We have had lots of concerns expressed by not just public schools but Christian schools about whether they will be impacted in terms of the employment practices that they undertake, occupational health and safety practices or any other industrial relations concerns that they have. How will it impact them? Will there be an education and awareness program for those in the education sector, particularly Christian schools, which have a particular way of operating? I say good on them. I say congratulations and well done. We live in a free country, a free society, and people are entitled to express their views in different ways and act in different ways. Freedom of association is so important. These are things we want to protect in every way, shape and form.

In this inquiry we did not get adequate representation and evidence from the educational groups and, likewise, from the various church groups. Many of them appeared in 2008. We know what they said and we know what their thoughts were about these particular concerns. So I want to make sure—and I have asked the minister to put on the record—that they are totally convinced that the interests of the education institutions and the interests of the church groups have been adequately considered. Let’s face it: there will be significant costs, red tape and regulation that will flow through. Do not just think this is a simple process.

We as Liberal senators also expressed a view in our report that we did not think there was merit in expanding the powers of the Australian Human Rights Commission. We are of the view that the Australian Human Rights Commission and the Sex Discrimination Commissioner already had adequate and comprehensive powers and resources to fulfil their legislative responsibilities. Of course, they were given further increased funding in the last budget. The view that they are a law unto themselves has certainly been well known and well expressed, both in this place and elsewhere. That view has certainly been put by Liberal senators in this report.

I referred to births, deaths and marriages before and this issue of registration and the costs relating to it. We support responsibility for legislation relating to the regulation of births, deaths and marriages, including the registration of sex changes, remaining with the states and territories. Why should the
Commonwealth suddenly take over this area that has been consistently the basis of action for the states and territories? So we support the amendment to the Sex Discrimination Act which would preserve the operation of state and territory laws regarding official records of a person’s sex. That should be noted.

We have made it very clear in our report that the explanatory memorandum to the bill states that the establishment of an age discrimination commissioner would cost some $1 million each year from 2011-12. That is well noted. We accept that. That is the cost of the proposed position to be established. But we strongly encourage the Labor government to provide full disclosure of the cost to business, aged-care organisations and others associated with the establishment of this position. That is our view. We want the government to make that clear, and I wonder if the minister could, perhaps in response to my observations, also provide full disclosure. Aged-care institutions are vitally important. They provide a fantastic service all around this country. They need support. They are under pressure. It has been said that they are in crisis. I know Senator Polley on the other side has referred to the funding constraints in the aged-care sector, not just in my state but elsewhere, and she is right. They need support and encouragement in every way, shape and form. So I would like the minister to confirm the consequences and the flow-on effects of this appointment for those organisations. Full disclosure is required and we would like the minister to come clean on that. We have made our recommendations in the report. They are at pages 45, 46 and 47.

It has been a very worthwhile inquiry. As I say, the 2008 inquiry was far more comprehensive than the current one. Many, many witnesses and key sectors were not represented on the witness panel, and this is an area of specific concern that we have. These are the points that we have made as coalition senators on this committee, and we are seeking answers from the minister as soon as possible to the questions that have been raised by me and the other Liberal senators on this committee. We have made some key points in this report and we have had deliberations as a committee.

The chair’s draft report makes it clear that the bill should be supported, subject to two recommendations, but we do not believe that is adequate. The fact is that the interests of the business community should be properly protected, the interests of the educational sector should be properly protected and the interests of the church community should be properly protected. These are key stakeholders in our community. For the government just to proceed willy-nilly, without adequate consideration of their views, would be a major mistake. So we would like to know from the minister whether he has carefully considered the views of the coalition senators and what they have set out in this report. Businesses and small businesses in communities across this country are vitally important and we want to make sure that their interests are fully and properly protected. As I say, in the coalition know that they are the backbone of our rural and regional communities in particular. In the suburbs and the cities across the country, small businesses are vital. Their interests should be properly and fully protected. To have one piece of legislation simply go through because it is in our best interests or because it is an easy thing to do, because the department has come up with an easy way to go about it, is not a good thing. Sometimes we have to look harder and deeper, to dig deep and make sure that we get the best results possible and that the legislation is in the interests of the public, not just in the interests of the Public Service.

Debate interrupted.
MINISTERIAL ARRANGEMENTS

Senator CHRIS EVANS (Western Australia—Leader of the Government in the Senate) (2.00 pm)—I table for the information of the Senate a revised Ministry list reflecting a change to the Ministry made earlier this month. The change is the appointment of the Hon. Warren Snowdon MP as Minister Assisting the Prime Minister on the Centenary of ANZAC. I seek leave to have the document incorporated into Hansard.

Leave granted.

The document read as follows—

SECOND GILLARD MINISTRY

<table>
<thead>
<tr>
<th>Title</th>
<th>Minister</th>
<th>Other Chamber</th>
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<tr>
<td>Prime Minister</td>
<td>The Hon Julia Gillard MP</td>
<td>Senator the Hon Chris Evans</td>
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<tr>
<td>Minister for Regional Australia, Regional Development and Local Government</td>
<td>The Hon Simon Crean MP</td>
<td>Senator the Hon Nick Sherry</td>
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<td>Minister for the Arts</td>
<td>The Hon Simon Crean MP</td>
<td>Senator the Hon Mark Arbib</td>
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<td>Minister for Social Inclusion</td>
<td>The Hon Tanya Plibersek MP</td>
<td>Senator the Hon Mark Arbib</td>
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<td>Minister for Privacy and Freedom of Information</td>
<td>The Hon Brendan O’Connor MP</td>
<td>Senator the Hon Joe Ludwig</td>
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<td>Minister for Sport</td>
<td>Senator the Hon Mark Arbib</td>
<td>The Hon Kate Ellis MP</td>
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<tr>
<td>Special Minister of State for the Public Service and Integrity</td>
<td>The Hon Gary Gray AO MP</td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td>Minister Assisting the Prime Minister on the Centenary of ANZAC</td>
<td>The Hon. Warren Snowdon MP</td>
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<tr>
<td>Cabinet Secretary</td>
<td>The Hon Mark Dreyfus QC MP</td>
<td>Senator the Hon Kate Lundy</td>
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<td>Parliamentary Secretary to the Prime Minister</td>
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<td>Treasurer (Deputy Prime Minister)</td>
<td>The Hon Wayne Swan MP</td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td>Assistant Treasurer</td>
<td>The Hon Bill Shorten MP</td>
<td>Senator the Hon Nick Sherry</td>
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<tr>
<td>Minister for Financial Services and Superannuation</td>
<td>The Hon Bill Shorten MP</td>
<td>Senator the Hon Nick Sherry</td>
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<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon David Bradbury MP</td>
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<tr>
<td>Minister for Tertiary Education, Skills, Jobs and Workplace Relations (Leader of the Government in the Senate)</td>
<td>Senator the Hon Chris Evans</td>
<td>The Hon Simon Crean MP (Jobs and Workplace Relations)</td>
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<tr>
<td>Minister for School Education, Early Childhood and Youth</td>
<td>The Hon Peter Garrett AM MP</td>
<td>Senator the Hon Chris Evans</td>
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<td>Minister for Employment Participation and Childcare</td>
<td>The Hon Kate Ellis MP</td>
<td>Senator the Hon Chris Evans</td>
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<td>Minister for Indigenous Employment and Economic Development</td>
<td>Senator the Hon Mark Arbib</td>
<td>The Hon Jenny Macklin MP</td>
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<td>Parliamentary Secretary for School Education and Workplace Relations</td>
<td>Senator the Hon Jacinta Collins</td>
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<td>Minister for Broadband, Communications and the Digital Economy (Deputy Leader of the Government in the Senate) Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
<td>The Hon Anthony Albanese MP</td>
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<td>Minister for Foreign Affairs</td>
<td>The Hon Kevin Rudd MP</td>
<td>Senator the Hon Stephen Conroy</td>
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<td>Minister for Trade</td>
<td>The Hon Dr Craig Emerson MP</td>
<td>Senator the Hon Stephen Conroy</td>
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<td>Parliamentary Secretary for Trade</td>
<td>The Hon Justine Elliot MP</td>
<td>Senator the Hon Stephen Conroy</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
<td>The Hon Richard Marles MP</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>Minister for Defence (Deputy Leader of the House) Minister for Veterans’ Affairs</td>
<td>The Hon Stephen Smith MP</td>
<td>Senator the Hon Chris Evans</td>
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<td>Minister for Defence Science and Personnel</td>
<td>The Hon Warren Snowdon MP</td>
<td>Senator the Hon Chris Evans</td>
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<td>Minister for Defence Materiel</td>
<td>The Hon Jason Clare MP</td>
<td>Senator the Hon Chris Evans</td>
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<td>Parliamentary Secretary for Defence</td>
<td>Senator the Hon David Feeney</td>
<td>Senator the Hon Kim Carr</td>
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<td>Minister for Immigration and Citizenship Parliamentary Secretary for Immigration and Multicultural Affairs</td>
<td>The Hon Chris Bowen MP</td>
<td>Senator the Hon Kim Carr</td>
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<td>Minister for Infrastructure and Transport (Leader of the House) Parliamentary Secretary for Infrastructure and Transport</td>
<td>The Hon Anthony Albanese MP</td>
<td>Senator the Hon Kim Carr</td>
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<td>Parliamentary Secretary for Health and Ageing</td>
<td>The Hon Catherine King MP</td>
<td>Senator the Hon Kim Carr</td>
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<td>Minister for Health and Ageing</td>
<td>The Hon Nicola Roxon MP</td>
<td>Senator the Hon Joe Ludwig</td>
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<td>Minister for Indigenous Health</td>
<td>The Hon Warren Snowdon MP</td>
<td>Senator the Hon Joe Ludwig</td>
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<td>Minister for Mental Health and Ageing</td>
<td>The Hon Mark Butler MP</td>
<td>Senator the Hon Joe Ludwig</td>
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<td>The Hon Catherine King MP</td>
<td>Senator the Hon Joe Ludwig</td>
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<tr>
<td>Minister for Families, Housing, Community Services and Indigenous Affairs Minister for the Status of Women</td>
<td>The Hon Jenny Macklin MP</td>
<td>Senator the Hon Mark Arbib</td>
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<td>Minister for Social Housing and Homelessness</td>
<td>The Hon Kate Ellis MP</td>
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<td>Parliamentary Secretary for Disabilities and Carers Parliamentary Secretary for Community Services</td>
<td>Senator the Hon Jan McLucas</td>
<td>The Hon Penny Wong</td>
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<tr>
<td>Parliamentary Secretary for Sustainability and Urban Water</td>
<td>The Hon Tony Burke MP</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>Minister for Sustainability, Environment, Water, Population and Communities Parliamentary Secretary for Sustainability and Urban Water</td>
<td>Senator the Hon Don Farrell</td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td>Minister for Finance and Deregulation Special Minister of State</td>
<td>Senator the Hon Penny Wong</td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td>Minister Assisting on Deregulation and Public Sector Superannuation</td>
<td>The Hon Gary Gray AO MP</td>
<td>Senator the Hon Penny Wong</td>
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<tr>
<td>Minister for Innovation, Industry, Science and Research</td>
<td>Senator the Hon Kim Carr</td>
<td>The Hon Peter Garrett AM MP</td>
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Title | Minister | Other Chamber
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Minister for Small Business | Senator the Hon Nick Sherry | The Hon Bill Shorten MP
Attorney-General (Vice President of the Executive Council) | The Hon Robert McClelland MP | Senator the Hon Joe Ludwig
Minister for Home Affairs | The Hon Brendan O’Connor MP | Senator the Hon Joe Ludwig
Minister for Justice | The Hon Brendan O’Connor MP | Senator the Hon Joe Ludwig
Minister for Agriculture, Fisheries and Forestry (Manager of Government Business in the Senate) | Senator the Hon Joe Ludwig | The Hon Tony Burke MP
Minister for Resources and Energy | The Hon Martin Ferguson AM MP | Senator the Hon Nick Sherry
Minister for Tourism | The Hon Martin Ferguson AM MP | Senator the Hon Nick Sherry
Minister Assisting the Minister for Tourism | Senator the Hon Nick Sherry
Minister for Climate Change and Energy Efficiency | The Hon Greg Combet AM MP | Senator the Hon Penny Wong
Parliamentary Secretary for Climate Change and Energy Efficiency | The Hon Mark Dreyfus QC MP | |
Minister for Human Services | The Hon Tanya Plibersek MP | Senator the Hon Mark Arbib

Each box represents a portfolio. Cabinet Ministers are shown in bold type. As a general rule, there is one department in each portfolio. However, there is a Department of Veterans’ Affairs in the Defence portfolio and a Department of Regional Australia, Regional Development and Local Government in the Prime Minister’s portfolio. The title of a department does not necessarily reflect the title of a minister in all cases.

QUESTIONS WITHOUT NOTICE

**Australian Greens**

**Senator ABETZ** (2.00 pm)—Thank you, Mr President. It is good to see the government catching up to the opposition. My question is to Senator Evans, the Minister representing the Prime Minister. I refer the minister to remarks made by the Prime Minister, Ms Gillard, when she said:

Bob Brown—

and I ask this question in his absence—

is pretty much the most calculating politician in Canberra. He’s not an archangel of moral force. He’s a bloke who wakes up every day and says ‘how can I chisel a bit of political advantage today?’

and to the Prime Minister’s further statement on the weekend:

I’m not in any way resiling from one word in that statement—not one word.

Does the minister agree with the Prime Minister and would the minister care to offer any examples of where the Greens have chiselled political advantage in the Labor-Greens alliance?

**Senator CHRIS EVANS**—Mr President, I think those listening to the broadcast would be a bit surprised that at a time of the fighting in Libya, the earthquake in Japan, the earthquake in Christchurch and the many serious economic and social issues confronting Australia the Leader of the Opposition in the Senate chooses to ask a question about what the Prime Minister said about Bob Brown. Talk about an opposition that has lost its way! This is not what is concerning the Australian public, I can assure Senator Abetz...
of that. It really does indicate just how out of touch the opposition are. But I might say that, while ‘calculating’ is sometimes used as a term of derision against individuals more generally, ‘calculating’ for a politician is largely regarded as a compliment, I suspect, by many because it indicates—

Senator Ian Macdonald—Mr President, I raise a point of order on relevance. We have now had the minister speaking for over a minute, for more than half of his time, and all he has done is lecture the questioner on the standard of the question. He has not even attempted to answer the question. Mr President, it makes a mockery of question time if you are going to let ministers give a commentary on the nature of the question, and the way the question is framed and asked, without even attempting to address the substance of the question.

Senator Ludwig—Mr President, can I say at the outset that, on taking this point of order, what we have is a question which professes, firstly, whether the minister agrees and, secondly, whether or not he wants to add any additional comments to those the opposition has made. The question taken by Senator Evans was a political question, fair and simple. Senator Evans is answering the question, which can be described in no other way than as a political question, as best he can. We have the ridiculous circumstance where the opposition have raised a point of order in relation to what can only be described as a very broad-ranging question to Senator Evans and they are now asking the minister to be directly relevant to that question, which Senator Evans is broadly answering.

The PRESIDENT—There is no point of order. Senator Evans, there are 56 seconds remaining for you to answer the question.

Senator CHRIS EVANS—Mr President, this reflects poorly on the opposition. It is fair to say that the Labor Party regards the Greens as a political party in this country that seeks to maximise its support in the same way that the Liberal Party and the coalition more generally do and that the Labor Party is doing. I have never accepted the mantra from the Greens that somehow they are different or special; I have made that clear on numerous occasions. The fact that Senator Brown is a very experienced and effective politician is, I think, widely recognised. But I do not think, and I have never thought, that they operate in a way that is any different to any other political party seeking to maximise their advantage. I am not sure—(Time expired)

Senator ABETZ—Mr President, I remind the minister that the Prime Minister herself actually raised these matters yesterday. I ask a supplementary question. I refer the minister to the statement by the Prime Minister in her speech to the Don Dunstan Foundation that the Greens are an extreme political party. Does the minister agree with the Prime Minister? If so, why did she form an alliance with this extreme party?

Senator CHRIS EVANS—As a party of the mainstream, as the government of this nation, we certainly regard many of the views of the Greens as extreme and we will argue with them, as we have in the past, about those views. But it is perfectly appropriate for them to put those views, because they go before the people of Australia and seek election, as we all do, and they get elected to this place on the basis of how the Australian public perceives them and the level of support they have, which is what is called the democratic process. When they come into this parliament they have the right to exercise their votes as they see fit, and the coalition and the Labor Party work with them to try to gain majority support for propositions in this parliament, as is the expectation of the Australian public. So, yes, I do support the Prime Minister’s views and I
do think that people ought to focus on the big issues confronting Australia rather than on this petty political point-scoring.

Senator ABETZ—Mr President, I ask a further supplementary question. Did the Prime Minister not know that the Greens were extreme when just before the election, given the prospect that they would gain the balance of power in the Senate, she promised that there would be no carbon tax under a government led by her? What excuse can there be for the Prime Minister now breaking her promise of no carbon tax and adopting the extreme Greens policy?

Senator CHRIS EVANS—I remind the Senate that the Labor government has a consistent policy on the issue of the threat of carbon pollution in this country. For the past five years we have argued that carbon pollution has arisen as a result of a contribution by human activity. We have argued that we need a response that allows the economy to move to a carbon reduced future. We have argued for that in this parliament as a government throughout the last term. We had three goes at establishing a Carbon Pollution Reduction Scheme. The Liberal Party abandoned the bipartisanship and the leadership on that issue prior to the last election, but this government will continue to argue for a proper response to the threat of carbon pollution and an effort to price carbon, transform our economy and meet the huge challenge that this increased carbon pollution presents to our economy and to our society.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw to the attention of honourable senators the presence in the President’s gallery of Ms Nural Izzah Anwar, Vice President of the People’s Justice Party of the Malaysian Parliament. On behalf of all senators I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Libya

Senator FORSHAW (2.09 pm)—My question is to Senator Evans, representing the Prime Minister. Can the minister provide the senate with an update on international cooperation to protect the civilians in Libya?

Senator Joyce interjecting—

Senator CHRIS EVANS—I am surprised by the tasteless interjection from Senator Joyce. I think all senators would agree that the action of the United Nations Security Council in adopting resolution 1973, authorising the use of force in Libya to protect civilians from attack by the regime of Colonel Gaddafi, is an important one. The council adopted the resolution by 10 votes to zero, with five abstentions. The resolution authorises member states to take all necessary measures to protect civilians and civilian-populated areas under threat of attack while excluding an occupation force. In light of the fast-deteriorating situation, the Security Council established a no-fly zone, which bans all non-humanitarian flights in Libyan airspace. The no-fly zone was imposed following a request from the Arab League. World leaders met in Paris on Saturday and agreed to enforce the resolution through military action. As senators would be aware, that commenced on Sunday, led by countries in the immediate region and select members of NATO.

The decisive action is welcomed by the Australian government. The Arab League, the Security Council, the nations represented at the Paris conference and the parties to military intervention have all acted in the interests of Libya’s civil population. The decision to use force to support peace is, of course, never easy, and it is not without risk. We know from bitter experience that the decision not to act also has consequences and can lead, like it did in Rwanda, to the uni-
imaginable loss of civilian life. Through its brutal suppression of dissent, use of military force against civilians and threats of further bloodshed, the Gaddafi regime has failed its own people. The decision of the international community to take a stand and protect Libyan civilians from further attack has Australia’s full support.

Senator FORSHAW—Mr President, I ask a supplementary question. Can the minister provide the Senate with an update on the humanitarian situation in Libya?

Senator CHRIS EVANS—I thank Senator Forshaw for his question. Notwithstanding the recent international intervention, the situation for the people of Libya remains very grim. More than 300,000 people have fled Libya since mid-February, many of them across Libya’s borders with Tunisia and Egypt. The United Nations World Food Programme has boosted its activities in the region and is providing more than 15,000 hot meals a day in a transit camp along Libya’s border with Tunisia. Australia strongly supports the request by the United Nations for humanitarian agencies to be allowed access to all parts of Libya in order to assist the civilian population and alleviate the suffering of those affected. In supporting the United Nations resolutions, which also strengthen arms embargoes against Libya, the Australian government is focused on providing the best possible protection to the citizens of Libya.

Senator FORSHAW—I thank the minister for that advice and ask a further supplementary question. Could the minister advise the Senate of what action Australia is taking to ease the humanitarian crisis in Libya?

Senator CHRIS EVANS—Australia does of course join the international community in demanding that the brutal suppression of the civilian population by the Gaddafi regime ceases immediately. Australia has committed an additional $4 million for vulnerable groups in Libya and to help manage the influx of people into Tunisia and Egypt. The Australian government has pledged $2 million to the United Nations High Commissioner for Refugees and $2 million to the International Organization for Migration. Australia’s total assistance to the people of Libya now exceeds $15 million, making us the third largest donor overall behind the United States and the European Union. So it is clear that Australia is playing its part in the intervention designed to protect the people of Libya. We will continue to support action that puts their interests first and attacks the Gaddafi regime’s very unacceptable treatment of its own people. (Time expired)

Carbon Pricing

Senator JOYCE (2.14 pm)—My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Could the government please explain the statements by economics professor Ross Garnaut in his sixth upgrade report that Australian farmers will only be exempted from a carbon tax ‘from the beginning’ and that ‘ahead of its coverage’ the government will buy carbon emission offsets from the farm sector? Does this government have another plan, apart from the plan that it told the Australian people, to actually include farmers in its carbon tax net?

Senator WONG—I thank Senator Joyce for his ongoing interest in this issue. The senator is quoting, I think, from one of six updates that Professor Garnaut has made to his report, and I would again emphasise that these are reports which the government has sought at the request of members of parliament in the Multi-Party Climate Change Committee. They are intended to inform the debate on what is an important public policy issue. Unlike those opposite, we believe that climate change is real and that something
needs to be done about it. Unlike those opposite, we are determined to ensure that we work through the various policy issues associated with this very difficult public policy problem through the multiparty committee and more generally.

Professor Garnaut’s reports are a contribution to that discussion, a contribution which is important and that goes to a whole range of issues. Coverage is one of them, but also, more recently, we heard discussion about the means by which assistance to households can be delivered. We had discussion of what sort of assistance should be provided to industry by way of transition. These are all issues that Professor Garnaut has expressed a view on. They are not issues as yet that the government has made final decisions on. As Minister Combet has said, we will work through this process dealing with the various policy questions that present themselves when you look to put a price on carbon. On the carbon-farming initiative, that was an election policy announcement. Senator Ludwig—(Time expired)

Senator JOYCE—Mr President, I ask a supplementary question. I thank the minister for her initial answer, but it is the election policy announcements that we have a big query on nowadays. Will the government—since Professor Garnaut is merely an input—commit to not introducing a carbon tax on farmers before the next election and promise that any future proposal to introduce a carbon tax, if they decide to change their election commitments, will be taken to an election before its adoption?

Senator WONG—Again, the carbon-farming initiative was an election policy announcement and we are proceeding with that. The carbon-farming initiative was an election policy announcement and we are—

The PRESIDENT—Senator Wong, continue and ignore the interjection. I draw to the attention of those on my left that interjections are disorderly.

Senator WONG—Thank you. The carbon-farming initiative was an election policy announcement. It will enable landowners to benefit from the capacity to generate offsets. As I said in the answer to the first question, Professor Garnaut’s views are Professor Garnaut’s views. The government has made it clear what its policy is. In the announcement that the Prime Minister made in relation to the climate change framework, I refer Senator Joyce to the indication in that that agricultural emission sources would be excluded from coverage under the carbon price mechanism. So I think that is quite clear.

Senator JOYCE—Mr President, I ask a further supplementary question. I thank the minister for her first supplementary answer and concur with her promise that she is more likely to play full forward for the Western Bulldogs than challenge the Prime Minister, who said she was not going to bring in a carbon tax. If the Australian people cannot trust this government when it says that there will not be a carbon tax, how can Australian farmers trust this government when it says it will not put a carbon tax on Australian farmers?

Senator WONG—I have made it clear what the government’s position is. If you want to talk about inconsistency, Senator, you should have a look at your own side, because I can recall you going to an election saying—

Senator Abetz—What is the relevance of that?

Senator WONG—I can understand, Senator Abetz, why you might be sensitive to me talking about your inconsistencies. I can recall you going to an election saying that you were going to act on climate change;
you would put a price on carbon through an emissions trading scheme. I can recall Mr Abbott once saying that he supported an emissions trading scheme. Now he does not support an emissions trading scheme. Then he said that climate change was absolute crap. Even in these last two weeks we heard him saying that the science is not settled and then, 24 hours later, saying the science is settled. Senator, if you want to lecture about inconsistency you certainly have the credentials on your side to give that lecture. We have been very clear about the need to price carbon. I do not think anybody in this parliament who looked at what we did last term would suggest that we had never been clear about that. *(Time expired)*

**Japan Natural Disasters**

**Senator WORTLEY** *(2.20 pm)—* My question is to the Minister representing the Minister for Foreign Affairs, Senator Conroy. Can the minister provide the Senate with an update on Japan following the devastating earthquakes and tsunami?

**Senator CONROY**—I thank Senator Wortley for her question. Firstly, let me put on record the Gillard government’s and the Australian people’s thoughts and best wishes for the people of Japan as they work through and recover from the devastation of the earthquakes and the tsunami.

Secondly, can I say that this tragedy has seen a clear demonstration of cross-party support by members of parliament for the work undertaken by Australia’s consular staff and search and rescue support teams in assisting both Australian and Japanese citizens in the affected areas that they have been operating in. Today the Prime Minister announced that the Australian government will make a $10 million donation to support the recovery efforts in the wake of the devastating earthquake and tsunami that struck Japan. The donation will be made to the Red Cross Japan and Pacific Disaster Appeal on the advice of the Japanese government.

Australia’s consular staff continues to work on locating all Australians in Japan at this time. Our most up-to-date consular statistics confirm that there have been no reports of Australian casualties, that 4,836 Australians in Japan have been confirmed as safe, including 438 who are in tsunami and quake affected areas, and that 10,772 calls have been received in Canberra. While these statistics are pleasing, we still have five Australians unaccounted for at this stage. We must, however, remember in our thoughts the many thousands who have lost family, friends and loved ones.

**Senator WORTLEY**—Mr President, I ask a supplementary question. Can the minister outline to the Senate some of the measures the Australian government has taken to assist the Japanese in their efforts to recover from the devastation?

**Senator CONROY**—The Australian government currently has over 230 officials in Japan working on the Australian response. This includes over 130 Australian-based and locally engaged staff providing consular support, including a team of three in Sendai, and liaising with Japanese authorities. We encourage all Australians in the areas affected to contact DFAT if they require assistance to depart. In addition, the Australian government also initially provided a 72-strong urban search and rescue team, though they have now begun their withdrawal and are all due back within the next couple of days. At the request of the Japanese government, Australia donated the team’s 76-person tented accommodation facility, incorporating shelters, generators, beds, food stocks and water to local authorities while medicines and medical equipment were given to the local hospital. *(Time expired)*
Senator WORTLEY—Mr President, I ask a further supplementary question. Can the minister advise the Senate how the crisis in Japan has impacted our economy?

Senator CONROY—Understandably, the devastation in Japan is likely to have a short-term effect on Australia’s exports. It is still too early to predict the full economic consequences. Australian exports could feel the pinch in the coming months. As identified by the Treasurer recently, there is likely to be a short-term impact on some of our exports in coming quarters. Japanese demand for steel-making inputs could fall in the near term following the closure of several large steel-making plants and the disruption to Japanese manufacturing. However, demand for our energy products, including LNG and thermal coal, could increase. We must all remember that given the scale of the devastation in Japan economic conditions will remain unpredictable for some time. The Gillard government have every confidence that Japan, a tremendously resilient country, will rise to this challenge.

Carbon Pricing

Senator BIRMINGHAM (2.25 pm)—My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to the statement regarding carbon tax compensation made by the minister for regional development that ‘we will return all of the moneys raised to people through the tax mechanism’. Is this true? Will all the money raised by the carbon tax be directed to Australian families and households as stated by the minister for regional development?

Senator Cormann—Just say he got it wrong.

Senator WONG—Would you like to answer the question, Senator?

The PRESIDENT—Order! Question time is not the time to work out who is moderate and who is not moderate. I ask both sides to desist from trying to make that judgment at this time and save it for some other time. Senator Wong, continue with your answer. You have 29 seconds remaining.

Senator WONG—I think the answer is clear on that: there are no moderates left because they are all backing Mr Abbott and his

Senator WONG—The Prime Minister and the Minister for Climate Change and Energy Efficiency have made clear that every cent raised by the carbon price will go to households, business and tackling climate change, and that households will come first. I think they are very clear about that. Of course, as a Labor government, the assistance package will always reflect the values of a Labor government—that is, we will provide assistance which is fair, assistance that will target people who need it most such as low-income Australians and pensioners. Obviously, the detail of this is something that has not yet been determined because we are still in the process of designing what the carbon price mechanism will look like. There are a whole range of questions around industry assistance, transitional assistance, household assistance, as well as, for example, scope, coverage and the actual price. I know that even Senator Birmingham, who was once a moderate and used to say that we should act on climate change, is anxious to jump on board with the scare campaign that those in the Liberal Party, who will do anything to oppose carbon pricing, are engaged in. I know that he is trying to demonstrate that he is as tough as Cory Bernardi on this issue—he might have some trouble—
pretty extreme views. We wonder where they were when Mr Morrison put his contribution in the shadow cabinet. Senator Birmingham, there is a process underway to design this reform in consultation with the multiparty committee and the Australian community. We are serious about doing that carefully and we will do that. (Time expired)

Senator BIRMINGHAM—Mr President, I ask a supplementary question. I refer the minister to the statement by her successor as the minister for climate change, the minister responsible for this policy area, that he ‘does not expect any significant impact on the overall cost of living of our carbon price’. Does this statement apply to all Australians or just some? If only some, how many will face a significant impact and how many will be worse off?

Senator WONG—We have not even set a price. Let us be clear about what Senator Birmingham is trying to do. He is trying to do what Mr Abbott does so well, which is to create a whole heap of figures and create a whole heap of facts that oppose everything. He tells people that all these bad things are going to happen, and he is not upfront on this point: we have not even set a price as yet because we are working through the sorts of policy issues to which I have alluded. So to come into this place—

Senator Ian Macdonald—You were the climate change minister for three years; what did you do?

Senator WONG—Senator Macdonald, I will take that interjection. We did put all this information out prior to the last vote in this place and it made absolutely no difference to you because it does not matter how much information is out there, you will still be on the troglodyte side, voting down any reform—as you always do, Senator. The reality is that we will work through these issues and deal with the policy issues that you are describing. As yet, the government have not made those decisions. (Time expired)

Senator BIRMINGHAM—Mr President, I ask a further supplementary question. Is it not the case that there will be significant impact, that many people will be worse off and that at most 50 per cent of the moneys raised will be returned to people? Why is minister after minister in this government simply following the Prime Minister’s example and grossly misrepresenting the truth in relation to this carbon tax?

Senator WONG—I think the question about gross misrepresentation of the truth ought to be turned on the other side. We are going through a process of designing a carbon price, including dealing with the issues that you are talking about. We have said that every cent raised by the carbon price will go to Australian households and businesses and towards tackling climate change. Those are the parameters that we have put in place. Senator Birmingham is coming in here and saying that there are going to be all these people who will be dreadfully worse off on the basis of no facts whatsoever.

Senator Birmingham—They are your ministers.

Senator WONG—No facts whatsoever. Senator Birmingham. The reality is that you will do and say anything to not take action on climate change. You are intent on running a scare campaign and everyone knows that.

Senator Brandis—This minister is out of control.

The PRESIDENT—The shouting from my left is undoubtedly out of control. Senator Wong, you have 12 seconds remaining.

Senator WONG—Those on the other side do not want the facts in this debate. All they want to do is scaremonger rather than look to do the responsible thing for the nation.
Indigenous Health

Senator SIEWERT (2.32 pm)—My question is to the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, Senator Arbib. I ask today about alcohol related harm and abuse in Alice Springs. Firstly, is it true that there has in fact been a decrease in the incidence of violent crime in Alice Springs since the introduction of alcohol supply reduction measures in 2006? Secondly, what changes have there been in alcohol related hospital admissions since the introduction of those initial alcohol supply reduction measures?

Senator ARBIB—I thank Senator Siewert for her question on alcohol in Alice Springs. As this chamber would be aware, the government is working extremely hard in terms of closing the gap and a great deal of work has been undertaken in reducing the harm from alcohol, which is a significant issue amongst numerous Indigenous communities. The government has been working with the Territory government and is leading work on an alcohol management plan as another key component of the Alice Springs transformation plan. New funding is being allocated by the Australian government to strengthen local alcohol support services for Aboriginal people in key areas of alcohol rehabilitation. This includes an additional $5.4 million to the Central Australian Aboriginal Congress Safe and Sober support service to help address harmful alcohol use. In partnership with the Territory government, the Australian government is also providing $1.5 million to expand ID card technology to help enforce alcohol restrictions in Alice Springs and elsewhere. In regards to the issues Senator Siewert has raised, I will seek further information.

Senator SIEWERT—Mr President, I ask a supplementary question. Is it not true that alcohol usage rates in the Northern Territory remain the highest in the country and leading figures in the world? I understand that the figures slightly increased after 2006 when major retailers in Alice Springs sought to undermine the measures by introducing and making available cheaper alcohol—sometimes to the point of $2 cleanskins. Did this have an impact on alcohol related harm in Alice Springs, and what action did the government take to address the issue of cheaper alcohol becoming available in Alice Springs and undermining the measures? (Time expired)

Senator ARBIB—There has certainly been an outbreak of some antisocial behaviour in Alice Springs. There have been visitors from outside Alice Springs community who have entered. The issue of alcohol is certainly an issue that the government has concerns about. We are currently working with the Northern Territory government and today Paul Anderson, the Chief Minister, issued a statement concerning the steps they are undertaking, some of the toughest measures possible being implemented in terms of alcohol use in Alice Springs but also the surrounding areas. At the same time I would note that the CLP from the Territory are opposing those measures that are being undertaken by Mr Anderson and the Northern Territory government. I would urge Mr Abbott, the Leader of the Opposition, if he is committed to bipartisanship to back the Chief Minister in what he is undertaking to fight the scourge of alcoholism.

Senator SIEWERT—Mr President, I ask a further supplementary question. The Alice Springs community has been calling for years for a floor price on the price of alcohol and to further restrict the availability of takeaway—in fact, they are suggesting takeaway-free days. Will the federal government back community calls to introduce a floor price on alcohol and implement takeaway-
free days, which have been shown to be very effective in controlling the consumption of alcohol?

Senator ARBIB—In the letter of the Leader of the Opposition, Mr Abbott, today, one thing that he did raise and admit was that, in terms of the NTER, there had been a lack of consultation between the then federal government and the Territory Indigenous communities. We accept that and we think it is good that the Leader of the Opposition has admitted that, because what the government is doing is working closely with communities. Minister Macklin has visited Alice Springs on a large number of occasions and the transformation plan is well underway. While we are working with the Territory authorities—

The PRESIDENT—Senator Arbib, please resume your seat because Senator Siewert is on her feet.

Senator Siewert—With all due respect to the minister, I would appreciate it if he would answer my question, not a question that was shouted out by the opposition—

The PRESIDENT—Is this a point of order?

Senator Siewert—Yes. Will he answer my question, not the opposition’s question?

The PRESIDENT—The minister has 20 seconds remaining to answer the question that has been asked. I draw the minister’s attention to the question.

Senator ARBIB—Thank you, Mr President. As I did say earlier, there is a new alcohol management plan in place. We are working closely with the Northern Territory government, whose responsibility it is to implement and enforce that. We are also working closely with the Northern Territory Police, including the added numbers and night patrols that they have in place. (Time expired)
pendents for this tax forum and we look for-
ward to having a constructive dialogue with
the participants in that forum from various
parts of the Australian economy. (Time ex-
pired)

Senator CORMANN—Mr President, I
ask a supplementary question. Will the gov-
ernment delay any legislation on further La-
bor Party taxes, including, and in particular,
the mining tax and the carbon tax, until after
the tax summit has reported?

Senator Cameron—Look after your min-
ing mates and they’ll look after you.

Honourable senators interjecting—

The PRESIDENT—When we have si-
lence on both sides, we will proceed.

Senator WONG—We now see the sec-
ond limb of the opposition’s tax reform
agenda. The first is: ‘We’re going to argue
about what this forum is called.’ The second
is: ‘You shouldn’t do anything until someone
else talks about it a bit more.’ Senator, that is
not the approach the government is taking.

Opposition senators interjecting—

Senator WONG—I could imagine, if I
could just dare to postulate, what would hap-
pen if we in fact did that. Senator Cormann
would be the first one to say, ‘Oh, this gov-
ernment’s not interested in reform; they’re
just interested in a talkfest.’ Be real, Sena-
tor—get real, I should say. We are very clear
about our agenda for reform. We were very
clear before the last election about the need
to put in place a fairer system of taxation on
our minerals resources. I know, Senator, that
you do not agree with that but that is the
government’s policy. In relation to carbon
pricing, we are very clear about the need to
price carbon and we will continue to work
through that policy agenda, too. (Time ex-
pired)

Senator CORMANN—Mr President, I
ask a further supplementary question. If all
the big Labor Party tax grabs are going to be
imposed and pushed through the parliament
before the tax summit gets to meet, how
could anyone describe it as a fair dinkum tax
summit? Isn’t this just another talkfest?

Senator WONG—When I anticipated the
criticism about a talkfest I did not expect to
be vindicated quite so quickly, Senator Cor-
mann. That does not usually happen, so I
thank you for that. It is a rare moment of
speedy vindication in the Senate chamber.
Senator, the reality is that, so far in this ques-
tion, you have had a go at us about the name,
you have had a go at us about actually en-
gaging in reform before it and then you have
called it a talkfest. You could at least get
your criticism right, Senator Cormann. We
do have a reform agenda, which we are very
clear about. It is an important reform agenda
which reflects the economic challenges for
this country in the near term and in the long
term, challenges for which you are devoid of
a response. You have no response to the eco-
nomic challenges of today, nor of tomorrow.
You are a party which is locked into your
daily rejection of anything positive, your
daily rejection of reform and your daily grind
around—(Time expired)

Economy

Senator FURNER (2.45 pm)—My ques-
tion is to the Minister for Small Business and
Minister Assisting the Minister for Tourism,
Senator Sherry. Can the minister outline how
the Australian tourism industry is recovering
from the downturn caused by the global fi-
nancial crisis, from other economic factors
and from recent natural disasters? Is the out-
look positive for the industry, its thousands
of small business operators, their employees
and the communities which depend on the
industry?

Senator SHERRY—I thank Senator
Furner for his interest in tourism issues gen-

remains Australia’s leading service export earner. It was worth $23 billion in 2009-10. In fact, in 2009-10, despite being a difficult year on the domestic front, tourism grew faster than Australia’s economy—it grew at 3.2 per cent to $34 billion, compared to 2.3 per cent. In 2010, Australia’s tourism industry experienced a recovery. We welcomed 5.9 million international visitors, up just over five per cent on the previous year. This was led by an increasing market growth from many Asian countries and in particular record growth from China. What is not commonly known is that China is now Australia’s largest tourism market by value. The inbound value of the market was some $3.1 billion for the year ending December 2010. Driving these strong figures from the China market is the obvious strength of the Chinese economy, what is broadly known as the middle-classing of China and the introduction of additional airline services, a good example of which is China Southern Airlines, which recently opened direct flights to Brisbane. That airline plans to increase its services to 50 a week by 2012.

Tourism contributes just over half a million jobs and there was an increase in tourism employment over the year 2009-10. This is particularly important for small business. Ninety per cent of tourism operators are small businesses, particularly in rural and regional areas. *(Time expired)*

Senator Furner—Mr President, I ask a supplementary question. Can the minister advise the Senate what the government is doing to help domestic tourism operators, especially small businesses in those areas affected by recent natural disasters?

Senator Sherry—Everyone is well aware of the impact the recent floods have had on Queensland—Queensland was particularly hard hit. Tourism is a major industry in Queensland, worth $9.2 billion.

Senator Ronaldson—So will you modify the carbon tax?

Senator Sherry—Carbon tax and environmental issues more broadly reflect a growing social awareness which is reflected in part also in tourism more generally. People travel for many and varied reasons. Obviously, one of them is to look at different environments. The issues are related to that extent—part of a broader concern about the future of the planet. That is one of the reasons people travel to Australia. *(Time expired)*

Senator Furner—Mr President, I ask a further supplementary question. Is the minister optimistic about the challenges ahead of the tourism industry and, in particular, for regional tourism businesses?

Senator Sherry—In respect of the recent disasters I want to emphasise that, while there was some impact on Queensland, Queensland is open for business. The vast majority of Queensland tourism facilities are open and operating. We have provided $12 million for a tourism industry assistance package and there have been a number of other initiatives. The first booking figures from the online travel company Orbitz since the screening of Oprah’s Australian shows reveal spending on bookings from the US to Australia have increased by almost 10 per cent and the hotel reservations have risen by 13.6 per cent.

Senator Abetz—So we are now relying on Oprah!

Senator Sherry—We have utilised Oprah. She is willing to assist in Australian tourism promotion. Why shouldn’t we, Senator Abetz? We will draw on anyone who wants to recommend Australia and Queensland. *(Time expired)*
Asylum Seekers

Senator CASH (2.50 pm)—My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Carr. Giving the increasingly conflicting statements by the Australian Federal Police, immigration department officials on Christmas Island and Mr Bowen, the Minister for Immigration and Citizenship, as to the status of those asylum seekers who forcibly broke out of detention during the recent week of protests on Christmas Island, can the minister definitively advise how many of those asylum seekers remain at large and roaming the island?

Senator CARR—I thank Senator Cash for her question. I watched with interest as Senator Brandis took the question to you and I saw you rehearsing it for some time. So I have had some opportunity to consider my answer!

The PRESIDENT—Address the question, Senator Carr.

Opposition senators interjecting—

The PRESIDENT—When there is silence, we will proceed.

Opposition senators interjecting—

Senator CARR—The recent protest activity at the Christmas Island detention centre is, I am advised, under control and is being jointly managed by the AFP, the immigration department and Serco, the department’s detention service providers. Over the weekend, the AFP deployed 70 officers to Christmas Island to support those already present on the island, taking the total number of AFP officers to 188.

Senator Cash asked about the number of people at large. My advice was that a small number of people had not been returned to the centre. I can get further information for you but it is my understanding, based on what has been explained to me, that there had been a small number of people not in detention. Shortly before we came into this chamber, however, a briefing was provided indicating that all personnel had now been returned to the centre.

