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SITTING DAYS—2011

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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

Deputy President and Chair of Committees—Senator Hon. Alan Baird Ferguson


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 Richard Di Natale

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

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(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 Hon. Julia Gillard MP
Deputy Prime Minister and Treasurer Hon. Wayne Swan MP
Minister for Regional Australia, Regional Development and Local Government Hon. Simon Crean MP
Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate Senator Hon. Chris Evans
Minister for School Education, Early Childhood and Youth Hon. Peter Garrett AM MP
Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate Senator Hon. Stephen Conroy
Minister for Foreign Affairs Hon. Kevin Rudd MP
Minister for Trade Hon. Dr Craig Emerson MP
Minister for Defence and Deputy Leader of the House Hon. Stephen Smith MP
Minister for Immigration and Citizenship Hon. Chris Bowen MP
Minister for Infrastructure and Transport and Leader of the House Hon. Anthony Albanese MP
Minister for Health and Ageing Hon. Nicola Roxon MP
Minister for Families, Housing, Community Services and Indigenous Affairs Hon. Jenny Macklin MP
Minister for Sustainability, Environment, Water, Population and Communities Hon. Tony Burke MP
Minister for Finance and Deregulation Senator Hon. Penny Wong
Minister for Innovation, Industry, Science and Research Senator Hon. Kim Carr
Attorney-General and Vice President of the Executive Council Hon. Robert McClelland MP
Minister for Agriculture, Fisheries and Forestry and Manager of Government Business in the Senate Senator Hon. Joe Ludwig
Minister for Resources and Energy and Minister for Tourism Hon. Martin Ferguson AM, MP
Minister for Climate Change and Energy Efficiency 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 Superannuation
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 Superannuation
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

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**

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<td>Shadow Minister for Employment Participation</td>
<td>Hon. Sussan Ley MP</td>
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<td>Shadow Minister for Justice, Customs and Border Protection</td>
<td>Mr Michael Keenan MP</td>
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<td>Shadow Assistant Treasurer and Shadow Minister for Financial Services</td>
<td>Senator Mathias Cormann</td>
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<td>and Superannuation</td>
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<td>Shadow Minister for Childcare and Early Childhood Learning</td>
<td>Hon. Sussan Ley MP</td>
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<td>Shadow Minister for Research</td>
<td>Senator Hon. Brett Mason</td>
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<td>Hon. Bronwyn Bishop MP</td>
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<td>Shadow Minister for Disabilities, Carers and the Voluntary Sector and</td>
<td>Senator Mitch Fifield</td>
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<tr>
<td>Manager of Opposition Business in the Senate</td>
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<td>Shadow Minister for Housing</td>
<td>Senator Marise Payne</td>
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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
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The PRESIDENT (Senator the Hon. John Hogg) took the chair at 9.30 am and read prayers and made an acknowledgement of country.