Senator CASH—Mr President, I ask a supplementary question. I refer to Minister Bowen’s statement on Thursday, 17 March 2011, following a night of rioting by some asylum seekers on Christmas Island, when he stated:

… the situation on Christmas Island … is calm.

Given the nature of the violent protests, which included the use of tear gas and beanbag rounds, mass break-outs, fires, rock throwing and protests, is this what the Gillard government defines as a situation that is ‘calm and under control’?

Senator CARR—From time to time one is somewhat surprised by the nature of questions in this chamber, and this happens to be one of those occasions. Is the senator seriously suggesting that anyone in this chamber would do anything other than condemn the violence by personnel on Christmas Island—the attempts to inflict violence on officers of the Commonwealth? And would anyone seriously suggest that anybody in this chamber would do anything other than say that that is totally inappropriate? For any question to propose anything to the contrary is, I would say, to insult the intelligence of every senator in this chamber.

Senator CASH—Mr President, I ask a further supplementary question. I refer to the minister’s statement on Friday, 18 March 2011:

At no stage during the week have I underplayed the seriousness of this situation.
Will the minister concede that this situation has now become much more serious than the government was willing to concede? Is not the overcrowding on Christmas Island which gave rise to the serious disturbance the inevitable result of the government’s failed border protection policies?

Senator CARR—I do not think it can be seriously argued that the minister has been anything other than very frank and open with the Australian people about the nature of the circumstances in Australian detention centres. My reading of the minister’s statements is that they have been very frank about the difficulties faced as a result of the increasing numbers of people placed in detention. Under no circumstances would one suggest either that the government condones this action or that it will be doing anything other than treating these issues with the utmost seriousness. The minister has indicated that criminal charges could certainly be laid by the Commonwealth Director of Public Prosecutions as part of any AFP investigation into the recent events on Christmas Island. How could you say anything other than that shows how seriously the minister has regarded this issue? The minister has said that he will consider, on a case-by-case basis—

(Time expired)

Indigenous Employment

Senator CROSSIN (2.57 pm)—My question today is to the Minister for Indigenous Employment and Economic Development, Senator Arbib. With this Thursday, 24 March, marking National Close the Gap Day, could the minister please advise the Senate on what progress the government is making towards halving the gap in Indigenous employment? Could the minister also outline the importance of improving levels of Indigenous employment and promoting economic development in order to reach other Closing the Gap targets?

Senator ARBIB—Yes, this Thursday is National Close the Gap Day and I would encourage all Australians to get actively involved in the campaign. I also note that today is Harmony Day—the orange ribbons we are wearing celebrate our cultural diversity. I think it is very important to recognise our Indigenous culture arising, as it does, from one of the world’s oldest civilisations.

There is a great deal of progress being made in Indigenous employment. The vast majority of the work being undertaken is through the Job Network—through Job Services Australia. Two years ago, Job Services Australia was reformed. It was reformed to put the emphasis on disadvantaged job seekers. The financial incentives were moved to the back end to ensure that those in streams 3 and 4 of Job Services Australia were getting the support they needed to get them into employment—80 per cent of those in streams 3 and 4 are Indigenous. The good news is we are starting to see results. Compared to non-Indigenous job seekers, four per cent fewer Indigenous job seekers have returned to the employment services system 13 weeks after being placed into jobs. This is a significant improvement and it shows that the job services network is working for Indigenous job seekers.

But it is not just through the Job Network that we are doing this work; it is also through the IEP—the Indigenous Employment Program. So far 40,000 employment and training places have been created since the IEP was reformed in July 2009. It is going towards businesses that are really seeing results. Look at Linfox—they committed over a year ago to putting 500 Indigenous people into employment and they have already hit 100 Indigenous workers, with another 12 being trained right now. Ngarda Civil and Mining, a company in Western Australia, are right now training and employing 184 In-
digenous workers in the Pilbara. These are the results—(Time expired)

**Senator CROSSIN**—Mr President, I ask a supplementary question. The minister mentioned the Indigenous business enterprise Ngarda Civil and Mining in his response so I ask: would the minister please inform the Senate of what the government is doing more broadly to support the development of Indigenous enterprises?

**Senator ARBIB**—We are never going to close the gap on Indigenous employment unless we make ground on Indigenous businesses. Economic development is critical and crucial to making that happen. One of the things the government have done is to work with the not-for-profits and with corporations. We have invested $3 million in the Australian Indigenous Minority Supply Council, AIMSC, and they are making great ground. As at 31 December 2010, AIMSC had certified 67 Indigenous businesses and had attracted 54 corporates, which are some of the best names in Australian business world, and had also attracted a number of federal and state government departments. Already it has generated $4.4 million in contracts and $2.9 million in transactions between its members and certified suppliers. The best part about it is that it 72 per cent of the employees of these new Indigenous businesses are Indigenous. (Time expired)

**Senator CROSSIN**—Mr President, I ask a further supplementary question. Would the minister also provide to the Senate some specific examples of successful Indigenous projects that have been supported by this federal government?

**Senator ARBIB**—There are a number of good examples but the one that stands out for me at the moment is the work of the Indigenous Land Corporation, the ILC. The ILC is an organisation that has gone into many areas and used some very innovative business practices, such as Ayers Rock and the Uluru resort. That resort previously had over 600 employees but there were fewer than 10 Indigenous workers employed. The ILC has purchased that resort, is working with the Indigenous community and is going to ensure that the Indigenous communities in that region get access to the facility for employment and for training. What the ILC is also doing is ensuring that Indigenous job seekers from around the country interested in hospitality and tourism will get an opportunity to train at the resort and go back to their own resorts and tourism sites in the other parts of the country. (Time expired)

**Senator Chris Evans**—Mr President, I ask that further questions be placed on the Notice Paper.

**QUESTIONS WITHOUT NOTICE:**

**ADDITIONAL ANSWERS**

**Edwards, Lance Corporal Mason**

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (3.02 pm)—On 2 March, Senator Fielding asked me a question about the death of Lance Corporal Mason Edwards and the guidelines relating to the listing of names on the Australian War Memorial’s Roll of Honour. During the course of answering Senator Fielding’s question I agreed to take some matters on notice. On 3 March, the Minister for Veterans’ Affairs, Mr Snowdon, wrote to Senator Fielding providing a detailed response to his question. I seek leave to incorporate that letter in *Hansard*.  

Leave granted.

*The document read as follows—*

The Hon Warren Snowdon MP  
Minister for Veterans’ Affairs  
Minister for Defence Science and Personnel  
Minister for Indigenous Health
Dear Senator Fielding

I refer to your questions yesterday to Senator the Hon Chris Evans concerning Lance Corporal Mason Edwards and the exclusion of his name from the Australian War Memorial’s Roll of Honour. You have queried whether the Government has been in contact with Lance Corporal Edwards’ family to discuss this matter and whether the Government will commit to considering a review of the processes and criteria for admission to the Roll of Honour.

Lance Corporal Edwards’ death on the night of 20 October 2009 while preparing for another deployment to Afghanistan was indeed a great tragedy. Live fire training prior to overseas active service should never have such a sad outcome.

On 20 January 2011, I wrote to Ms Mackay regarding her son. I informed her that the Council of the Australian War Memorial has the responsibility for making all decisions regarding additions to the Roll of Honour. Eligibility criteria has been the subject of careful consideration by Council since the Roll has been established. The Council endeavours at all times to make decisions consistent with criteria that have been in place since the Roll was first established for deaths during the First World War, in particular with its role as the nation’s comprehensive commemorative listing of all those who have fallen on warlike, active service.

To be eligible for inclusion on the Roll of Honour an individual must have died as a result of warlike service while a member of the Australian Defence Force. The Council has agreed to accept the definition of warlike service as provided by the Department of Defence.

As you may be aware, the Council is currently chaired by General Peter Cosgrove AC MC (Reed) and has as ex officio members the Chiefs of Navy, Army and Air Force.

While Lance Corporal Edwards was a serving member of the Australian Defence Force at the time of his death, his death occurred in Australia during a training exercise which under current eligibility is not defined as warlike service.

The Council is an independent body and it is not the place of the Government to undertake a review regarding eligibility for the Roll of Honour. However, the Council has been asked to consider how those members of the Australia Defence Force who are killed in circumstances such as Lance Corporal Edwards might be recognised.

I undertake to keep you informed of further developments in relation to this matter. Yours sincerely

3 MAR 2011

WARREN SNOWDON

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Immigration

Senator CASH (Western Australia) (3.03 pm)—I move:

That the Senate take note of the answer given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to questions without notice asked by me today, relating to Immigration.

Senator Carr confirmed in question time today everything that is going wrong with the Labor Party’s border protection policy. When you actually look at where the Labor government has taken this country in relation to border protection, this is the situation that is currently facing the Australian people: we have on the minister’s own admission in question time today that Christmas Island is overflowing beyond capacity. I have just recently been informed that the AFP have actually stopped boats stopping at Christmas Island and they have to be taken to the mainland because of the overcrowding on the island. If that report is true that is an absolute indictment on this government because it is not their decision to stop the boats, it is the AFP’s decision. It is an absolute indictment on this government.
Labor are now opening detention centre after detention centre particularly in relation to Northam in Western Australia with almost no consultation at all with the local community. We all know that universal offshore processing is now completely, totally and utterly finished because the Labor Party announced that they will not be taking boats to Christmas Island; they will be brought straight to the mainland. Minister Carr confirmed today in question time that there is an absolute debacle on Christmas Island. In fact he almost accused me of downplaying the situation.

Then we have the Minister for Immigration and Citizenship who must be really questioning the poisoned chalice that he has been handed by the Prime Minister. We have abysmal failures with what is going on with border protection. And what is the government’s response? They try to downplay it with a wall of spin to the Australian people. Minister Bowen, on Thursday, 17 March, following a night of rioting by some of the asylum seekers on Christmas Island said: ‘The situation on Christmas Island is calm.’ Then the following day, when he realised that he really did have a problem on his hands, he came out with the statement: ‘At no stage during the week have I underplayed the seriousness of the situation.’ And if that was not bad enough, if the minister himself was not misleading the Australian people in relation to what was going on on Christmas Island, let us now have a look at what Prime Minister Gillard said. Last Sunday after the week of riots at Christmas Island Prime Minister Gillard told Australians: ‘The situation at Christmas Island is under control.’

I stood in this place three weeks ago and said that one of the greatest betrayals of the Australian people was when the Prime Minister, just before the election, said she would never implement a carbon tax under her government and then, post the election, the reality that she did. That was not the greatest betrayal at all. One of the greatest betrayals that this parliament has ever seen is the failure of those on the other side on their border protection policy. Christmas Island has descended into absolute chaos. We have the AFP having to use tear gas and beanbag rounds. We have mass break-outs. We have fires. We have rock throwing. We have protests. We have asylum seekers who are on the loose. And the government says that the situation is under control.

The situation is far from under control. The situation in relation to the Labor Party’s border protection policy is in complete, total and utter disarray. If those on the other side actually think that this is the way to run Australia’s border protection regime, then quite frankly they deserve to be thrown out at the next election. This government has shown in the few short months it has been in office that—just like the former Rudd government—when it comes to protecting Australia’s borders it has absolutely no idea whatsoever. This is a government that—just like the former Rudd government—when it comes to protecting Australia’s borders it will pay for these border protection failures. (Time expired)

Senator CAMERON (New South Wales) (3.08 pm)—I always love following Senator Cash because she makes me feel cool, calm and collected—not like Senator Cash. You have to put in context what Senator Cash has just said and you have to understand what she has said to this place on many occasions. What Senator Cash is about is the dog whistle. It is about refugees not getting a fair go and it is about stopping the boats. They hold the part of the debate that goes to the lowest common denominator. That is Senator Cash.
Every time she is on her feet the whistle is blowing. That is the reality.

The Labor Party is not prepared to go down that path because we are very clear that people have to be treated fairly, people have to be treated equitably and, if people have a genuine claim for refugee status, then they should get that status. They should not have temporary protection visas where they never know if they can start a life here or not. They should not be treated as someone different because they have a different religion, as we have heard from across on your side. We are not prepared to go into that approach, which is not very far away from a position adopted by the British National Party in the UK—the worst lowest common denominator you can get.

We are prepared to take these issues on, as we are prepared to take on all of the big debates that are important. Here we have this debate about protecting our borders. Our borders are secure. You know that our borders are secure because we have a situation unlike that of other countries. This is an international problem where people all over the world are looking for protection. They are looking for somewhere they can go to have religious freedom, to have their social rights looked after and to have a decent life. Where else would they want to come but Australia? Australia is a country that looks after all of these issues.

Senator Abetz—Open the doors.

Senator CAMERON—Senator Abetz, I will take that interjection. Nobody is arguing the doors should be opened. That is another fabrication from the coalition. There has to be a formal process—a proper process—to judge whether people should be allowed to come into this country and that is what we are doing. We will do that. We will not have a position where people are denied their international rights. Their rights will be looked after by this government. We will not be sending the SAS out to try to do what you did—that is, turn back legitimate asylum seekers. That is what happened. Senator Abetz, you know that is what happened. The majority of people that came in on the Tampa are here now. They were legitimate asylum seekers but, for pure political advantage, you wanted to send the SAS out to say that we were tough on refugees. That is what you did; that is what the coalition is about. This is an international problem that is being dealt with by governments all over the world. Asylum seekers have to have their rights protected and we will do that.

We will not get into the gutter with Senator Cash. We will not get into the gutter with Senator Bernardi. It is quite interesting to see it is the Western Australians lining up for this debate again.

Opposition senators interjecting—

Senator CAMERON—You know you make that noise to the lowest common denominator in Western Australia and the rest of the country. You can do that, but we are going to stand up for people’s rights. We are going to make sure that people are looked after. We are going to make sure that our international obligations are maintained and we will do that in a way that ensures that this government has some credibility, not like you had in your time in government.

Senator BACK (Western Australia) (3.14 pm)—It is interesting to be told by Senator Cameron that Western Australia is the lowest common denominator—and I thank him. He speaks about the dog whistle. In my veterinary days the dog whistle was used to round up the sheep. It would appear that the rounding up of the sheep is definitely needed on the other side of this chamber. What a debacle and what a disgusting situation. What an effort by the minister, Minister Carr, in trying to respond to Senator Cash’s question on
asylum seekers earlier this afternoon. In his efforts, he damned his own minister, Minister Bowen. From his own words he damned Minister Bowen with his claim that there was calmness.

To follow on from Senator Cameron’s comments—and it is a shame that he is leaving the chamber—we now have three classes of asylum seekers who are trying to get to Australia. The first and, unfortunately, the lowest on the queue are those who are legitimate and whose applications have been approved. They are rotting in camps in Africa and elsewhere—and long will they rot whilst those who are jumping the queue manage to do so. Until last week, we had only one other group and those were queue jumpers. But last week on Christmas Island we actually divided them into two groups. There are those who are prepared to break the law, those who are prepared to destroy Australian property and those who are prepared to actually put at risk those who are supposed to be caring for them. The reward they get, of course, is to be brought quickly to the Australian mainland. The third group—those fools who stayed around acting responsibly, as they were supposed to, in detention—sit there and now they have nowhere to go. We all wondered about this situation the night after the law-breakers’ actions. They were not deported from this country, told that their opportunity to come here had now been denied because of their willingness to break our laws, destroy property and put at risk the people who were looking after them. On the second night, all of those who had initially said, ‘We will sit back; we will wait for Australian law to take its course.’ turned around and said, ‘The only way for us to get to the mainland is in fact to repeat their efforts.’ So we saw the burning of facilities. We saw the gentleman who controls the recreation centre on Christmas Island being approached at three in the morning to see whether he could open that facility so that those who did not participate in this law breaking could be safe while the law-breakers continued on their way. What is going to happen to them, we can only wait to see.

I will now turn to the town of Northam, where I was a resident through the decades of the 1970s and the 1980s. Like most young kids who went through cadets, I spent a lot of time at the old Northam army barracks. It is three kilometres out of town and it is right on the Great Eastern Highway to the eastern states. I call on Minister Bowen, whilst he still is the minister, to completely remove any plan to construct a facility in Northam for 1,500 young men. This facility will be three kilometres out from a very, very quiet residential wheat belt town. If the government cannot control asylum seekers on an island, what chance have they got of controlling them in and around Northam? On an island, asylum seekers have nowhere else to go. As Senator Carr said, they will eventually be rounded up—of course they will. As soon as you need a feed, you tend to go back to where the food is available.

But in Northam, if anybody should break out of that camp—and they could break out of it at any time once it is constructed—it will be impossible to protect either the 1,500 people inside the detention camp or the wider community outside it. It will be impossible to do so. I call on the minister, whilst he is still the minister, to announce that he is not going to proceed with that particular program—although he should possibly do that for families. Premier Barnett, very early in the process, said, ‘Limited numbers of people, limited numbers of families and in consultation with the state government and local communities, and we will see what can be done.’ Was there consultation by Minister Bowen? No, there was not. Is there an attempt to relocate families into
that area? Knowing Northam as I do and knowing that very camp, which was in fact a refugee camp when it ceased being an army barracks after the Second World War, there has been tremendous assimilation within that community. But 1,500 young men will not work. It did not work on Christmas Island; it will not work in Northam. It is absolutely essential that this minister resigns and that the Prime Minister takes control of the issue. If she cannot control our borders then she too should resign so that we can put a government back into place that will.

Senator MARSHALL (Victoria) (3.19 pm) — Quite frankly, it sickens me to see people try to take and make political advantage from the human suffering and the human misery of others. Quite frankly, it is appalling. We have heard Senator Back—


Senator MARSHALL— you can make that interjection—refer to people as ‘queue jumpers’. This is a simplistic argument which you run to try to demonise people seeking asylum in this country. Where was the queue in Sri Lanka? As the Sri Lankan army was closing in on hundreds of thousands of the population who were in the bombardment range and who were actually being driven into the sea, where was the queue for those people. Senator Back? There is no such thing as a queue for people who are escaping human rights abuses, torture, human misery and war. It is just simplistic and typical of the dog whistling attitude of the coalition, who will do and say anything to try and make some political advantage about any issue that they can. This is the great tragedy across the world. The fact is that people need to flee from it and seek political asylum in other countries around the world. People on that side have no sympathy, no compassion; they seek to make political advantage from their misery. Quite frankly, as I said, it sickens me and it disgusts me.

There is of course enormous difficulty for all governments across the board when there are periods of instability, as there have been—and there will be more of it. We see what is happening in Northern Africa. We see it happening in Libya and in other countries. I can tell you: there is no queue in Libya. We will see people displaced for what is looking like a long civil war in that country. We will see people displaced and we will see refugees. Some of them will be fleeing harassment. The very thing that the UN is doing now is trying to protect civilians. They will not be able to protect them all and people will flee that country. A lot of them will go to Europe, some of them will try to make their way to America and some of them will try to make their way here. And you will say, ‘Why didn’t they get in the queue? Why didn’t you get in that queue in Libya or wherever that queue might be?’ They will be fleeing torture; they will be fleeing war. They have a legal international right to seek asylum in third countries. We have a legal obligation to take them and process their claims for asylum. We have a right to do that, and we have a legal obligation to do it.

Whenever there is widespread conflict in places across the globe, there are going to be more people seeking refugee status, not just in Australia but across the world. It is not a problem that is unique to us. It is appalling that those on the other side try to politicise this. It is a balance. When most of these people flee torture and war, they do so genuinely without papers or luggage or anything else.

Senator Cash—How do they get on aeroplanes?
Senator Abetz—How do they get a plane to Indonesia? Where do they get the $10,000 to fly to Indonesia?

Senator MARSHALL—There we have again the stereotyping of all these people. ‘They get on aeroplanes to go somewhere and then they get on a boat to come here, and none of them are genuine refugees.’ That is how you try to paint all these people.

Senator Abetz—It is the majority.

Senator MARSHALL—It is not the majority at all. We know that the vast majority of them end up having their claims for asylum approved. The vast majority of them are genuine asylum seekers. That is something that you do not like, because you want to paint all these people as opportunists and queue jumpers. That is what you have done and what you want to do, and it makes me sick. It is political opportunism that plays on people’s most basic fears. You ought to know better. You ought to be leaders in the community.

The Australian government needs to assess every claim for asylum that is made. We need to check where these people have come from and whether their claims are genuine. We need to establish that they are who they say they are. That is very difficult to do sometimes when people have fled countries, especially when the regimes that they have fled from are uncooperative. It is an incredibly difficult process. There is always a balance between the government’s responsibility to process people properly and to ensure that their claims are accurate and that they are who they say they are and the government’s responsibility to put people through the system as quickly as we can possibly can. That is a challenge not only for this government but for every government. I strongly urge the opposition to get some humanity back. (Time expired)
have unfettered access to courts of appeal. This means that no-one will be able to be sent back to where they came from.

There also seems to be a problem with a backdown on asylum seeker processing protocols. The electric fencing on Christmas Island around the high security detention centre has been switched on, in what seems to be a desperate attempt to bring the situation under control. The government is now considering releasing thousands of asylum seekers who are in detention while their claims are being finalised. The mechanisms for doing this would include a new visa category for those who have been identified as genuine refugees and who are awaiting a security clearance.

The security and safety of communities is a mounting issue, with communities up in arms about their own personal safety when refugees break out and riot and in those communities where future facilities are planned. I am a Western Australian senator. My colleagues have mentioned Northam. I live 60 kilometres from Northam. People have been told by the department of immigration that there is, as Senator Back said, going to be a facility built three kilometres from the town. That facility will house 1,500 male detainees. Our biggest prisons in WA have 900 people or so. How one would keep 1,500 male detainees in a facility near a town like Northam we really do not know.

I, Senator Cash and the Deputy Leader of the Opposition, Julie Bishop, were at a community meeting in Northam addressed by the immigration department—not the minister; he had been in Perth, but he certainly did not go to Northam. The agitation shown by the people living near and around the site was very sad to see. Their properties are going to lose value. They are certainly not very happy about what is happening. However, the process has been stalled in Northam. It is never going to be ready. The dongas are going to need to be refurbished. There is no power. Water is going to be difficult. Sewerage is not in place. So there is no way that the Northam facility is going to be ready. Six-hundred detainees were supposed to be on that site by the end of this month. That is certainly not going to happen. Another 500 were supposed to be on the site by June or July 2011. Goodness me! That is not going to happen. What sort of planning is this? I feel very sorry for the people of Northam. (Time expired)

Question agreed to.

Indigenous Health

Senator SIEWERT (Western Australia) (3.29 pm)—I move:

That the Senate take note of the answer given by the Minister for Indigenous Employment and Economic Development, Minister for Sport and Minister for Social Housing and Homelessness (Senator Arbib) to a question without notice asked by me today, relating to alcohol related issues in Alice Springs.

I note that Senator Arbib did not answer my question about the issue of a floor price or minimum price for alcohol in Alice Springs or in fact answer my questions about reducing access to takeaway alcohol.

The Menzies School of Health Research, which has been looking at this, shows that alcohol related harm in the Northern Territory is more than four times the national average. It clearly indicates that attention is needed for alcohol consumption in the Northern Territory and in Alice Springs. This has been a consistent issue and call from the community in Alice Springs for a long time. What they got in 2007 was a top-down intervention that actually did not really address alcohol consumption other than banning it in prescribed communities. Many of those communities were in fact already dry. But it has focused attention on Alice Springs, and
there has been movement from communities into Alice Springs.

Some work has been done in Alice Springs to reduce the supply of alcohol. In fact, alcohol related harm incidents have in fact gone down overall by 14.4 per cent. They had gone down by 18 per cent, but alcohol suppliers started bringing in cheaper alcohol, which has undermined the effectiveness of the alcohol restriction measures, so we have seen a slight increase in alcohol related harm, but it is not as high as pre-2006 issues.

One wonders why Mr Abbott has jumped on the bandwagon and called for another intervention. For a start, the word ‘intervention’ is a dirty word in the Northern Territory. It implies exactly what he means it to mean, which is another top-down approach to dealing with these community related issues. The government has not grabbed the bull by the horns; it has not stood up to the alcohol industry; it has not brought in controls on the number of takeaway outlets. I got some figures from the library today showing that there are still 134 liquor licences in the Alice Springs area. That is an exorbitant number of alcohol outlets in Alice Springs.

The usual approach is to call for more police. I have done some numbers on police in the Northern Territory. In the Northern Territory there are 716 police for every 1,000 people. This compares to an Australia-wide rate of 297 police per 1,000 people. In other words, we already have significant police numbers in the Northern Territory. And, by the way, the number of Aboriginal people in our prison system is absolutely disgraceful as it is far too high. Instead of just taking the usual law and order approach, which is to bring in more police and lock people up, why don’t we start addressing this issue at its fundamental cause, which is access to alcohol?

Actually, there are other underlying issues, but one of the prime issues we need to deal with is access to alcohol.

For a start, we need to be using the price mechanism, which all the research shows will work, in combination with other measures such as reducing access to takeaway, so that we do not get the animal bars that operate in the Northern Territory. In those bars you can drink in the morning in Alice Springs and then, when you get kicked out of there after lunch, the taxis will line up and take you around to the takeaway, where you can buy the takeaway alcohol. This is not good enough. We need to be standing up to the alcohol industry here. We need to be restricting access to alcohol. We need to make sure that there is a minimum price for alcohol. We also need to be providing rehab services. We need to fund night-time meal services in Alice Springs, which I understand there is very limited access to at this stage. Some of the services, one particularly, has only about six months of funding and does not know if it will be able to continue.

Another issue in the Northern Territory is the short-term funding cycles where just when you are getting a good program up and running the funding cuts out and somebody thinks it is a bright idea to fund something else, thereby taking away funding from effective services. We need a sensible approach, not knee-jerk reactions and sensationalising of very serious issues that need to be properly dealt with so that we do not get a cycle like we have seen in Alice Springs, where we started to have a reduction in alcohol consumption and alcohol related violence but that has gone up again as the measures have been undermined.

A top-down, knee-jerk approach of just putting more cops on the street is not going to solve this problem in the Northern Territory and in Alice Springs. We need a much
more thoughtful response, but in particular we need a government to stand up to the alcohol industry and turn off the tap, as the community has been calling for. (Time expired)

Question agreed to.

JAPAN NATURAL DISASTERS

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (3.35 pm)—by leave—I move:

That the Senate:

(a) express its deep shock and sorrow at the earthquake, tsunami and nuclear emergency that have struck Japan;

(b) extend its profound sympathies to the many families whose loved ones have been lost in this tragedy;

(c) express its gratitude and admiration to the Australian emergency response personnel who are assisting in the recovery effort; and

(d) pledge the support of the Australian parliament and community as Japan comes to terms with the immensity of this disaster and the long costly process of reconstruction that lies ahead.

Australians have been shocked and saddened by the humanitarian crisis that has engulfed Japan since it experienced a powerful earthquake and tsunami on 11 March. We have all watched in horror the TV images that have been sent around the world.

In addition to the aftershocks, the risk and uncertainty associated with damage to the Fukushima nuclear power plant has further tested the Japanese people during the past two weeks. This has been an unspeakable tragedy for the people of Japan. More than 8,000 people are dead, more than 12,000 people are missing and more than half a million people are homeless. Millions have been affected by disruptions to power, communications and transport and a shortage of food and water. Even as the search and rescue efforts continue it is clear that this powerful earthquake has extracted a terrible toll.

Australians have all been deeply affected by the suffering of the Japanese people as a result of the 11 March earthquake and tsunami. Our two nations enjoy close diplomatic, security, trade and people-to-people relations. We share more than 100 sister city relationships. I note there was a delegation of Australian parliamentarians in Japan, and we welcome back Senator Cash. I am glad to see that she came through unscathed but, I suspect, impacted by the terrible circumstances around that delegation when the earthquake hit. Many thousands of Australians travel to Japan each year on business and on holiday, including young Australians who participate in Japan’s working holiday program. Many Australian students are there on Endeavour Award scholarships and other scholarships. My department has been active in ensuring they are all safe, and I am pleased to say they are. There were 11,000 Japanese tourists and more than 6,000 Japanese students in Australia when the disaster struck. Obviously, that has deeply affected them and the tragedy has been felt in every part of Australia.

On behalf of the Australian government, the Australian Senate and the Australian people, I extend my deepest sympathies to those who grieve for family members and friends lost in the devastating natural disaster. We hold out hope for those still missing and we sympathise with their families who are awaiting news.

Japan will be tested severely in the days, weeks, months and years ahead. Australia stands prepared to provide the assistance Japan needs as it deals with its immediate challenges and begins the task of rebuilding damaged lives and infrastructure. Australia has already provided more than 70 search and rescue personnel to support the search and rescue effort. The nation is proud of the
contribution they have made in the search for survivors, and I know they have been greatly appreciated and valued by our Japanese friends.

Today the Prime Minister announced the Australian government will make a $10 million donation to support the recovery effort in the wake of the devastating earthquake and tsunami that struck Japan. The donation will be made to the Red Cross Japan and Pacific Disaster Appeal on the advice of the Japanese government.

Japan has recovered from disaster before. This great nation recovered from the 1923 earthquake which killed more than 100,000 people and devastated Tokyo. Australia and Japan are friends in good times and bad, and we will stand by Japan as its government and people respond to the immediate challenges of this crisis and begin the task of recovery and rebuilding.

In the wake of the Japanese earthquake and tsunami, the number of unaccounted-for Australians now stands at five. I want to acknowledge the anxiety felt by the family and friends of those Australians whose safety is yet to be confirmed and join them in wishing for the timely confirmation that their loved ones are safe and well.

I also want to acknowledge the staff of the Department of Foreign Affairs and Trade who have provided consular support to Australians in Japan. Led by Ambassador Murray McLean, their support in the long hours they have worked and the way that they have gone about their business are a great credit to them and to the department and the other departments who are represented at the embassy. I know our own education counsellor, Karen Sandercock, has been flat out supporting Australians in Japan and providing what information and support she can. Often Department of Foreign Affairs and Trade officials serving overseas do not get enough credit for the job they do in these circumstances and there is often some criticism around as they struggle to deal with extraordinary circumstances where communication is difficult, where information is hard to get and where we have large numbers of Australians ‘in country’, many of whom are not registered. So it is an enormous task and I think they have done a fantastic job and we thank them for that effort.

In moving this proposed resolution, I think I can speak on behalf of all senators in saying this shocking event has really moved Australians. We extend our deepest sympathy to the people of Japan. The scale of this disaster is quite incredible. We will do everything we can to support the Japanese people as they recover from this awful tragedy. I thank the Senate.
editor, noted on the weekend. As our Japanese friends tap into that rich vein of tradition, they can be assured of our help as a people individually and as represented by our government, our defence and emergency personnel and departmental officials. We have provided air support, we have provided search and rescue support, we have provided nuclear scientific support—our people are doing us proud. Apart from this practical display, we provide what the Japanese describe as kanashimi, or sorrow, a word I learnt only this morning—one that I trust I have not mangled too much—courtesy of His Excellency the Japanese Ambassador as I signed the condolence book at the Japanese Embassy. If there was any doubt of the world community support for Japan, the line-up of ambassadors from around the world to sign the condolence book this morning would erase any such doubt.

My office received a poignant first-hand eyewitness account from an Australian in Japan. Her email read in part:

Despite the devastation, what we have seen is the undeniable strength and calm of the Japanese people. We were in a hotel lobby at the time of the original ‘9’ quake and its subsequent aftershocks. The staff remained professional, all continuing to do their work and even offering tea, coffee and biscuits in between the tremors. The supermarkets may be fast depleting in their supplies but there is a general understanding that there should always be something left for the next person, with no-one taking more than they need. The Japanese people are taking every day as it comes. They are doing so with calm and resilience. They do not look to the future and feel sad for what they may not have. Instead, they are banding together, helping and housing their neighbours and maintaining calm. There is no sense of panic, even with a constant and looming nuclear threat. This is not something that they are thinking about or, if they are, they do not show it nor speak of it.

What a wonderful testament that is to the resilience, sense of purpose and sense of community of the Japanese people.

Japan as a nation has a pivotal role, both strategically and economically, in global terms but especially so in our region. It is therefore within our—that is, Australia’s—interests but also our region’s and the world's interests that we combine to assist to rebuild Japan, apart from the obvious and overwhelming humanitarian obligation to do so. Our wish is for another tsunami, but this time a tsunami of gigantic global goodwill to overwhelm the Japanese people with comfort, support and assistance. I congratulate the Australian government on its contribution of $10 million announced today. It is for these reasons that the coalition joins with the government in supporting the motion moved by the Leader of the Government and to express our ‘kanashimi’ to the people of Japan.

Senator JOYCE (Queensland—Leader of the Nationals in the Senate) (3.47 pm)—I will be brief. I concur with the remarks of Senator Evans and Senator Abetz. Many people in regional Australia have not been to Japan but it was most poignantly put to me by a lady who walked down the street in St George and said, ‘It looks like the end of time.’ I tended, after watching the television, to agree with her. What Japan has been through with in excess of 21,000 people either killed or missing has been horrific and apocalyptic. The Japanese people are sustained by their stoic nature. It has been amazing for all to watch the television and see how the Japanese people have quietly taken their burden on their shoulders and are going about as best they can to restore their nation.

Restoring their nation is vitally important not only to the people of Japan but most definitely to the people of Australia. Japan remains our second biggest trading partner, only just after China, and as such is one of
the greatest markets for our coal. If Japan as an economy were to stumble then the effects on Australia would be absolutely devastating. It is well within our own interest to make sure that we shoulder as much as we can the burden of the Japanese people because basically a lot of where Japan goes is where we go.

Strategically, they are a strong ally. The Japanese have been a very kind benefactor throughout the world. People note that Japan is one of the greatest donors to areas of distress throughout the globe, and now Japan itself is requiring others to turn their eyes towards it. Even now there is hope, with an 80-year-old lady, Sumi Abe, rescued yesterday with her grandson Jin. This is an example of the hope and perseverance that people still have at this point of time.

We carry with the Japanese people concerns over how they are dealing with the issues, as seen on the television, surrounding the nuclear power plant. We hope that that issue can be brought quickly to heel and that there are no long-term ramifications from it. More than anything else I think of my daughter. At 10 years old, after watching the television, she said, ‘What can we do to help?’ That is what is occupying so many Australians’ minds: what can we do to help? The Japanese people should know that even in the more remote parts of Australia where I and my other colleagues come from we are very concerned about Japan. Our hearts and our prayers go towards the Japanese people. Whatever we can do in Australia to help the Japanese people they should just give us a call and we will do it.

**Senator LUDLAM** (Western Australia) (3.50 pm)—It is appropriate that the national parliament should pause and offer our condolences to our friends in Japan, and I thank the government for scheduling this time. I also congratulate the government for the announcement this morning of the aid and note that we were among the first responders, as Japan was, right after the earthquake in Christchurch. That spirit of generosity now is being more than repaid and I am proud to be a part of that. This condolence is unusual in that we are not paying our respects to a disaster in the past tense but one that is still unfolding. All of us here are aware of the unthinkable magnitude of this disaster—the compounding horror of quake, tsunami, the crippled nuclear power complex and heavy unseasonal snowfalls—so I wish to add the condolences of the Australian Greens to those who have spoken already. Our thoughts are with those who have lost family and friends, those made homeless, and those who still endure the fear of not knowing if their loved ones are safe with so many still missing.

It would be easy to dwell on the unbelievable suffering that overtook the Pacific coast without warning the Friday before last. But what shines through are the moments of courage and resilience that show up the true character of the Japanese people. The website prayforjapan.jp hosts translations of messages from inside the disaster area. I have just picked out two. The first:

An old man was rescued after being stranded in a house for 42 hours. He smiled at the camera, ‘I’ve experienced the tsunami in Chile. I’ve seen everybody get back on their feet. I know we can do it.’

Another one:

Nights were never this dark, and I never realised how beautiful the stars were. Sendai, look up and keep your heads high.

That was overheard in an evacuation camp. Yesterday, we saw a young man and his 80-year-old grandmother rescued from the freezing ruin of their house where they had been surviving on yoghurt and soft drink while they waited for the Self-Defence Force to arrive.
A day after the quake shook Tokyo and stopped the city the trains were back in operation. I have seen an image of a road in Ibaraki prefecture torn in half and displaced several feet in either direction and a photo that was taken four days later showing the road repaired. The nationwide energy-saving crisis was dubbed Operation Yashima, from a famous Japanese animation. On 14 March, in the face of extreme power shortages, people cut 40 per cent off demand for electricity.

We must acknowledge those at the centre of the exclusion zone: engineers, technicians, emergency services workers and SDF personnel who, as we speak today, are taking extraordinary personal risks to prevent the meltdown disaster from escalating to something truly unthinkable. We do not know the names of those people cycling in and out of the plant on 10-minute shifts, but we owe them our gratitude nonetheless. One of them wrote to his wife:

Please try to be well. It’s important at least you do. I won’t be able to come home for a while.

It is too soon to know what lessons will be learnt from the meltdown at Fukushima, even as the invisible killer of radiation stalks northern Japan and complicates rescue efforts. That is not a debate for right now, but one day soon there will be a reckoning.

I have been fortunate to travel to Japan on several occasions and must admit I love the place dearly, the warmth of the people and the sheer crazy energy of the place. It is deeply distressing to see our friends there put under such awful stress. My partner, Rico, who is in the gallery today, has already taught me a lot about the resilience and the stoic courage of her people and has shown enormous courage and love herself. She emphasises that spirit of ‘what can I do?’ and she just got to work. I am in no doubt at all that this country will rebuild stronger. For the moment, we focus on disaster recovery and relief for those in the midst of suffering; tomorrow thoughts turn to rebuilding. Another useful word to add to our lexicon that Senator Abetz introduced is ‘Ganbare,’ which translates roughly as a combination of ‘take courage’ and ‘keep your chin up’. Ganbare, Nihon. Ganbare, Tohoku.

Senator FIELDING (Victoria—Leader of the Family First Party) (3.54 pm)—On behalf of Family First, I would also like to echo the thoughts and prayers of other senators on this motion. Like many Australians, I was shocked at the images coming out of Japan following the earthquake and tsunami. It was hard to imagine that it was real and actually happening. Our thoughts and prayers are with all those families who have lost loved ones and also those families who are still missing family members. Also, we think of the dangerous work that the workers at the nuclear power plants are going on with. We hope that that is brought under control very quickly and there is no further damage there. Again, our deepest sympathies are with those families who have lost loved ones and those who are injured. We hope they have a speedy recovery. We know that the Japanese people are resilient and we are with them standing strong in this time of need.

Senator XENOPHON (South Australia) (3.56 pm)—I too rise to offer my condolences to the people of Japan, following the series of catastrophes that they have faced in recent days. I echo the remarks of my colleagues before me. As Senator Ludlam has said, these series of catastrophes are still unfolding. We should pause to reflect on the thousands of lives lost due to the earthquake and resulting tsunami, and the thousands of lives threatened by the emergencies at the nuclear power plants. It is important we also think about what now faces those who have survived. Entire communities have been lost. Rebuilding will be a long, difficult and pain-
ful process, but I have no doubt about the resilience, courage and strength of the Japanese people to undertake what needs to be done. We must do all we can to help Japan rebuild.

I would like to take the opportunity to express my admiration for the Australian emergency response workers who have travelled to Japan to assist in this crisis. It is more than just the assistance which we are giving them that is important; it is also the moral support that we are giving that is important. Motions such as this are an important part of that to make clear how strong the bond is between our two nations. All disasters by definition are terrible, but the earthquake and tsunami followed by the nuclear crisis seem to be in a different category of terrible. Our thoughts are with the people of Japan now and in the future, and I support this motion.

The PRESIDENT—I ask senators to stand in silence to signify their assent to the motion.

Honourable senators having stood in their places—

The PRESIDENT—The motion is carried.

NEW ZEALAND EARTHQUAKE

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (3.58 pm)—I seek leave to move a motion relating to the earthquake in Christchurch, New Zealand.

Leave granted.

Senator CHRIS EVANS—It is very difficult to do this following the condolence motion in relation to Japan we just carried. But, as we know, a terrible situation occurred in New Zealand just prior to that. I move:

That the Senate—

(a) express its condolences at the tragic loss of life and damage to property suffered by the people of New Zealand in the Christchurch earthquake;
(b) extend its profound sympathies to the families and friends of the Australians who lives have been lost in this tragedy;
(c) express its gratitude and admiration to the Australian police and emergency response personnel who are assisting the recovery effort; and
(d) pledge any further help that may be required as New Zealand undertakes the process of recovery and rebuilding.

We now have the opportunity to reflect on the earthquake in New Zealand. The parliament had two minutes silence the last time we sat, but now we have much better information as to the extent of the damage that that earthquake delivered to New Zealand. The earthquake that struck Christchurch on 21 February saw that city and nation confront its darkest days in modern times. The quake struck at 12.51 pm local time and caused the deaths of at least 166 people and injuries to many more. The number of confirmed deaths caused by the Christchurch earthquake is likely to rise beyond 180. Twelve nationalities are among the list of victims released by the New Zealand police. A long-term Australian resident of New Zealand nationality and an Australian citizen who lived in Christchurch were among those who died. On behalf of the government, the Senate and the Australian people, I extend my deepest condolences to all those who lost loved ones in this terrible earthquake.

The bonds between Australia and New Zealand are deep and lasting. In the week before the disaster the Prime Minister travelled to Wellington to address members of the New Zealand parliament. During that address, Prime Minister Gillard observed that:

… Australia has many alliances and friendships around the world … But New Zealand alone is family.
The shock and sadness experienced by our nation in the wake of the Christchurch catastrophe gave life to the Prime Minister’s description of our enduring relationship. The strength of the relationship was underlined when the Senate and the House of Representatives had two minutes silence on 1 March. Last Friday the Governor-General, the Prime Minister and the Leader of the Opposition represented the nation in sorrow at the national memorial service in Christchurch, further underlining the strength of our common bond.

Australia and New Zealand have long been partners in shared endeavours in this part of the world and beyond. The story of Anzac was born during the First World War and generations of our soldiers have since honoured it with their deeds on the battlefield. As a rugby man, I can testify that while we have been the fiercest of opponents on the sporting the field, we have been the firmest of friends off it. The resolve of the people of Christchurch is reflected in the continuing success of their rugby team despite the adversity of the times.

We have always helped each other in times of need. At the beginning of this year a New Zealand civil defence response team came to Australia to assist us with our recovery efforts following the Queensland floods. In response to the Christchurch earthquake, Australian search and rescue teams, police officers and Defence Force personnel were deployed to New Zealand to support the response and rescue effort. Police officers from the Australian Federal Police and from every state and territory formed part of the Christchurch earthquake police operation. The overall Australian effort at the height of the crisis involved more than 600 people. I acknowledge and express my gratitude to the Australian personnel who have gone to the aid of our New Zealand friends. I also thank staff from the Department of Foreign Affairs and Trade and other agencies, including Centrelink, who provided support and assistance to Australians affected by the earthquake.

In addition to the tragic loss of life, the earthquake has destroyed and damaged tens of thousands of homes and businesses in Christchurch, as well as essential public infrastructure. Many New Zealanders are displaced from their homes and work, and the task of rebuilding Christchurch—New Zealand’s second-most populous city—lies ahead. The road ahead will not be easy. They are still suffering from aftershocks, which must be terrifying for those in the city.

But New Zealanders will recover from this catastrophe and Australians will be by their sides. Many Australians have already reached across the Tasman to lend a hand, and Australian business and individuals have made generous donations to appeals established to assist New Zealanders affected by the earthquake. The Australian government has made a $5 million donation to the New Zealand Red Cross to help with the earthquake recovery effort. There is of course much more to be done, but I know that the Australian government, our parliament and our people will stand ready to assist New Zealand with its recovery in any way that we can. We can reassure New Zealanders they will always have our support.

**Senator ABETZ** (Tasmania) (4.04 pm)—History may well record 22 February 2011 as New Zealand’s darkest day, as suggested by New Zealand Prime Minister John Key. It was a day that saw 182 lives lost, 10,000 homes destroyed and the CBD of Christchurch devastated. Even the magnificent Christchurch Cathedral, which had withstood major damage from earthquakes for over a century, succumbed.

In the world community, we as Australians have no greater, more loyal and supportive friends than our cousins from across the
ditch. Whilst we sportingly wallow in our grudges, especially in cricket and rugby, those grudges are friendly family rivalries forgotten and discarded when crisis arrives at the doorstep. This is best encapsulated by the Anzac tradition—a tradition which has overwhelmingly helped to forge our relationship. That is, of course, not to forget that section 6 of our Constitution Act refers to New Zealand as the second-named possible state of the Commonwealth of Australia. As Senator Judith Adams, our not-so-token New Zealander, noted in the adjournment on 2 March:

Australia has no closer friend and partner than New Zealand and every Australian will be sharing in your pain.

I commend the senator’s speech to honourable senators.

So as we try to feel and share the pain of our cousins across the Tasman, it is hard to imagine what the real-life experience was like. A 27-year-old Australian blogger poignantly captured the experience as follows:

I was convinced I was going to die. The city was collapsing around me, people were being buried in rubble and others being struck in the head by debris. Absolute pandemonium. It was surreal … both horrific yet somehow impossible and unbelievable like a nightmare.

The horror of the collapse of the six-storey CTV building is beyond imagination. And whilst buildings and infrastructure can be replaced, people cannot. So to the bereaved we offer our condolences. To those injured and debilitated we wish a speedy recovery and rehabilitation. To those charged with a task of rebuilding we wish wisdom. But as the good book enjoins us in the Epistle of James, to just say, ‘I hope all goes well’ is of no use unless you do something practical to help. The people of Australia and their government have acknowledged this injunction by providing useful, practical help in a range of areas, as would be expected of true family and friends. Indeed, over 500 Australians have helped in the disaster relief effort to date. They have done us proud as a nation while providing much-needed practical support.

I also thank Prince William for his sensitive support to those Australians impacted by recent natural disasters, and also to New Zealanders. He did the monarchy proud.

The coalition support wholeheartedly the Leader of the Government’s motion and we extend our deepest sympathy to those who have felt the full brunt and terror of this most recent earthquake.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.08 pm)—On behalf of the Australian Greens I support the motion moved by the Leader of the Government in the Senate on the recent earthquake in New Zealand. We express our warmest condolences to the people of Christchurch and of New Zealand, and of the 20 countries whose citizens died in the extraordinary earthquake which followed the earlier earthquake at the end of last year. I have very clear memories of going to the funeral service for the New Zealand Green MP Rod Donald, a great friend of mine, in Christchurch Cathedral at the end of 2005 and acquainting myself again with the great beauty and civic pride of this premier city of the South Island of New Zealand. It was extraordinary to hear of the destruction of so much of that city. I spoke with Kennedy Graham, a Green MP, on the day after the disaster and it was difficult to fathom the account of how much of the city lay in ruins and how many people potentially had lost their lives or had been injured and were suffering because of this earthquake.

One thing that was not destroyed was the great spirit of Cantabrians and their capital city, and the great spirit of human generosity that comes forward in such disasters around
the world, such as that which has just un-
folded in Japan. We saw it in Tibet last year
and now with the people of Christchurch and
New Zealand, and we see it in the 600 Aus-
tralians who have gone to help on behalf of
this nation which has felt so strongly the pain
and suffering in Christchurch.

If there is one small piece of something
we can think is good coming out of a tragedy
like this, it is that we have moved just a little
closer to the people of New Zealand as a
result of this quake—geographically as well
as spiritually. I say, using some of the words
of Prince William: ‘Aroha’ to the people of
New Zealand—our respect and our love; and
‘kia kaha’—be strong, and we feel strongly
with you.

Senator JOYCE (Queensland—Leader of
the Nationals in the Senate) (4.11 pm)—
Whenever I say I am the son of an immigrant
and people ask where my father came from, I
say he came from New Zealand and they say
that does not count. That is basically the atti-
tude that many people have about New Zea-
land—New Zealanders believe that we are
an extension of them, while we believe they
are an extension of us, but either way they
are virtually the same place. Be that as it
may, it was devastating to hear of the earth-
quake in Christchurch. On 4 September last
year it had experienced another earthquake,
so the city was not really prepared for what
was about to happen. It is like seeing some-
thing tear through a major regional city in
Australia—164 people died in this earth-
quake, and if we transpose that into one ma-
jor regional city in Australia we would know
what an incredible and indelible effect that
would have. Amongst those 164 fatalities
there were two Australians.

This event will have a huge effect on the
economy of New Zealand. Australia does
have a role to play because we are all in this
corner of the world together. We have always
worked together. My grandfather was an An-
zac from New Zealand, and when my father
came from New Zealand there were no im-
migration laws between the two countries—
you just made your own arrangements. This
is the sort of connection that brings our two
countries together, and by reason of that we
have a real task to make sure, as with Japan,
that we shoulder the burden with New Zea-
landers, who we know full well would help
us shoulder the burden if the roles were re-
versed.

Our thoughts and prayers go to the people
of New Zealand. This event will cost New
Zealand around $11 billion, and that will be
devastating for the New Zealand economy.
They are looking at around a 1½ per cent hit
to their GDP as a result of this earthquake in
their second most populous city.

The National Party is the party of gov-
ernment in New Zealand, and the National
Party here has strong connections with New
Zealand. It was Doug Anthony who built our
closer economic relations arrangements back
in 1979. We hope to be a good friend for
New Zealand over the long term while they
rebuild. We know the pain that they are feel-
ing and we will make sure we give what we
can in solace and support over the long term.
Our thoughts and prayers obviously go to
those who have lost family members. The
pictures were so graphic—I remember seeing
pictures of Timaru, where boulders had
ripped straight through houses. These are the
sorts of things that shake a person’s faith in
where they live. Christchurch had always
been thought of as a town beyond the areas
affected by earthquakes, and seismic and
volcanic activity was far more prevalent in
the North Island. So the earthquake was a
shock to the people of Christchurch. The
people of Christchurch and the people of
New Zealand know that the people of Aus-
tralia will put aside our parochialism just for
a moment as we do everything in our power
to subdue them in sport but to support them in this time of need.

**Senator FIELDING** (Victoria—Leader of the Family First Party) (4.16 pm)—On behalf of Family First, I echo the thoughts and feelings of other senators in regard to the earthquake in Christchurch. It was a terrible disaster which touched the hearts of all Australians. The devastation, the loss of life and the damage to Christchurch were quite a shock. I have spent some time living and working in New Zealand. My daughter is a Kiwi. We had some friends come to stay with us—a husband, wife and daughter. The aftershocks were terrifying and many people were really concerned about their safety. Our hearts go out to the many people whose lives have been turned upside down. It was a chilling reminder for all of us.

I was heartened to see how the world stopped and acknowledged the earthquake in Christchurch. Many countries including Australia offered their support in rescue operations. It made me proud to be Australian, to stand with our New Zealand friends. Our thoughts and prayers are with the people of New Zealand at this very difficult time. We pray there will be some sense of steadiness now in this time of need.

**Senator XENOPHON** (South Australia) (4.17 pm)—I too echo the sentiments of my colleagues and join in supporting this motion to express my heartfelt condolences to the people of New Zealand as they begin to recover from the devastating earthquake in Christchurch. Following the previous condolence motion in relation to the disasters in Japan, we almost feel emotionally punch-drunk because of what has happened. It has been just one disaster after another for our close friends in Japan and in New Zealand. I first learnt of the Christchurch earthquake during Senate estimates. I was sitting at the back of the committee room talking to Mark Scott, Managing Director of the ABC. He broke the news to me and told me what had occurred.

**Senator Chris Evans**—So they can break some news, then.

**Senator XENOPHON**—That is right: the ABC delivered the news to me in a very direct sense. He was quite shocked. He showed me on his iPad some of the reports and images, which made what transpired in Senate estimates for the rest of the day rather insignificant. On the day after the quake it was hard to imagine the impact this disaster would have on our cousins on the other side of the Tasman. As the pictures began hitting our television screens, it was hard not to be affected by the stories of loss and survival. Australia and New Zealand share a unique bond. I am grateful to Senator Abetz for the constitutional law lesson—the reference to New Zealand in our Constitution has escaped me since I last did constitutional law in 1976. This bond goes beyond any legal document. It is deep and heartfelt from the Anzac tradition and beyond. I pay tribute to the Australian emergency personnel who travelled to New Zealand to help deal with the aftermath of the disaster. They faced an incredibly difficult task. Finally, I would like to express my sincere condolences to all those who have lost loved ones. Their pain must be extraordinary. For what it’s worth, they need to know that the people of Australia feel for them and will be there for them as long as they are rebuilding their communities and their lives.

Question agreed to, honourable senators standing in their places.

**NOTICES**

**Presentation**

**Senator Milne** to move on the next day of sitting:
That the following matters be referred to the Rural Affairs and Transport References Committee for inquiry and report by 8 April 2011:

(a) the science underpinning the technical assumption that *Apis cerana*, the Asian honey bee, cannot be eradicated in Australia;

(b) the science underpinning the assumption that the Asian honey bee will not spread throughout Australia;

(c) the science relating to the impacts of the spread of the Asian honey bee on biodiversity, pollination and the European honey bee; and

(d) the cost benefit of eradication of the Asian honey bee.

**Senator Hanson-Young** to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) women make up only 25 per cent of board appointments in Australia, and

(ii) of that figure, only 10 per cent of the Australian Stock Exchange 200 companies have female directors, and only 8 per cent have female executives;

(b) recognises that:

(i) women in the workforce face many issues, including pay equity, the impact of unpaid work and family responsibilities on their careers and the disparity in retirement savings, and

(ii) improving the levels of female leadership in corporate Australia will help to drive change in all of these areas; and

(c) calls on cross-party support to take the lead and phase in meaningful quotas in boardrooms around Australia.

**Senator Cormann** to move on the next day of sitting:

That the Senate—

(a) notes the Government’s failure to keep its promise to hold a tax summit by 30 June 2011;

(b) considers that any genuine tax summit will properly review and report on Labor’s proposals to introduce a national mining tax and a carbon tax; and

(c) decides that no legislation to impose a national mining tax or a carbon tax be considered by the Senate until after the October tax summit has reported.

**Senator Carol Brown** to move on the next day of sitting:

That the Joint Standing Committee on Electoral Matters be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 23 March 2011, from 9.30 am to 10.45 am, to take evidence for the committee’s inquiry into the conduct of the 2010 Federal Election and matters related thereto.

**Senator Cormann** to move on the next day of sitting:

That the Select Committee on the Scrutiny of New Taxes be authorised to hold a public meeting during the sitting of the Senate on Thursday, 24 March 2011, from 10.30 am to 12.30 pm.

**Senator Eggleston** to move on the next day of sitting:

That the time for the presentation of the report of the Economics References Committee on the impacts of supermarket price decisions on the dairy industry be extended to 20 April 2011.

**Senator Siewert** to move on the next day of sitting:

That the Joint Select Committee on Cyber Safety be authorised to hold a public meeting during the sitting of the Senate on Thursday, 24 March 2011, from 9.30 am to 10.30 am.

**Senator Wortley** to move on the next day of sitting:

That the Senate—

(a) notes:

(i) deep sea bottom trawling can be a highly destructive fishing practice causing enormous damage to deep sea corals, rare and unique species, fish populations and sensitive bottom habitats,
(ii) the Senate on 11 October 2006 unanimously endorsed the Australian Government position to put in place measures on protecting high seas biodiversity through proposing a series of bans on high seas bottom trawling.

(iii) in December 2006 the United Nations (UN) called on all fishing nations to ban bottom trawling in vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals until it had been assessed that there will be no significant adverse impacts and that in 2009 the UN General Assembly reinforced the need for environmental impact assessments of bottom fisheries on the high seas and to ensure that vessels do not engage in bottom fishing until such assessments have been carried out,

(iv) Australia has not yet completed scientific environmental assessments for the South Pacific Ocean or the Southern Indian Ocean yet it allows Australian flagged vessels to undertake high seas bottom trawl fishing in these areas, which is in clear contravention of UN resolutions which have been supported by the Australian Government, and

(v) that in 2011 the UN General Assembly will review actions taken by states, including Australia, to protect vulnerable marine ecosystems of the high seas from destructive fishing practices such as bottom trawling;

(b) expresses concern that the Australian Government is failing to implement the bipartisan policy of protecting the biodiversity of the high seas from destructive fishing practices such as bottom trawling; and

(c) urges the Government, as a matter of priority, to:

(i) complete and make public the required scientific assessments for the South Pacific and Southern Indian oceans as a matter of priority,

(ii) put in place a ban on all Australian bottom trawl fishing on seamounts and other vulnerable marine ecosystems until it can be shown scientifically that such fishing will not damage fragile marine ecosystems, and

(iii) advocate and support a complete UN ban on all high seas bottom trawling until thorough scientific and publicly available assessments have been undertaken and appropriate, effective conservation and management objectives are in place.

Senator Ludwig to move on the next day of sitting:

That the government business orders of the day relating to the National Vocational Education and Training Regulator Bill 2010 [2011] and a related bill, and the National Vocational Education and Training Regulator (Consequential Amendments) Bill 2011 may be taken together for their remaining stages.

Senator Ludwig to move on the next day of sitting:

That the Wild Rivers (Environmental Management) Bill 2011 be referred to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 10 May 2011.

Senator Xenophon to move on the next day of sitting:

That the following matter be referred to the Economics References Committee for inquiry and report by 30 June 2011:

The proposed acquisition of the Australian Stock Exchange (ASX) by Singapore Exchange Limited (SGX), with particular reference to:

(a) whether such an acquisition would be in the national interest;

(b) whether the 15 per cent foreign ownership cap on the ASX is appropriate;

(c) whether the revised proposed composition of the merged board and governance arrangements (as announced on 15 February 2011) are appropriate;
(d) the Government of Singapore’s interest in the SGX and its role in the proposed merged entity;
(e) what impact such an acquisition might have on Australia’s ability to attract investment; and
(f) any other related matters.

Senator Bob Brown to move on the next day of sitting:
That the Senate—
(a) notes the reported Chinese crackdown on democracy advocates in East Turkistan and Tibet following democratic protests in the Middle East; and
(b) asks the Minister for Foreign Affairs (Mr Rudd) to confirm with Chinese authorities:
(i) the substance of the charges leading to the 2007 arrest of Mr Ablikim Abdiriyim, the son of Uighur advocate Ms Rebiya Kadeer,
(ii) whether Mr Abdiriyim has suffered prolonged solitary confinement and torture as reported by Amnesty International late in 2010,
(iii) whether Mr Abdiriyim has recently received medical treatment, and
(iv) when Mr Abdiriyim is due to be released.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (4.20 pm)—I give notice that, on the next day of sitting, I shall move:
That the Senate—
That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:
Appropriation Bill (No. 3) 2010-2011
Appropriation Bill (No. 4) 2010-2011
Family Assistance Legislation Amendment (Child Care Rebate) Bill 2011
National Vocational Education and Training Regulator (Consequential Amendments) Bill 2011.
I also table a statement of reasons justifying the need for this bill to be considered during the sittings and seek leave to have the statements incorporated in Hansard.

Leave granted.

The statements read as follows—
APPROPRIATION BILL (No. 3) 2010-2011
APPROPRIATION BILL (No. 4) 2010-2011

Purpose of the Bills
The bills request legislative authority for expenditure to be incurred in respect of 2010-2011.

Reasons for Urgency
Appropriations proposed in the bills provide funding for expenditure that is required to implement decisions and funding adjustments, that involve further expenditure in 2010-11, which have been agreed since the 2010-11 Budget. Passage of the bills before the last day of the 2011 Autumn Sittings will ensure continuity of the Government’s programs and the Commonwealth’s ability to meet its obligations as they fall due. Should passage not be granted in the 2011 Autumn Sittings, activities to be funded by the bills may be deferred or significantly delayed.

FAMILY ASSISTANCE LEGISLATION AMENDMENT (CHILD CARE REBATE) BILL

Purpose of the Bill
There has been a public commitment by the Government to introduce fortnightly payment of the Child Care Rebate from July 2011.

Reasons for Urgency
The Government made a pre-election commitment to pay the Child Care Rebate fortnightly from July 2011. To give effect to this commitment, amendments to the timing and method of rebate payments must be made to the family assistance legislation.

The Centrelink annual payment cycle for families’ entitlements commences on 1 July each financial year and so enacting fortnightly payments from the first week after 1 July 2011 is essential for ease of administration for families, child care services and Centrelink. Passage of the bill in the
2011 Autumn sittings will ensure that the July 2011 commencement date can be met.

NATIONAL VOCATIONAL EDUCATION AND TRAINING REGULATOR (CONSEQUENTIAL AMENDMENTS) BILL

Purpose of the Bill
On 7 December 2009 the Council of Australian Governments (COAG) agreed to the creation of the National Vocational Education and Training (VET) Regulator (NVR) and Standards Council. The NVR will assist in ensuring that skills development in Australia is delivered through a high quality training system. By underpinning the quality of the system it will allow employers and students to be confident about the outcomes of the training they receive.

The National Vocational Education and Training Regulator Bill 2010 and the National Vocational Education and Training Regulator (Transitional Provisions) Bill 2010, which were introduced into the Senate on 26 November 2010, will form a new statutory authority with responsibilities and powers for the registration and audit of registered training organisations (RTOs) that operate in multiple jurisdictions, train international students, or operate in the territories or one of the referring states and accreditation of courses in the VET sector. The bills will also strengthen mechanisms for the monitoring and enforcement of the regulatory framework.

The National Vocational Education and Training Regulator (Consequential Amendments) Bill 2011 is essential to ensure that the new regulatory framework interacts properly with other regulatory frameworks and funding programs, including the Education Services for Overseas Students Act 2000 and the VET FEE-Help component of the Higher Education Support Act 2003.

Reasons for Urgency
- The package of bills establishing the NVR and ensuring that the new regulatory framework interacts properly with other regulatory frameworks and funding programs are:
  - the National Vocational Education and Training Regulator Bill 2010 and the National Vocational Education and Training Regulator (Transitional Provisions) Bill 2010, which were introduced in the Senate on 26 November 2010; and
  - the National Vocational Education and Training Regulator (Consequential Amendments) Bill 2011.

The Budget announcement regarding the NVR indicated that the regulator would commence regulatory operations in April 2011. In order to meet this start date it is important that the package of bills to establish the NVR and ensure that the new regulatory framework interacts properly with other regulatory frameworks and funding programs is passed during the Autumn sittings.

Timely passage of these bills is important to support:
- referral and mirroring by the states
- appointment of senior officers of the new agency
- considered transfer of staff and processes from the state and territory regulators to the new agency, and
- the reputation of Australia’s international education sector.

Four states have indicated that they will refer powers to the Commonwealth to support the establishment of the NVR. Two states, Victoria and Western Australia have indicated they will enact mirroring legislation. The territories also support this proposal. Finalisation of the bills in the Autumn sittings is important as it will facilitate states and territories to make their own legislative arrangements to support the establishment of the NVR.

The bills establish a number of statutory officers and until the legislation passes and the commencement of the NVR is assured, it will not be possible to recruit senior officers. Given that a range of regulatory functions will transfer from state and territory bodies to the NV2 it is important that detailed transition plans are developed to cover matters including the transfer of staff from state and territory regulators to the NVR and new arrangements for the regulation of RTOs. However, it is difficult to progress these discussions until the bills have been passed and a start date for the NVR confirmed.
The NVR and its strengthened monitoring and enforcement powers are integral to the Government’s response to the weaknesses that have been identified in regulation under both the Australian Qualifications and Training Framework and the regulatory framework for international education. The NVR also requires a number of legislative instruments in order to be fully operational. These legislative instruments cannot be laid before the Parliament until after the bills have passed.

Senator McLucas to move on the next day of sitting:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone relating to the installation of artwork known as ‘The Prime Ministers’.

LEAVE OF ABSENCE

Senator PARRY (Tasmania) (4.21 pm)—by leave—I move:

That leave of absence be granted to Senator Boswell and Senator Fierravanti Wells for the remainder of this week on account of personal reasons.

Question agreed to.

BUSINESS

Rearrangement

Senator McEWEN (South Australia) (4.22 pm)—by leave—At the request of Senator Crossin, I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010 together with the amendments on sheet no. 7031 circulated by the Australian Greens be extended to 28 March 2011.

Question agreed to.

COMMITTEES

Legal and Constitutional Affairs Legislation Committee

Meeting

Senator McEWEN (South Australia) (4.23 pm)—by leave—At the request of Senator Crossin, I move:

That the Legal and Constitutional Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate today from 5.30 pm until 6.30 pm to take evidence for the committee’s inquiry into the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010 together with the amendments on sheet no. 7031 circulated by the Australian Greens.

Question agreed to.

Gambling Reform Committee

Meeting

Senator McEWEN (South Australia) (4.23 pm)—by leave—At the request of Senator Crossin, I move:

That the Joint Select Committee on Gambling Reform be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 22 March 2011 from 4 pm.

Question agreed to.

Privileges Committee

Reference

Senator PARRY (Tasmania) (4.24 pm)—On behalf of Senator Johnston, I move:

(1) That the following matter be referred to the Committee of Privileges for inquiry and report: The adequacy and appropriateness of current guidance and advice available to officers giving evidence to Senate committees and when providing information to the Senate and to senators, including:

(a) the adequacy and applicability of government guidelines and instructions;

(b) the procedural and legal protections afforded to those officers;
(c) the awareness among agencies and officers of the extent of the Senate’s power to require the production of information and documents; and

(d) the awareness among agencies and officers of the nature of relevant advice and protections.

(2) That, in undertaking the inquiry, the committee may consider the evidence and records of the Committee of Privileges appointed in the previous parliament on a related matter, referred on 23 June 2010.

Question agreed to.

NATIVE TITLE AMENDMENT (REFORM) BILL 2011

First Reading

Senator SIEWERT (Western Australia) (4.25 pm)—I move:

That the following bill be introduced: A Bill for an Act to amend the Native Title Act 1993 to further the interests of Aboriginal and Torres Strait Islander Australians, and for related purposes.

Question agreed to.

Senator SIEWERT (Western Australia) (4.25 pm)—I present the bill and move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator SIEWERT (Western Australia) (4.25 pm)—I present the explanatory memorandum and move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Native Title Amendment (Reform) Bill 2011 begins to address the failure of the Native Title Act 1993 (NTA) to deliver on its initial intent to provide meaningful rights and a basis for economic and community development to Aboriginal and Torres Strait Islander people in the 18 years since its introduction.

By introducing this Bill and any further reforms in the future we intend to contribute constructively to a debate about native title reform that can ultimately lead to simpler legislation which produces more meaningful outcomes in a more timely fashion for all those involved.

In this first Bill we have sought to address some of the ‘low-hanging fruit’ of native title reform – by targeting some of the areas of native title law where relatively simple amendments have been identified that could have far-reaching implications for addressing some of the current barriers to effective native title outcomes … essentially cutting a bit of a path through what Justice Kirby describes as the “impenetrable jungle” of native title litigation.

Almost two decades after the introduction of the NTA it is fair to say that native title has failed to deliver on its promises – as explicitly state in the Preamble to the Act, and in its Objects.

The Preamble states that:

“The people of Australia intend:

(a) to rectify the consequences of past injustices by the special measures contained in this Act… for securing the adequate advancement and protection of Aboriginal peoples and Torres Strait Islanders; and

(b) to ensure that Aboriginal peoples and Torres Strait Islanders receive the full recognition and status within the Australian nation to which history, their prior rights and interests, and their rich and diverse culture, fully entitle them to aspire.”

We hope that by the time we reach the twentieth anniversary of the NTA in 2013 the process of native title reform will be seriously underway, and we will be able to see native title delivering on some of the seemingly forgotten promises contained in the preamble to and objects of the NTA.

In practice, the people who the Act recognises and describes as “…the most disadvantaged group in society…” as a consequence of the dispossession of their lands, have had to rely on one
of the longest and most complex pieces of Australian legislation to try to “...secure their advancement...” and to recognise and protect (not establish) their pre-existing rights.

In nearly two decades since its introduction only a handful of native title claims have been resolved, with many of these being in remote areas which had been of little interest to European colonists. For the majority of our Aboriginal and Torres Strait Islander people, particularly those in urban areas and regional centres, native title has offered little and delivered less.

Meanwhile the promised complimentary measures have also been a grave disappointment – the land fund has only been able to help out a limited number of communities, and the social justice package never eventuated.

It is clear that in the application and judicial interpretation of the NTA a huge gap has emerged between these original promises and intentions, and the on-the-ground experience of Aboriginal and Torres Strait Islander communities seeking to have their native title rights recognised and protected.

Justice Kirby characterised the barriers to the recognition of native title rights as comparable to an impenetrable jungle, saying:

“It would be easy for the judicial explorer to become confused and lost in the undergrowth to which rays of light rarely penetrate. Discovering the path through this jungle requires navigational skills of a high order. Necessarily, they are costly to procure and time consuming to deploy. The legal advance that commenced with Mabo v Queensland, or perhaps earlier, has now attracted such difficulties that the benefits intended for Australia’s Indigenous peoples in relation to native title land and waters are being channelled into costs of administration and litigation that leave everyone dissatisfied and many disappointed.”

There are many who still believe that the recognition of rights to land, culture and resources through Native Title could provide a strong and sustainable basis for ‘advancement’ by underwriting and enabling community and economic development.

The former Prime Minister Kevin Rudd for instance, spoke of the capacity for respect for native title to provide a sturdy foundation for durable economic and social outcomes in his Apology speech. It is a tragic shame that neither his government, nor to date its successor, has done anything to seek to strengthen and facilitate recognition of the native title rights of Aboriginal and Torres Strait Islander Australians to help make that vision a reality. Instead the only changes to native title laws we have seen in these two terms of Labor Government have been those that either diminished native title rights or at the very least have failed to enhance the capacity of traditional owners to participate in securing meaningful outcomes.

This of course comes on the back of over a decade of Coalition Government under John Howard that systematically wound back the rights of Indigenous Australians, diminished native title rights, and saw the scrapping of all the existing avenues for representation and decision making with the removal of ATSIC.

The challenge for this government in moving forward to make the vision of the apology a reality, is to put aside the paternalism of the Howard/Brough years and to actively engage Aboriginal communities in policy development, decision making and community development instead. This also means recognising, as the Cape York Land Council put it – that meaningful respect for native title as a valuable property right is part of the solution ... not an impediment.”

The impetus for reform

The impetus for this bill arose from the interactions with Aboriginal and Torres Strait Islander Australians and native title experts that took place in and around the 2009 inquiry of the Senate Standing Committee on Legal and Constitutional Affairs into the Native Title Amendment Bill 2009. A Bill which in and of itself had little to do with reforming native title to deliver better outcomes.

The discussions that took place in around that Senate inquiry crystallised many of my long-standing concerns with the NTA which lead to a
continuing dialog on broader native title reform that has ultimately led to these reforms.

At the time of the introduction of that 2009 bill, the Attorney General Robert McClelland stated that the intent of the Australian Government in introducing the bill was “…achieving more negotiated native title outcomes in a more timely, effective and efficient fashion”.

The vast majority of the evidence tended to that Senate inquiry supported the need for native title reform that would achieve more effective native title outcomes in a more timely and resource efficient manner but disagreed with the Attorney General’s suggestion that the Government’s reforms came anywhere near achieving those outcomes.

As Tony McAvoy of the National Native Title Council put it at the time:

“…the amendments that are proposed in this amendment bill are not controversial. They may make some small difference but they are not going to make any vast change in the way in which native title matters are dealt with. There is not going to be any rush of settlement of native title applications as a result of any of these amendments.”

The submissions to that inquiry identified a number of other possible reforms to the NTA that promised to address the barriers to timely and meaningful native title outcomes and went beyond the narrow agenda of the Government’s 2009 bill. These included addressing the ‘burden of proof’ through a rebuttable presumption of continuity, strengthening the requirements of parties to ‘negotiate in good faith’, and raising the threshold on extinguishment, among others.

Many of the issues raised in this inquiry were further discussed and developed in the 2009 Native Title Report of the Human Rights and Equal Opportunities Commission by the then Social Justice Commissioner Tom Calma. This report made an important series of recommendations for native title reform, many of which have provided the basis for the reforms proposed within this bill.

I note that this bill does not cover all of the reforms recommended by Tom Calma, and includes a number of measures that he did not discuss at the time. While many of the good ideas can be attributed to Mr. Calma and to others, I take full responsibility for the way they have been interpreted as legislative amendments. I commend the work of the former Commissioner and thank him sincerely for his efforts.

I would also like to thank the native title experts, Aboriginal and Torres Strait Islander organisations, land councils and rep bodies that have contributed their thoughts, ideas and comments to us in response to our inquiries and as part of the consultation process we undertook around the discussion paper and draft amendments proposing these reforms.

### Implementing the UN Declaration of the Rights of Indigenous Peoples

One of the issues we have sought to address in the first of our native title reforms is the application of the principles outlined in the UN Declaration of the Rights of Indigenous Peoples (‘the Declaration’).

In addressing the High Level Segment of the United Nations Human Rights Council in Geneva recently (28 February 2011) Foreign Minister (and Former Prime Minister) Kevin Rudd spoke with pride about the decision of his government to support the Declaration on the Rights of Indigenous Peoples (DRIP), declaring that Australia also seeks to reflect these principles in our dealings with Australia’s own Indigenous peoples.

So far the Australian Government has not yet sought to reflect the principles of the UN Declaration in legislation or in native title law, or to give meaningful consideration as to how they might play a role in the development of government policy or the application of government programs.

The Leader of the Opposition, Tony Abbott has also recently professed a desire to see at least some of the provisions of the Declaration of Rights in Australian Law. In introducing his Wild Rivers Private Member’s Bill, Tony Abbott made direct reference to the Declaration, to the right of Indigenous peoples to own, use, develop and control their lands, and to enshrining the absolute necessity of consent by Aboriginal people to decisions that affect their lands. However, the manner in which his Wild Rivers Bill seeks to put into practice the principle of ‘prior informed consent’
for Aboriginal people in the Cape York region is not consistent with the way these rights are formulated within the Declaration.

The key point is that the UN Declaration on the Rights of Indigenous Peoples is very clearly intended to describe and evoke universal rights that necessarily apply to all Indigenous peoples. It is inconsistent with the declaration and the wider principles of the universality of human rights to seek to apply the principle of prior informed consent only to a limited group of people (communities on Cape York) or only to a particular decisions (to veto a declaration of a ‘wild river’ conservation area).

If the Leader of the Opposition is sincere in his commitment to give traditional owners a right to prior informed consent on development and conservation decisions which affect their lands and livelihoods, then the most appropriate and meaningful way to do so would be in a manner which applies universally to all traditional owners – that is, by direct amendment of the Native Title Act – and not through laws that only apply to one specific region and one type of decision.

To implement the Declaration of Rights, Item 1 of the Native Title Amendment (Reform) Bill 2011 inserts an additional Object of the Act that references the Declaration on the Rights of Indigenous Peoples, and asserts that the intention of the Parliament in the manner in which the NT A is applied and interpreted is for it to implement key principles of the Declaration, including:

- Free, prior and informed consent of indigenous peoples in matters affecting them
- Full and direct consultation and participation of indigenous peoples concerned
- The right of indigenous peoples to their traditional lands, territories and natural resources
- Demonstrated respect for indigenous cultural practices, traditions, laws and institutions
- Reparation for injury to or loss of indigenous interests
- Non-discrimination against the interests of indigenous peoples, and
- The right of all peoples including indigenous peoples to self-determination.

I acknowledge that there is a need for the Parliament and the nation to have a debate about the meaning and implementation of these rights. I hope that debate of this bill can make a useful contribution to the ongoing debate about the recognition and implementation of human rights in Australia.

I note that the Objects of the NTA serve to provide some direction to the Courts as to the intentions of the Parliament as to how the Act as a whole should be interpreted. Including the principles of the Declaration within the Objects does not mandate or compel a particular outcome or interpretation.

In relation to the interpreting the meaning of ‘free prior informed consent’ and what in practice ‘consent’ means when applied to native title decisions, I believe it is important not to confuse the consideration of whether meaningful consent has been achieved within a decision-making process with a simple right of veto.

The guide to the Declaration on the Rights of Indigenous Peoples produced by the Australian Human Rights Commission says that:

“Consent means we should be consulted and be able to participate in an honest and open process to achieve an outcome all parties are happy with. This means that we should be engaged in all levels of programs, policy and legislation that affects us from design and implementation through to monitoring and evaluation.”

The rights addressed within the Declaration (such as the concept of ‘free prior informed consent’) are to my mind clearly intended as part of a wider human rights framework – in the same way in which other human rights are already acknowledged and addressed in Australian law.

**Strengthening heritage protection**

Item 2 of this bill addresses a problem with the way the NTA interacts with Commonwealth, State and Territory heritage protection acts.

This issue was brought to my attention by the Yamatji Marlpa Aboriginal Corporation in response to my discussion paper and exposure draft, and I am grateful for their input.

The amendment seeks to address an outstanding issue with Section 24MB – which sets out how, as
part of the freehold test for grants of tenures, there are two main conditions that must be satisfied before the Subdivision applies and a future act can be validly granted.

The first is the “non-discrimination” principle that the future act could equally have been done to ordinary freehold land – which is self-explanatory.

The second condition relates to whether there is heritage protection legislation that applies to any sites or areas within the affected land that are “...of particular significance to Aboriginal peoples of Torres Strait Islanders in accordance with their traditions.”

Obviously the intent of Section 24MD is to ensure that, before a future act is permitted on native title land, the heritage values of any areas of particular cultural significance are protected.

However, as it stands, the way this provision is worded means that the mere existence of applicable state heritage legislation would satisfy these criteria and permit the future act – irrespective of whether the application of those state heritage laws will actually provide effective protection of those sites of cultural significance.

As my colleagues may be aware, heritage laws vary substantially in their effectiveness and application between jurisdictions. Yamatji Marlpa are particularly concerned by the inadequacy of the Western Australian Aboriginal Heritage Act 1972 and I share those concerns – having been aware of a number of circumstances in the past where these laws have failed to protect sites of great cultural and historical significance (such as protecting the world’s oldest petroglyphs on the Burbrup Peninsula from industrial development).

To this end I have sought to amend Section 24MD to allow the courts and decision makers to give consideration to the effectiveness of the relevant Commonwealth, State or Territory heritage laws when considering whether the elements of section 24 MD have been met.

**Compulsory acquisition does not imply extinguishment**

Item 3 of the bill is a simple amendment to reinstate the previous language in section 24MD(2)(c) in relation to the application of the non-extinguishment principle to compulsory acquisitions of land. The implements a recommendation of the 2009 Native Title Report and improves the future act regime.

**The right to negotiate also applies offshore**

This item seeks to improve procedural rights over offshore areas for native title holders. In doing so it seeks to address the contradiction between the existing provisions of Section 26(3) of the NTA (that limits the right to negotiate to acts that relate to a place on the landward side of the mean high-water mark) and the fact that native title rights have been recognised to exist in offshore areas.

This amendment is consistent with the views expressed by the Attorney General Robert McClelland, who stated in 2009 that: “When it comes to behavioural change, I accept that the Australian Government has to lead by example. I believe we are doing just that. For example, last year I announced that the Government will take a more flexible approach to recognising native title in Australia’s territorial waters. The Australian Government now accepts that native title can exist out to the limits of the modern territorial sea, generally 12 nautical miles from the territorial sea baseline. Given that the Government is involved in all claims over offshore waters, this approach should help bring about more negotiated settlements.”

The limitation of procedural rights under Section 26(3) that deny traditional owners a right to negotiate over future acts in offshore areas is clearly inconsistent with this recognition that native title can exist up to 12 nautical miles out to sea, and so item 4 of the bill remedies this by repealing section 26(3) to remove this unnecessary contradiction and allow traditional owners the right to negotiate over acts that impact on their sea country.

**Strengthening good faith negotiations**

The future acts regime plays a crucial role in the manner in which traditional owners are able to exercise their native title rights, by governing the requirements placed on parties negotiating agreements concerning proposed activities. There has been sustained criticism of the manner in which the future acts regime has led to protracted and uncertain outcomes, and calls for the act to be amended to create stronger incentives for beneficial agreements and achieve greater procedural
fairness by striking a better balance between native title and non-native title interests.

To this end the amendments proposed in Items 5 to 9 of this bill expand on the current requirements for parties to negotiate ‘in good faith’ in relation to future acts.

Currently the burden of proof for proving the absence of good faith in negotiations is on the native title party, rather than the proponent of a proposed future act. This appears procedurally unfair as it is in effect the proponent who is effectively asserting that they have negotiated in good faith for the required period when they apply for a matter to be taken to arbitration.

Item 5 of this bill seeks to strengthen the requirement to negotiate in good faith, in line with the recommendations of the Native Title Report 2009.

The NT A as it stands prevents parties from resorting to an arbitral body, such as the National Native Title Tribunal, for a period of six months from the issue of a notice that the government intends to grant a mining tenement. This fixed negotiating period does not take into account the relative scope or difficulty of the proposed negotiations – it is the same irrespective of whether the parties have established previous agreements or are meeting for the first time, and irrespective of whether they are negotiating a single act or attempting to conclude an overarching agreement on a ‘whole of claim’ basis.

So on the one hand, parties who are undertaking complex negotiations in a genuine attempt to make efficient use of their time and resources to secure wide-scale agreements over large areas of land and multiple future acts need to do so within the six month limit (irrespective of the number of negotiations and the lack of resources of the native title representative body). On the other hand, proponents who are not inclined to enter into serious negotiations with native title holders can effectively stonewall and sit on their hands for six months, knowing they can then force the matter to arbitration without any requirement to demonstrate they have made all reasonable efforts to come to agreements.

To this end Item 5 of this bill substitutes a new paragraph 31 (1) (b) which requires parties to negotiate in good faith for at least six months and to use all reasonable efforts to come to an agreement about the conditions under which each of the native title parties might agree to the proposed future act.

Item 6 inserts a new subsection 31 (1A) which provides clarification of what the requirement to use ‘all reasonable efforts’ when negotiating in good faith really means.

The good faith negotiating requirements are one of the few legal safeguards that native title parties have to protect their native title interests under the NT A. While Section 31 of the NT A seeks to oblige the parties to negotiate in good faith during the negotiating period, in practice it is virtually impossible for claimants to establish that a proponent is not acting in good faith. This is borne out by the decision of the Full Federal Court in the matter of FMG Pilbara vs. Cox - a decision which substantially watered down the right to negotiate, to the extent that any negotiation in which the native title party cannot demonstrably prove bad faith is effectively considered to be a good faith negotiation.

Item 6 strengthens the requirement to negotiate in good faith by including explicit criteria for the type of negotiation activities that are indicative of good faith.

Item 7 reverses the onus of proof so that the party that is asserting good faith is the one that is required to prove it, by inserting a new subsection 31(2).

Item 9 requires that a party may not apply to an arbitral body (under subsection 31(1)) until the party has first demonstrated good faith negotiations have taken place in compliance with sections 31(1) to 31 (2A).

Allowing profit sharing and royalties in arbitration

Under the current provisions of the NT A agreements struck during the six month good faith negotiating period concerning future acts such as mining or compulsory acquisition can include provisions for royalties or profit sharing. This is an important provision for traditional owners and their communities as it provides a basis on which they can promote and enhance the economic and social development of their communities through
judicious use of their native title rights and interests.

However, if an agreement is not reached during this period and the matter is referred to the NNTT for arbitration, the provisions of section 38(2) actually prohibit the NNTT from making a determination that an act may be done subject to conditions of profit-sharing or the payment of royalties. This means that native title interests are placed at an unfair disadvantage in negotiations, as the proponent knows that if they are not inclined to share profits or pay royalties at the level they propose, they can simply force the issue to arbitration. This creates a fundamental inequality and places considerable pressure on native title holders to conclude an agreement within the negotiation period.

The current Minister for Indigenous Affairs Jenny Macklin has indicated that she strongly believes that Indigenous communities should be able to use their native title rights to leverage economic development. The Victorian Government has also recommended that the NT A be amended to allow the arbitral body to make determinations about the profit sharing.

Item 10 of the bill substitutes a new subsection 38(2) which provides that profit sharing conditions including the payment of royalties may be determined by the arbitral body in relation to future acts. This amendment allows that when a matter goes to arbitration similar conditions can be applied to those that may be agreed during good faith negotiations – removing this disincentive for proponents to reach an agreement in good faith and ensuring native title interests are not disadvantaged.

**Strengthening coexistence by disallowing extinguishment**

Another area where the NT A has failed to deliver is through the manner in which the bar on extinguishment has been set too low. This has meant that in practice the principle of ‘coexistence’ of native title rights, which is clearly envisaged within the NT A, is too often brushed aside or ignored.

Item 11 of the proposed amendments seeks to address this issue, by providing a mechanism to disregard extinguishment – which means that, at any time prior to a determination, the applicant and a government party can make an agreement that the extinguishment (or possible extinguishment) of native title rights and interests can be disregarded.

The current breadth and permanence of the extinguishment of native title through the provisions of the NTA is arguably unjustifiable, unnecessary and in breach of Australia’s human rights obligations.

Chief Justice French provides the example of the vesting of a nature reserve on Crown land as one act which could be determined to have extinguished native title, where it would make sense to be able to disregard extinguishment and provide for an agreement between the traditional owners and the state to recognise native title rights in the interests of managing that reserve.

Section 47 of the NT A provides a model for coexistence of native title and other rights on pastoral leases. The amendments in Item 11 are consistent with the current application of the NT A, and merely allow the existing coexistence provisions to be extended to allow extinguishment to be disregarded with an agreement in a wider range of circumstances.

**Shifting burden of proof**

In practice, the bar for the recognition of native title rights has been set too high – with the onus of proof of cultural continuity being placed on Indigenous people, and with evidence standards effectively mandating a reliance on the written accounts of European colonists that denies the predominantly oral nature of Indigenous cultures.

As the Australian Human Rights Commission argued in its submission to the 2009 Senate Inquiry:

“It cannot be disputed that Indigenous peoples lived in Australia prior to colonisation and that the Crown was responsible for the dispossession of Indigenous peoples throughout Australia.

It has also been acknowledged by governments over time through various policies, laws and statements of recognition, including the creation of land rights regimes and other mechanisms, that Indigenous peoples are the Traditional Owners of the land.
It is in this context that the Commission argues that it is unjust and inequitable to continue to place the demanding burden of proving all the elements required under the Native Title Act on the claimants.

The issue of prior occupation and hence the pre-existence of native title rights is not being questioned (as the preamble to the NTA readily acknowledges) and so under these circumstances it seems to be ‘fundamentally discriminatory’ and a gross injustice to place the burden of proof upon the dispossessed. This is particularly true when we consider that it is State and Commonwealth Governments that have granted the rights that have lead to the possible extinguishment of native title, and that it is those governments who hold many of the historic records needed to establish connection.

The intent of providing for a rebuttable presumption of continuity is to shift the burden of proof in a way that encourages government parties (who must now take on the role of adducting evidence in their archives to rebut presumptions) to be more inclined to settle claims with a strong prospect of success – rather than dragging them out in the Federal Court as it is currently entitled to do.

Item 12 of our proposed amendments to the NTA seeks to address this issue, by putting into legislation amendments suggested by Chief Justice French that reverse the burden of proof to create a rebuttable presumption of continuity.

Moving to resolve more native title cases by consent determination could result in timelines being ‘…streamlined beyond recognition…’ and costs being ‘…reduced out of sight’ However, as the 2009 Native Title Report points out, a respondent would still be able to defeat a native title claim due to the operation of section 223, by providing appropriate evidence.

**Definition of ‘traditional’**

In practice, the manner in which ‘traditional’ culture is defined by section 223 of the Act fails to recognise the dynamic and living nature of Indigenous Australian cultures. Instead it seeks to freeze culture in some pre-colonial past, which defines traditional culture based on a snap-shot of cultural practices at the time of European settlement and an expectation that they should continue unchanged. This ignores the fact that by their very nature the cultures of Australia’s first nations were geared towards adapting to and surviving in an often harsh environment, not to mention the substantial efforts and resources expended by successive governments aimed to force or encourage changes in behaviour.

This limited and unrealistic definition of ‘traditional’ means that in practice it is far too easy for a respondent to rebut the presumption of continuity by establishing a law or custom is no longer practices in exactly the same way it was at the point of colonisation. A more sensible an realistic definition of traditional culture would be one that “…encompasses laws, customs and practices that remain identifiable through time” and allows at law for an appropriate level of adaptation to the changing circumstances brought about by colonisation.

The narrow application section 223 has created insurmountable barriers to cultural resurgence… as clearly seen by the Noongar, Larrakia, Won-gatha and Yorta Yorta cases. In practice the policy decision to make a narrow interpretation of continuity and traditional practice under s223 in the Yorta Yorta case has created a situation which directly contradicts the original Objects of the NTA – in that it means that there is no opportunity to raise the role of past injustices in the interruption of cultural continuity in an Act whose every intent is to provide remedy to those injustices.

Where a group has revitalised its culture, laws and customs by actively seeking out and recovering those elements of cultural continuity driven underground by dispossession, forced relocation, or the removal of children – a comparatively minimal interruption to the sharing of that culture across the claimant group should not provide a sufficient basis to prevent the recognition of native title rights.

This state of affairs is clearly at odds both with the stated intentions of the NTA and Australia’s international human rights commitments. On this basis it would be sensible to empower the Court to disregard any interruption in the observance of traditional laws and customs where it is in the interests of justice to do so.
Item 13 of our proposed amendments inserts new subsections 223 (1A) (1B) (1C) and (1D) which provide clarification of the definition of ‘traditional’ to ensure that the interpretation of what counts as an ongoing Indigenous culture and law is based on a more realistic understanding of the maintenance and continuity of traditional practices and cultural values over time. This should help ensure that communities who have maintained a strong connection to their lands, laws, cultural practices and values will not have their recognition discounted based on changes which do not fundamentally alter the core of their cultural identity as traditional custodians of their land and sea country.

**Commercial rights and interests**

In practice, the rights native title have delivered have also not been strong or complete enough to effectively provide ‘for the advancement’ of traditional owners or to provide a basis for economic and cultural development … as they have not provided an unambiguous and exploitable right to land and resources.

Currently there is no mechanism to provide for the recognition of commercial rights to enable agreement making that delivers on the stated intent of the NTA “…for securing the adequate advancement … of Aboriginal peoples and Torres Strait Islanders” by providing a vehicle for social and economic development. Furthermore, courts have appeared to take a view of customary Indigenous laws that does not properly recognise existing cultural economies and effectively distinguishes between customary or cultural rights and commercial ones.

This is at odds with a wealth of existing evidence of customary trade rights and practices which were based in customary rights to resources – including aquaculture, trade in clay and ochres and turtle shells, as well as crafts such as baskets and spears. It also includes strong evidence of a long-term trade relationship with Macassan fishermen from Indonesia.

The current Minister for Indigenous Affairs Jenny Macklin has stated that the Government considers that Indigenous communities should be able to use their native title rights to leverage economic development. However, as yet this government has not sought to amend the NTA to strengthen the rights of native title holders in this or any other matter, and have largely confined themselves to amendments to the act that reduce the rights of native title holders.

The Leader of the Opposition, Tony Abbott recently spoke of his “…determination to ensure that the Aboriginal people of Australia finally get a fair go where their land is concerned…” and went on to say that “…the land which Aboriginal people have secured is obviously a cultural and spiritual asset but it should also be an economic asset.” On the face of it, it would seem in principle that there is cross-party support for these measures.

To this end the bill provides that native title rights and interests can be of a commercial nature, removing what is an unnecessary impediment to Indigenous economic development.

**Conclusion**

The reforms in this bill put forward clear and specific measures that address a number of key areas of interest to native title claimants.

They address the barriers claimants face in making the case to demonstrate their pre-existing native title rights and interests; they tackle some of the procedural issues within the future acts regime that restrict the ability of native title holders to assert and exercise their native title rights; and they include in the objects of the *Native Title Act* consideration of the principles of the Declaration of the Rights of Indigenous Peoples.

Native title has the potential to play an important role as a basis for the economic and community development of those of Australia’s first peoples who have been able to maintain their connection to their traditional lands and culture in the face of dispossession.

It is clear that the original intention of the Parliament was that the *Native Title Act* would ‘rectify the consequences of past injustices’ and secure their ‘adequate advancement and protection’ … however it is equally clear that in its application this complex area of law has failed to deliver on those hopes.

The strong relationship of Aboriginal and Torres Strait Islander peoples with their land and sea country should provide a firm basis on which to
strengthen their culture and build their future. To make this happen native title reform is needed. The *Native Title Amendment (Reform) Bill 2011* is an important first step on that path – I commend it to the Senate.

1 Justice Kirby in *Wilson v Anderson* 2002, High Court of Australia 29 (002) 213 CLR 401.
2 Justice Kirby in *Wilson v Anderson* 2002, High Court of Australia 29 (002) 213 CLR 401.
4 Cape York Land Council, Submission 6, Senate Standing Committee on Legal and Constitutional Affairs inquiry into the Native Title Amendment Bill 2009, p6.
6 As recommended by now Chief Justice Robert French, see Chief Justice RS French, *Lifting the burden of native title: Some modest proposals for improvement* (Speech delivered to the Federal Court Native Title User Group, Adelaide, 9 July 2008).
8 NTA1993 s24MB(1)(c)(ii).
11 Pages 104-107.
15 HREOC Native Title Report 2002.
17 Les Malezer, *2009 Mabo Lecture*.
19 Justice North & T Goodwin, *Disconnection the gap between law and justice in Native Title*, 2009.
21 Native Title Report 2009, p85.
22 *Yorta Yorta v Victoria* 2002, High Court of Australia.

**Senator SIEWERT**—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**ASIAN HONEY BEE**

**Senator COLBECK** (Tasmania) (4.26 pm)—I move:

That the Senate—

(a) notes that:

(i) the incursion of *Apis cerana*, the Asian honey bee, was discovered in May 2007 near Cairns, Queensland,

(ii) *Apis cerana* has the capacity to devastate the native bee and commercial honey bee populations in Australia, putting at risk:

(A) $4 billion worth of agricultural produce pollinated by the commercial honey bee, as *Apis cerana* is incapable of domestication, leaving Australian agriculture reliant on incidental pollination, and

(B) the $80 million Australian honey industry,

(iii) *Apis cerana*:

(A) is a carrier of the varroa mite, another major threat to Australia’s bee populations and the honey industry,

(B) has the potential to become a pest as virulent and damaging to the Australian environment as the rab-
bit, cane toad and European wasp, and
(C) poses a major threat to biodiversity through negative impacts on native flora and fauna, and
(iv) the incursion of *Apis cerana* remains contained in a radius of approximately 50 to 55km of Cairns; and
(b) calls on the Government to develop, coordinate and implement a program to eradicate *Apis cerana* from Australia.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (4.26 pm)—Madam Acting Deputy President, I seek leave to make a short statement in relation to the motion.

The ACTING DEPUTY PRESIDENT (Senator Moore)—There being no objection, leave is granted for two minutes, Senator Feeney.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (4.26 pm)—The government opposes Senator Colbeck’s motion on the basis that the motion is factually incorrect. The Asian Honey Bee National Management Group has found that eradication of the Asian honey bee is no longer technically feasible. Responsibility for the eradication or management of pests is not solely a federal responsibility, but rather a shared responsibility with the state and territory governments and the industries that benefit from any management actions. A cooperative approach between the states and territories, Commonwealth government and impacted industries is the only way to effectively manage this pest. The government is working collaboratively with state and territory governments and the Australian honey industry and with industries reliant on pollination to develop, coordinate and implement a strategy to manage the Asian honey bee.

Senator COLBECK (Tasmania) (4.28 pm)—Madam Acting Deputy President, I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT—There being no objection, leave is granted for two minutes, Senator Colbeck.

Senator COLBECK (Tasmania) (4.28 pm)—I am really very disappointed in the government’s attitude towards this issue. The minister’s office rang my office last week to talk about dealing with this as an issue. The issues that they raised with me had to do with the size of the honey industry and the size of the pollination sector impacted by the pest. There was no discussion at all, as part of that process, about the eradication of the Asian bee. To characterise my motion as factually incorrect I find, in that context, quite disappointing and I reject it.

The reality is that the government have not looked at the science in relation to this. They did not even discuss with the experts, the CSIRO, the issue of eradication. I have had a number of representations made to me since this motion became public about the eradication of the Asian bee. I think the government’s attitude to this is quite disappointing. They are hiding behind, I think, bureaucracy and technicality. If the government genuinely wanted to deal with this issue they could do it. All they need to do is allocate some resource. Yes, there is a process for eradication that is jointly managed by the states and the Commonwealth, and it is true that some of the states involved in it do not want to continue funding the process. If the government wanted to make an allocation of some resource towards the eradication of the Asian bee they could do it. It is only a matter of willingness; that is all that is required. For the government to characterise my motion as factually incorrect, I reject completely. I would urge them to work with the bee industry and with the agricultural sector—and we
can debate the size of the impact of the Asian bee on that sector to our heart’s content—as there is the capacity to deal with this. *(Time expired)*

**Senator BOB BROWN** (Tasmania—Leader of the Australian Greens) (4.30 pm)—Madam Acting Deputy President, I seek leave to make a short statement.

**The ACTING DEPUTY PRESIDENT**—Leave is granted for two minutes.

**Senator BOB BROWN**—The Australian Greens support this motion and we support greater effort to eradicate the Asian honey bee. It is something that we may well come to regret if we do not increase the effort nationally, as Senator Colbeck has said, to eradicate this pest before it extends way beyond the limits, which the motion states, of the vicinity of Cairns. Repeatedly in this nation we see pests being introduced and establishing, and it is costing a lot of money to attempt to eradicate them with the effort then being given up. The on-flowing cost to agriculture, to the economy, to wellbeing and to the biodiversity of this country is enormous and sometimes incalculable. It is something about which the Greens believe there should be a far greater national sense of protection, allocation of funding and resistance to this ongoing invasion. We are beyond the period where invasions were deliberately produced as with the cane toad. We ought to be now able, with the much greater surveillance we have in the year 2011, to take on a pest like this and, with much greater national resources, ensure that every possibility to eradicate it is undertaken. We support the motion.

Question agreed to.

**MATTERS OF PUBLIC IMPORTANCE**

**Carbon Pricing**

**The ACTING DEPUTY PRESIDENT** (Senator Moore)—The President has received a letter from Senator Fifield proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The Gillard Government’s continued failure to accept responsibility for its broken promise not to introduce a carbon tax.

I call upon those senators who approve of the proposed discussion to rise in their places.

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

**The ACTING DEPUTY PRESIDENT**—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clock accordingly.

**Senator BIRMINGHAM** (South Australia) (4.33 pm)—It is a pleasure to lead the debate on this outstanding submission of Senator Fifield’s in relation to the matter of public importance debate, which is to focus on and highlight the Gillard government’s continued failure to accept responsibility for its broken promise not to introduce a carbon tax. This is the most crucial of debates taking place in this parliament and in the nation at this present time. It is crucial because it will go to the very heart of livelihoods and impact on every Australian family and every Australian household not just next year or the year after but for many, many years to come. It will place a burden on every Australian family and every Australian household if this government gets its way in implementing this broken promise for many, many years to come.

If we are talking about broken promises, it is worth going back and looking at some of the words of the Prime Minister. I would like to start with the Prime Minister on the very topic of broken promises. The Prime Minis-
ter back in March of 2009, before she was Prime Minister, stated:

I think when you go to an election and you give a promise to the Australian people, you should do everything in your power to honour that promise.

I am not sure what happened to that willingness and desire to do everything in her power to honour that promise. The Prime Minister in this case appears to have done everything in her power and everything possible to break that promise.

Senator Feeney interjecting—

Senator BIRMINGHAM—Senator Feeney wants to talk about the election outcome. He knows that that is just a furphy. He knows full well, like everybody else, that the Australian Greens were always going to hold the balance of power in this chamber in this new parliament and that this government or the opposition, whoever won the election, was going to have to deal with that reality. The Prime Minister knew it, everybody knew it, it was clear for all to see and she should have realised that. If she thought she could not work with them on whatever it is that she claims to have wanted, which during the election campaign was little more than the great talkfest of the citizens’ assembly, then she should not have made the promise that she did make. Back when she was education minister she stated:

... if we want to debate promises made and promises delivered bring it on is what I say.

Well, she has that wish now in her life as Prime Minister. We will debate promises made and promises broken by this government, and we will debate them time and time again because of their impact on the Australian people. We debate them because the promises were so categorical and clear cut. There could be no more clear-cut statement made in the election campaign than that of the Prime Minister on the Channel 10 news, five days before the election, staring down the barrel of that television camera when she said:

There will be no carbon tax under the Government I lead.

She followed it up a couple of days later in the Australian, a day before the election, with a big headline and big statement, which was even more concise and with even fewer words:

I rule out a carbon tax.

We all know that politicians sometimes find ways to nuance their words and to put their words in terms that leave a little bit of wriggle room. The Prime Minister left no wriggle room. The Prime Minister made clear-cut categorical promises to the Australian people, promises she now proposes to break.

As if this misleading was not bad enough, if this mistruth was not bad enough going into the election, in trying to sell this carbon tax now and its impact on every Australian family, the government is piling mistruth upon mistruth. It seems every government minister is now going out there into the community trying to run some type of con job to convince people that this carbon tax will not have the impact that anybody who gives it a moment’s thought realises it will.

Let us take Mr Crean, the Minister for Regional Australia, Regional Development and Local Government who said the other day that:

We will return all of the money raised to people through the tax mechanism.

He was suggesting very clearly in his statement that all the money raised by the carbon tax would go back to Australian families, Australian households and Australian people. We know that is not true because today in question time Senator Wong stood up and said, ‘Well, some of it will go to industry and some of it will go to climate change measures’—obviously things that Senator Milne
has on her wish list. In fact, at best 50 per cent of the funds raised by this carbon tax will somehow, in a great wealth redistribution plan, be churned back around and given back to parts of the Australian community.

Potentially most households will end up worse off under this plan. We know that because much of the modelling was already done in the CPRS debate. We know that the type of prices that Professor Garnaut talked about in his paper released last week—the paper that is clearly providing the template for where the government will go, the paper that is all anybody has to work on because the government refuses to release any details themselves—will put up the price of electricity by $300 per year per household at the start of this process. We know there will potentially be an impact on petrol prices of 6c to 7c per litre every time you fill up the car. We know that this will flow through everything in the Australian economy, everything that every Australian does. Every time they go out of their home, every time they do virtually anything within their home, they will pay a price for this.

It is not just Mr Crean who is laying mistruths upon mistruths in this. It is also the Minister for Climate Change and Energy Efficiency, Mr Combet, when he proclaimed that he ‘does not expect any significant impact on the overall cost of living out of our carbon price.’ That is quite clearly untrue. Firstly, if there was no impact on the cost of living, why do you need a compensation mechanism? Secondly, it is quite clear that the compensation mechanism will only go to some Australian households and that many millions of them will be left worse off, that there will be a significant impact. So it is mistruth after mistruth built, of course, upon the Prime Minister’s grandest mistruth of them all.

What are we going to see from this government as this debate progresses? We will see that they will dig deep into the pockets of taxpayers once again to fund some government advertising to try to get them out of this, just as they did with the mining tax. We are going to see it come around again on a climate change campaign or a carbon tax campaign. Do not shake your head, Senator Feeney. You, of course, will probably be the architect of this advertising campaign, given your background. You will be the one sitting there making sure that its political messages are crafted because every dollar you spend as a government on this carbon tax campaign will be politically motivated. It will be entirely politically motivated. We will see at least a $30 million campaign, if not more, coming to taxpayers.

But what did the Prime Minister once have to say about government funded advertising? She said:

"Labor will end the abuse of taxpayer funded government advertising."

She put that clearly in 2007 running into the election campaign that year. They were her words then. She said:

"I am always worried when the Government takes taxpayers' money and uses it for its own politics, to try and save its political hide, rather than in the interests of the nation …"

This is what this government is going to do. It will be yet another broken promise. It will be yet another mistruth told to the Australian people. They will spend millions of taxpayer dollars to construct a political message about climate change and this carbon tax. It will all be to the ends of, to use the Prime Minister’s own words, trying to save their political hide. That is what it will be about—saving their political hide.

In 2007 she also said that many people talked to her about how much they resented these taxpayer funded advertisements on
their TV screen every time they tried to watch a program. I believe Australians are all well aware how much their money is being wasted through these advertisements. Mark my words, Acting Deputy President and Senator Feeney, when Australian people see these advertisements they will see through them. They will see it as a waste of taxpayer money. They will know you are trying to implement a con job and they will know that it is yet another mistruth from this government, one of so many in this debate. The government is so unwilling to provide any detail or any certainty as to what on earth they are proposing.

Senator CROSSIN (Northern Territory) (4.43 pm)—I rise to participate in this MPI debate today. Here we are once again with the opposition attempting to distract Australians from the fact that they have no plan to tackle climate change. Even if they did, they are so divided as a party they could not even find the same song sheet to sing off, let alone sing in unison. We can have endless debates about the Prime Minister’s words prior to the election. When people watch what the Prime Minister has said, comprehend what she has said—which obviously people opposite me are having difficulty doing—and see how she explained herself so well last week on the ABC show Q&A, then they will begin to understand that the climate has changed not only outside but inside this parliament. What we are now dealing with is a minority parliament in the House of Representatives and a Senate in which this government does not have the numbers to pass legislation that it would like to without negotiating with other parties in this parliament, without sitting down and doing the hard yards and getting people around a table and negotiating an outcome.

People opposite should realise that fact—although they probably do not. I remember a time in this parliament when those opposite could tick and flick anything through the House of Representatives and tick and flick anything through the Senate because they had such a vast majority in both houses and there was very little or no scrutiny of legislation. There was no accountability at any time by that government. However, in this political climate in this country and at this point in time, we have a Prime Minister who is a very, very good negotiator, a very good listener and a very good person at being able to compromise our position while, at the same time, getting the end result. We have proven to the Australian people that we are a party that accepts climate change, that is prepared to tackle climate change and that is prepared to make longterm structural reform so that climate change can be tackled and addressed in this country—unlike the people opposite.

We know, everyone knows, that the opposition are not serious about climate change. We know that the opposition have wrecked plans to tackle climate change before and that they will continue to wreck them again. I do not think the Australian public is even sure that the Leader of the Opposition believes in climate change. He has had seven positions on climate change in two years. He cannot make up his mind whether it is real or not real. He cannot make up his mind whether he is going to accept it or not accept it. He cannot make up his mind if he is going to deal with it or not deal with it. That is the real issue here. We can have MPI after MPI every single day in this place and debate this issue endlessly. On this side of the chamber, Labor Party politicians are happy to take you on every single, solitary day. At every minute of every hour, we are more than happy to defend the action that we are taking on climate change. If we look at last Thursday, Tony Abbott made three strikes in three minutes.

The ACTING DEPUTY PRESIDENT (Senator Moore)—Senator, ‘Mr Abbott’.
Senator CROSSIN—Mr Tony Abbott. Thank you for reminding me of that, Madam Acting Deputy President. Mr Abbott’s scare campaign rolled into the Illawarra last Thursday. The Leader of the Opposition managed to make three significant mistakes in a matter of minutes. This is how averse this Leader of the Opposition is when it comes to climate change. First, Mr Abbott still thinks his direct action fraud would be a cheaper and more efficient way than a carbon price in tackling climate change. He said:

I think it’s reasonable to reduce carbon dioxide emissions and you can do it much more cheaply and with much less economic damage by going to the market and directly purchasing emissions, rather than whacking a great big new tax on our cost of living and on jobs.

The fact is that Mr Abbott’s direct action policy will actually cost this country $30 billion. Taxpayers rather than polluters will pay to cut pollution. Under our scheme we want the polluters to pay, not the taxpayers. And there will be no investment certainty provided to industry under the direct action plan. Under Mr Abbott’s plan, households will not receive any assistance to cope with rises in the cost of living, instead they will be slugged an extra $720 at tax time.

Second, Mr Abbott does not understand former Prime Minister John Howard’s emissions trading policy. On ABC Illawarra last Thursday, Mr Abbott said:

You know, the big thing about John Howard’s ETS was that it wasn’t going to happen unless the rest of the world did the same thing.

The Howard government did intend to produce an emissions trading system in 2012. That was the former Prime Minister’s position. At the time, Mr Howard wrote that his policy ‘will ensure Australia leads the world in our domestic approach to reducing greenhouse gas emissions’. Where does that quote come from? It comes from the foreword of the Liberal Party’s Australia’s Climate Change Policy, July 2007.

Third, Mr Abbott changed his position on climate change science in just three sentences. The host of the ABC Illawarra said:

So, where is your own mind as far as the climate change science is concerned and what we need to do about it?

Mr Abbott turned around and said:

Well, what I said about 18 months or so back was that the so-called settled science of climate change isn’t always quite what it’s claimed to be. Nevertheless, as I’ve said repeatedly, it’s important to take prudent precautions against credible threats. Climate change is real. Mankind does make a contribution.

While Mr Abbott calls himself a weather-vane when it comes to climate change, this must be some sort of record: two positions on climate change in three sentences. What have we got here? What is this debate really about? This debate is not a debate about whether or not climate change that we are tackling is going to benefit this country and benefit the outcomes of what we are seeing around the world. It is not a debate about how quick, how soon or how efficient we can do it. This is about masking what is really going on in the opposition. It is about seven positions on climate change in two years. It is about a divided party that cannot agree on whether or not climate change exists, whether climate change is real, whether it is man made or not man made and how we are going to deal with it. So let us have a debate about all of that.

Climate change is real, and climate change is happening. The Labor Party accepts that. We know that. We are acting on that. Scientists have shown that in the past 50 years there have been fewer cold nights and days and more hot days and nights world-wide, and that is no more obvious than here
in this country. CSIRO states on their website:
Since 1900, precipitation has increased significantly over eastern parts of the Americas, northern Europe, parts of Asia and north-west Australia.
The Bureau of Meteorology in their annual Australian climate statement for 2010 stated:
Australian mean rainfall total for 2010 was well above the long-term average. As a result, 2010 was Australia’s wettest year since 2000 and the third-wettest year on record (records commence in 1900).

For 11 months in 2010, Australia experienced above average rainfall—an occurrence that has only happened once before in 1973.

I will take a minute to talk about the impact of this in the Northern Territory. The CSIRO has produced an excellent report that details climate change impacts on the Northern Territory. It makes for some pretty horrifying reading. I have to say. Temperature increases will increase the risk of heat related death, particularly among the elderly. Climate change in the tropics makes diseases such as Ross River fever more prevalent. The most vulnerable in our society, children and the elderly, will particularly suffer as a result of these diseases becoming more prolific.

There is a risk of salt water intrusion into Kakadu National Park as well as other freshwater wetlands, with projections of up to 80 per cent of the fresh water being lost and the ecosystems that rely on it disappearing as well.

The number of cyclones affecting the top end is not expected to increase. But more of the cyclones are expected to be of greater intensity, with them reaching category 4 or 5. The coastal waters of the Territory are relatively shallow and, as such, are vulnerable to an increase in sea level and storm surges. Climate change will have an impact, as we know, on agriculture, livestock and fisheries, with heat stress and cattle ticks affecting Territory beef cattle. Commercial and recreational fishing will also be affected by changes in the sea temperatures, and important ecosystems, like coral reefs, mangroves and freshwater wetlands will also be severely impacted. The Northern Territory had its wettest dry season on record, with September experiencing nearly double its average rainfall. Global ocean levels rose by approximately 17 centimetres during the last century and by approximately 10 centimetres from 1920 to 2000 at Australian coastal sites.

Across Northern Australia—the Gulf of Carpentaria, the Cape York Peninsula and the Top End of the Northern Territory—we had the warmest July to October period on record for mean temperatures for a very long time. Our climate is consistently breaking weather records, not only in the Top End and not only in this country but all over the world. In our annual climate reports, there is higher rainfall and higher surface and ocean temperatures each year. The impacts are devastating, and we are seeing that day after day.

What is the end result? The end result is that it is time to tackle climate change. It is time to take action. It is time to make a decision to do something about what is happening. It is time to decide on a program of massive reform in order to tackle this. We need to get this on the agenda. We need to cut pollution, tackle climate change and build a clean energy economy. You cannot do that if you are squabbling among yourselves, if you have had seven positions in three years, if you have made three different statements in three minutes on the one ABC radio station and if you have leaders ousted because they believe in climate change and replaced with a leader who believes climate change is absolute crap. You are squabbling among yourselves, replacing leader after leader and trying to grasp some sense of reality and some sense of whether you are relevant in this de-
bate. Get on and accept the science. Accept that climate change is happening. Accept that this country needs to do something about it.

In the Labor Party, we have now begun to tackle climate change. We do not have to lead the world. But we do not have to sit back and let everyone else do it and then do it—that is the position of the Liberal Party. They want to wait for the whole world to start to do something about it and then have a bit of a look-see and a bit of a window shop. If they like what everyone else is doing internationally, they might decide to step inside and buy. Australia has never done that. Australia should not do that. And under this Labor Party government we are not going to do that. We are going to start to tackle climate change now. We do not have to lead the world and we do not have to wait for the rest of the world. We have to be assured that it is the best thing at this point in time for this country, and that is what we believe. It is the right thing to do for Australia right now. It is right for the economy and for Australian jobs.

How are we going to do it? We are going to make industry pay when they pollute. We are going to put a price on carbon. We set up the Multi-Party Climate Change Committee. We are taking advice from experts. We are taking advice from politicians in this place who will take part in pushing this legislation through. We are going to put a price on carbon. We are going to ensure that industry pays when it pollutes; that industry starts to get charged for the carbon dioxide that they are pumping into the atmosphere. This will create a clean energy nation.

To help families with the cost of living, we will put a carbon price on pollution. The best way to stop industries polluting and to get them to invest in clean energy is to charge them when they pollute. I do not think that this country got a better explanation of what we are doing as a government—step by step, month by month, each page of the way—(Time expired)

Senator CORMANN (Western Australia) (4.58 pm)—Whatever the issue, whatever the challenge, one thing is clear: under this government, we will end up with another new Labor Party tax. New and increased taxes as policy responses to everything are part of Labor’s DNA. That is why the people of Australia, the media and people on the coalition side of parliament are very suspicious whenever this government rules out a tax. We do not believe them. Look back to the Paul Keating precedent. Then Prime Minister Paul Keating went to the 1993 election and said ‘l-a-w tax cuts.’ After the election, there was no such thing as l-a-w anymore. This is why the Prime Minister was confronted time after time during the election with the question, ‘Will you be introducing a carbon tax if you are successful at this election?’ Wherever she went, she was asked that question. Eventually, she knew that she had to rule it out; she knew that she had to say, ‘There will be no carbon tax under the government I lead’; she knew that she had to say, the day before the election, ‘I rule out a carbon tax.’ Otherwise, she would have lost the election; otherwise, she would no longer be in the Lodge; otherwise, she knew that there would be no such thing as a continuation of this Labor administration. We know that, like Paul Keating before her, this Prime Minister has deliberately deceived the Australian people, as she of course deceived the then Prime Minister, Kevin Rudd, in June last year.

Now the Prime Minister is preparing the next deceit. She is trying to say to people: ‘Don’t worry about what I said five days before the election. Don’t worry about me ruling out a carbon tax. I am now going to introduce a carbon tax. And do you know what? It won’t hurt. I will introduce a carbon tax and you won’t notice a thing. We are go-
ing to have compensation, we are going to have tax cuts, we are going to increase pensions, we are going to do this and that.’ There is a plethora of announcements about what the government is going to do. There are no details of course and no plan; it is just one thought bubble after another. And what is the Prime Minister really saying? She is saying to the Australian people, ‘Trust me; I am going to make sure that this carbon tax, which I ruled out before the election and I said was never going to happen, is not going to hurt you.’ How dumb does the Prime Minister think the Australian people are? Of course the Australian people know that this carbon tax is all about hurting them. It is all about having an impact on them. It is all about doing something that will actually change their habits.

The reality is that this is bad policy. The previous speaker criticised our direct action plan. Our direct action plan will actually reduce emissions in Australia in a way that reduces emissions in the world. That is not something that can be said about either the carbon tax or the emissions trading scheme. The carbon tax, the emissions trading scheme or any other mechanism that this government may come up with to put a price on carbon will not reduce emissions in the world. I asked Senator Wong last week what the net impact would be on global emissions of the Gillard carbon tax. She was not able to answer that, because the government knows that putting a price on carbon in Australia, putting a carbon tax on or putting an emissions trading scheme in place in the absence of similar arrangements in the US, in China and in other competitor nations will shift emissions into those countries. It will also shift jobs into those countries because it will make business in Australia less competitive. It will make polluting businesses in other parts of the world more competitive.

This government is asking people in Australia to make a sacrifice, to pay more tax, for no benefit at all in terms of reducing global emissions. If you are going to make an environmentally friendly business in Australia less competitive than a polluter overseas because they are not part of a comprehensive global agreement to price carbon, then what you have done is increased emissions in the world while imposing a sacrifice on the people in Australia. That is the fundamental problem with Labor’s flawed tax and flawed policy. They fail to understand this. That is why they do not understand the great benefit of the direct action plan put forward by Tony Abbott and the coalition, which reduces emissions in Australia in a way that reduces emissions in other parts of the world to an equivalent amount.

The previous speaker said that we should not have to wait for everybody else and we should just tackle climate change now. The problem is that this government is not trying to tackle climate change. This government is looking at imposing a new tax. This is part of the great con. It is why Prime Minister Gillard advised the previous Prime Minister, Kevin Rudd, back in February/March 2010 not to go ahead with his emissions trading scheme. After Copenhagen the debate inside the Labor government changed because they realised that they had a problem. Then Prime Minister Rudd wanted to lead the charge in Copenhagen. He wanted to go to Copenhagen and say, ‘Aren’t we great. We got this legislation to impose a price on carbon through the parliament.’ The reason he wanted to do it, the one single argument he came up with to justify that proposition was so that he could go to Copenhagen and convince all of the other nations—the US, China, India and so on—to follow our lead and do like we have done in Australia. And of course the US, China and India were never going to go down this path. It was very
obvious that that would not happen in December 2009 in Copenhagen. Long before the congress in the US changed, it was very obvious that the US was not going to go ahead with a cap and trade carbon scheme.

We now have the government’s adviser, Professor Garnaut, out there desperately trying to help the Labor government to come up with ways of salvaging its broken promise, which is bad policy for Australia. He says, ‘Why don’t we link tax reform with the carbon tax?’ The problem with this government is that they do not want tax reform. They want more and new and increased taxes. Every time they talk about another tax reform, all it means is another new and increased tax. This whole concept of lower, simpler and fairer taxes is not something that comes easily with this government, which is why they have resisted holding a tax summit for so long. In the end they could not resist it any longer. The Independents were on their back so they are going to have it in October now, when it was supposed to have happened in June. We should go for lower, fairer and simpler taxes without having a carbon tax. To link the proposition of tax reform—lower, fairer and simpler taxes—with the proposal of a massive new tax on carbon is just a complete con. It is saying, ‘We are going to take $1,000 from you over here and we are going to give you $500 back.’ Senator Birmingham went in great detail through the deceit by people like the Minister for Regional Australia, Regional Development and Local Government, Simon Crean, and others, who are trying to suggest that 100 per cent of the carbon tax revenue is going to be used to compensate households. It is not true. We are having an announcement a day where the government is perpetuating this deceit of the Australian people, which has been going on ever since the Prime Minister broke the promise not to introduce a carbon tax.

Senator HURLEY (South Australia) (5.06 pm)—Both parties went to the election promising action on climate change. Both the government and the opposition now have a commitment to reduce greenhouse gases by five per cent by 2020. So we have a situation where both the opposition—I mean the Liberal Party opposition because I am still not sure where the National Party stands on this—and the government have a commitment to action, and this was perfectly clear in the election of 2010. So it would actually be a breach of trust for the government not to take some action on climate change. It would be a breach of trust not to fulfil that commitment.

In the 2010 election the electors of Australia voted in a way that meant that neither the coalition nor the Labor Party had a majority in their own right. It was the Labor Party, under Prime Minister Julia Gillard, which formed an agreement with the Independents and the Greens in this parliament such that the Labor Party could form government. That means that the Labor Party cannot necessarily take action on its own. It has to rely on partners in the government to take action. That circumstance, which was dictated by the people of Australia, means that the action that the Labor Party took on climate change was different from the action that it would have proposed. But the Labor Party still believes that this is a workable solution in order to fulfill its commitment to reduce greenhouse gases by five per cent by 2020. That compromise has been to introduce a carbon tax in the first years, and that will form a transition period for both business and consumers. That transition period will enable adjustment and stabilisation and it will enable businesses in particular to get systems in place so they can deal with the upcoming emissions trading scheme. This is a very sensible and practical solution. The government has put in place a carbon tax while promising
that those households who will have trouble coping with the taxation aspect will be fully compensated.

This action will be the fulfilment of agreements that have been made around the world on climate change and emissions. Those agreements were made in Kyoto, with the Kyoto convention, Copenhagen and Cancun. It is as part of Australia’s commitment to world agreements that this action has been taken. It is a sensible, practical commitment to world action.

The latest commitment of the Leader of the Opposition, Mr Tony Abbott, has been to direct action. To pretend that this is not going to cost business or consumers anything is nonsensical. It will cost business and consumers. One of the estimates is that this will cost $30 billion, so it is no wonder that the Liberal Party are so sensitive about any criticism of that. It is inconceivable that change by direct action will not result in an impost on businesses, consumers and the Australian economy. Report after report, not only from Australia but from overseas, has shown that is not the most effective way to produce a change in behaviour, a change in the way that Australia produces pollution. So it is not only a desperate attempt by the party to differentiate itself from the government but also an attempt that is, according to any report that I have ever seen, bound to fail. There is no doubt that it has some superficial attractions as people see it as an easy solution, but the fact is report after report shows that it will not work.

Incidentally, the need to bring some facts into this debate is why this government is planning to have some sort of advertising campaign to actually show people what the facts of this debate are all about. I certainly hope that advertising campaign will go ahead, because it is well overdue that we bring some scientific rigour and logic into this debate. It has been markedly absent from what those opposite have put. People like Senator Cormann continue to state as facts things which have been comprehensively demolished in a series of reports by various people all around the world. The impact on behaviour by the polluters, on the households and consumers who use the products of that pollution, must be changed. The impact on behaviour in terms of allowing pollution to go ahead in Australia—by burning coal, by squandering electricity and by squandering energy—really must be reined in and the electors of Australia understand that we must be responsible for our own pollution, that we are using our resources—whether they be coal, gas or petroleum resources—excessively. I think an overwhelming number of people in Australia understand that we are overusing those resources and understand the need to rein in our use. We had a period of plenty when it seemed that these natural resources were limitless and people did gradually overuse these resources, be they water, electricity or whatever. I think people are prepared to change their behaviour and to be given a sense of direction about how their behaviour should change. That is regardless of what is happening around the world.

Senator Cormann ran the tired old argument that whatever we do will not have a sufficient impact on world emissions. That is just not the point. We have to change our behaviour. We have to reduce our own pollution in Australia. That is the important point for us. We have to make sure that we do not squander our limited resources in this country. We do have room in our behaviour to pull back and make sure that we do not pollute our own country, that we do not recklessly use resources that are needed for future generations. That is the point; that is what we must work towards. We must develop the technologies and the habits to en-
sure that that will happen, and that is the important point. It is not making a sacrifice for no benefit, as Senator Cormann said. It is making a sacrifice for our own benefits and for generations to come.

The public’s receptiveness of that attitude has been proved time and time again. If we have an advertising campaign to put out the facts about emissions and climate change and pollution, that should steer around the debate in this country to a more practical and logical debate—not one that is driven by a fear campaign from the opposition who purport to accept the premise but do not want to put in place practical measures to bring about change. I commend Prime Minister Gillard and the Labor Party on setting out to achieve those measures in combination with their partners in parliament.

Senator BARNETT (Tasmania) (5.16 pm)—I speak in favour of this motion, which has been very well drafted and makes an extremely important point, and I thank Senator Fifield for the opportunity. It is important to note here that we have a government that has broken its promise not only to the parliament but also to the Australian people. We have a Prime Minister who stared into a television camera—looked down the barrel—and said with deception in her eyes, ‘There will be no carbon tax under a government I lead.’ Not only that, just a few days before the federal election she said that ‘there will be no tax’ and that was put on the front page of the *Australian* on 20 August 2010: ‘I rule out a carbon tax.’

These were bald-faced statements and now it is true that many in the community are giving the Prime Minister, Ms Julia Gillard, the name Ju-liar. People can draw their own conclusions from that but clearly there has been a shocking deception and the public has come to that understanding. What was promised before the election and what has happened since the election? There was a promise before the election with the Independents—the country Independents—for a tax summit by 30 June, yet we found out just in the last 24 hours that it has been put off until October. That is yet another broken promise. The Prime Minister promised before the last election that she supported a citizens’ assembly to try to garner consensus on the issue of climate change and the merit of a carbon tax, or an emissions trading scheme, or something similar. Of course, that has now gone out the door. Two weeks ago we had the Minister for Climate Change and Energy Efficiency, Mr Combet, and the Minister for Regional Australia, Regional Development and Local Government, Mr Crean, both advocating for and on behalf of the government—one assumes, because they are ministers—that 100 per cent of this tax revenue would be provided in compensation for households and for pensioners. Yet we find out, again in the last 24 hours, that that is not the case. It is not going to be the case at all. They say it will be about 50 per cent. So who is stating the truth? Who are we to believe? We do not know whether to believe it before the election or even less than 12 months after the election. People are breaking their word for and on behalf of the government; it is not good enough. This government is a government of dishonesty and incompetence. That is not acceptable and the Australian people will no doubt send a message at the appropriate time.

The Prime Minister’s view of Senator Bob Brown is a matter for her. She has said that Senator Brown is very calculating. In a keynote address to the Don Dunstan Foundation in Adelaide, she said that Senator Brown leads a party which is extreme. Why would the government form an alliance and a coalition agreement with an extreme party like that? As to why she has broken her promise, her excuse is that there are changed circum-
stances, that she is now forced into an agreement with the Greens. She is really making it very clear: ‘the Greens made me do it’. That excuse is on a similar par to the excuse that the dog ate my homework. She is saying, ‘I have no responsibility; all care, no responsibility. I am not responsible for my actions.’ Frankly, this is not good enough.

She is now joined at the hip with the Greens in this federal coalition arrangement—the Labor-Green coalition. That is very interesting because as a Tasmanian senator, I know what has happened in Tasmania as a result of the Labor-Green coalition down there. The effect on of the Tasmanian people of incompetence, waste and mismanagement is something shocking. Even just a number of weeks ago, the Premier of Tasmania, Lara Giddings, indicated that she wanted to cut $270-odd million from the Tasmanian budget and thousands of public sector jobs. She should have apologised in the first place and said, ‘I am ashamed of the mismanagement of the economy by my state Labor-Green government.’ Now the economy is suffering as a result. Confidence is at a rock-bottom, all-time low. The Labor-Green experiment in Tasmania is not working. My federal colleagues in this parliament and people on the mainland should be fully aware of that fact and know that the economy in Tasmania is slowing and that levels of confidence are way down. Learn the lesson and do not just blame the Greens and say that ‘they made me do it’. It is not good enough.

Senator Crossin said in this place—and other Labor members and senators have made this point publicly, including the Prime Minister—that the polluters pay. That is absolute and arrant nonsense. Guess who pays? Australian families—mums and dads, households, kids. Everybody will pay not just the polluters. Let me give you the evidence.

Senator McLucas—Under your plan no-one pays.

Senator BARNETT—Senator McLucas is disputing this, so let me make it very clear. Electricity prices will increase by approximately $300 per year, based on the Garnaut report, which came out at the end of last week. Electricity prices will go up and go up big time. According to the Australian Minerals Council, that will double within three years. Petrol prices will increase by 6½c per litre. Gas prices will go up by $2 a week or $104 a year. Water bills will go up $16, according to the Victorian department of environment—that is, at $25 per tonne. Will it have an impact on rates? Who pays the rates? Mums and dads pay the rates. According to the Australian Local Government Association, rates will go up $46 per year. There will be an impact on air travel. The cost of new homes will increase by $4,800, according to the Housing Industry Association—that is, at $20 per tonne, and of course it could be a whole lot more.

We have a lot of concerns and lot of problems. The government indicate they want to spend $30 million of taxpayers’ money on campaigning and advertising to support it. That is a con and it should not be allowed.

Senator FAULKNER (New South Wales) (5.23 pm)—Climate change is real. The world is warning. The overwhelming majority of scientific opinion acknowledges that this is a result of human activity. If greenhouse gas emissions continue to grow unabated, the problem will get worse. Of course this is not Australia’s problem alone, but we must do our bit as a responsible member of the international community.

Madam Deputy President, I suppose I have some form on this issue. As environment minister in the Keating government, I suggested they consider a low-level carbon levy. I admit that at the time I was virtually
alone in my advocacy for such a measure. But I suggest the doubters do as I did: read the reports from the Intergovernmental Panel on Climate Change, the IPCC, and those of our own scientists at the CSIRO and the Bureau of Meteorology, which clearly show the climate is warming, and it will continue to do so as a result of greenhouse gas emissions from human activity.

The time to act is now as Australia faces potentially disastrous environmental and economic costs from the impact of climate change, particularly on coastal communities, infrastructure, water security, health, agriculture and energy supply. The IPCC’s fourth assessment report finds that ‘warming of the climate system is unequivocal’. The IPCC reports that emissions of greenhouse gases due to human activities have grown by 70 per cent between 1970 and 2004, and states that most of the ‘observed increases in global temperatures since the mid 20th century are very likely to be as a result of human activities’.

The CSIRO and the Bureau of Meteorology combined last year to present our most recent picture of Australia’s climate. Both these organisations have decades of experience observing and reporting on Australia’s weather, and conducting atmospheric and marine research. On temperature rises, the CSIRO and Bureau of Meteorology have observed that since 1960 the average temperature in Australia has increased by about 0.7 degrees. Whilst temperatures have varied in different locations, the overall long-term trend is clear and there can be no denying Australia has experienced warming over the past 50 years. Furthermore, the number of days with record hot temperatures has increased each decade over the last half-century. The decade from 2000 to 2009 was Australia’s warmest on record. According to the World Meteorological Organisation, 2010, 2005 and 1998 were the warmest years on record globally.

The CSIRO and the Bureau of Meteorology have also reported that the rate of sea level rise increased during the 20th century. From 1870 to 2007, the global average sea level rose by close to 200 millimetres. Over the period 1993 to 2009, sea level rises have ranged between 1.5 millimetres to three millimetres per year in the south and east, and seven millimetres to 10 millimetres per year in the north and west of Australia. They have also reported that over the period of the last 50 years, the surface temperatures of the oceans around Australia have increased by about 0.4 degrees Celsius.

As for the future, the CSIRO and the Bureau of Meteorology have projected that Australian average temperatures are going to rise by 0.6 degrees Celsius to 1.5 degrees Celsius as soon as 2030. They said, ‘If global greenhouse gas emissions continue to grow at rates consistent with past trends, warming is projected to be in the range of 2.2 to 5.0 degrees Celsius by 2070.’ The effect of this on Australia and Australians will be devastating. It is a catastrophe in the making. How irresponsible would it be for Australia to sit on its hands? You cannot pull up a drawbridge against rising sea levels. You cannot change global warming by putting your head in the sand and doing nothing. Climate change is real and is caused by human action. All around the world governments are taking action to reduce carbon emissions. Thirty European countries have had a price on carbon for the past six years. It is time for Australia to do the same. (Time expired)

Senator RONALDSON (Victoria) (5.28 pm)—From someone whom I admire that was a quite remarkable speech. From the man who has driven Operation Sunlight and from the man who has protocols named after him—by me, I might add, but still suppor-
tive—to come into this place and avoid the key question is quite remarkable. Senator Faulkner can scurry out of this chamber, but not once did he explain why his own leader, five days out from the election, said, ‘There will be no carbon tax under the government I lead.’ Senator Faulkner neglected to talk about that.

Senator Barnett quite rightly said that the Australian Labor Party is now apparently using the ‘dog ate my homework’ defence. ‘The Greens forced us into this’—that is another absolute untruth. There are only three reasons that the Prime Minister made those comments five days out from the election. One reason was that she supported a carbon tax but she knew she would lose the election with a new tax and she told a complete untruth to win her way back into government. I am not allowed to use another word in this chamber, but I will use the phrase ‘complete untruth’.

Another reason was that she was happy to tell this untruth because there had already been a grubby deal done with the Australian Greens before the election. The Prime Minister went in with her eyes open, but the Australian people most certainly did not. The third reason, which is the most unlikely one, is that she knew it was bad for Australian families and she did not want one. What put paid to that was the desperate deal she did after the election to make sure we had a carbon tax. If she did know it was bad for Australian families and that is why she ruled it out, how can she front up to the Australian people again to do a grubby deal to get herself back into a false government? They are the only three options.

I will look at my patron seat area of Geelong, which takes in Corangamite and Corio. I thought Richard Marles, the member for Corangamite, had a little bit more to him than he has been exhibiting in the last two weeks on this issue. Everyone knows the member for Corangamite is completely devoid of any common sense but I thought that Richard Marles, the member for Corio, might have had some. To look at the comments of Richard Marles in the last two weeks in trying to defend this appalling tax and the effect it will have on Geelong just beggars belief. In a remarkable acknowledgement two weeks ago, he said he would be working overtime to protect jobs under a carbon tax. So two plus two equals four and he knows there are going to be job losses under this tax. In an opinion piece today that talked about Point Henry, where a thousand people are provided with jobs in that area with Alcoa and other employers, he said:

I would be lying to say that the atmosphere in the Point Henry lunch room right now is sanguine. A better description might be nervous. And they have a right to be.

‘They have a right to be’—that is Richard Marles, a member of the executive of the Australian Labor Party, acknowledging that the workers at Point Henry have good reason to be nervous. What Darren Cheeseman and Richard Marles need to do is not talk about these matters, but do something—

Senator Carol Brown—Madam Acting Deputy President, on a point of order: I ask that the senator refer to the members by their correct titles.

The ACTING DEPUTY PRESIDENT—
I did not hear what you said, Senator Ronaldson, but if you could observe the usual propriety when referencing members of the other place.

Senator RONALDSON—I thought I had mentioned both the member for Corangamite and the member for Corio, but if I did not I will mention them. Rather than working overtime to save jobs under a carbon tax, surely the members for Corio and Corangamite should be working overtime for the
workers in Corio and Corangamite to stop the carbon tax? Why don’t they work overtime for that? They will be damned, as they should be, for destroying jobs in Geelong.

I heard Senator McLucas parroting across the table today the nonsense that everyone is going to be compensated and that only the big polluters will pay. Hello? What do you think will happen with the costs? Where will the increased costs go, Senator McLucas? I will tell you where they will go: to Australian families. How will they feel that? Through 6.5c per litre in petrol—(Time expired)

DOCUMENTS
Tabling

The ACTING DEPUTY PRESIDENT (Senator Kroger)—Pursuant to standing orders 38 and 166, I present documents listed on today’s Order of Business at item 13 which were presented to the President and a temporary chair of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—
(a) Committee reports

Final report, together with the Hansard record of proceedings and documents presented to the committee (received 17 March 2011)
(b) Government response to parliamentary committee report
(c) Government document
Snowy Hydro Limited—Financial report for the period 5 July 2009 to 3 July 2010 (received 16 March 2011)
(d) Letters of advice relating to Senate orders
1. Letters of advice relating to lists of contracts:
Agriculture, Fisheries and Forestry portfolio (received 7 March 2011)
Veterans’ Affairs portfolio (received 7 March 2011)
2. Letter of advice relating to lists of departmental and agency grants:
Education, Employment and Workplace Relations portfolio (received 10 March 2011).

Ordered that the Environment and Communications Legislation Committee report be printed.

COMMITTEES
Foreign Affairs, Defence and Trade Legislation Committee
Report: Government Response

The ACTING DEPUTY PRESIDENT—In accordance with the usual practice and with the concurrence of the Senate I ask that the government response be incorporated in Hansard.
The document read as follows—

Government Response to the Senate Foreign Affairs, Defence and Trade Legislation Committee
Australian Civilian Corps Bill 2010 [Provisions]
March 2011

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<td>Recommendation 1</td>
<td>Not agreed.</td>
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<td>The committee recommends</td>
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Recommendation 2
The committee recommends that a new subsection (2) be added to section 12 as follows: (2) Regulations made under this Section must provide that Australian Civilian Corps Values be consistent with the APS Values. The committee recommends that a new subsection (1A) be added to section 15 as follows: (1A) Regulations made under this Section must provide that Australian Civilian Corps Code of Conduct incorporate the APS Code of Conduct and the AusAID Code of Conduct for Overseas Service.

Recommendation 3
The committee recommends that consistent with the Public Service Act, the bill require that exemptions to the entitlement to review be made under regulations and subject to Parliamentary scrutiny.

Agree.
Committee Recommendations

Recommendation 4

The committee recommends that the bill include a provision that would allow an ACC employee, following an adverse finding of AusAID's internal review, to apply for the matter to be referred to an external merits review authority. The committee suggests that this provision should be modelled on section 33 of the Public Service Act.

Government Response

Agree to provide for external review of code of conduct decisions.

In light of the proposed external review right, the Government does not consider that it would be necessary for the Bill to also provide for internal review. Under the arrangement established pursuant to section 33 of the Public Service Act 1999, decisions on breaches of the APS Code of Conduct are not subject to internal review. Consistent with that, it is proposed that decisions relating to breaches of the ACC Code of Conduct will only be reviewable by an external party.

Under the proposed Government amendments to the Bill, the Director General of AusAID will be required to arrange for external review by a suitably qualified person or committee. AusAID has reached in-principle agreement with the Merit Protection Commissioner for the Commissioner to be a reviewer of code of conduct decisions, subject to further negotiation of the terms of the review arrangement. Under the present proposal, the Commissioner may agree to review decisions, for a fee, at the request of the Director General of AusAID from time to time pursuant to an MOU between the Director General of AusAID and the Commissioner. Following consultation with the Merit Protection Commissioner and the Australian Public Service Commission, it has been decided that the Bill and the regulations will not expressly refer to the Merit Protection Commissioner as the external reviewer. If the Commissioner declines for some reason to review a particular decision, the Director-General would be required by the amended Bill to find an alternative external reviewer who meets the criteria set out in the Bill in relation to independence and qualifications.

The proposed arrangement is similar to existing review arrangements established between the Merit Protection Commissioner and a number of other non-APS Government agencies.
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<td><strong>Recommendation 5</strong></td>
<td>Not agreed. While the Government is working to ensure that, to the extent possible, employees who take up employment with the ACC are not disadvantaged in respect of entitlements, there are constitutional and other limitations to the Commonwealth’s ability to enact legislation seeking to interfere with the accrual of entitlements under State employment laws that ordinarily apply to relevant employees. It will be open to an employee not to accept an engagement with the ACC if the employee is not satisfied with the entitlements offered.</td>
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<td>The committee recommends that the government look closely at the provisions governing accrued entitlements to ensure that employees who take up employment with the ACC are not disadvantaged in respect of entitlements such as superannuation, long service and annual leave.</td>
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<td><strong>Recommendation 6</strong></td>
<td>Agree. While the Government does not consider the additional words to be necessary, this recommendation is consistent with the intention that participation in the ACC is entirely voluntary. Accordingly, an amendment to the Bill has been drafted to implement this recommendation.</td>
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<td>The committee recommends that paragraph 27(2)(a) of the bill be amended to include the term ‘at the request of the employees’. Paragraph 27(2)(a) to read: (a) the granting of leave to employees, at the request of the employees, for the purposes of service in the Australian Civilian Corps.</td>
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<td><strong>Recommendation 7</strong></td>
<td>Agree.</td>
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<td>The committee recommends that subclause 23(2) be added requiring the notice to specify the ground or grounds that are relied on for termination.</td>
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<td><strong>Recommendation 8</strong></td>
<td>The Government agrees with the recommendation to include provisions in the Bill mirroring section 17 of the Public Service Act 1999 against patronage and favouritism. The Government does not agree to the recommendation to include a provision governing the protection of whistleblowers. The Government has committed to enacting a broader ranging public interest disclosure scheme applying to Commonwealth employment which should be sufficient for the ACC’s purposes. Accordingly, it is considered neither necessary nor appropriate for the ACC to have a separate arrangement under its own legislation.</td>
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<td>The committee recommends that the government give consideration to including in the bill provisions governing the protection of whistleblowers, prohibition on patronage and favouritism and promotion of employment equity.</td>
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## Committee Recommendations vs. Government Response

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<th>Recommendation</th>
<th>Committee Recommendations</th>
<th>Government Response</th>
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<tr>
<td>Recommendation 9</td>
<td>The committee recommends that an additional subclause be inserted in clause 24 stating that any arrangements for, agreements on and actual secondments under this clause must be consistent with ACC Values and Code of Conduct and AusAID Code of Conduct for Overseas Service.</td>
<td>The Government does not agree to the recommendation to include a provision on promotion of employment equity as there will only be a limited number of ACC employees at any one time. ACC employees will be selected from the ACC register based on the needs identified by the hosting entity/country, as well as the specific skills, experience and capacity of an individual to operate in that potentially high threat environment. In these circumstances, the Government does not consider that it is appropriate to require the Director General of AusAID to establish a workplace diversity program for the ACC. Not agreed. The AusAID Code of Conduct for Overseas Service (the ‘AusAID Overseas Code’) will not apply to the ACC. However, the ACC Code of Conduct will be broadly consistent with the AusAID Overseas Code, with appropriate modifications to take into account the unique nature of the ACC’s operations. As the Bill is currently drafted, the ACC Values will already apply in relation to secondment arrangements (eg. the obligation of the Director General of AusAID to uphold and promote the ACC Values will apply in relation to the making of secondment arrangements). In addition, the ACC Values and ACC Code of Conduct will continue to apply to an ACC employee on secondment (subject to directions issued by the Director General of AusAID under subclause 16(1)). Including a provision to require that secondments must in all respects be consistent with the ACC Values and ACC Code of Conduct is considered unnecessary and may have unintended consequences.</td>
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<tr>
<td>Recommendation 10</td>
<td>The committee recommends that the Explanatory Memorandum be more explicit on ACC’s reporting obligations by specifying that the report on the activities of the ACC will form a separate and discrete section in AusAID’s Annual Report and will include financial statements.</td>
<td>The Government agrees to amend the Explanatory Memorandum to specify that the activities of the ACC will be reported separately in AusAID’s Annual Report but does not believe it is appropriate to include separate financial statements. Agree.</td>
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<tr>
<td>Recommendation 11</td>
<td>The committee recommends that, subject to consideration of the committee’s recommendations dealing with the provisions of the bill, the Senate pass the bill.</td>
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COMMITTEES
Consideration

Senator CAROL BROWN—I seek leave to move a motion to list committee reports on the Notice Paper for further consideration.

Leave granted.

Senator CAROL BROWN—I move:

That consideration of the committee reports tabled today be listed on the Notice Paper as an order of the day.

Question agreed to.

DOCUMENTS
Tabling

The ACTING DEPUTY PRESIDENT (Senator Kroger)—I present volume 2 of the 2004-2010 consolidated register of Senate committee reports.

Ordered that the document be printed.

Tabling

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (5.36 pm)—I table a statement of reasons for departing from ACCC advice on the Water Charge (Infrastructure) Rules 2010 which were tabled in the Senate on 8 February 2011.

PARLIAMENTARY ZONE
Proposal for Works

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (5.36 pm)—In accordance with the provisions of the Parliament Act 1974, I present a proposal for works within the Parliamentary Zone relating to the installation artwork known as The Prime Ministers. I seek leave to give a notice of motion in relation to the proposal.

Leave granted.

Senator McLUCAS—I give notice that, on the next day of sitting, I shall move:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone relating to the installation work known as The Prime Ministers.

COMMITTEES
Scrutiny of New Taxes
Report

Senator ADAMS (Western Australia) (5.38 pm)—On behalf of Senator Cormann, Chair of the Select Committee on the Scrutiny of New Taxes, I present an interim report of the committee—New Taxes monitoring database.

Ordered that the report be printed.

Senator ADAMS—I seek leave to move a motion in relation to the report.

Leave granted.

Senator ADAMS—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Treaties Committee
Report

Senator ADAMS (Western Australia) (5.39 pm)—On behalf of Senator McGauran, Deputy Chair of the Joint Standing Committee on Treaties, I present the 115th report of the committee, Treaties tabled on 28 October and 24 November 2010 and treaties referred on 16 November 2010 (Part 2). I seek leave to move a motion in relation to the report.

Leave granted.

Senator ADAMS—I move:

That the Senate take note of the report.

Senator ADAMS—I seek leave to incorporate a tabling statement in Hansard.

Leave granted
The statement read as follows—
Mr President, Report 115 of the Joint Standing Committee on Treaties reviews 16 significant and five minor treaty actions.

The Committee supports each of the actions considered in this report. In the brief time available today, I will direct my remarks mainly to the World Wine Trade Group Agreement on Requirements for Wine Labelling.

Mr President, this agreement aims to harmonise wine labelling requirements between member countries. Estimates are the agreement will save Australian wine makers $25 million per annum, and open new opportunities for trade into major world wine markets.

The Committee has supported the agreement, although it recognises there are concerns about inconsistency with Australia’s domestic regulations, with potential implications for consumers. Accordingly, the Committee has expressed the view that the National Measurement Institute should bear these concerns in mind as it amends and implements the National Measurement Regulations to support the agreement.

Turning briefly to the other agreements in the report, the Committee has supported binding treaty action with the European Union on classified information security, on double taxation with Turkey, on social security with Austria, and for provision of air services with seven nations.

The report also reviews treaties addressing mobile satellite communications, postal services and clarifying liability limits for compensation claims arising from incidents involving ships.

Finally, and important given the recent and tragic events in Japan, the Committee has endorsed a cross-serving agreement which will assist Australian Defence and Japanese non-Defence forces to provide disaster and humanitarian relief more efficiently and well, through reciprocal provision of defence supplies and services.

Mr President, I commend the report to the Senate. Question agreed to.

National Broadband Network Committee
Procedure Committee
Membership

The ACTING DEPUTY PRESIDENT (Senator Kroger)—Order! I have received letters from party leaders and an Independent senator requesting nominations and changes in the membership of committees.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (5.40 pm)—I seek leave to move a motion to vary the membership of committees.

Leave granted.

Senator McLUCAS—I move:

That senators be discharged from and appointed to committees in accordance with the document circulated in the chamber:

National Broadband Network—Joint Standing Committee—
Appointed—
Senator Ludlam
Participating member: Senator Xenophon

Procedure Committee—
Discharged—Senator Brandis
Appointed—Senator Fifield.

Question agreed to.

AUSTRALIAN RESEARCH COUNCIL
AMENDMENT BILL (No. 2) 2010
First Reading

Bill received from the House of Representatives.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (5.41 pm)—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 McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (5.41 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The ARC is a statutory authority within the Australian Government’s Innovation, Industry, Science and Research portfolio. Its mission is to deliver policy and programs that advance Australian research and innovation globally and benefit the community.

In seeking to achieve its mission, the ARC provides advice to the Government on research matters and manages the National Competitive Grants Program, a significant component of Australia’s investment in research and development.

Through the National Competitive Grants Program, the ARC supports the highest-quality fundamental and applied research and research training through competitive selection processes across all disciplines, with the exception of clinical medicine and dentistry.

This is an appropriation Bill to support the ongoing operations of the ARC. It will fund the high-quality research we need to address the great challenges of our time, to improve the quality of people’s lives, to support the development of new industries, and to remain competitive in the global knowledge economy.

Bills to amend the Australian Research Council Act to receive administered funding occur each year, this is to apply indexation to existing appropriation amounts, create a additional forward estimate and may also contain new funding for new initiatives.

The current Bill updates the special appropriation funding cap amounts administered by the Australian Research Council to include indexation adjustments to three existing financial year appropriation amounts, and adds a forward estimate year in the Australian Research Council Act 2001. The bill adjusts the Australian Research Council’s funding cap for the financial years beginning on 1 July 2010, 2011 and 2012 in line with indexation, and sets the funding cap for the financial year beginning on 1 July 2013. Indexation adjustments and adding a third forward estimate are part of the standard budget process and are administrative in nature.

The proposed amendments change only the administered special appropriation; they do not alter the substance of the Act or increase departmental funds.

The ARC is the major source of funding for the innovative, investigator-driven research that has underpinned inventions ranging from the Bionic Ear to the Jameson Flotation Cell which saves the coal industry hundreds of millions of dollar each year. ARC Centres of Excellence provide key science and policy advice on the management of coral reefs, are developing automated control systems for the mining industry and agricultural sector and are taking some big challenges in medicine such as applying nanobionics to regenerate spinal cord injuries. ARC funding has enabled regional centres such as the Cairns campus of James Cook University to attract Australian and international leaders in tropical rainforest ecology to build world class teams of researchers and postgraduate students.

On-going funding for the Australian Research Council is essential to the vitality of the Australian higher education system. Excellent researchers across all areas of the university system must be able to compete for funding if we are to keep world class academics in Australia working in our universities and teaching the next generation.

Since 2007 the Australian Research Council has delivered on the 2007 Election Commitment—for 1000 Future Fellowships. The Australian Government will provide over five years up to $844 million and will award up to 1000 of these mid career research fellowships. The inaugural 200 Future Fellows were announced in September 2009 and the next 200 will be announced this week.

In January 2008 we announced the establishment of the ARC Advisory Council and a range of other measures to enhance the independence of the ARC.
In February 2008—we announced the ARC will deliver the Excellence for Research in Australia (ERA). This is a world leading research evaluation framework reflecting the Australian Government’s commitment to a transparent, streamlined evaluation of the quality of research undertaken in Australia’s universities. The Australian Government has provided $35.8 million over four years.

In March 2008—the government announced the opening of all ARC grant schemes to international competition and in July 2008—the opening of the ARC schemes to the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS). The ARC continues to work closely with indigenous researchers on a range of new initiatives for indigenous researchers.

In September 2008—the ARC introduced the Australian Laureate Fellowships Scheme. This was a new fellowship scheme to build strong teams around our very best research leaders. The Australian Government will provide over five years up to $239 million and will award up to 75 Fellowships. The inaugural 15 Laureate Fellows were announced in June 2009.

In June 2009—the National Centre of Excellence in Groundwater Research and Training was established as a joint initiative of the ARC and the National Water Commission with Australian Government support of $29.5 million for five years from 2009.

Other joint initiatives include $92 million through the ARC to the National ICT Centre and $21 million in support of Stem Cell Science research through the ARC’s Special Research Initiative announced in May 2010.

In September 2009—100 Super Science Fellowships (worth $27.8 million) were announced as part of the Australian Government’s $1.1 billion Super Science initiative. The successful recipients were announced in April 2010.

In December 2009—Bionic Vision Research: The Australian Government has provided $50 million for research into Bionic Vision Science and Technology which came about as a priority from the 2020 summit.

In July 2010—13 new Centres of Excellence were announced with total Australian Government support of $255.9 million over 7 years. This was in addition to the Australian Government’s announcement in February 2009 of an additional $82.25 million to extend the funding of 11 existing Centres of Excellence.

Through this important legislation, the ARC will continue to advance our efforts to build a fairer and more prosperous Australia through innovation and education.

I commend the Bill to the Senate.

Debate (on motion by Senator McLucas) adjourned.

SCHOOLS ASSISTANCE AMENDMENT (FINANCIAL ASSISTANCE) BILL 2011

First Reading

Bill received from the House of Representatives.

Senator McLucas (Queensland—Parliamentary Secretary for Disabilities and Carers) (5.42 pm)—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 McLucas (Queensland—Parliamentary Secretary for Disabilities and Carers) (5.42 pm)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

The Schools Assistance Amendment (Financial Assistance) Bill 2011 makes amendments to the Schools Assistance Act 2008.

The Bill amends the Schools Assistance Act 2008 to extend the existing funding arrangements, including indexation arrangements, until the end of 2013 and for Grants for Capital Expenditure until the end of 2014. This will ensure funding certainty for all Catholic and independent schools beyond the current duration of the Act.
The Bill confirms the Australian Government’s commitment to ensuring certainty of investment in all Australian schools.

The Government is conducting a Review of Funding for Schooling due to report in 2011. The Government must maintain an ability to provide certainty for the non-government sector to commit to expenditure in 2013 and, in respect of capital grants, until the end of 2014, while the Review of Funding for Schooling is taking place.

By amending the Schools Assistance Act 2008, the Australian Government will be able to continue to provide capital grants to supplement funds provided by the state and territory education authorities and funds provided by non-government school authorities until 2014.

The amendment provides an opportunity to continue good infrastructure projects for our schools. It will enable the Government to continue to work with school communities, parents and families in the non-government school sector to build on the partnerships that are so critical to improving outcomes for Australian primary and secondary students.

The Australian Government seeks to improve educational outcomes and assist in the provision of school facilities, particularly in ways that contribute most to raising the overall level of educational achievement of all Australian school students.

The ACTING DEPUTY PRESIDENT (Senator Kroger)—In accordance with standing order 111, further consideration of this bill is now adjourned to the first day of the next period of sittings commencing on 10 May 2011.

EVIDENCE AMENDMENT (JOURNALISTS’ PRIVILEGE) BILL 2010

NATIONAL HEALTH AND HOSPITALS NETWORK BILL 2010

Returned from the House of Representatives

Messages received from the House of Representatives agreeing to the amendments made by the Senate to the bills. 
NATIONAL VOCATIONAL EDUCATION AND TRAINING REGULATOR BILL 2010 [2011]

Report of Education, Employment and Workplace Relations Legislation Committee

Senator CAROL BROWN (Tasmania) (5.45 pm)—On behalf of the Chair of the Standing Committee on Education, Employment and Workplace Relations Legislation Committee, Senator Marshall, I present the report of the committee on the National Vocational Education and Training Regulator Bill 2010 [2011] together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

COMBATING THE FINANCING OF PEOPLE SMUGGLING AND OTHER MEASURES BILL 2011

Legal and Constitutional Affairs Legislation Committee

Report

Senator CAROL BROWN (Tasmania) (5.45 pm)—On behalf of the chair of the Legal and Constitutional Affairs Legislation Committee, Senator Crossin, I present a report on the provisions of the Combating the Financing of People Smuggling and Other Measures Bill 2011 together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

TAX LAWS AMENDMENT (TEMPORARY FLOOD AND CYCLONE RECONSTRUCTION LEVY) BILL 2011

INCOME TAX RATES AMENDMENT (TEMPORARY FLOOD AND CYCLONE RECONSTRUCTION LEVY) BILL 2011

Second Reading

Debate resumed from 2 March, on motion by Senator Wong:

That these bills be now read a second time.

Senator RYAN (Victoria) (5.47 pm)—Debate on the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 was ad-
journed to allow the Senate Economics Committee to look into this legislation and I note its report was tabled earlier today. I will not cover in detail all the many highly credible arguments raised by my colleagues with respect to the reasons these bills should be opposed—ranging from the lack of ability of this government to spend money effectively and the priorities of this government, to the enormous amount it has wasted in only 3½ short years.

Today, I want to address the priorities of this government. What happened in Queensland, in my home state of Victoria, as well as in Western Australia was indeed a tragedy, not just in human terms, although that is most important, but also in the damage done to property. I fail to understand why we would introduce a levy like this to pay for what is a basic function of government. The government has not sufficiently articulated the reasons. Why do we have government? Philosophically, it is partly to civilise us. Is it because, as Thomas Hobbes said, ‘Our life in nature would be solitary, poor, nasty, brutish and short’?

In essence, we have government to perform basic tasks which we, as individuals, cannot perform as effectively on our own. It is to create a common wealth and to create certain public goods, among which are emergency services, defence forces, courts, police and a legal system, all of which allow us to live in some degree of freedom from the harshness of nature or the arbitrary actions of others. At its most basic, providing basic infrastructure is a core function of government. It is not an additional extra. It is not something for which people should have to dip into their pockets and pay more. This government has run an extraordinarily large budget but to justify that it needs an extra levy to perform what should be the first task of government, to allow us to share some of the risk that the natural disasters of this continent can impose upon us as individuals, to build common infrastructure, shows that this government does not have its priorities right.

When this government is faced with a problem, an opportunity or a challenge, no matter what the situation, the opportunity is always there to resort to new taxes. It is a habit. It is an addiction. The first step for this government to not continually increase the burden upon the Australian people would be to realise it has a problem. Off the top of my head I can name six new or increased taxes in three short years. We had the alcopops tax. We had the luxury car tax increase, which this government cares to forget. We have had increases in tobacco excise and tobacco tax and now we have the mining tax, the carbon tax and, with respect to this bill, we have what is colloquially know as the flood tax. This government always resorts to taxes. In a massive budget it cannot perform the most basic tasks of government—rebuidling infrastructure from unforeseen and unforeseeable natural disasters. It has to levy the Australian people an extra cost.

The truth is that this tax is so small that it betrays the true agenda of this government. This government wanted an excuse to create a new tax. You know that in essence you do not need it. It represents less than half a per cent of the government’s annual expenditure. It represents well under that when you consider the period over which this money will be spent. This tax is simply not needed. Over the past three years, this government has shown its willingness to fling money around. It spent it on pink batts, on green loans and on shonky and shabby builders. Yet, it has to dip into Australians’ pockets when it wants to do the first most basic of functions. What are we to see next? Extra charges, extra levies to deal with security, to deal with courts, to deal with police? These are the functions of government which should come first. These are the core functions; they are not the
‘nice to have’. What does this say about the priorities of this government? More importantly, what does it say about this government’s lack of ability to prioritise?

Why should taxpayers be asked to fork out extra? The government has completely failed to answer that question. It has shown, however, that its priorities are all wrong. In a budget of more than $350 billion this year and, without any shadow of a doubt, of substantially more than that next year, why is there no scope for savings of under one per cent to perform the first tasks of government? But no—this government wanted to contrive a tax argument because it loves nothing more than a ‘Let us try and soak the rich; let us try and turn some Australians against other Australians.’ That is what it is doing with the carbon tax. Some Australians are worthy of being punished with punitive tax rates; other Australians are worthy of government largesse. In this case, it has again drawn the line at $50,000 or $100,000 and said that those below that are worthy Australians. The class war rhetoric from the Labor Party does not die—this government wants to turn some Australians against other Australians.

That has been the one consistent theme of the Australian Labor Party going right back to the days when it opposed Federation and right back to the days when it was the true intellectual father of the White Australia policy. It has always sought to turn some against others. All this trouble, all of this division, all of this wish to turn some Australians against each other—for $1.8 billion. I consider that to be a lot of money, but that is half of what they spent on an insulation program which they were warned was not going to work. And it is less than what they are spending to fix the problem they created—the problem that now we have dangerous roofs. Four people who were working in electrified, foil insulated roofs have died, and there have been house fires. I am yet to see, for those four people, the contrived outrage about occupational health and safety that I see in New South Wales at the moment.

The truth is that there is a little hook to this tax that the government does not tell you about. The Prime Minister promised that no one impacted by the floods would pay the levy. I suppose that promise will soon go the way of the ‘there will be no carbon tax under the government I lead’ commitment that Prime Minister Gillard made before the last election—because it is simply not true. Those receiving the disaster income recovery subsidy are not exempt from the tax. Those receiving the Centrelink payment for temporary accommodation—those who could not access their houses or who had lost power—are exempt. But those receiving the business recovery grants, whether they be farmers, small business people or business employees who could not work—those people are not exempt from the tax. The payments they receive are exempt from the tax. But in the next financial year, if those Australians—particularly those in Queensland—earn more than $50,000, they are going to be stung with the flood levy. Yet again, the Labor Party is seeking to turn some Australians against other Australians. There are thousands of Queenslanders who are going to pay this levy who might have lost business stock or who might not have been able to work. Because they did not lose access to their home for 24 hours, they are not exempt from paying the flood levy.

To thousands of small business people who suffered, perhaps because they or their employees could not get to work due to transport in South-east Queensland not functioning for that short period, and to the farmers who lost crops—and the people I have spoken to are hoping that they are back on their feet come next financial year—this government is going to do what it is doing
with every other tax. It is planning to take with one hand and give with the other, because those small businesses, those farmers and those employees are going to be stung with this flood tax if they earn more than $50,000. That, quite frankly, again betrays the doublespeak of the Labor Party on this issue. You promised that no-one impacted by the floods would pay the levy and that is objectively a false statement—many thousands of Australians who were directly impacted by the floods will pay the levy. Only those who had restricted access to their homes or damage to their homes are exempt from this levy. That leaves thousands of community leaders, small business people and farmers to be hit with a tax burden in the year they need it least—when they are recovering from the natural disasters that we saw in Australia earlier this year.

This government’s lack of priorities about the very basic functions of government is betrayed by this tax. Rather than pull out the budget and a red pen—in $350 billion it cannot find $1.8 billion to ensure that it can perform this basic task of government without levying an extra tax—this government hits Australians. It then hits Australians with the class war rhetoric that we had really thought was a remnant of university political science departments, a rhetoric that has no place in modern Australia. As people, many of whom were directly impacted by these floods and many of whom suffered significant financial loss, get these tax bills next year, this government will be held to account for this flawed policy and its complete lack of ability to prioritise its own activities.

Senator TROOD (Queensland) (5.57 pm)—It is a great honour to follow such an eloquent speech by my colleague from Victoria. I think Senator Ryan has made some very telling points on the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and they are points on which I am in complete accord. The legislation seeks to implement the government’s announcements from January this year after the catastrophic floods. We all recognise that the events over the summer were of a kind which requires a unique and demanding response from the federal government and from the governments in all those states where catastrophes—and that is what they were—occurred during the summer period.

But this is an ill-conceived piece of legislation. I think we on this side are all in accord about that. It is an ill-conceived piece of legislation, even though its various components seem to make a kind of elegant statement about how one might address the issue. The $1.8 billion flood levy is part of it as are the spending cuts of $2.8 billion. Those cuts are a seduction because they suggest that the government is trying and committed to reducing excesses in its budget. But they do not go far enough from our perspective. The third component is the delay in some infrastructure projects, freeing up some funds. On its face, it looks like a complete package. But so much of what is being done depends and rests on the very foolish, very ill-conceived and unnecessary flood levy proposed in this legislation.

This is not the best way to deal with an emergency and this is not the best way to deal with this particular emergency. Clearly there are other reasons for introducing this particular approach. It is another reflection, I think, of the Gillard government’s absolute economic and financial incompetence. It is a reflection of the fact that when a problem occurs, when a need arises, when a public policy issue emerges the Gillard government’s solution—as indeed it was for the Rudd government—is a spasm response. It is almost a spasm response to a set of circum-
stances. Their only solution to the problem is to tax and, of course, to tax again. Part of the reason for this particular instinct is a reflection of the fact that the Gillard government is in coalition with the Greens. At the very foundation of the Greens philosophy is the belief that the only way to solve most, or indeed all, public policy issues is through increasing the burden on the Australian people.

There has been much commentary on this levy and much of the commentary has been unflattering, as it deserves to be. Saul Eslake, a well-known commentator from the Grattan Institute in Melbourne, who is well respected for his views, has made the point that this is a political choice that the government has made rather than reflecting economic imperatives. There are alternatives to solve this particular public policy problem. There are other ways to spend money and there are better ways to design a response to these particular disasters. One alternative would be to introduce further budget cuts, not the trifling cuts that the government has proposed, but a more determined and more critical introduction of budget cuts. Otherwise we could—and this is not necessarily desirable—accept for the short term a larger deficit.

Part of the problem is that in introducing a levy there is an amount of churn. As we collect and distribute the money there are, of course, administrative costs and the estimate has been that at least part of the levy will go towards meeting those costs, which is an unnecessary increased burden on the budget. If we did not have the levy we could roll out the response within the context of the usual financial arrangements for the Commonwealth, and we would probably save several million dollars if not a higher figure. That is always to be recommended. Industry groups do not support the levy. Mr Zimmerman from the Australian Retailers Association makes the point that a levy would impose additional cost-of-living pressure on families, and I think he is right to say that. The question then is: in light of these circumstances and in light of the ill-conceived nature of this levy, what could we do?

The coalition, being a responsible coalition and taking its task seriously to hold the government to account as it is always determined to do, has made a series of proposals where additional cuts could be made without great impact on the people who were, supposedly, going to be the beneficiaries of this expenditure. There are many parts of the budget where savings could be made, where there could be a deferral of spending, where money could be diverted to the reconstruction effort, which we all understand, know and recognise as being necessary, and where we could better use Commonwealth funds.

Some solutions could be: partially deferring the water buybacks; delaying funding that is unexpended so far in the Building the Education Revolution program; redirecting the remaining funds from the Building Better Regional Cities program; and reducing spending on the Automotive Transformation Scheme. There could be further cuts to the funding of GP superclinics, which have barely started. I think the promise was 35 by this date and we have reached only two or three so far. It is widely recognised that these are unnecessary expenditures. Discontinuing the funding on the National Solar Schools program or discontinuing the reward payment for school improvements program are other possibilities. Discontinuing the online diagnostic tools for parents and teachers program and discontinuing the helping our kids understand finance program are others. Some of these programs may have some particular value for some members and for some sections of the community. In a Commonwealth where there is limitless cash and where revenue is rolling into the coffers without any difficulty then some of these programs might...
arguably be deserving of funding, but not in these circumstances, not in these difficult times in which we are confronted and particularly not in a situation where the Commonwealth faces the primary burden of undertaking the reconstruction as a result of the floods and the events of the summer period.

If we are able to identify some of these, if we are able to be rigorous and vigorous in our determination to impose these savings measures then, of course, in my state of Queensland we would have an opportunity to do the things which remain to be done and which now seem likely to be postponed. For example, things such as the duplication of sections of the Bruce Highway; the project in relation to the Herbert River floodplain study; the realignment, again, of the Bruce Highway to provide flood-proof access, which is a long-term concern of many of my Queensland constituents, particularly in the north of the state, could be done. There are needs out there which are greater than those for which money has been outlaid. They are not going to be cut but could well be cut. What we have here is a situation where there are many opportunities for savings. There are many needs which might be substituted. The Gillard government has failed to undertake the rigorous assessment which is necessary.

This levy will impose obligations and further burdens on taxpayers earning between $50,000 and $100,000. In all likelihood they will pay something in the vicinity of $250 more tax. The levy is in addition—and Senator Ryan was making this point quite eloquently—to the $41 billion in new taxes that the government has either implemented or is proposing over the next few years. For the as yet unquantified carbon tax, which we are promised is coming for introduction after July 2012, an estimate is $300 per annum for our households, but will it be greater? This tax may not be the one that will break the back of many families but, at the very least, for many families it will impose an unnecessary and increasing burden on people who are struggling to make ends meet in very difficult circumstances. They do not need to have that imposed upon them, particularly in such a highly inefficient way for what is a relatively small amount of money.

We also remain unclear as to the full costs of the flood recovery. An estimate has been made but it may well blow out to a very much larger figure and the levy may turn out to be a very small amount of the money required. We on this side think the government should rethink this plan. I suppose the possibility that this is going to occur is somewhere between nought and nothing. We have very low expectations but the reality is that it is wasting our money and it is unnecessary.

We have questions which deserve an answer. I hope the minister might address some of these concerns in the committee stage of this bill. We are told the levy will raise $1.8 billion, but there is no clear estimate of the damage at this point in time, so I think we are entitled to ask: how reliable is the estimate of the costs that have already been made for recovery? Is this a precedent for future disasters? Is this what we are going to face into the future? Every time a disaster comes along and the Labor government is in power, are we going to have yet another levy to try and address the issue? Is this a comfortable way for this government to address this problem.

Senator Sherry—You had six.

Senator TROOD—In better circumstances, Minister, in far more compelling circumstances I would venture. What about the question of the state responsibility here for insurance in relation to disaster relief? My own state, where much of the impact has occurred, did not have the insurance that was required. That was regrettable indeed. I think the argument has been made about the fact
that the cost was going to be too great but it has been unpersuasive. Surely it is a fundamental responsibility of governments to protect against the kinds of exigencies that occurred on this occasion.

There remains the question about exemptions. Will it include visitors, voluntary contributions, ongoing assistance to family and friends? We note that this is an impost on individuals that companies or enterprises will not be paying. There are questions to be asked, not least the questions which arise about the deal that the government has done to secure passage of this legislation through the parliament. Mr Wilkie from the House of Representatives is said to have extracted a promise of something in the vicinity of $50 million for tertiary education for his vote in support of the legislation. Senator Fielding is said to have secured something in the vicinity of $500 million for aid for Victorian reconstruction efforts. Deals have been done which are costly, which increase the burden on the purse of the Commonwealth and which will increase the deficit just to get this piece of legislation through the parliament because, as it stood, it was unpersuasive. The case was weak and individuals had to be bought off to ensure that the legislation would be passed.

In summary, we abhor this piece of legislation. We recognise that the Commonwealth has a primary responsibility to respond to the challenges which are now before it in relation to flood reconstruction and disaster reconstruction more generally, but this piece of legislation is ill conceived. It is bad economic management. It is unfairly taxing a significant proportion of the Australian population. A much better solution overall would have been if the government had used this opportunity to cut unnecessary spending, of which there is a great deal in the budget—I failed to mention the NBN, which is always a useful candidate—retain core spending in areas where that was necessary and fold the response into the overall budget practice. If it had done that, we would have been much more willing to support this piece of legislation.

Senator McEWEN (South Australia) (6.13 pm)—I too would like to contribute to the debate about the Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011. Like most Australians, I stared in disbelief at the confronting scenes before me on my television of the Queensland floods earlier in the year and soon after of the flooding in western and central Victoria. It was to be the worst flooding in our history. Homes, businesses, crops, livestock and, most devastatingly of all, lives were lost. To make things worse, after the absolute destruction of the floods Queenslanders had to endure Cyclone Yasi, the second natural disaster to strike the state within a couple of weeks.

We are fortunate to live in Australia but, unfortunately, our country also comes with some of the most extreme and unforgiving weather conditions of any nation; it goes from one harsh extreme to another. It often seems that, while one side of the country suffers through severe droughts, heatwaves and bushfires, the other side of the country is waterlogged and battening down the hatches in fear of tropical cyclones. As a South Australian, as indeed you are, Madam Acting Deputy President Hurley, we know that we have experienced both floods and droughts but fortunately, so far, not cyclones. Through all those times, I am always heartened by the generosity of Australians when they respond to tragedy affecting other Australians. In times of need, the Australian people really do know how to open their hearts and their wallets in order to help others.
In the case of the floods this year, hundreds of thousands of people have pledged their support to the various disaster funds and relief efforts by donating their time, monetary gifts or household items to help others. I think all of those individuals should be thanked for doing so. What has also been wonderful to see is the number of people volunteering in the cleanup efforts. Over 10,000 people arrived at the Brisbane City Council’s four volunteer centres the weekend following the flooding to help clean up in some of the worst-hit flood areas. Another 2,000 volunteers registered to get their hands dirty in Ipswich, and they were joined by thousands of others who did not register but who simply stopped and offered to help people in need. It has been mentioned in this place before that Queensland recorded a shortage of gumboots due to the overwhelming number of people looking to lend a helping hand, and I think that is indicative of the Australian spirit. As well as the volunteers and the people who ran projects to assist others, as I said, there were a great number of Australians who donated money to the relief efforts through the Queensland Premier’s Disaster Relief Appeal. Australian people, businesses and communities reached into their pockets to help others. The tally of donations for that flood appeal surged to well over the $200 million mark, and money is still coming in. So many Queensland residents in particular had little or no time to prepare for the floods and walked away with only the clothes that they were wearing. Many residents lost everything. The Premier’s Disaster Relief Appeal and other appeals like that are there to help those people to replace their day-to-day needs.

Of course, while the generosity and kindness of Australians has been outstanding, we must not forget that the damage to infrastructure that has been caused by the floods is unprecedented and the task of rebuilding Queensland is simply enormous. It may very well be that these floods are the most costly disaster in Australian history. It is in our nation’s best interests, certainly in its economic best interests, to rebuild the great state of Queensland as soon as we can. It is for that reason that the federal Labor government have introduced the package of bills that we are debating here today—the temporary flood levy bills—which will assist so much in the reconstruction process. I know the opposition, as they usually do when they have nothing constructive to say or to contribute to a debate, like to claim as they have done here that this spending initiative is just another tax on the Australian people. Let me tell you right now that those opposite me here today are wrong. This is a one-off levy that is one part of a comprehensive reconstruction effort by the Australian government in concert with the Queensland government, because no single level of government or community sector would ever be able to afford to do this alone. This is why the federal government is choosing through this legislation to impose a modest charge on taxpayers who have not suffered through the disaster. Many of us donated money to the Queensland Premier’s Disaster Relief Appeal and other appeals but we know that that will not be enough. There are roads, highways, ports, railway lines and public facilities which all need to be rebuilt. That reconstruction effort is going take time and is going to need a lot of money. Initial estimates put the cost to the Commonwealth at some $5.6 billion. That is almost 30 times more than the money which is currently in the Queensland Premier’s flood relief fund.

I believe that the coalition is well and truly out of touch with the Australian public on this issue. A good barometer of what the public thinks about something is the traffic to an electorate office in terms of phone calls, emails et cetera. My electorate office in
South Australia has not received any negative feedback at all regarding the flood levy being proposed in this legislation. The phones have remained unusually quiet on an issue that will require some taxpayers to pay a small amount of money. The phones have remained unusually quiet, despite the opposition’s hysteria around this issue. Unlike those opposite, I believe a great percentage of the public actually agrees with the flood levy because they know and understand that this is a one-off measure designed for extraordinary circumstances. Australians understand why the government also makes donations to other nations that have suffered disasters, such as its provision of $10 million to the people of Japan to help that poor country deal with the aftermath of the unbelievable devastation there following the earthquake and tsunami. Australians understand that those who have should give to those who have not. So it is always disappointing to see the opposition playing political games, trying to win political points and making political mileage out of the hardship, in this case, of the Queenslanders and, to a lesser extent, the Victorians and the South Australians who suffered from the floods. The federal Labor government is not relying on the implementation of the levy alone to raise much needed funds. We have regrettably had to impose spending cuts and have delayed a number of infrastructure projects to ensure that we do have the financial ability to assist Queensland to rebuild.

The amendments to the existing legislation that we are debating here tonight are not going to affect each and every taxpayer in the same way. To reduce any financial stress on those who have already been involved in the floods, the bills ensure that those people affected by natural disaster will not have to contribute to the levy. Therefore, taxpayers who have already received an Australian government disaster recovery payment for a natural disaster in 2010-11 and those people who did not receive an AGDRP but who meet at least one of the criteria and live in a natural disaster and recovery zone will be exempt from the flood levy. Additionally, New Zealand special class visa holders who are ineligible for the AGDRP but who still received an ex gratia payment from the government as a result of the natural disasters will also be exempt from the flood levy.

For those people who are not exempt from the levy, I must say that the impost is very reasonable. For most taxpayers, it will be a very modest charge. The levy takes into account people’s different earning capacities and subsequently their capacity to contribute to the flood reconstruction. Approximately 50 per cent of taxpayers will not have to contribute to the levy whatsoever. The levy will only be applicable to those taxpayers earning over $50,000 in the 2011-12 tax year. Of those people, over 60 per cent will pay less than $1 a week, over 70 per cent of people will pay less than $2 a week and over 85 per cent of people will pay less than $5 a week. So, an Australian earning the average adult full-time wage of approximately $68,000, will pay $1.74 each week. That is a lot less than a cup of coffee each week. As we can see, it is a very moderate, reasonable and—importantly—one-off temporary measure to assist in rebuilding not just Queensland but the whole nation.

Applying this flood levy will mean that we can rebuild Queensland without compounding the stresses on our growing economy. I note that the task of rebuilding this state is set to increase demands on our capacity, our skills and our resources. Those are just some of the things that we are going to have to deal with as we take on the issue of rebuilding Queensland.

I noted earlier this month that the Deputy Prime Minister, Mr Wayne Swan, together
with Queensland Premier Anna Bligh, announced the signing of the national partnership for natural disaster reconstruction and recovery. In signing the agreement, Mr Swan said that $2 billion of Commonwealth funding will go out the door right now and straight into needy Queensland communities. Included in the agreement is $50 million specifically aimed at the facilitation of the recovery process in North Queensland following Cyclone Yasi. Additionally, in line with the government’s resolve to see that infrastructure is rebuilt appropriately and efficiently, there are strong auditing and reporting requirements in place to monitor the spending of taxpayer’s funds. The government does not want to see any waste whatsoever and the agreement provides for the Reconstruction Inspectorate, led by Mr Jon Fahey AC, to oversee reconstruction activity. That will provide assurance that value for money is being achieved across the board for the disaster response.

The opposition’s knee-jerk response of trying to find funding for the disaster recovery is a far cry from this well-thought-out plan of the government’s. Many people were very alarmed to hear the Leader of the Opposition, Mr Tony Abbott, say that the coalition would fund the rebuilding of Queensland through the deferral of some funding as well as through a great many funding cuts rather than introduce a sensible, temporary, one-off levy. We are grateful—and I am sure that the people of Queensland are grateful—that the opposition is not in government. After over a decade of spending cuts at the hands of the former coalition government, Mr Abbott has angered many Australians by proposing a range of new spending cuts to offset the need for a temporary levy. Should, heaven forbid, the coalition ever secure government, those funding cuts would never be reinstated.

The opposition, for example, has suggested cuts of $500 million to the automotive industry, an industry that employs hundreds of thousands of people across the country. In an echo of the policies of One Nation, the opposition has also said that it would defer some $400 million in overseas development aid. Overseas development aid—foreign aid, as it is usually known—as even Mr Alexander Downer, a former Leader of the Opposition, said, is in our national interest, particularly when we are spending it in Indonesia, a region targeted for aid cuts by the opposition.

In Senate estimates earlier this month, I had the opportunity to discuss our foreign aid budget and, in particular, our aid to schools in Indonesia with representatives from AusAID. I learnt that so far our Australian aid has contributed to the construction of more than 2,000 schools. AusAID anticipates that a similar number will be constructed with continued funding generating more than 300,000 new school places. Those are new school places for Indonesian students in areas where the only other alternative for education would be in radical religious schools. We are all well aware of how important it is for our neighbours in Indonesia to ensure that their students—their young people—have the opportunity for a decent education, not a radical education. We know how important it is for them to ensure that girls in particular in Indonesia are able to attend school and undertake a curriculum that will set them up for life, either in occupations or in further education. This point was reinforced in the discussion with AusAID at Senate estimates. It is a great shame that one of the first things that the opposition put forward as a way to fund the reconstruction of Queensland was to cease funding for that very important Australian aid initiative.

The point was made that another item that was immediately targeted for funding cuts by the opposition was water buybacks in the Murray-Darling Basin. That did not go down too well in South Australia, where we are
very concerned about the future of not only the river but the communities that rely on the river for their livelihoods. To have this off-the-cuff ill-thought-out proposal from the federal opposition to get rid of, or defer for however long, the opposition proposed, $600 million of water buybacks did not go down too well in South Australia. It was typical of the lack of planning and lack of thought that the opposition have in regard to the Murray-Darling Basin. For them, it is just an expendable thing. They have no intention of seriously addressing the problems with the basin.

While the opposition is focusing its attention on trying to cut money from areas of need in the Australian community, the government is instead continuously thinking of ways to improve the lives of all of those affected by the recent disasters. Earlier this month, the Deputy Prime Minister, Premier Bligh and the Minister for Tourism, Martin Ferguson, launched ‘Nothing beats Queensland’, an aptly named marketing strategy to promote the state to Australia and to the world in these difficult times.

**Sitting suspended from 6.30 pm to 7.30 pm**

**Senator SHERRY** (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation and Minister Assisting the Minister for Tourism) (7.30 pm)—The Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 are very important pieces of legislation. I would like to thank the senators who have contributed to the debate on the bills.

As we are all aware, the recent disasters around Australia have had a massive impact in human terms and on property and infrastructure. Costs vary but it appears as though the cost to the public purse of repairing the infrastructure damage we have seen, such as roads, bridges, ports and railways, will be approximately $5.6 billion. This would mean that it is one of the most significant disasters, if not the most significant one, in monetary terms that Australia has seen. This does not include the obvious cost to individuals that is also of great significance and will not be finalised until insurance claims are completed.

We are moving into the recovery phase and it is clear that there will be a need to rebuild large amounts of public infrastructure. Many Australians have already generously donated to charitable funds to assist people affected by the floods. Charities will use these funds to help people directly to bounce back from the disasters. This levy on the other hand is contributing funding to rebuild damaged essential infrastructure, such as the roads, bridges, ports and railways that I have mentioned. And, as I mentioned, the cost of rebuilding infrastructure is in the order of $5.6 billion. The government will fund the majority of the cost through spending cuts. The remainder will be provided by this temporary—and I stress, temporary—flood and cyclone reconstruction levy. In an economy that is growing strongly it is important that we pay as we go.

In terms of the spending cuts that I have mentioned, they approximate $2.8 billion. This includes removing industry assistance and cutting back some other programs by abolishing, for example, the Green Car Innovation Fund and the Cleaner Car Rebate Scheme, and making some other cuts. There will be a $1 billion delay in some infrastructure projects. This will free up both funds and skilled workers, which is particularly important at a time of skilled labour shortages around the country.
The Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 and the Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy) Bill 2011 introduce a modest one-off, temporary levy that will end at midnight on 30 June 2012. There has been a fair amount of criticism from some members of the Liberal and National parties in respect of this legislation. I remind them that this is not the first time over the past decade that this parliament has seen a levy in response to a particular set of unusual and special circumstances. I have been in this place for almost 21 years and I can recall a number of other levies under the previous Liberal and National government. A couple come to mind. I think there were about half a dozen. We had one in respect to the Ansett collapse, which I am sure people would remember. They may not recall that there was a levy on airline tickets to pay for the cost of the collapse of Ansett Airlines. We had a levy in respect to the gun buyback. We had a levy in respect to East Timor. We had a levy in respect to the milk industry. We had a levy in respect to the sugar industry. There was one other that does not quite spring to mind.

In the critique by those opposite of this government’s approach, we have massive hypocrisy. They have condemned and criticised this government for its temporary, one-off levy when they in fact resorted to the same approach on at least six occasions when they were in government from 1996 through to 2007. On six occasions they resorted to levies and some of them went for a damn sight longer than the levy that is proposed in this legislation. The Ansett levy went for a couple of years. The milk and sugar levies went for longer than a year, although I cannot recall the exact time. So in this legislation we are not dealing with anything that is conceptually new.

The levy will end on midnight of 30 June 2012. The levy will be progressive and based on an individual’s ability to pay. The Australian income tax system is based on the individual, which achieves fair treatment between individuals and is simpler to understand for taxpayers. For this reason the levy is based on taxable income earned by individuals which is assessable income less allowable deductions. This is the same income base used for previous levies, levies that I have referred to earlier in this debate such as the East Timor levy and the gun buyback levy. These levies that I have just mentioned involved an increase in the Medicare levy, which is based on taxable income.

Anyone with a taxable income in 2011-12 of $50,000 or less will not pay the levy. Taxpayers with taxable incomes between $50,001 and $100,000 will pay a levy of 0.5 per cent—half a per cent—on that part of their taxable income over $50,000. Taxpayers with a taxable income over $100,000 will pay a levy of 0.5 per cent on that part of their taxable income between $50,000 and $100,000 and a levy of one per cent on that part of their taxable income over $100,000. Let me give an example. A taxpayer with a taxable income of $60,000 a year will pay a levy of 96c a week. A taxpayer with a taxable income of $100,000 a year will pay $4.81 a week. Importantly, taxpayers affected by the recent disasters—not just the floods but also Cyclone Yasi and the Western Australian bushfires and floods—will not have to pay this levy if they meet certain criteria.

The legislative instrument under which these bills provide for the minister to exempt people from the levy will provide an exemption for those who have received an Australian government disaster recovery payment for a disaster that occurred in 2010-11. There will also be an exemption for those who are ineligible for an Australian government dis-
aster recovery payment but have been af-
fected by a disaster declared under the Na-
tional Disaster Recovery and Relief Ar-
rangements and meet at least one of the Aus-
tralian government disaster recovery pay-
ment criteria. There will be a further exemp-
tion for non-protected New Zealand special
category visa holders who received an ex
gratia payment from the government in rela-
tion to a disaster that occurred in 2010-11.

The levy will be paid through the tax
withheld from regular wages and salaries
like personal income tax and the Medicare
levy that is already paid. But if employees
are exempt from the levy they can ask their
employer not to have the levy withheld from
their regular pay. Alternatively, at the end of
the year the ATO will assess a taxpayer’s tax
liability, taking into account their exemption
from the levy.

Once again I would like to thank members
of the Senate for their contribution to the
debate on these bills, which are of great im-
portance for Australia’s response to the re-
cent devastating disasters. Before I conclude
my remarks and sit down, I note the Attor-
ney-General has issued a determination as to
the 2011 National Disaster Relief and Re-
covery Arrangements which amends the
NDRRA determination of 2007 to strengthen
arrangements ensuring that state and territory
governments have adequate capital or insur-
ance to fund restoration and replacement of
infrastructure following a disaster. A new
guideline is attached to the 2011 determina-
tion providing details of how the strength-
ened arrangements can be fulfilled. I table
the determination as to the 2011 National
Disaster Relief and Recovery Arrangements.

Question put:
That these bills be now read a second time.

The Senate divided. [7.47 pm]

(The Acting Deputy President—Senator
JM Troeth)
Bills read a second time.

In Committee

Bills—by leave—taken as a whole.

Senator XENOPHON (South Australia) (7.50 pm)—I note that the minister has tabled the Natural Disaster Relief and Recovery Arrangements Determination 2001 (Version 1.0). I also note that attached to that document is a Natural Disaster Relief and Recovery Arrangements Guideline 2011. If I can take the minister to the differences between this and the 2007 document, so that it is placed on the record and that there is no ambiguity in how this would operate, is the minister in a position to indicate the key differences between this document and the 2007 document? Perhaps if I could get the minister, for the sake of time, to confirm if the key differences with this document are clauses 4.5, 4.6 and 5.13 which relate to the requirement for the states to have reasonably adequate access to capital in relation to insurance, and they need to look at, but are not limited to, mechanisms such as commercial insurance, reinsurance, any state COAG reinsurance fund or pool and state department premium contributions—that is, internal state funds.

Further, could the minister confirm that under 4.6 of the NDRRA the state must submit independent assessment of state insurance arrangements and that the Commonwealth will conduct a review of the state’s independent assessment in conjunction with the state? I want confirmation of that and some of the mechanics, which I will get to shortly.

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation and Minister Assisting the Minister for Tourism) (7.53 pm)—As Senator Xenophon has outlined, I can confirm that on page 8 of the document I have tabled 4.5 says, ‘State must have reasonably adequate capital or access to capital’ and a range of details are listed. Under 4.6 it says, ‘State must submit independent assessment of state insurance arrangements’. A number of subparagraphs flow from there to the middle of page 9. They are new. On page 10 under 5.13, it says, ‘Reduction in state of assistance’. That paragraph outlines the action taken if a state fails to take appropriate action within a reasonable time. They are new provisions.

Before we move to the next part and the mechanism which Senator Xenophon has mentioned, I can acknowledge the senator’s positive contribution in seeking the inclusion of these provisions in the document. It is a consequence of his discussions and, indeed, insistence that these new provisions will be placed in the determination.

Senator XENOPHON (South Australia) (7.54 pm)—I thank the minister for that. I refer to the insurance requirements guideline under the natural disaster relief and recovery arrangements 2011. Could the minister confirm that the manner in which the determinations are made by the Attorney-General will be in accordance with those guidelines and will involve a forensic look at the way the states go about seeking either insurance or reinsurance and also arrangements to ensure they have reasonably adequate capital to cover a natural disaster?

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation and Minister Assisting the Minister for Tourism) (7.55 pm)—Yes, that is correct. Any person reading the new provisions in this would come to the reasonable conclusion that it will be a rigorous method. You used the term ‘forensic’. If you look at the provisions outlined, it is indeed very rigorous.
Senator XENOPHON (South Australia) (7.56 pm)—I want to acknowledge the work done by the Prime Minister’s office. There has been a lot of work in amending this document over the last few weeks. I am grateful to the Prime Minister’s office for some very robust discussions and negotiations in relation to this. I also acknowledge the advice from John Tsouroutis who is on my staff. He was former head of the Territory Insurance Office in the Northern Territory who has provided me with invaluable advice in relation to this. The last time this document was amended was back in 2007. I would like to table a document I received from the Prime Minister—and I will seek the permission of the opposition to do this—which indicates this is a long-term change to the document. When is it proposed to review the new determination? I imagine there are processes that will take the next 12 months. It is a process that allows for the Auditor-General to be involved. Could the government indicate that they regard this as the determination that will stand for some time, given what has occurred with the Queensland floods and given the need to ensure that states and territories behave prudentially in relation to insuring or securing their assets?

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation and Minister Assisting the Minister for Tourism) (7.57 pm)—I can confirm that this is a new and updated document. It is the document that has standing in the context of disaster relief and recovery arrangements. There is no review period as such set down for this document. It will continue to have that standing with the amendments that we touched on earlier.

Senator XENOPHON (South Australia) (5.28 pm)—I have just provided Senator Parry with a copy of the letter I received from the Prime Minister’s office in relation to this particular legislation. It is undated, but I believe it was received on 3 March. It says, ‘The government will ensure that the process set out in the attachment to this letter’—the process being the guidelines in identical format—‘will become a guideline to the NDRRA and that the provision will have a continuing application.’ I seek leave to table that document which is a true copy of the original.

Leave granted.

Senator XENOPHON—I am grateful to the minister for tabling the document. I think that this deals satisfactorily with the concerns that I have raised about insurance arrangements with the states. I think there will now be a fundamental change in the way that the states need to consider the insurance of their assets. I have supported this levy, but I have done so on the basis that I believe that as a result of these new arrangements I cannot imagine circumstances in which a levy would be required again, given that there will now be a rigorous set of arrangements to ensure that the states do the right thing regarding their assets. This would generally involve some form of insurance or reinsurance, or taking other prudential steps, for their assets in the event of a natural disaster.

Senator CORMANN (Western Australia) (8.00 pm)—On behalf of the opposition, I thought I would put a few things on the record again. When we started this debate Senator Xenophon had not made up his mind yet about how he was going to approach this piece of legislation—I think the negotiations with the government were furiously ongoing—so I thought I would just go back to what this is all about.

What we are dealing with here is yet another ad hoc Labor Party tax, which quite frankly should not be required. We are dealing with this tax because the government has
fundamentally mismanaged our public finances. Any government that has its public finances under control should be able to fund the important reconstruction effort in Queensland, which we of course strongly support, without having to resort to an ad hoc tax introduced in this fashion.

I draw the attention of the chamber again to the fact that we are having a budget in May. This particular tax is supposed to come into effect on 1 July 2011. The proper process to pursue the necessary Commonwealth funding contribution towards the reconstruction effort in Queensland would have been to assess all of the revenue and spending priorities in the budget and to reprioritise those spending commitments. The point has been made that our annual budget is about $350 billion. This increase in the income tax for all Australians earning more than $50,000, unless they are exempt, is supposed to raise $1.8 billion out of a budget of $350 billion. The point has been made that if you had $350 in your pocket and you had some spending commitments do you think you could find $2 in order to deal with an urgent priority? Any Australian knows that they would be able to do so.

Why is the government bringing this tax on now? It is politics. They know that they can take advantage of people’s goodwill towards the people of Queensland, even though this is not going to do anything to rebuild any houses or anything—this is all about rebuilding the infrastructure for which the state Labor government in Queensland did not take out proper insurance. The Commonwealth government wants all Australians earning more than $50,000 to pay more tax because their finances are out of control and they cannot reprioritise their spending to find $1.8 billion, and because the state Labor government in Queensland did not take precautions by taking out appropriate levels of insurance.

What is becoming obvious is that only the Liberal and National parties will stand up for lower taxes in this parliament. Only the Liberal and National parties will be voting against this tax because we do not think this is the way to run the finances of the Commonwealth. In a $350 billion budget this government should have been able to reprioritise all of its wasteful and excessive spending in other areas to find $1.8 billion, particularly if you consider the $2.4 billion wasted on pink batts and all of the money wasted on school halls. With the money that is being wasted day-in and day-out by this government they cannot find $1.8 billion to help fund the necessary and important reconstruction effort in Queensland.

We think it is quite disgraceful that it has come to this. We are very disappointed that Senator Xenophon has finally succumbed to the Prime Minister’s overtures on this. We think that this is a bad way to run fiscal policy in Australia. We think the proper way to run fiscal policy in Australia is through a proper budget process. Given the fact that this tax is not to come into effect until 1 July 2011, the more honest and more proper way to deal with this would have been through the budget process when the government should look through all of their spending commitments.

Bear in mind that the expenditure for the Queensland reconstruction effort has not been properly quantified yet. It is said to be about $5.6 billion or thereabouts, but that did not include Cyclone Yasi. It is a rough estimate and it is likely to be more. When we asked the finance minister during recent estimates about what the government will do if the actual spending will have to be more than the initial estimate, she said, ‘We will just save some money.’ If you can save money then, why can you not save money now? That is a very important question.
We are dealing with this tax because the Labor Party instinct is to go for a tax whenever they think they can politically get away with it. They want to whack it on because they know of people’s goodwill towards the people of Queensland and they think this is a tax they can politically get away with. They are bringing up all these cuddly names for it, such as ‘flood levy’ and ‘mateship tax’, but it is all politics. It is all about going ahead with this con at the expense of the Australian people. Every person across Australia earning more than $50,000 will have to pay the price for Labor’s mismanagement of our public finances.

Senator IAN MACDONALD (Queensland) (8.05 pm)—I have some questions that I want to ask that I flagged in my speech in the second reading debate. I am surprised to see that the Greens are not here because I indicated that I was particularly keen to get input from the Greens political party on this levy. As is always the case, when there is not a photo opportunity Senator Brown is never around. I am very impressed when Senator Brown rails against multinationals during debates on this tax and many other taxes that the Labor-Green alliance is proposing to introduce. I indicated in my speech on the second reading that I was going to ask some questions to the minister about this and I was hopeful that the Greens might have been able to participate as well.

I also want to ask Senator Xenophon in the course of consideration, or ask the minister and perhaps Senator Xenophon can contribute, about this deal that Ms Gillard put to him that encouraged him to support this quite iniquitous tax. I will come to that question later, but the question I want to put to the minister at this stage is why is it that this tax, which he and the Greens have told us is so absolutely important for the recovery of my state of Queensland—and other states as well but principally Queensland—is being levied only on individuals? I do not have the figures in front of me, but I am sure the minister will so he will be able to tell me what percentage of the total tax revenue take do individuals pay, and what total contribution to the overall tax take do company, corporate and other tax revenues provide. We know the Greens’ penchant for attacking multinationals, those big companies that rip the profits out of Australia and take those profits overseas. We hear this from the Greens all the time.

Senator Cormann—And Labor.

Senator IAN MACDONALD—And the left wing of Labor, yes, we do hear that—

Senator Sherry—And the National Party.

Senator IAN MACDONALD—No, the National Party is not like that—not when it comes to ‘ripping all this money out of Australia and sending the profits overseas’ and ‘Why aren’t they paying their fair share; we have to have a mining superprofits tax to make sure those corporate Bs pay their share.’ Why is it, Minister, that with this recovery of my state of Queensland, and of New South Wales and Victoria and I guess Western Australia with the fires, it is only individuals—read ‘small business men and women and wage earners—who are picking up the bill? With these great social engineers in the Labor Party and the Greens who do not want the poor people to pay, only the rich people, why are we having this tax only on individuals and not on those ‘big multinational money grabbing companies that send all Australia’s profits overseas’? Why is this happening in this way? I am seriously interested to hear the excuse from the minister. I would love to have heard Senator Brown try and bumble his way through an answer to that.

Senator Xenophon has very clearly and actively and aggressively pointed out that this tax is not all about rebuilding Queensland. Queensland will be rebuilt, I can as-
sure you. It has been rebuilt after every cyclone that has hit that state in the last 150 years. After all the floods and the droughts we have had in Queensland in the last 150 years, Queensland has been rebuilt and it will be rebuilt again following the most recent floods and the cyclone. We need a levy because the Queensland state Labor government is so incompetent, so bereft of any financial management skills at all, that it is broke. Quite clearly, my state government is broke. How is it going to pay for this rebuilding? It picks up the phone to its Labor mates in Canberra and says it cannot afford to pay for it itself so let us have a levy. Queensland have not been sensible enough, like South Australia and other states, to take out insurance. Do you know why they did not take out insurance? They could not afford the premium. I think Senator Xenophon, through the committee system, has shown—or did I read it in the paper?—that the premium is $50-$55 million. They could not afford it so they winged it, knowing that when things went bad their mates in the Labor Party in Canberra would come to their rescue.

But their mates in the Labor Party in Canberra are not coming to the rescue out of the general revenue; they are going to impose a special levy—not on the money grabbing multinationals that send all their profits overseas but on individuals, Australians, who cannot send their profits overseas even if they want to. If you are a decent government worried about social equity, wouldn’t you say to the Australian public, ‘Look, the progressive taxation system that has been so important in Australia over many years has got out of kilter a bit and the poor people are paying too much and the rich people are not paying enough.’ Wouldn’t you think you would say, ‘Let’s adjust the tax system, let’s make it more progressive.’ But, no, the Labor Party will not do that, because they are dishonest and they know there would be a voter backlash against them. So rather than doing the taxation reform that perhaps they think needs to be done, they approach it in a different way. If they did it out of general revenue, then the really big earners in Australia—those ‘money grabbing multinationals who send all of their profits overseas’—would have paid a fair bit towards the cost of rebuilding Queensland. Those people on $200 million or $300 million a year income would have paid a lot towards the cost had it come from general revenue, because we have this progressive taxation system. But, no, we are not doing that. We are introducing this special flood levy.

Again, as I pointed out in my speech on the second reading, we have a flood or a drought or a cyclone every year. Are we going to have a flood, drought or cyclone levy every year? This is why I have predicted, as I did in my speech on the second reading, that this flood levy will become a permanent part of the Australian taxation system while Labor is in power, because they simply cannot be trusted with money—they cannot manage money, they cannot manage taxation and that is why, when anything happens, they bung on a new tax.

It is a long preamble to my question, but I want to get from the minister the understanding, the policy reason as to why only individuals are paying for the rebuilding of my state of Queensland—not companies, not the multinationals which are ripping the profits out of Australia and sending them overseas. Why are they getting a free ride when it comes to rebuilding my state, New South Wales, Victoria and Western Australia? What is the policy rationale for doing that? Now do not get up and say, Minister, that you have a Medicare levy and that is how it works there, so this is how it will work here. This is supposed to be all about rebuilding my state.
and others after massive floods because my state government was too incompetent to have money aside to do it themselves.

Senator Nash interjecting—

Senator IAN MACDONALD—It is a Labor government in Queensland; it is broke. That does not surprise anyone.

Senator Cormann—That is what happens when Labor is in government for too long.

Senator IAN MACDONALD—Absolutely, Senator Cormann. Senator Cash raised the point about how the minister determines a class of individuals who will be exempt. Senator Xenophon might be interested in that. I made the quite ridiculous comment that perhaps the minister could exclude people who were members of the Australian Labor Party. Not for a moment do I think the minister would do that, but, as I read the legislation, he could. It will not help you, Senator Xenophon. You do not have a political party, so they cannot exclude the Xenophon independents from paying it but they could exclude the Australian Labor Party from doing it. This is legislation we are going to pass tonight. Would you believe that? The minister can determine a class of individuals for the purposes of subsection (2)—that is, paying a tax—if the minister is satisfied that the class was affected by a natural disaster which happened in Australia between July 2010 and 2012. I can tell you now that there are some members of the Australian Labor Party in the north and in Queensland who have been affected. Perhaps they could be excluded. As I say, not for a moment do I suggest that the minister would do that but there has to be some constraint on it. I will come back to that later. At this stage, my question to you, Minister, is—

Senator Carol Brown—That’s embarrassing.

Senator IAN MACDONALD—It is embarrassing.

The TEMPORARY CHAIRMAN (Senator Troeth)—Senator Macdonald, pay no heed to interjections. Please proceed with your speech.

Senator IAN MACDONALD—I would be embarrassed if I were a member of the Australian Labor Party and I was exempted from paying this tax. I and Senator McLucas know a lot of people who really did not want the $1,000. Do you know why they took it? Senator McLucas knows. Because they would not have to pay the tax then. That is true. Senator McLucas does know people. We both know the same people who took the $1,000—they donated it to charity—but they will not be subject to the tax any more. What sort of legislation is this? Minister can you tell me please the policy rationale—I was hoping Senator Bob Brown would be here to assist you in an answer—behind the fact that individuals will pay for the rebuilding of Queensland but not all of those mining companies which, according to Senator Brown and some in the Labor Left, are ripping billions of dollars out of the ground in Queensland. If I read Senator Brown correctly, he is accusing those coal-mining companies of being a cause of the floods and the cyclones. Are they going to contribute any of their income to the recovery of Queensland? Why are they exempt? Why is it that these multinational companies, which are ripping billions of dollars out of the ground in Queensland and, according to Senator Brown, causing the floods and the cyclones—going to be let off scot-free, but in my home town my butcher and my baker will be paying this levy? BHP and Rio will not be. Woolworths and Coles will not be. Why should my butcher and baker have to pay this levy but Coles and Woolworths do not? Why do Rio and BHP escape scot-free from rebuilding Queensland when my motor mechanic will
have to contribute to the levy? I would be very interested, Minister, if you could set me right on the policy reason. Please tell me I have misread the bill.

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation and Minister Assisting the Minister for Tourism) (8.20 pm)—In a long, rambling, contradictory and somewhat repetitive contribution from Senator Macdonald, there were two questions, which I will go to. He asked for the contribution of major taxes—it is in budget paper No. 1 as a percentage of Commonwealth tax revenue. In respect of personal income tax it is 45 per cent of total Commonwealth revenue, company tax 22 per cent, GST 17 per cent. The second issue went to exemptions. We have restricted the scope of exemptions to those affected by disasters in the legislation in the form and manner which I read out in my concluding remarks to debate on the legislation. We published the draft determination on the Treasury website.

Senator Ian Macdonald—Do you think we might get it tabled here?

Senator SHERRY—It is on the Treasury website.

Senator Ian Macdonald—This is the chamber of the parliament. Perhaps it might be tabled here.

The TEMPORARY CHAIRMAN (Senator Troeth)—I understand it has been tabled, Senator Macdonald.

Senator SHERRY—Senator Macdonald asked a series of questions—in, as I said, a somewhat rambling and repetitive manner—about where the government had drawn its inspiration from for this levy approach. Senator Macdonald and I came into the Senate together in 1990. Senator Macdonald has been in this place for the same length of time I have, almost 21 years. He does not have the excuse that Senator Cormann has. Senator Cormann has not been in this parliament for too long and would not know some of the history behind levies.

If you want the truth, Senator Macdonald, we were inspired in our approach by none other than the former Liberal-National Party government of which you were a member. We were inspired by the Liberal-National Party government in our levy approach—you had six of them when you were in that government, Senator Macdonald. If we include the super surcharge, there were seven.

I am showing my age, but in 1996 we had this promise: ‘No increase in taxes, no new taxes and no increase in existing taxes.’ And what were we presented with after the election? Senator Macdonald knows because he was here. We were presented with the super surcharge. Do you know how much this temporary levy or surcharge raised? It raised $1.48 billion. It was a temporary superannuation surcharge, but do you know how long it went on for? It lasted nine years. This temporary super surcharge lasted nine years. Senator Macdonald and quite a number of us know that because we received surcharge statements and we are still getting them. Do not come into this place and give us a lecture about levies when we have seen the impact of the super surcharge. Despite the election promise of those opposite that there would be no new taxes, that super surcharge went for nine years—well beyond when the budget went back into surplus.

But there is more inspiration. There was the milk levy. It raised $1.74 billion thanks to the National Party. How long did the milk levy last? I do not think most Australians knew that they paid a milk levy. I think it was 11c. It went for nine years. Again, that is a far longer period than it took for the budget to go into surplus, Senator Macdonald. That was the milk levy. There was the sugar levy.
levy—the third levy under the previous Liberal-National Party government. It raised $86 million. That one went for three years. That was the third levy. Then there was the Ansett levy. That one went for about three or four years. How much did that raise? It raised $369 million.

Senator Ian Macdonald—Was it on individuals?

Senator Sherry—I will get to the issue of whether it was on individuals in a moment, Senator Macdonald. There was the gun buyback. The gun buyback was projected to raise $550 million and the East Timor levy was to raise $855 million. Let me read through these figures of the party that does not agree with levies or surcharges—$1.48 billion for super; milk, $1.74 billion; sugar, $86 million; Ansett levy, $369 million; and gun buyback, $550 million. This is from a party that says it does not agree with levies. But it is opposed to increases in taxes. That is where we drew our inspiration from, Senator Macdonald—none other than your government. When you were in government, you introduced six levies, not including the super surcharge.

And then there was the piece de resistance—we even had a levy on shipping containers. That was the seventh. For the former Liberal-National Party government, the piece de resistance was putting a levy even on shipping containers. So if they were not whacking your super, your milk, your sugar, your airline flights, your guns or funding the East Timor dispute, there was a levy on shipping containers. That is seven levies over 12 years. That is where we got our inspiration from, Senator Macdonald—none other than yourself. You were a member of that government for almost 12 long years. So do not come in here and give us your hypocrisy about levies, Senator Macdonald. Stop wasting the Senate chamber’s time.

Senator IAN MACDONALD (Queensland) (8.27 pm)—I will not thank the minister for the answer after that gratuitous playing of the man and not the ball. It is always the way the Labor Party act—if they do not have an argument, they start attacking the man. Senator Sherry did not answer my question. I asked him for the policy rationale behind the rebuilding of Queensland being charged to individuals rather than multinational companies who are ripping profits out of Queensland and Australia and sending them overseas. That was the question, Senator Sherry. You did not answer that. I suspect you did not answer it because you do not have an answer for it. You chose to attack me and say that the coalition had levies. As I recall, the milk levy was on a bottle of milk. Is that right?

Senator Sherry—Yes, it was. Shame!

Senator IAN MACDONALD—The Ansett levy was on airfares, paid principally by those corporate multinational giants who fly all around the place. The shipping container levy was, I understand, on shipping containers—not on individuals.

I will repeat my question, and do not bother giving me another tirade of ‘the Howard government had levies’. I seem to recall you opposed every single one of them, Senator Sherry, very volubly and aggressively. You have had a bit of a conversion on the way to the market, have you not? Do you not see a difference between putting a levy on containers paid for, perhaps, by those multinational companies and putting a levy on the incomes of individuals, or between putting a levy on the incomes of individuals but not on the incomes of multinational giants ripping off profits and taking them out of Australia and sending those profits overseas? I hasten to add, for Hansard and for the thousands of people who I know will be reading this and following it online, that I am not attacking
the multinationals for making profits and paying shareholders. But that is the line you get from the Labor Party Left and from the Greens.

So I will repeat my question, Minister, and hope that you might give me an answer. I am not after the policy rationale for levies; I am after the policy rationale for why in this instance you would charge individuals—that is small business men and wage earners—with the cost of rebuilding Queensland because the Queensland state Labor government was too incompetent to manage its finances to do it itself, the same as every other state does. Why is the levy on individuals and not on the large multinational companies? I will repeat it for you, Minister, in case you have forgotten, as you seem to have missed the question last time. If you took it out of general revenue then the really wealthy in the community would pay more because of our progressive taxation system, and the big multinational companies and the big mining companies, which Senator Brown said are the cause of the floods and the cyclones, would be paying. But under this legislation supported by you and the Greens, those big multinationals, who caused, according to Senator Brown, the cyclone and the floods, are getting away scot-free. Can you please explain the policy rationale? Do not give me a tirade of: ‘The Howard government did it. We opposed it but because you did it and got it through we are going to do it here.’ Tell me what the policy rationale is for individuals—the butcher, the baker, my motor mechanic—having to pay this levy while Coles, Woolworths and the multinational mining companies do not have to make a contribution to the rebuilding of Queensland.

Senator SHERRY (Tasmania—Minister for Small Business, Minister Assisting on Deregulation and Public Sector Superannuation and Minister Assisting the Minister for Tourism) (8.32 pm)—The levy is progressive based on income, as I outlined and defined in my concluding remarks in the second reading debate. It is fair and equitable, Senator Macdonald. That is why we based it that way, and that was the same approach in respect to the gun buyback and the East Timor levy, which I referred to in my previous remarks. As for the taxation of multinationals, which was an issue that you claim was referenced in Senator Brown’s remarks—I do not know whether it is true or not because I did not hear Senator Brown’s remarks and he is not here—that is for him to explain. No member of the government that I am aware of suggested in their remarks anything other than the approach that is reflected in this legislation and has been outlined. It is not the intention, and it does not happen in this legislation, to take the Greens’ approach with a base for the levy.

Senator IAN MACDONALD (Queensland) (8.33 pm)—Minister, you still have not answered my question. Again, you are saying that because we did it for the guns buyback then it is okay to do it here. Let me take you through this. This levy is to rebuild Queensland and other states because of the floods. If you accept that the levy is a reasonable thing to do, rather than expecting the state to do it as every other state is required to do, the Australian public as a whole should contribute to rebuilding Queensland. Why, Minister, is it that individuals have to pay for this recovery yet major multinationals do not have to? Coalmining companies, Rio Tinto and BHP do not have to contribute one cent towards the rebuilding of Queensland. Why is that? That is what I am genuinely wanting to understand.

Senator Sherry interjecting—

Senator IAN MACDONALD—I know Bob Brown really is the Prime Minister but I would have thought, Minister, that you were still maintaining the pretence that you ran the
government and I thought this was your legislation. Your legislation imposes this obligation on individuals—the butcher, the baker, my motor mechanic. What was the policy rationale that said: ‘Okay, Coles, Woolworths, Rio Tinto and BHP do not have to contribute to the recovery of Queensland’? That is the real issue. This is why I have been opposed to the levy and this is why many on my side are opposed to it. That is what I am asking you. Please do not say: ‘Well, the Howard government put in a levy so we’re having a levy and it’s only on individuals because that’s what the Howard government did.’ That was perhaps so with shipping containers and Ansett as well, but I am not asking about that. I am asking: why in the rebuilding of Queensland are individuals having to fork out but Coles and Woolworths are not? My baker and my butcher have to pay but Coles and Woolworths, who compete with them, do not have to pay. Rio and BHP get away scot-free but the excavating contractor down the end of my street has to pay. Can you explain for me why individuals should rebuild Queensland and not the big income earners in our country?

Senator XENOPHON (South Australia) (8.37 pm)—I am not sure if Senator Macdonald wanted me to respond to some of the remarks he made earlier about the nature of the Natural Disaster Relief and Recovery Arrangements. I am happy to elaborate on it. Do you want me to elaborate on it? I am very happy to.

The TEMPORARY CHAIRMAN (Senator Hurley)—I would prefer that senators addressed their questions through the chair.

Senator IAN MACDONALD (Queensland) (8.37 pm)—Madam Chair, seeing the minister does not have an answer to my questions and just wants to do what the Labor Party typically will do, push this under the counter, not answer the difficult question—

Senator McLucas interjecting—

Senator IAN MACDONALD—Perhaps you could contribute then, Senator McLucas. Ask individuals in Cairns when you are up there why they should contribute but—I was going to say, ‘the big companies in Cairns do not have to’, but you have got rid of all of those with your Labor government legislation. There are not too many big businesses left in Cairns, I regret to say. You do have a Woolworths, you do have a Coles and I think some of the big mining companies have offices in Cairns. Why aren’t they contributing, Senator McLucas? If Senator Sherry cannot answer this perhaps you can get up and assist him.

The TEMPORARY CHAIRMAN—Senator Macdonald, would you address your questions through the chair, please.

Senator IAN MACDONALD—Thank you, Madam Chair. I was answering an interjection.

The TEMPORARY CHAIRMAN—Please do not answer interjections at this point.

Senator IAN MACDONALD—Okay, I will seek your protection, Madam Chair. Thank you very much. Senator Sherry seems incapable or in the typical Labor way just does not want to answer the difficult questions. Senator Xenophon referred earlier to a letter he said he had from Ms Gillard. He clearly knew what it was about and Ms Gillard and her minions here on the government benches and the Greens will know what that was about. I was wondering if Senator Xenophon could explain to the Senate the import of that assurance from the Prime Minister. What was in that assurance that assuaged Senator Xenophon’s very genuine concerns about the lack of insurance taken out by the state government in Queensland?
Senator XENOPHON (South Australia) (8.39 pm)—There is no great secret to this. On 3 March, when agreement was reached between the government and me in relation to the whole issue of Natural Disaster Relief and Recovery Arrangements, I put out a media release. I attached to the media release a copy of the letter from the Prime Minister and also the new guidelines to the Natural Disaster Relief and Recovery Arrangements which are attached to the determination 2011, version 1. I can indicate there has been complete openness and transparency in that process.

Essentially the determination itself has been amended. I understand the Attorney-General will also table it tomorrow in the other place. It requires a number of things. Firstly, a state must have reasonably adequate capital or access to capital. That can be done through a number of measures including but not limited to the following mechanisms: commercial insurance or reinsurance or any state COAG reinsurance fund or pool and state department contributions—that is, internal state funds. We know, given the questions of Senator Macdonald, the issue here is one of the Commonwealth having to bear 75 per cent of the brunt of any natural disasters under the arrangements that were in place from 2007 until now, arrangements that were largely in place for a number of years under both this government and the previous Howard government. The state must submit an independent assessment of state insurance arrangements and that includes having state Auditor-Generals being involved, for example, so the states need to tell the Commonwealth what they are doing in relation to insurance. The states must publish the outcome of any independent assessment, which in turn is assessed independently by the Commonwealth, and the Department of Finance and Deregulation has a role in that. I will refer to that process as well.

The first independent assessment must be published and provided to the Attorney-General’s Department by 30 September 2011, with further assessments required no greater than every three years. If there is any significant change in the insurance arrangements of a state, including any reduction of the policy limit purchased, then there will need to be a review of that state’s independent assessment in conjunction with the state. The review will be guided by principles including: that the state has a responsibility to put in place insurance arrangements which are cost-effective for both the state and the Commonwealth for the financial exposure borne by taxpayers at both levels of government; that the onus is on the state to explore a range of insurance options in the marketplace and assess available options on a cost-benefit basis; and that, in the event as a result of that review the Attorney-General makes a determination, which must be published and transparent, and the state fails to follow that recommendation, the amount that a state would be reimbursed under this determination will be reduced in accordance with these principles. In other words, the rate of assistance will need to be reduced if the states fail to take prudential steps in relation to that.

In terms of the mechanism and how it will work there is a 15 paragraph document which relates to the guidelines which sets that out. It would involve a whole range of steps and safeguards including using the Attorney-General and the Department of Finance and Deregulation and ‘utilising such external actuarial expertise required in order to ensure a full and rigorous assessment.’ In other words, it is anticipated that there will be some external expert advice. Each review will include an examination of matters such as the following: the nature of any insurance or reinsurance sought and offered, the amounts of any premiums and excesses, the events and extent of assets covered, the
amount covered per event, the maximum possible loss, the reinstatement terms, and the claims experienced in any related matters. It is very comprehensive. The document does have in it any insurance sought and offered because if a state or territory wants to be disingenuous and to say, ‘We got this premium offer which is totally unrealistic,’ it depends what they sought.

For instance, if Senator Macdonald wants to insure his home and insure every nook and cranny and wants full replacement value for every item in that home, replacing items such as antiques—I do not know what he has in his home; I have not been there—he can load the dice so that he will get an extraordinarily high premium if he is seeking an unrealistic term of insurance. There needs to be a question of reasonableness, because I think some of the statements made by the Queensland government have been quite extraordinary where it is saying, ‘It’s going to cost us billions to insure the state’s assets.’ That is patently absurd, from the discussions I have had with those in the insurance industry. I am very sad that the Queensland Treasurer has resorted to personal abuse in relation to my position.

**Senator Ian Macdonald interjecting—**

**Senator XENOPHON—**I think it is unfortunate that that is the approach. Senator Macdonald needs to know that the Commonwealth government will ask the Commonwealth Auditor General to periodically conduct audits at intervals no greater than three years to assess the adequacy of the Australian government’s responsibilities under the NDRRA, including determining whether the processes are appropriately transparent and whether there is best practice in determining when material is commercial-in-confidence. I really am grateful for the hard work of the advisers in the Prime Minister’s office. I am sure they got pretty sick of me towards the end of the process, maybe earlier in the process. They diligently and in good faith conducted this process with the aim of having a good outcome. That was my primary concern. If there is going to be a flood levy, I want it to be the last flood levy we have.

No longer can states hide behind the previous arrangements which were that the Commonwealth will always pick up the bill to the tune of 75 per cent. There has been a huge moral hazard here and that moral hazard has been quite apparent as a result of these terrible natural disasters in Queensland. I find the attitude of the Queensland government to be quite extraordinary. But this is a fair, robust and transparent process. It requires a review to be published within 90 days of receipt by the Department of Finance and Deregulation. The Attorney will consider the report and make recommendations to the states in light of that report. If the Commonwealth Attorney General does not accept any part of the recommendations in that report, the Attorney will table a statement in the parliament explaining the grounds for rejecting the recommendation. The Commonwealth Attorney General will advise the state in writing of his or her final decision, including any decision not to reduce the rate of assistance provided, to be published within 14 days. There are some tremendous transparency mechanisms here, and I think this is a very good piece of public policy.

This is not a criticism of the coalition but, back in 2007, a decision was made by the Commonwealth not to self-insure their assets. I wonder whether these new criteria, while not directly applying to the Commonwealth, will set a new benchmark in how we determine these issues—although, to be fair to the Commonwealth, the assets that the Commonwealth has in terms of roads and infrastructure are much, much less than what states and territories have. So I hope this has
answered Senator Macdonald’s concerns in relation to the document, but that was my key concern. I am looking at the big policy picture. The reason why we are having this debate and why we are having this levy in the first place is, I think, because the Queensland government decided, quite foolishly, not to take out insurance on its assets. I would like to think this will stand Australian taxpayers in good stead for a number of years. The transparency mechanisms are quite extraordinary. Again, I think this is the result of negotiations with the Prime Minister’s office which were hard, but which were conducted in good faith.

Senator IAN MACDONALD (Queensland) (8.48 pm)—I do thank Senator Xenophon for perhaps the most useful answer that has been given in any debate in a committee stage in this chamber for a couple of years. He actually answered the question and knew what he was talking about. His answer did raise one issue, which I will ask the minister, but assuming the minister will not answer perhaps Senator Xenophon might take up the question for me. Perhaps you did explain this, Senator Xenophon, and perhaps I missed it. How can we be sure that this arrangement, which you have just explained very clearly, will be put in place? We on this side have a bit of hesitation in accepting promises made by the current Prime Minister, and I think most Australians will, too, after the ‘no carbon tax in any government I lead’ issue—but I do not want to go into that. What are the mechanisms that make Senator Xenophon confident that this arrangement—which he has almost single-handedly, I might say, arranged with the current government—will be put into effect?

Senator XENOPHON (South Australia) (8.49 pm)—I am grateful to Senator Macdonald for his question. Again, I acknowledged previously that I did receive assistance from Mr John Tsouroutis, who was the former Group Managing Director of the Territory Insurance Office. He ran the Territory Insurance Office from 2003-08 and did so very successfully. Both sides of politics were quite praiseworthy of his expertise in turning that organisation around. He has some great experience in this sort of insurance. I did get advice from a number of people. I am also grateful to those individuals who risked their jobs, who risked their careers, by providing me with information that I thought was quite telling in terms of the Queensland government’s conduct.

This determination is a unilateral determination by the federal government because the federal government pays the bills. So it is not a question of it having to be signed off by COAG. That is the nature of the document. It is unilateral in its nature because it is the Commonwealth that provides the funding under this relief recovery arrangement. Obviously there has been consultation with the states but this is a document that does not require any of the states or territories to tick off on it. The document is very explicit in its timetabling and in its structure that the states need to undertake an independent and appropriate assessment of their insurance arrangements. It anticipates that it could be a state Auditor-General—it does not have to be—but they need to publish the outcome of such assessments. They need to do so by 30 September 2011. They need to do so every three years but the first one will be given to the Commonwealth.

The states need to say how they look after their assets, whether it is a case of commercial insurance reinsurance, any reinsurance fund or pool—and that is something that I would like COAG to look at, because that would create enormous economies of scale—or internal state funds. The Commonwealth Attorney-General will then request the department of finance to utilise their appropriate expertise to provide a full and rigorous
review of the independent assessments submitted by the states. That will establish benchmarks for the appropriateness of each state’s insurance arrangements. You cannot have it across the board, because Queensland will have different insurance needs than South Australia, Victoria or another state. That is only part of the answer.

Senator IAN MACDONALD (Queensland) (8.52 pm)—My concern is how you can know that this arrangement is going to be put in place. That was really my question. I appreciate the answer that you have given so far, Senator Xenophon, but is this going to be legislated? Is it going to be a regulation? Has it already been done? Perhaps I missed it. If so, has it been done in a way such that a government can say, ‘Yeah, we’re going to do this’ one week and then say the next week, ‘Look, things have changed and we’ve had to form a coalition government with the Greens and so we’ve had a change of heart—sorry about that, Senator Xenophon’? That was really my question. What assurance have you got that this arrangement that you are talking about will actually happen? Is it going to be legislated?

Senator XENOPHON (South Australia) (8.53 pm)—I do not know if I should be getting a penalty rate for assisting the government like this.

Senator Sherry—We’ll give you a penalty; you started this!

Senator XENOPHON—Yes, I started this. The position is this: the previous natural disaster relief and recovery arrangements—the arrangements for a number of years under both this government and the previous government—have been undertaken through a determination. That is how it has been done.

Senator Ian Macdonald—A determination made by who?

Senator XENOPHON—A determination made by the Attorney-General or the appropriate minister.

Senator Ian Macdonald—How do you know that he is going to do it in this instance?

Senator XENOPHON—Firstly, the document has been tabled, so this is the new determination. This determination replaces or supplants the previous determination of 2007. It has been tabled.

Senator Ian Macdonald—They can do another one next week.

Senator XENOPHON—The government could also change the legislation next week, next sitting session or after 1 July.

Senator Ian Macdonald—It would have to come into the chamber.

Senator XENOPHON—Yes, but—

The TEMPORARY CHAIRMAN (Senator Hurley)—Senator Macdonald, if you have a question, you need to ask it properly.

Senator Ian Macdonald—I am sorry; I was trying to expedite things.

Senator XENOPHON—I know that interjections are disorderly, but they were helpful interjections from Senator Macdonald.

Senator Nash—Always.

Senator XENOPHON—I do not know about ‘always’. The position is this: I considered that, but I did not think that it was necessary to incorporate it as a piece of legislation given that this government and previous governments have worked on the NDRRA by determination for a number of years—for many years. It goes back to post Cyclone Tracey in terms of how these determinations operated. There will be a series of hurdles, safeguards and transparency arrangements. If those were to change, they would be the subject of appropriate scrutiny through this parliament. I am satisfied with the arrangements
because I think that the Commonwealth knows that these arrangements protect Commonwealth taxpayers in a reasonable and prudential way. It is a quantum leap forward in terms of transparency and accountability arrangements and requiring states and territories to do the right thing when it comes to insurance arrangements. So I am satisfied.

There is nothing to stop the government from trying to change it in three months or six months. The parliament will change in six months time. For the government to capriciously change them would carry with it some considerable risks for the government. They know that. But the government has done the right thing in terms of making a significant improvement in the arrangements to deal with natural disasters and relief and recovery arrangements. Even if this were set in legislation, you cannot bind a parliament; one parliament cannot bind another. I have simply taken the approach that these determinations have been dealt with previously in this way. I was happy for that to continue. I accept in good faith that we have some pretty good changes here. I expect that those changes will be with us for some considerable time—at least until there is a review by the Auditor-General in three years time. If the Auditor-General makes recommendations to improve or alter the arrangements then that can be the subject of further scrutiny and debate at that time.

Senator IAN MACDONALD (Queensland) (8.57 pm)—I am sure that Senator Xenophon and I and most other Australians accepted in good faith the promise, ‘There will be no carbon tax under a government I lead.’ We all accepted that in good faith. We thought that she actually meant it. Here we are a couple of months later and she did not mean it. You have answered my question, Senator Xenophon; I am not going to argue with you further on that. Remember the old Keating thing, the I-a-w law tax cuts back in the 1993 election? Senator Sherry raised this point—he was there then—I think that he was probably part of the government that legislated for these I-a-w law tax cuts. They had the election, won the election on that, and immediately got rid of it with the help of the Democrats, as I recall—the other left wing party that used to be here.

Senator Xenophon, if this were in legislation, if they wanted to change it, they would have to go through not only this chamber—and I accept that, after 1 July, with the Greens very much the ultraleft wing of the Labor Party, they would support it and it would probably get through this chamber—but the other chamber, in which it might not find such an easy passage. If it were legislated, you could be more assured. Perhaps you do not want to answer this; perhaps you would only repeat what you have already said. But you are accepting the word of a government that has proved that you cannot accept their word that they will do this, that they will issue these determinations, that the Attorney-General will do this. I am sure that when they made the arrangements with you they probably believed that they would. But perhaps the Greens will come along and say, ‘We do not want you to do that for X, Y and Z reasons,’ and the Prime Minister will get up and ring her hands and say: ‘Oh, things have changed since I promised Senator Xenophon that we would do this. The Greens have formed a coalition in Queensland with the Queensland state Labor government and they do not want to go through this any more.’ It is up to you what you accept of the government’s word, but it seems to me to be pretty flimsy. You may want to comment on that.

I want to ask Senator Xenophon one final question. If this arrangement had been in place, say, a year ago, could Senator Xenophon indicate in rough figures—not using exact figures because I appreciate he would
not have them here—from his, I know, very
diligent research into this whole issue, what
the case would have been then—what it
might have cost the Queensland government
to insure and what they might have got back
from the Commonwealth under the NDRA
arrangements? That is one question. Then
compare that with what is going to happen
now when this arrangement was not in place.
Has Senator Xenophon actually done those
calculations to indicate what the difference
would have been had this arrangement been
in place?

Senator XENOPHON (South Australia)
(9.01 pm)—Going to the first issue, I will
not respond directly to some of the remarks
made by Senator Macdonald. I am satisfied
that the agreement that has been reached is
one of good faith. I am satisfied that the At-
torney-General of the Commonwealth will
implement the terms of this agreement, as
the minister responsible for that. I am satis-
fied that it is something that will have bipar-
tisan support because it actually protects tax-
payers’ funds in a way that is quite reason-
able and robust and because there are trans-
parency mechanisms in it.

I am also satisfied that the government
knows and I know that, if the government
tears this up in the next six months—which I
do not anticipate occurring in any circum-
stance—that would be a gross breach of
faith. I do not expect that to happen.

Senator Ian Macdonald—What about
‘no carbon tax under a government I lead’?

Senator XENOPHON—But I do not ex-
pect it to happen. I urge Senator Macdonald
to look at this document in detail. It is actu-
ally very robust. Every word in those guide-
lines in the new determination has been care-
fully weighted to ensure that Commonwealth
taxpayers’ funds are protected, but in a way
that is reasonable also to the states, as long
as the states take reasonably diligent steps.

Senator Macdonald is also aware that we
have a Senate Economics Committee inquiry
looking at the whole issue of the insurance
arrangements in the state of Queensland. I
would be very interested to see what offers
for insurance were made, because I think that
they will vindicate the concerns that Senator
Macdonald and I and others have had about
the arrangements or lack of arrangements of
the government of Queensland, which goes
to the latter questions that Senator Mac-
donald asked.

My understanding is that the government
of Queensland was offered insurance back in
2000, and in more recent times, with a pre-
mium in the order of $50 million. It would
have been multibillion dollar coverage that
would have included roads. The extent of the
loss to taxpayers, had some appropriate ar-
rangements been in place, would depend on
the sort of excess that applied. The advice I
have had from within the insurance industry
is that, with these sorts of claims, you may
have a fairly large excess per event. It might
be $50 million, $100 million or a larger
amount than that. The fact is that, instead of
there being a total bill of something like $5.8
billion in total, the bill would be in the hun-
dreds of millions rather than in the billions of
dollars for those sorts of insurable events. I
have no doubt that, if prudential arrange-
ments had been put in place, the cost to
Queensland taxpayers and, in particular, to
Commonwealth taxpayers would be billions
of dollars less. States and territories will not
be able to hide behind what they are doing
now and use glib excuses for why they have
not taken out insurance, because they will
now be subject to mechanisms that are very
transparent and robust.

Senator IAN MACDONALD (Queen-
sland) (9.05 pm)—I thank Senator Xenophon
for that and I wish him well in his reliance
on the word of a government that, as we all
know, promised us just before the last elec-
tion that there would be ‘no carbon tax under a government I lead’, and of course that will be the next major debate here.

With not a great deal of hope of getting any answer from this government, because it is a government that is unaccountable and does not believe that it has to answer to parliament for its legislation, I ask if the minister could identify something for me that I think he made mention of in his first answer: where is the minister going to specify—and I assume he has not done it yet because this legislation is not yet passed—a class of individuals for the purposes of the proposed subsection 2 of section 4-10 in the amendment bill? Where is he going to specify that he is satisfied that that class was affected by a natural disaster that happened in Australia between the nominated dates?

The TEMPORARY CHAIRMAN (Senator Hurley)—Senator Macdonald, you have the call again.

Senator IAN MACDONALD (Queensland) (9.06 pm)—It looks like the debate will come to an end because this Labor government minister simply chooses not to answer legitimate questions. How typical is this of the Labor Party! This government is only in power because of this new paradigm of ‘openness and accountability’. Here we have questions that do not go to the intellect of the minister at the table, the Minister for Small Business, but are questions from senators that I think deserve an answer and we have a minister that sits there and refuses to answer. I am particularly grateful to Senator Xenophon, who has at least put some legitimacy and truth into the debate by answering questions and explaining the legislation that we are going to vote on.

I am distressed that this legislation is going to become law very shortly. I cannot believe that only certain people are going to have to pay this additional tax. It has never before happened with a disaster in the history of the Commonwealth, yet people I know are going to have to pay this tax because of a bit of political mateship between the state Labor government in Queensland and the federal government. I cannot believe that people in Australia understand what this flood levy is all about. It is not going to be the case, as the Labor Party have been trying to pretend to people in Queensland, that this legislation is all about fixing their houses, replacing their furniture and helping rebuild the businesses of individuals. That is what people in Queensland have been led by the Labor Party to believe this flood levy is all about. It is anything but that. It is all about giving some taxpayers’ money to the Queensland state Labor government, a government that is so financially inept that it is broke and could not attend to recovery after a normal natural disaster.

We have had natural disasters in Queensland, I am sure, since time immemorial, certainly since recorded European times. We have never had a special tax levy for work which governments must understand they will have to do every year. Good heavens, if you listen to the Greens and the Left of the Labor Party you will know that cyclones are increasing in their occurrence, that floods are going to get greater, that droughts are going to get greater, that erosion and tidal inundation are going to get greater. Why would you not think the Queensland government would have understood this and put aside a bit of money for a rainy day, the same as Queensland governments have done for the last 150 years since Queensland became a state? They have always paid for this out of the general revenue of the Queensland government. Suddenly, for the first time in European recorded history, we are having a special tax on all Australians because the Queensland government cannot rebuild Queensland. I just cannot believe that this parliament has
been conned, if I might say, into voting for this particular piece of legislation. It is a disgrace. It is a scandal.

I want to emphasise this, at the risk of repeating myself, by saying again to the people of my state of Queensland: you, as individuals, householders and business owners, are not going to get one cent of this flood levy despite what you have been led to believe by the Prime Minister and the Labor government. They have led you to believe that the coalition, by intending to vote against this, is being nasty to individuals by not fixing their houses and their businesses. Nothing could be further from the truth. Not one cent of this flood levy will go to individuals. It will go to the Queensland government to build roads and bridges and to build cyclone shelters that the Queensland government should have been building.

I do not criticise the Independents. I do not even bring the Greens into the equation—with such policy hypocrisy you do not even try to debate with them. But I must say I am distressed that the Independents are going along and slugging individuals—not all taxpayers, just a group of individuals—with this tax, with the money not going to householders and business people but going to the Queensland government. I am very concerned about this.

There are issues in this legislation—one is the specifying of a class of individuals—put forward by a government led by a leader who simply cannot tell the truth. This is the leader that promised hand on heart that there would be no carbon tax under a government she led—and we are giving that sort of ministry the ability to specify a class of individuals that will be exempted from this tax. I have asked the minister at the table to explain this, to put the parameters around it, to say how this is going to be dealt with—no answer, no accountability. This is simply another one of the Labor Party’s taxation arrangements to help a broke state Labor government in Queensland and to help a federal government that is increasingly showing its incompetence in financial management. But it is not too late. I say to the Independents: why is it that only individuals pay this? Surely that must be a question in the minds of the Independents. What is the policy rationale? I gave the minister two opportunities to convince us that there was some genuine policy rationale in only taxing a certain group of individuals, but he chose to attack the messenger.

I am genuinely at a loss. Please, anyone in the Labor Party—it does not need to be the minister—or even anyone on my side: can you tell me why individuals are paying this and not the coal mining companies, not Rio Tinto, not BHP? Why do my butcher and baker, as I keep on saying, have to pay for the road works and bridge works in Queensland when these major multinational companies are getting away scot-free? Do not ever let me hear the Labor Party or the Greens pretend that they are interested in individual Australians and lower income Australians when they are letting the most profitable people in our country off absolutely scot-free.

If it is a good tax and it needs to be done, if Queensland must have this money, why then is there only a certain few individual taxpayers who have to pay this and not major multinational, profit-making companies that, on the minister’s figures as I understand the one answer he gave me, contribute 55 per cent of Australia’s general taxation revenue? Why is not their 55 per cent going into rebuilding Queensland? Why is it only the 45 per cent contributed by individual Australians that is being taxed on this particular issue? If someone could give me a rationale for that I would sit down and walk out of here happily. Senator Xenophon is still here;
perhaps you could tell me why you would tax individuals and let the big companies off scot-free. It just does not make sense. If someone could please explain to me why that is good policy I would leave the chamber disappointed that the bill went through but at least satisfied that there had been some policy rationale for it.

I do not want to delay the Senate all that much further. I just hope that the people of Australia who are all paying this levy will one day work out that they have been absolutely duded yet again by the Gillard-Brown government. Individuals are paying for public works in Queensland whilst others get off scot-free. There are certain groups of individuals not yet identified who will not have to pay the flood levy and, gee, that must fill the chamber with horror. We are leaving it to this government, with a great track record for honesty and accountability and truthfulness, to determine which group of people are going to be slugged and which group of people are not going to be slugged. I just cannot believe that I am seeing this happen in the parliament of Australia. But I and my colleagues on this side have done perhaps all we possibly can do to alert the people of Australia to them being duded yet again by this government. This will not be a temporary levy; it will continue because we will have a flood next year, we will have a cyclone next year, we will have a fire next year, we will have a drought next year. Having got this through this chamber, there is the precedent—‘Look, back in 2011 you agreed to this levy. Here comes another flood, so let’s have another levy.’

Sure, Senator Xenophon’s hard work might lessen the damage a bit but mark my words, this will not be a temporary levy. This will go on and on. They will find some excuse to continue it on next year. The Senate by then will be powerless to stop it. The Green-Brown-Gillard coalition will ensure that it gets through this Senate and Australians will be lumped yet again with another tax. I do despair. I hope against hope that when the final vote comes in the third reading perhaps a majority of this chamber will say, ‘No, this is just not good enough.’ If you need a flood levy, if you do need to get Queensland rebuilt, then let us get all taxpayers to do it—the big taxpayers, the 55 per cent who contribute to taxes in Australia. Let us get them to contribute, not just leave it to a couple of individuals.

Senator XENOPHON (South Australia) (9.20 pm)—It pains me to hear that Senator Macdonald is so unhappy that he has not had an explanation.

Senator Ian Macdonald—I am unhappy. I really am.

Senator XENOPHON—He is unhappy. I cannot speak for the government but it is my understanding that the previous levies under a coalition government were undertaken in the same way—that is, on individual taxpayers.

Senator Ian Macdonald—No.

Senator XENOPHON—They weren’t?

Senator Ian Macdonald—The container levy was on containers. The milk levy was on bottled milk.

Senator XENOPHON—Sure. I will not be distracted. Senator Macdonald is just trying to be helpful. My understanding is, very quickly, that it is administratively simpler to do it this way in the context of rather than dealing with corporations you have a greater degree of certainty as to the amount of levy that you will collect, and there are thresholds of income between $50,000 and $100,000. Below $50,000 no levy is payable and the levy rate changes at $100,000 and above, so there are some equity considerations in relation to that. But that was not the main reason why I got up to respond.
It is also important that I put on the record the concerns that were raised in the Senate Economics Legislation Committee inquiry in relation to these bills. A number of my constituents raised issues on two aspects: one was the Stockport floods that occurred at the end of last year when a community in the mid-north of South Australia suffered as a result of floods. I am satisfied with the response from Treasury, that where there has been a declaration made under the NDRRA certain exemptions will apply.

On an issue that was raised about redundancy payments, I note that the circumstances in which redundancy payments are taxable or not taxable have been set out. Madam Chair, I think you have received some further information on this. I have received similar information from Treasury and from the government. That satisfies me.

In relation to Senator Macdonald’s concerns over whether this is something that will stick, I am reassured by a number of things. I know this may pain Senator Macdonald, but Senator Milne from the Greens is at one with Senator Macdonald when it comes to—he’s wincing!—

Senator Ian Macdonald—There’s no need to be insulting!

Senator XENOPHON—I hate to tell Senator Macdonald this, but Senator Milne shares the concerns that he has in relation to the Queensland government not taking out insurance. In fact she moved a motion in this place, which was passed, expressing those concerns.

Senator Ian Macdonald interjecting—

Senator XENOPHON—He accepts that. Some of my fellow crossbenchers in the House of Representatives have expressed similar concerns about this. There are a number of crossbenchers—the Australian Greens, the Independents in the lower house—who share similar concerns about insurance arrangements, so that reassures me that this is a robust arrangement that will be in place for a number of years, at least until the Auditor-General undertakes a periodic review in three years time. So, if any precedent has been set, I think it is a precedent that it is going to be very difficult to argue that we should ever have another flood levy like this once these arrangements are in place. That is why I support this legislation. I think that there is going to be a good long-term policy outcome when it comes to the states and territories insuring their assets.

Senator CORMANN (Western Australia) (9.24 pm)—I have a couple of observations. My second observation will be in response to some of the remarks made by Senator Xenophon, but firstly I want to talk about the arrogance of this government and the arrogance of this minister in not being prepared to answer legitimate questions put to him by a senator representing the state of Queensland, the state that this tax hike is supposed to be for. These are legitimate questions being put by Senator Macdonald, a senator representing the state of Queensland, and the minister just sits there, refuses to get up and refuses to provide answers to the questions that are being put to him.

It is always easy to whack another tax on people right across Australia. Every Australian earning more than $50,000 will be asked to pay this tax—an increase in their income tax. Whatever cuddly name you want to give it, Minister, this is an increase in the income tax rates of all Australians earning more than $50,000, and it will no doubt get through this chamber with the support of Senator Xenophon. Minister, I urge you to just reflect on your attitude in this chamber in not answering legitimate questions that are being put to you by a senator representing the state that this tax is supposed to help fund the reconstruction effort for.
My ears pricked up when I heard Senator Xenophon try to answer a question that Senator Macdonald had put to the minister about the reason why this tax is exclusively imposed on individuals and not on others. Senator Xenophon put it in these words: that he had been told that it was administratively—

Senator Xenophon—No, I didn’t say I was told that. That is my understanding.

Senator Cormann—So it is your understanding that intrinsically comes to you; it is not something that in the course of your negotiations the government has put to you? I find the proposition that we impose a new tax on all Australians earning more than $50,000—just because it is administratively convenient to whack every Australian earning more than $50,000—to be quite a bad way for us to go.

We are here in a circumstance where the government wants to raise $1.8 billion out of a budget of $350 billion. This is money the government should be able to find by reprioritising its excessive and wasteful spending across this budget. This tax is supposed to come into effect on 1 July 2011. That is after the next budget. We will have a budget in May, when this issue—the funding required for the reconstruction effort—can be dealt with. There is absolutely no need to deal with this now. The reason we are dealing with this now is that the Prime Minister, Julia Gillard, wanted to strike while the iron was hot and get a tax through the parliament while she thought that she could get away with it politically in the court of public opinion. She knows that tax hikes like this are unpopular, so she always is on the lookout for a political strategy to get away with a tax. She is always focused on the spin and the politics rather than on what is good public policy.

This flood tax, this increase in the income tax—to be passed by this parliament less than two months before the budget comes down—is not good public policy. It is not good public policy to set up a tax, supposedly for a one-year period, to raise $1.8 billion when, quite frankly, there would be an opportunity in less than two months to reprioritise our spending commitments in the context of the revised revenue estimates that will be before us at that point of time.

Senator Xenophon interjecting—

Senator Cormann—I know that Senator Xenophon well knows this, but Senator Xenophon—and I admire him for it—identified a public policy issue in relation to the state Labor government in Queensland not taking out proper insurance, and he saw an opportunity to leverage his vote to get a good public policy outcome on one side. Of course, the thing that he had to bargain with was his vote. If he did not bargain with his vote, then Senator Xenophon would not be able to force the Labor government in Canberra to force their mates in Queensland to do the right thing in the future. He has done that, and I understand where he is coming from, but the outcome is still an increase in the income tax for all Australians earning more than $50,000, unless they are in one of the exempted areas.

Senator Macdonald raised the issue of how the determinations are made in relation to those exemptions. Initially, all people who were impacted by a natural disaster that was a flood event were to be exempted. I asked questions about this in Senate estimates. Senator Macdonald, I am sure you would be quite interested in this. I asked: ‘What about the people in Kelmscott who were impacted by the bushfires?’ The secretary of Finance and, later, officials from Treasury told us: ‘No. People who are impacted by bushfires are not going to be exempt. They will have to
pay the tax, because only those that were subject to a natural disaster that is a flood event will be exempt from this.

There were quite a lot of people who were quite concerned about this. In fact, the West Australian was about to write a story about it. The West Australian went to the Prime Minister’s office and asked: ‘What about the people who are impacted by bushfires? It is a natural disaster that is not a flood event but a bushfire. Why do they have to pay this tax?’ On the spot, the Prime Minister made policy on the run. She changed her mind and said, ‘These people are going to be exempt as well.’ Just like that. Of course, the story in the paper the next day, on the back of a quick policy decision by the Prime Minister on legislation that had not even gone through the parliament, was that they were going to exempt those people as well.

The problem was that when we started debating this legislation all of the fact sheets from Treasury and all of the official advice on the Prime Minister’s website were out of date because they still said that only those people who had been subject to a flood event were going to be exempt. There was no mention of the people who had been subject to bushfires and the like. So there is a lack of clarity, Minister, around how the exemptions are going to be handled if the Prime Minister can change it at the stroke of a pen when asked a difficult question by a newspaper out of Western Australia.

This government does not normally care about what people in Western Australia think. This government is a very eastern-state-centric government. I dare say that it is a government very much centred on New South Wales and Victoria. There is not much that they focus on outside of New South Wales and Victoria, but they took notice of a newspaper from Western Australia and—on the run—they put an exemption like this in. Of course, we welcome the fact that the people in Kelmscott will not have to pay this tax. We think that no-one across Australia should have to pay this tax. We think that all of the Australian people should be exempt from this tax.

I am sure that, as Senator Macdonald said, the minister would not be so bold as to exempt people based on political affiliation, but it would be possible under this legislation. Of course, that would be highly inappropriate. What other exemptions do the government currently have under consideration that go beyond what we have been told so far? Have other categories for exemptions been raised, Minister? I would be very interested in you answering this question.

Can you confirm, given that the fact sheets from Treasury have not been updated yet, the advice that was put to a journalist at the West Australian, through a spokesman of the Prime Minister’s office, that the people in Western Australia who have been subject to bushfires will be exempt from this flood tax? What about people who have been impacted by droughts? Droughts are natural disasters. Will people who have been impacted by droughts be exempt from this flood tax? What other natural disasters will fall within the category of exempt?

It is no longer just a flood event—we have established that, unless the spokesperson from the Prime Minister’s office was not telling the truth. If we can believe the spokesman from the Prime Minister’s office who was quoted in the West Australian as saying that the people of Kelmscott who were subject to bushfires would be exempt from paying the flood tax, what other people who have been subject to other categories of natural disasters will be exempt from this tax? You could argue that it is a disaster being governed by this minority Labor government, so maybe we should all be exempt
because we are all subject to this natural disaster. You could argue that there should be a catch-all category of exemption here.

On a more serious note, it is a very serious question. A spokesman from the Prime Minister’s office told the West Australian, contrary to what was said by the Secretary of the Department of Finance and Deregulation and contrary to what was said by Treasury officials at estimates and contrary to what is written in relevant Treasury fact sheets, that the victims of bushfires in Western Australia would be exempt from paying the flood tax. Can you confirm that on the record for the benefit of the Senate? Or is that just going to be another broken promise that was made under the pressure of the 24-hour news cycle?

Senator IAN MACDONALD (Queensland) (9.34 pm)—What is this debate all about? What is this parliament all about when we have a legitimate request of the minister to confirm that some bushfire victims in Western Australia will not pay the tax and the minister just sits there? I think he was asleep. Perhaps he did not hear the question. Perhaps I could get Senator Cormann to repeat the question. By confirmation to this parliament, I would certainly like to know if the Prime Minister has said that a group of individuals in Western Australia will be exempt.

In this committee stage of the debate it is intended that we go through the provisions of the act. We have a look at what the words say and we can be satisfied that those words do encompass what the media releases have said will happen. Clause 4.10 of this bill says that you must pay extra income tax for the 2011-12 financial year if you are an individual. I emphasise that if you are an individual—if you are a blood-sucking multinational company that Senator Brown talks about then you do not have to pay—and your income exceeds a certain amount then you have to pay a levy. But it says that that subsection:

… does not apply if you are a member of a class of individuals specified in a legislative instrument made by the Minister for the purposes of this subsection.

Then it goes on to qualify that a little bit by saying:

The Minister may only specify a class of individuals for the purposes of subsection (2) if the Minister is satisfied that the class was affected by a natural disaster—between certain dates.

Senator Cormann has told us about a newspaper from his home state of Western Australia that put the pressure on the Prime Minister and got a commitment that these fire victims in Western Australia would be excluded. I am not sure why we cannot get the same commitment here in the Parliament of Australia. Whilst fortuitously the drought in most parts of Australia has dissipated, and that is fortunate, I understand there are still some parts of Australia—

Senator Cormann—Western Australia.

Senator IAN MACDONALD—Particularly in Western Australia, as Senator Adams mentions, that are still in the grip of drought. I can perhaps ask Senator Cormann about this, because it is no use asking the minister as he just refuses to answer anything and refuses to be accountable, but the West Australian newspaper asked the Prime Minister if those people subject to the drought natural disaster in Western Australia would also be exempt, or was it just those who had suffered from the bushfires? Why are bushfire victims excluded but not people who are in drought?

Senator Xenophon interjecting—

Senator IAN MACDONALD—Do not say ‘Ask the minister,’ Senator Xenophon—I am asking you, I am asking Senator Cormann, I am asking anyone who can tell me, because the minister refuses to answer. Some
would say if these people had been in
drought for several years they probably
would not have an income; they probably
would not reach the $50,000. That may be
the case, but they may have some other in-
vestments that give them an income of
$50,100—the same as many people who
were subjected to Cyclone Yasi might have
incomes well in excess of $50,000, but they
will be excluded. So, Western Australians, if
you are in the fire zone you will be excluded
but if you happen to be in the drought zone,
tough! This is great legislation; it is great
stuff from this government.

I would love to know just what this class
of individuals is, and what constraints there
are on the minister. One would think, if this
government were genuine, that it would be
this Senate chamber of the Parliament of
Australia where you would make clear who
was going to be exempted from this levy;
what class of individuals it was going to be.
If Senator Sherry says that this has already
been determined and the legislative instru-
ment has been drafted, why does he not take
the Senate into his confidence and table it in
the Senate so we can have a look at it? There
cannot be anything wrong with that. Perhaps
we will find that there are some other holes
in the legislation. I would be fascinated to
see it. I note it is a legislative instrument, so I
suppose it can be knocked off in the Senate;
we can disallow it. If you disallow it because
does not include everyone, those that it
does include are also knocked out so every-
body has to pay the levy. The end result of
that of course is that the Senate certainly
would not disallow it because you would be
cutting off the noses of a lot of distressed
Australians to spite the face of those few
people in, for example, the drought areas
who are not going to be impacted upon.

This is bad legislation. Senator Xenophon
tried to answer for the government when he
said that the levy is on individuals rather
than companies because it was administra-
tively easier, he thought—that was his un-
derstanding. But that is hardly a basis for
taxing Australians. The levy is raising $1.8
billion. That is all coming from individuals.
If it were taken from general revenue, then
Woolworths, Coles, BHP, Rio Tinto and
Xstrata would pay 55 per cent of that $1.8
billion and we individual bunnies would pay
the rest. Individuals in Australia would pay
about $0.8 billion and these wealthy, accord-
ing to Senator Brown, multinationals would
pay the other $0.9 or $1 billion. But, under
this legislation, they get off scot-free; it does
not cost them a cent. Certain individuals—
though not every individual—will have to
pay the levy. What is the policy sense of
that? How could anyone vote for legislation
that imposes a tax on some individuals? We
do not even know how many individuals are
going to be excluded. How many of the peo-
ple who contribute 45 per cent of the general
revenue are going to be excluded? If a small
percentage of them are excluded it means
those remaining pay even more. What is the
sense in that? How could you possibly justify
legislation along those lines?

I have a few more things to say but I think
Senator Back might have some questions as
well, so I will leave it there unless the minis-
ter chooses to earn his money tonight and
actually answer some of the questions being
put to him in this committee stage.

Senator BACK (Western Australia) (9.43
pm)—My questions go to who gets ex-
empted. In this place just recently I tried to
establish the eligibility under the Australian
Government Disaster Recovery Payment
scheme for the $1,000 per adult and $400 per
child payments. I asked—and I did not get a
satisfactory answer—whether it was true that
a community 1,700 kilometres north of Bris-
bane, just south-west of Cairns, was receiv-
ing the $1,000 cheques in consideration of
the floods in Brisbane, 1,700 kilometres to
the south, and then after Cyclone Yasi struck North Queensland there was yet another community half way up Cape York who were hardly affected, if at all, and yet people lined up to get their $1,000 per adult and $400 per child. In fact they did not even have to make an application to Centrelink; their’s was paid into their bank accounts.

What was interesting was that I was told in that circumstance—and this goes to the question I would like clarified—that there were people in North Queensland particularly who applied for, received and contributed back to various charities their $1,000 figure and their $400 figure. It was put to me that, having received the funding under the Australian Government Disaster Recovery Payment scheme, they too would then be exempted from contributing to this levy. I am keen to know whether that is true, whether it happened, to what extent it happened, how Centrelink or other agencies have been able to establish this and what action, if any, is being taken to recover those funds. It could not be a greater contrast at this time with the shocking events in Japan recently—the earthquake followed by the tsunami—to have the realisation that the Japanese government, prudent as it is, has just gone into its sovereign wealth funds to fund the recovery from that dramatic and disastrous event. It draws to our attention the fact that any intelligent, wise or prudent household or any prudent business would always put to one side funds to use in the event of some disaster befalling that household or business. In Japan we see the prudence of their government over time and its capacity to place savings to one side so that, in the event of a disaster, of whatever magnitude, they are not in a position of going to their citizens for this purpose.

I do not want to go over the ground of companies, trusts and other entities that will be exempted from paying this levy. It seems to me so ridiculous that we would frame the legislation in such a way that a group of individuals in the community would be so taxed but companies and others would not. How do we know that the $1.8 billion will be recovered in 12 months. What if it takes two years? What if it takes six months to recover these funds? What will happen then? If it is in six months, will the levy stop? Or if at the end of 12 months the $1.8 billion has not been recovered, will it continue? These are questions which I believe we have the right to ask and have answered.

Senator Cormann drew attention to the bushfires affecting people in Kelmscott and Armadale after the events of the floods. It also begs the question: what about the people in Lake Preston whose homes were destroyed prior to Christmas, who are equally in a situation of financial and emotional embarrassment. What about the Gascoyne where the worst floods in WA’s history in December wiped out most pastoral Gascoyne Junction properties, about 160 kilometres from Carnarvon. At the time I asked the question of Minister Ludwig representing the Attorney-General. Despite the Premier of the state calling it a natural disaster and, to her credit, despite the Prime Minister having said yes, this was a natural disaster category C in which the people of the Gascoyne should enjoy funding under the Australian Government Disaster Recovery Payment scheme, Emergency Management Australia had taken it upon itself to decide that it really was not a severe flood and no payments were to be made. It was only with the intervention of the West Australian newspaper with whom I consulted after question time that day, who put the questions to the Prime Minister’s office the very next day, being 11 February, that an edict was put out that, yes, those people in the Gascoyne themselves—

Senator Cormann—It is a very powerful newspaper.
Senator BACK—A very powerful newspaper and on that occasion they were very busy. I think the talkback on radio 6PR did not do any harm either. The question I want to come to in regard to the levy is the fact that the Gascoyne region itself will not be a recipient under any of these funds.

Progress reported.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! It being 9.50 pm, I propose the question:

That the Senate do now adjourn.

Military Service

Senator BILYK (Tasmania) (9.50 pm)—As this is the last sitting week before Anzac Day, I would like tonight to talk about honouring military service. I would like to make some remarks about the importance of honouring the service of the Anzacs and Australian Defence Force personnel who have served or are currently in theatres of war, in conflicts and in peacekeeping operations. Australia has had its own share of conflict and bloodshed throughout the history of European settlement and although, fortunately, little of it has taken place on Australian soil, it has had an enormous role in shaping our nation and making Australia the place it is today.

It may sound clichéd but some of the best aspects of Aussie culture, like mateship and egalitarianism, are deeply ingrained in the Anzac spirit. Anzac Day, 25 April, commemorates the day in 1914 when the Australia and New Zealand Army Corps landed at the Gallipoli peninsula. The objective was to open up the Dardanelles to allied forces and to capture Constantinople, the capital of the Ottoman Empire, an ally of Germany in the First World War. The Gallipoli campaign was abandoned towards the end of 1915 and the allied forces withdrew. Over 8,000 Australians had been killed and this had a profound impact on Australians at home.

Anzac Day was first commemorated in 1916 and during the 1920s became established as the national day for commemoration of the 60,000 Australians who died during the First World War. In subsequent years, and after Australia’s involvement in other conflicts, the meaning of the day has been broadened to commemorate all Australians killed in Australian military operations. As I have mentioned previously in this place, I had the privilege last year of commemorating Anzac Day at the dawn service at Villers Bretonneux in France. Visiting the sites of those World War I battles, such as Villers Bretonneux, Petit-Croix and Bullecourt, gives one a much greater appreciation of the sacrifices that our forebears made and I would recommend it to any Australian who has the means and the opportunity.

One of the ways in which the Australian government honours military service is through the Department of Veterans’ Affairs Saluting Their Service grants. This program supports projects and activities which directly commemorate those Australian service men and women who served in wars, conflicts and peace operations. The program helps to preserve our wartime heritage and to promote an appreciation and understanding of the role those who have served have played in shaping our nation.

Funding is available to community and ex-service organisations, local government authorities and other bodies such as museums and schools. Up to $3000 or $4000 may be available for such things as restoration, preservation and interpretation of Australian wartime memorabilia for public display; commemoration of significant anniversaries of battles and other military operations; and new commemorative plaques and honour boards for public display.
This funding is very important. Servicemen and women have risked and, in many cases, sacrificed their lives in the service of their country and we owe a great debt of gratitude to them. It is fitting that we honour their service and sacrifice with plaques, honour boards and memorials, as well as through public ceremonies, recorded histories and the basic respect and deference we pay to our ex-service personnel.

In November 2009, I was pleased to have the opportunity to represent the then Minister for Veterans’ Affairs, the Hon Alan Griffin MP, and unveil a roll of honour for the small communities of Middleton, Flowerpot and Gordon in the D’Entrecasteaux Channel in my home state of Tasmania. This roll honours the service and sacrifice of Anzacs from the area who fought in the First World War and the Boer War. In November last year, I returned to Middleton and again represented the Minister for Veterans’ Affairs, now the Hon Warren Snowdon MP, for the unveiling of a display cabinet which now houses the honour roll and a collection of war memorabilia from the local area. Both of these projects were funded by the Australian government’s Saluting Their Service grants.

To give you a bit of history: the new roll of honour replaces two honour rolls that were situated at the Flowerpot school and the Middleton community hall, both of which were destroyed by the devastating bushfire of 1967 in southern Tasmania. The hard work of applying for the grant, obtaining quotes for the cabinet and honour roll and organising the unveiling ceremonies was undertaken by the South Channel Ratepayers Association. I would like to congratulate and thank the association, in particular their president, Gloria Lonergan, and committee member Russell Griffiths, for the large effort they put into organising such a fitting tribute to service men and women from their area who had served in the First World War and Boer War, particularly those service men and women who made the ultimate sacrifice.

The cabinet was constructed at a prevocational workshop run by Mental Health Services South and so gave an opportunity for some people with disability to participate in being part of this project. As such, the project had much wider community benefits, enabling, as I said, people to develop work skills and increase their confidence and self-esteem. Descendants of soldiers whose names appear on the honour roll were generous in giving donations of family memorabilia to display inside the cabinet. Such contributions are incredibly special when you consider the sentimental value that these items have for the families.

I would like to implore every Australian, when commemorating Anzac Day or Remembrance Day, to consider the sacrifices that are still being made to this day by service men and women from the ADF throughout the world. While it has been decades since Australia has participated in conflicts on the scale of the two world wars or the Korean and Vietnam wars, our brave ADF personnel are nonetheless still engaged in combat and peacekeeping operations. They are still spending years away from their families and placing themselves in harm’s way so that they can make the world a better, safer place for their fellow Australians. To our diggers in Afghanistan, Iraq, East Timor, the Solomon Islands, Egypt, the Middle East and Sudan: I wish you success in your missions and a safe return home. I also take this opportunity to acknowledge and thank our personnel who have been deployed to Queensland for natural disaster recovery assistance following the devastating floods and Cyclone Yasi.

I would like to conclude tonight with a comment about the Australian War Memorial. This is a great national monument to our
fallen service men and women and a symbol of the degree of deference that Australia shows to the role of conflicts in shaping our history. So I welcome the Prime Minister’s recent announcement that the Australian War Memorial will receive another $8 million per year in funding on top of the $38 million it was previously receiving. This additional funding will support the memorial so it can continue to educate Australians, honour our outstanding service men and women and showcase our rich military history for generations to come. In conclusion, as I said at the beginning, I think it is really important that we honour the service of the Anzacs and Australian Defence Force personnel who have served or who are currently serving in theatres of war, conflicts and peacekeeping operations.

**Iraq**

Senator PAYNE (New South Wales) (9.58 pm)—I want to raise an issue this evening that has been canvassed before in this chamber and in the other place, and to make some brief observations in relation to the current situation besetting Christians in Iraq. Let me start with a few statistics to give us a historical picture of the journey that some of these communities have travelled. Estimates vary but in 2003 it was estimated that there were approximately 1.5 million Christians in Iraq. They comprised roughly five per cent of the population of 28 million compared to 20 per cent just a century ago. The largest groups are the Assyrians, the Chaldeans and the Syriacs. Christian groups in Iraq can trace their proud history in the area back for many hundreds of years, and in some cases more than 1,000 years. Despite making up just five per cent of the pre-war population of Iraq, 40 per cent of refugees from Iraq are Christians.

It is estimated that since 2003 some half a million Iraqi Christians have fled or migrated to neighbouring countries and to the West. Those estimates vary. The actual number might be as high as one million. It is a staggering number. It is brought about in a large part by a sustained campaign of threats, intimidation and violence from quite extreme elements within Iraq that have flourished particularly since the changes in 2003.

The Iraqi Christian population was relatively stable under the dictate of Saddam Hussein, ironically, and reports of actual per-
secution were rare although, of course, we all recall the brutal persecution that Saddam Hussein perpetrated upon the people of Iraq with estimates of more than half a million tortured and executed. Some Christians, notably former Foreign Minister and Deputy Prime Minister Tariq Aziz, rose to the higher echelons of power. The overthrow of Saddam Hussein’s Baathist regime has provided an opportunity for, in some cases, Islamic extremists to enforce their very radical interpretation of Quranic teachings. The bigotry and discrimination that Iraqi Christians are facing while going about their daily lives does not often make the news, but it is no less pervasive or distressing for those who are its victims.

There have long been reports, for example, that some Islamic groups are attempting to force Christians in places like Mosul and Baghdad to pay the jizya, which is an archaic form of poll tax perpetrated on non-believers that dates back to the days of the Ottoman Empire. Whether they are riding the bus or shopping at the markets Christians find themselves being met with threats and abuse. They report lengthy delays and frustrations in dealing with bureaucracy today as they did before. The impediments do not, in fact, appear to be shared by the wider Iraqi population.

So, despite the overthrow of the despotistic Hussein regime and the formation of a democratic government, Christians in Iraq have been caught up in what are rising levels of sectarian violence in the country. Threats to Christians have escalated in recent years. In 2007 it was reported by the US State Department that Christians in Baghdad’s Dora district were being ordered to either convert or leave, or they would be killed. In Mosul that same year Father Ragheed Ganni, a Chaldean Catholic priest, was stopped by gunmen on the way home from Sunday mass. Those gunmen demanded that the father and the three deacons with whom he was travelling convert immediately to Islam. When they refused they were shot dead. Father Ganni worked under Archbishop Faraj Rahho who little more than six months later was found dead outside Mosul. He had been kidnapped two weeks earlier.

In a sense the attacks on Christians in Iraq are a reflection of the wider, more difficult, security situation in the country. There is certainly also some evidence that, in some cases, attacks have been orchestrated by criminal gangs, who think they can find a soft ransom target, rather than by extremists. It is a matter of perspective, I suppose, but some Christians are perceived to be wealthier than other communities, and they do not possess the same tribal or militia links as other minority groups. But it does not matter about the motivations. Regardless of the motivations the outcome is the same and the community is understandably distressed.

Chaldean Christian community leaders have spoken of a concerted attempt to drive Christians out of Iraq through a campaign of threats, kidnapping, discrimination and, in some cases, bombing attacks. In May 2009 Jean Benjamin Slieman, the Catholic Archbishop of Baghdad, said he: ... fears the extinction of Christianity in Iraq and the Middle East.

One of the more recent horrific and tragic acts of violence occurred in Baghdad in October last year. On the 31st of that month gunmen from an organisation which calls itself the Islamic State of Iraq stormed a church known as Our Lady of Salvation Church in Baghdad during Sunday mass. They laid a four-hour siege, they killed 50 innocent parishioners and clergy and they wounded 78 others. They were not people who were proselytising. They were not people who were attempting to influence or coerce, even if that were a reason for any sort
of such horrific behaviour. They were guilty of nothing but having the temerity to practise their own religion in their own place of worship and they were slaughtered indiscriminately. It was a truly horrific act. It was appalling. It was an act that was greeted with horror by the Iraqi Christian diaspora.

Britain’s Syriac Orthodox Archbishop Dawood urged Iraqi Christians to flee the country and described the massacre as ‘premeditated ethnic cleansing’. Pope Benedict said he would, ‘Pray for the victims of this senseless violence, made even more ferocious because it struck defenceless people who were gathered in the house of God.’ The worst part is that it was not just an isolated incident but rather part of a pattern of systematic attacks on the Iraqi Christian population. It is a pattern that continued on 31 December last year when two elderly Christians were killed by a bomb left on their doorstep.

The tragedy of those attacks is that they not only are characterised by brutality and violence but are deliberately targeted to induce fear within an already vulnerable minority community. And they are attacks that nascent Iraqi law enforcement agencies, despite their best efforts, appear unable to stop.

One might say, with an effort at some positive aspect of this, that there is some hope for the future of Christians in Iraq with leaders of the Sunni and Shia Islamic communities meeting in January of this year to discuss measures to improve security for Christian Iraqis. All sides agreed to a resolution that condemns the persecution of Christians and other religious minorities in Iraq. The United States has also begun to address the issue. In January they held a congressional hearing on Christian minorities in Egypt and Iraq. It is a start but more needs to be done to put those words into action.

Despite the end of the war and the withdrawal of Western forces the attacks continue. While we in the West take religious freedom and freedom to believe or not to believe for granted, Christians in Iraq continue to be denied that most basic of rights. The Iraqi government, in its infancy and beset with a myriad of other problems, can only do so much. We in the Western World have a responsibility and we cannot be said to have completed the task we set out on unless the human rights of Iraqis continue to be upheld and defended.

Australia has a responsibility in that regard. We have a responsibility to remain vigilant and we have a responsibility to stand up for the rights of individuals, of humans and of members of religious minorities in Iraq. For Iraqi Christian families who are in Australia and elsewhere in the diaspora, for those who are trying to leave to protect themselves from this environment, it is an incredibly difficult situation. In parts of Western Sydney where I work there are many Iraqi Christians, whose families still remain in Iraq, who experience this distress all too regularly.

In making these brief remarks tonight I really wanted to remind myself in large part and the chamber in small part of the importance of maintaining that vigil. It is not one that we can forget.

Meningococcal Disease

Senator FAULKNER (New South Wales) (10.07 pm)—Dr Clayton Golledge, microbiologist and infectious diseases expert, has been quoted as saying when describing the speed and ferocity of meningococcal disease cases, ‘I’ve seen cases where someone has been well at breakfast and dead by dinner.’ I would like to take this opportunity to inform the Senate of the devastating effect of meningococcal disease on many Australians and the work of the Violet Foundation, a community organisation working to raise awareness and support those Austra-
lians affected by meningococcal disease, a foundation for which I am proudly the pa-
tron.

Meningococcal disease is an acute bacte-
rial infection that strikes with frightening
speed and can cause death within hours if not
recognised and treated in time. Fortunately, it
is a rare disease affecting around 300 Austra-
lians a year. The most at risk are children
under five years of age and young adults
aged 15 to 24 years. While the majority of
victims will fully recover, Australian menin-
gococcal disease data indicates that 10 per
cent of those infected will die and around 20
per cent will have permanent disabilities,
ranging from sight and hearing problems,
liver and kidney failure to the loss of fingers,
toes and limbs.

Meningococcal disease is caused by a
number of different strains of the bacterium
Neisseria meningitidis. The bacterium is
commonly found in the upper respiratory
tract and is spread through infected droplets
in the air. Recognising the disease in its early
stages is important but diagnosis can be very
difficult as it can easily be mistaken for other
common ailments such as tiredness, mild flu
or the common cold. Meningococcal disease
appears in two forms: meningitis or bacteria
form, and septicaemia or blood poisoning, or
a combination of both. Meningococcal menin-
gitis causes inflammation of the brain and
spinal cord. Symptoms may include head-
ache, fever, fatigue, stiffness and soreness of
the neck, sensitivity to light, confusion and
convulsions. Meningococcal meningitis can
result in permanent disabilities such as deaf-
ness and brain injury and in some cases
death.

Meningococcal septicaemia is the more
dangerous and deadly of the two diseases.
Meningococcal septicaemia bacteria enter
the bloodstream and multiply uncontrollably,
damaging the walls of the blood vessels and
causing bleeding into the skin which results
in a distinctive purple rash many recognise
as synonymous with the victims of meningo-
coccal. The combination of cold hands or
feet, mottled skin and muscle or joint pains
should prompt seeking medical attention. Do
not wait for the telltale rash.

Most cases occur spontaneously. Out-
breaks where more than one person is af-
ected are rare. Meningococcal bacteria are
difficult to spread, only passed from person
to person by regular close, prolonged house-
hold and intimate contact with secretions
from the back of the nose and throat. It is
important for teenagers and young people to
look after their mates and act quickly. Do not
assume they have a hangover or flu-like ill-
ness. The sooner antibiotic and other treat-
ments begin the less damage the disease will
cause and most will make a complete recov-
ery. However, it must be remembered this
disease can progress very rapidly despite the
best treatment.

Vaccines are currently available for four
out of the five strains of meningococcal dis-
eease, including the C strain, the second most
common in Australia. This has had a big im-
 pact on reducing infection rates nationally.
Information and education on vaccination
will lead to more Australians being protected
against this strain of the disease. Vaccination
for the meningococcal B strain, the most
common in Australia, is in advanced devel-
opment and a vaccine becoming available in
the near future does look like a promising
reality.

I acknowledge there are many organisa-
tions and charities in Australia tackling this
terrible disease. I have had the great privi-
lege of being the patron for one of those or-
ganisations, the Violet Foundation. The Vio-
et Foundation was established in Sydney in
April 2002 after a group of concerned citi-
zens started fund raising for a friend suffer-
ing from meningococcal disease. It has since grown and now assists many sufferers and their families. I am not a medical expert, nor have I been personally touched by the devastating effects of this illness, but I do know the work of the Violet Foundation has been magnificent.

Tonight I want to acknowledge the tremendous efforts of the foundation’s office bearers, including its founder and President, Mr Col Greenway; foundation Secretary, Leanne Cotter, whose daughter Danielle has suffered longterm effects from meningococcal disease since the age of 14 months; Treasurer, Mr Greg Peters, who had the disease in 1999 but is fully recovered from its effects; and Events Coordinator, Ruth Greenway; and those other members of the foundation’s committee, all of whom volunteer their time and expertise in this worthy cause.

I would also like to commend the foundation’s well-known supporters, particularly those from the sporting world: Wests Tigers prop, Keith Galloway; Australian women’s water polo goal keeper, Alicia McCormack; boxer, Anthony Mundine; and great sportsman Sonny Bill Williams, who has worn the foundation’s supporter wristband around the world. Their contribution is exceptional.

The Violet Foundation’s educational projects work toward community awareness of the symptoms of meningococcal disease, early diagnosis by medical professionals and rapid treatment—so crucial for a disease that can move so frighteningly quickly. The Violet Foundation’s vital financial and emotional support for those unfortunate enough to have had personal experience with meningococcal disease—to have been touched by the disease either as sufferers or as the family and friends of someone who has contracted the disease—is simply outstanding.

As proud patron of the Violet Foundation, I do want to commend tonight the foundation’s tireless work in easing the suffering of so many who have had their lives affected by meningococcal disease.

Senate adjourned at 10.17 pm

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Aged Care Act—

Aged Care (Residential Care Subsidy – Amount of Accommodation Supplement) Determination 2011 (No. 1) [F2011L00443].

Aged Care (Residential Care Subsidy – Amount of Concessional Resident Supplement) Determination 2011 (No. 1) [F2011L00414].

Aged Care (Residential Care Subsidy – Amount of Pensioner Supplement) Determination 2011 (No. 1) [F2011L00409].

Aged Care (Residential Care Subsidy – Amount of Respite Supplement) Determination 2011 (No. 1) [F2011L00410].

Aged Care (Residential Care Subsidy – Amount of Transitional Accommodation Supplement) Determination 2011 (No. 1) [F2011L00407].

Aged Care (Residential Care Subsidy – Amount of Transitional Supplement) Determination 2011 (No. 1) [F2011L00412].

User Rights Amendment Principles 2011 (No. 1) [F2011L00411].

Agricultural and Veterinary Chemicals Code Act—

Agricultural and Veterinary Chemicals Code Repeal Order 2011 [F2011L00442].
Select Legislative Instrument 2011 No. 16—Agricultural and Veterinary Chemicals Code Amendment Regulations 2011 (No. 1) [F2011L00441].


Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 6 of 2011—Information provided by life insurers and friendly societies under Reporting Standard LRS 100.0, LRS 120.0, LRS 210.0, LRS 300.0, LRS 310.0, LRS 330.0, LRS 340.0, LRS 400.0, LRS 420.0 and LRS 430.0 [F2011L00357].

Australian Research Council Act—Discovery Early Career Researcher Award Funding Rules for funding commencing in 2012 [F2011L00403].

Future Fellowships Funding Rules for funding commencing in 2011 [F2011L00404].

Banking Act—Banking (Foreign Exchange) Regulations—
Direction relating to foreign currency transactions and to Libya, dated 4 March 2011 [F2011L00393].

Variations of exemptions, dated 4 March 2011—
[F2011L00392].
[F2011L00394].


Charter of the United Nations Act—
Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2011 (No. 1) [F2011L00440].


Civil Aviation Act—
Civil Aviation Regulations—Instruments Nos CASA—
61/11—Instructions – RNP APCH LNAV and RNP APCH LNAV/VNAV on Qantas B737-800 aircraft [F2011L00405].
72/11—Instructions – for approved use of P-RNAV procedures [F2011L00390].
73/11—Instructions – RNP APCH LNAV and RNP APCH LNAV/VNAV on Qantas A330 aircraft [F2011L00406].
90/11—Direction – number of cabin attendants [F2011L00415].
EX20/11—Exemption – from standard take-off and landing minima – Qantas [F2011L00381].

Civil Aviation Safety Regulations—Revocation of Airworthiness Directives—Instrument No. CASA ADCX 005/11 [F2011L00396].


Corporations Act—Accounting Standards—
AASB 9—Financial Instruments [F2011L00347].
AASB 2010-10—Further Amendments to Australian Accounting Standards – Removal of Fixed Dates for First-time Adopters [F2011L00354].

Customs Act—
Select Legislative Instruments—
2010 No. 275—Customs (Prohibited Imports) Amendment Regulations 2010 (No. 2) [F2010L03011]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 22 November 2010].

2011 Nos—
17—Customs Amendment Regulations 2011 (No. 1) [F2011L00438].
18—Customs (Prohibited Exports) Amendment Regulations 2011 (No. 1) [F2011L00437].
19—Customs (Prohibited Imports) Amendment Regulations 2011 (No. 1) [F2011L00435].

Tariff Concession Orders—
1043416 [F2011L00359].
1045126 [F2011L00401].
1046180 [F2011L00383].
1046471 [F2011L00399].
1046698 [F2011L00348].
1046704 [F2011L00377].
1046727 [F2011L00371].
1046729 [F2011L00374].
1046763 [F2011L00370].
1046814 [F2011L00351].
1046967 [F2011L00368].
1047333 [F2011L00350].
1047398 [F2011L00369].
1047579 [F2011L00400].
1047613 [F2011L00372].
1047642 [F2011L00373].
1047741 [F2011L00375].
1047742 [F2011L00379].
1047746 [F2011L00376].
1047888 [F2011L00360].
1047994 [F2011L00384].
1048036 [F2011L00367].
1048038 [F2011L00385].
1048084 [F2011L00386].
1048093 [F2011L00361].
1048156 [F2011L00353].
1048297 [F2011L00352].
1048299 [F2011L00382].
1048396 [F2011L00387].
1048554 [F2011L00388].
1048782 [F2011L00398].
1048785 [F2011L00397].
10488995 [F2011L00395].
1049064 [F2011L00389].

Defence Act—
Determinations under section 58B—
Defence Determinations—
2011/12—Post indexes — amendment.
2011/13—Member with dependants (unaccompanied) and housing for members overseas.
2011/14—Senior officer salaries consequential amendments.

Select Legislative Instrument 2011 No. 22—Defence Force Amendment Regulations 2011 (No. 1) [F2011L00421].


Fair Work Act—Select Legislative Instrument 2011 No. 23—Fair Work Amendment Regulations 2011 (No. 1) [F2011L00418].

Family Law Act—Select Legislative Instruments 2011 Nos—
20—Family Law Amendment Regulations 2011 (No. 1) [F2011L00408].

Federal Financial Relations Act—
Federal Financial Relations (General purpose financial assistance) Determin-
nation No. 23 (February 2011) [F2011L000362].

Federal Financial Relations (National Partnership payments) Determination No. 31 (March 2011) [F2011L00391].

Fisheries Management Act—
NPF Direction No. 149 [F2011L00445].

Fringe Benefits Tax Assessment Act—
Select Legislative Instrument 2011 No. 34—Fringe Benefits Tax Amendment Regulations 2011 (No. 1) [F2011L00423].

Health Insurance Act—Select Legislative Instruments 2011 Nos—
27—Health Insurance Amendment Regulations 2011 (No. 1) [F2011L00426].
28—Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2011 (No. 1) [F2011L00424].


Indigenous Education (Targeted Assistance) Act—Select Legislative Instrument No. 24—Indigenous Education (Targeted Assistance) Amendment Regulations 2011 (No. 1) [F2011L00419].

Legislative Instruments Act—Select Legislative Instrument 2011 No. 21—Legislative Instruments Amendment Regulations 2011 (No. 1) [F2011L00416].

Migration Act—
Direction under section 499—Direction No. 49—Order for considering and disposing of visa applications under section 91 of the Migration Act.

Migration Agents Regulations—Office of the MARA Notices—
MN10-11b of 2011—Migration Agents (Continuing Professional Development – Distance Learning) [F2011L00364].
MN10-11c of 2011—Migration Agents (Continuing Professional Development – Seminar) [F2011L00358].
MN10-11d of 2011—Migration Agents (Continuing Professional Development – Conference) [F2011L00363].

Select Legislative Instrument 2011 No. 33—Migration Amendment Regulations 2011 (No. 2) [F2011L00429].

Military Rehabilitation and Compensation Act—
MRCA Treatment Principles (Community Care at Home approved under the Aged Care Act 1997 for Former Prisoners of War and Victoria Cross for Australia Recipients) Determination 2011 [F2011L00432].
MRCA Treatment Principles (Transition Care Co-Payment for Former Prisoners of War and Victoria Cross for Australia Recipients) Determination 2011 [F2011L00433].
National Health Act—Select Legislative Instrument 2011 No. 29—National Health (Pharmaceutical Benefits) Amendment Regulations 2011 (No. 1) [F2011L00427].
Native Title Act—Native Title (Notices) Determination 2011 (No. 1) [F2011L00349].


Private Health Insurance Act—Private Health Insurance (Insurer Obligations) Amendment Rules 2010 (No. 1) [F2010L02886]—Explanatory statement [in substitution for explanatory statement tabled with instrument on 8 February 2011].


Radiocommunications (Receiver Licence Tax) Act—Radiocommunications (Receiver Licence Tax) Amendment Determination 2011 (No. 1) [F2011L00365].

Radiocommunications (Transmitter Licence Tax) Act—Radiocommunications (Transmitter Licence Tax) Amendment Determination 2011 (No. 1) [F2011L00366].

Sydney Airport Curfew Act—Dispensation Report 02/11.


Therapeutic Goods Act—Select Legislative Instruments 2011 Nos—

30—Therapeutic Goods Amendment Regulations 2011 (No. 1) [F2011L00434].

32—Therapeutic Goods (Medical Devices) Amendment Regulations 2011 (No. 1) [F2011L00430].

Therapeutic Goods (Charges) Act—Select Legislative Instrument 2011 No. 31—Therapeutic Goods (Charges) Amendment Regulations 2011 (No. 1) [F2011L00431].


Indexed Lists of Departmental and Agency Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July 2010 to 31 December 2010—Statements of compliance—Climate Change and Energy Efficiency portfolio.
Department of Defence.
Finance and Deregulation portfolio.
Human Services portfolio.
Innovation, Industry, Science and Research portfolio.
Resources, Energy and Tourism portfolio.

Departmental and Agency Contracts
The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:

QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Defence: Hospitality**

(Question Nos 117 to 119)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 29 September 2010:

(1) (a) What was the hospitality spend for each agency within the responsibility of the Minister/Parliamentary Secretary; and (b) for each hospitality event, can the following details be provided:

(i) the date,
(ii) the location,
(iii) the purpose, and
(iv) the cost.

(2) Can details be provided of the total hospitality spend for the office of the Minister/Parliamentary Secretary.

Senator Chris Evans—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) The Department of Defence’s total expenditure on Hospitality (excluding the Minister’s Office) with separate analysis of representational allowances, for the period 1 July 2010 to 31 December 2010 is shown in Table 1 (available from the Senate Table Office).

- Official Hospitality is the provision of hospitality to persons other than Defence personnel who are able to assist Defence in achieving its corporate objectives through advice, vocational or business interests or attendance at official ceremonies or functions.

- Representational funds assist Australian Defence Organisation (ADO) members posted on long-term duty overseas to meet the costs of officially entertaining host-country nationals. The sole purpose of providing such hospitality is to enable ADO members to conduct Australian and Defence business more efficiently and effectively.

(b) Details of each event are provided at Table 2 (available from the Senate Table Office).

(2) Details of hospitality spend for the offices of the Minister/Parliamentary Secretary are provided at Table 3 (available from the Senate Table Office).

**Strategic Indigenous Housing and Infrastructure Program**

(Question No. 217)

Senator Scullion asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 23 November 2010:

Given that the profit margin for the alliance partners of the Strategic Indigenous Housing and Infrastructure Program [SIHIP] is set as ‘up to 20 per cent’:

(1) How is this profit calculated.
(2) How is this profit paid to, or retained by, the alliance partners.

Senator Arbib—The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:
QUESTIONS ON NOTICE

(1) and (2) The alliance contracting methodology used for the Strategic Indigenous Housing and Infrastructure Program (SIHIP) involves risk sharing between the Northern Territory Government and the alliance partners. It is understood that under these arrangements profits are not guaranteed to alliance partners. The method for calculating payments to alliance partners, and making such payments, is the subject of contracts to which the Australian Government is not a party.

Christmas Island Resort Pty Ltd
(Question No. 372)

Senator Ludlam asked the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 24 January 2011:
With reference to the sale of the former Christmas Island Resort Pty Ltd (the casino) by the Receiver and Liquidators to Soft Star Pty Ltd on 5 May 2000:
(1) What properties are currently owned by Asia Pacific Space Centre (APSC), Soft Star Pty Ltd or Mr David Kwon as a result of that sale.
(2) What leases or freehold titles apply to the properties identified in paragraph (1).
(3) Did initial discussions with APSC (APSC/Soft Star, Submission No. 13, p. 1420) support the excision of Linkwater Road and the water supply facilities from the Crown leases; if so, on what date did this occur; if not, why not.
(4) Were negotiations conducted with APSC during February 2000 regarding assignment of the leases.
(5) During these negotiations did the Commonwealth continue to seek to excise the water supply facilities from the lease and to suggest that new leases be drawn up.
(6) Were new leases drawn up as a result of these negotiations; if not, why not; if so, were the water supply facilities and the Linkwater road removed from the leases.
(7) Did the Liquidator write to the Commonwealth on 25 February 2000 and request that the Crown leases be assigned in their current form and that, if necessary, the Commonwealth deal with modifications to the lease after settlement of the sale.
(8) Were the leases assigned in their existing form at the time of sale to Soft Star Pty Ltd on 5 May 2000: (a) if so, why; if not, what part of the leases were modified; and (b) has the Commonwealth dealt with modifications to these leases since the settlement of the sale; if so, when and to what extent; if not, why not.

Senator Sherry—The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator’s question:
I am advised that:
(1) Mr David Kwon is the Managing Director of Soft Star Pty Ltd and the Asia Pacific Space Centre (APSC). The APSC does not own any properties or leases on Christmas Island. Soft Star Pty Ltd has leasehold ownership of the Christmas Island Resort.
(2) Soft Star Pty Ltd currently has leasehold ownership of the Christmas Island Resort. No freehold titles are attached to the Resort.
(3) Yes. The Minister wrote to the Liquidator on 30 August 1999 and stated that negotiations over ‘boundary changes and easements to transfer services infrastructure responsibility to the Commonwealth would continue with any purchaser of the resort’. Quote from the Joint Standing Committee on the National Capital and External Territories inquiry into the tender process for the sale of the Christmas Island Casino and Resort, ‘Risky Business’, September 2001.
(4) Yes.
(5) Yes.
(6) A new lease was not drawn up as a result of these negotiations on the advice of the Christmas Island Resort Pty Ltd Liquidator. The realigned Linkwater Road excision from the leased land and water supply to the Resort was executed by Deed of Agreement on 12 July 2006.

(7) Yes.

(8) Yes. (a) Leases were assigned in their existing form on the advice of the Liquidator. (b) The Deed of Agreement of 12 July 2006 modified the conditions concerning water supply and Linkwater Road.

Christmas Island
(Question No. 373)

Senator Ludlam asked the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 24 January 2011:

With reference to the development of the new port facility between Waterfall and Norris Point on the east coast at Nui Nui on Christmas Island, which was developed due to the fact that the current ‘port cannot be classified as a “safe port” in all weather conditions’ and can therefore ‘be closed when weather conditions are moderately bad to severe’, according to the Attorney-General’s Department submission to the Joint Standing Committee on the National Capital and External Territories’ inquiry into the changing economic environment in the Indian Ocean Territories (report tabled in the Senate on 11 May 2010):

(1) How much did the complete facility cost.

(2) When was the facility first considered for development.

(3) (a) When did the development commence; and (b) when was it concluded.

(4) Since the development concluded, how many times per year has it been used to land containers, goods and vehicles when the current port adjacent to Flying Fish Cove could not receive goods or containers due to weather conditions.

(5) For those same years itemised in paragraph (4), how many times were containers, goods and vehicles unable or only partially able to be unloaded at Flying Fish Cove.

(6) If there is a discrepancy between the answers to paragraphs (4) and (5), why has the new facility at Nui Nui not been used to facilitate the landing of these items.

(7) Is there a problem with the provision of quarantine services at the Nui Nui facility; if so, what is being done to resolve this issue.

Senator Sherry—The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

I am advised that:

(1) The complete facility cost $6.51m.

(2) The facility was first considered for development as part of the Christmas Island Common Use Infrastructure upgrade in 2002.

(3) (a) The appropriation of monies for Common Use Infrastructure projects occurred during the 2003-04 financial year. (b) Works were completed at Nui Nui in late 2004, and the facility commissioned for operation in December 2004.

(4) Since completion the facility has been used three times in total - once in January-February 2006 and twice more in March 2006. Of the three instances listed where Nui Nui was activated, in one instance Flying Fish Cove was unavailable, and the two others were partial unloads due to conditions deteriorating at Flying Fish Cove at the time of the vessels’ visits.
Due to weather conditions and the swell season, there are extended periods when it is not possible to use Flying Fish Cove. It is not possible to enumerate more accurately.

Like Flying Fish Cove, the port at Nui Nui is not an all weather port. It is also influenced by adverse weather conditions and the swell season. It can be used when the harbour master judges that it is safe to do so. Also, the ship’s captain and owners, pilot and stevedores can make decisions regarding the safety of unloading at either Flying Fish Cove or Nui Nui.

Containers unloaded at Nui Nui that are marked for quarantine inspection are transported to the main port at Flying Fish Cove for clearance.

Christmas Island
(Question No. 374)

Senator Ludlam asked the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 7 February 2011:

With reference to the upgrade of the Christmas Island Linkwater Road between the new Nui Nui port facility and Lily Beach Road:

(1) When was the decision made to reconstruct and improve this road.

(2) When was a budget allocation first made to reconstruct and improve this road.

(3) When was the road first closed.

(4) When did reconstruction and improvement of this road first commence.

(5) Have there been any relevant and/or external reasons why the reconstruction and improvement of this road has not concluded; if so, what are they.

(6) When is the reconstruction and improvement of the road expected to be complete.

(7) Are there any matters that are currently impeding the completion of the reconstruction and improvement of this road; if so, what are they.

Senator Sherry—The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

I am advised that:

(1) The first decision was made on 11 March 2002 as part of an infrastructure upgrade package developed to support the Asia Pacific Space Centre. The road work did not proceed as the Asia Pacific Space Centre project did not proceed. The second decision was made on 19 July 2007 as part of the infrastructure upgrade to support the Immigration Detention Centre.

(2) A budget allocation was first made on 11 March 2002.

(3) The road was first closed on 28 October 2004.

(4) Site works first commenced on 25 May 2010.

(5) Several issues have delayed the project, including: negotiations for excision of the land from the Christmas Island Resort; design due to the reduced scope of works; community consultation; geological issues; suspension of work while the contractor, the Shire of Christmas Island, provided safety procedures and safety management plans; unseasonably high rainfall and workforce shortages.

(6) The road works are expected to be completed by the end of May 2011.

(7) Unseasonably high rainfall continues to delay work.
Christmas Island
(Question No. 375)

Senator Ludlam asked the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 24 January 2011:

With reference to the failed construction of the Russian Asia Pacific Space Centre (APSC) near South Point on Christmas Island that was to be primarily located in former mined areas:

(1) How many areas were cleared for this facility.
(2) What is the tenure of the land cleared.
(3) Are there leases or ownership associated with this land beyond that of the Commonwealth; if so, what are they.
(4) At the time of agreement being reached for this land to be used for the APSC were there any rehabilitation conditions established for this land should the project be removed or fail to proceed: (a) if not, why not; and (b) if so: (i) with whom were those agreements established, (ii) has rehabilitation been completed, and (iii) if rehabilitation has not been completed, why not and what action is being undertaken to ensure those areas are being rehabilitated.
(5) Were any areas cleared other than those located in former mined areas; if so, are there any different conditions of rehabilitation determined for these areas.

Senator Sherry—The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator’s question:

I am advised that:
(1) The four areas proposed had been cleared and mined in previous decades.
(2) The land is vacant crown land.
(3) No.
(4) No. (a) The land had been cleared and mined prior to negotiations with the Asia Pacific Space Centre. As the Asia Pacific Space Centre did not proceed, no rehabilitation conditions were established.
(5) No other areas were cleared. The proposed Asia Pacific Space Centre was to be constructed on previously mined land.

Australian Communications and Media Authority
(Question No. 385)

Senator Ludlam asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 4 February 2011:

(1) What does the ACMA estimate to be the overall revenue raised by its auctioning of the 700MHz digital dividend band?
(2) Will any sections of the band be allocated for use by emergency services?
(3) Will any sections of the band be allocated for use by any other non-commercial services?
(4) Will any other sections of the band be reserved for allocation at any later date?
(5) Have any provisions been made to enable the Government to return commercially held sections of the band to public hands.
(6) Has the ACMA sought advice on the specific communication needs and plans of the various emergency services?
(7) What does the ACMA estimate to be the commercial value of the 20MHz requested by the Police Federation of Australia for use by the emergency services?
(8) When will the ACMA or the Minister announce non-commercial allocations of the 700MHz digital dividend band?

(9) Is the ACMA considering allocating 20MHz of the band to emergency services as requested by the Police Federation of Australia?

Senator Conroy—The answer to the honourable senator’s question is as follows:

(1) The ACMA has not conducted work necessary to provide a potential range of revenue estimates for the auction of digital dividend spectrum. There are a number of factors that will affect the overall revenue raised including the amount of spectrum available for auction, any conditions on use of the spectrum, reserve prices, the number and types of bidders, any competition limits and financial market conditions. Some of these factors will be determined by future government decisions and some others after public consultations conducted by the ACMA. As these factors will not be settled until closer to the auction date, the ACMA is not currently in a position to make an estimate of revenue.

(2) No decision has been taken on this issue

(3) No decision has been taken on this issue.

(4) No decision has been taken on this issue.

(5) The Radiocommunications Act 1992 contains provisions for the ACMA to resume spectrum licences by agreement or by a compulsory process.

(6) Yes. The ACMA conducted public consultation via its October 2010 discussion paper Spectrum reallocation in the 700 MHz digital dividend band. Emergency services and other public safety organisations made submissions as part of this process. In addition, as part of a process being led by the Attorney-General’s Department to examine options for the best way to provide public safety agencies with the wireless broadband capability they seek, the ACMA participated in workshops hosted by the Attorney-General’s Department, which were attended by representatives of the public safety agencies, including the:

• Law Enforcement and Security Radio Spectrum Committee (LESRSC);
• National Coordinating Committee for Government Radiocommunications (NCCGR); and
• National Security Radio Operations Coordination Group (NSROCG)

(7) The commercial value of 20 MHz of digital dividend spectrum will be dependent on the value of the spectrum at the time of auction. The value of spectrum at a given time is subject to a number of factors including: the economic climate at the time of sale, demand and supply factors, how the spectrum is packaged up and allocated, and the commercial decisions of potential buyers concerning how much spectrum they need. As noted in the response to Question 1, the ACMA has not yet conducted the work necessary to to provide a potential range of revenue estimates for the auction of digital dividend spectrum.

(8) As noted in the response to Question 3, no decision has been taken on whether any section of the band will be allocated for use by any non-commercial services.

(9) As noted in the response to Question 2, no decision has been taken on whether any sections of the band will be allocated for use by emergency services.

Child Support

(Question No. 2800)

Senator Cash asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 3 May 2010:
(1) What percentage of monies due for collection under child support assessments is currently overdue by more than 30 days.

(2) What is the total amount of money outstanding by more than 30 days for child support payments.

(3) On an annual basis, for each of the past 7 years, has the incidence of non-payment of child support increased or decreased in percentage terms.

(4) What action is being taken to decrease the incidence of non-payment of child support.

**Senator Chris Evans**—The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

(1) Of the outstanding child support, 95 per cent was overdue by more than 30 days at the end of April 2010. As at the end of April 2010, 73.5 per cent of all outstanding debt was on active cases.

(2) Of the $1.151 billion owed in child support at the end of April 2010, $1.093 billion was outstanding by more than 30 days.

(3) The percentage of active cases without arrears has improved in all report years except the 2008 financial year.

<table>
<thead>
<tr>
<th>Year as at 30 June</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Active Cases</td>
<td>657,332</td>
<td>685,969</td>
<td>712,680</td>
<td>732,634</td>
<td>742,163</td>
<td>751,789</td>
<td>752,586</td>
<td>767,418</td>
<td>778,791</td>
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<tr>
<td>Active Cases with Arrears</td>
<td>242,728</td>
<td>245,723</td>
<td>236,742</td>
<td>232,460</td>
<td>228,304</td>
<td>225,197</td>
<td>231,650</td>
<td>216,836</td>
<td>212,464</td>
</tr>
<tr>
<td>Active Cases with Arrears / Active Cases</td>
<td>36.93%</td>
<td>35.82%</td>
<td>33.22%</td>
<td>31.73%</td>
<td>30.76%</td>
<td>29.95%</td>
<td>30.78%</td>
<td>28.26%</td>
<td>27.28%</td>
</tr>
<tr>
<td>Increase or Decrease in % with Debt</td>
<td>-</td>
<td>-1.10%</td>
<td>-2.60%</td>
<td>-1.49%</td>
<td>-0.97%</td>
<td>-0.81%</td>
<td>0.83%</td>
<td>-2.53%</td>
<td>-0.98%</td>
</tr>
<tr>
<td>Ended with Arrears Cases</td>
<td>25,762</td>
<td>29,644</td>
<td>32,882</td>
<td>36,036</td>
<td>38,661</td>
<td>44,367</td>
<td>51,346</td>
<td>60,162</td>
<td>61,435</td>
</tr>
</tbody>
</table>

Source: Total Child Support Case debt data. Prior to 09/10 Total Active cases sourced from CS5 (facts and figures) and Ewar sourced from the CRU Extract. 09/10 sourced from Current Caseload (CSA on a Page).

(4) In the 2009-10 Budget, the Government provided an additional $223.2 million over four years to maintain customer service standards and address the build-up of child support debt. The additional $223.2 million build on reforms undertaken in previous budgets and ensures that the Child Support Program (CSP) has dedicated resources to continue its comprehensive compliance program.

CSP has established a Compliance risk and Intelligence function to increase the focus on compliance risk management and the gathering and dissemination of intelligence to enhance CSP’s compliance regime.

CSP has developed a new case selection model that is currently being piloted. The model initially segments customers according to their debt profile and then applies a risk framework to ensure selected cases are prioritised.

A range of activities have been undertaken by the CSP to decrease the incidence of non-payment of child support. These include increasing customer payment options by offering credit and debit card facilities via phone and the internet and establishing early intervention teams to contact parents who have recently defaulted on their first payment or defaulted on a payment arrangement.

As a general compliance activity, the CSP refers parents who have not lodged tax returns to the Australian Taxation Office for lodgement enforcement and intercepts income tax refunds when child support is owed. Where appropriate, the CSP initiates litigation action, conducts income minimisation investigations, issues departure prohibition orders and undertakes optical surveillance.
For parents who fail to voluntarily meet their obligations, the CSP can arrange for child support deductions to be made from salary and wages. If a parent is in receipt of an Income Support Payment from either Centrelink or the Department of Veterans’ Affairs, the CSP can request automatic deduction of child support from these payments. Deductions can also be made from Family Tax Benefit. The CSP can issue notices to third parties holding money on behalf of a parent who owes child support. This can result in money being recovered from bank accounts and compensation payments.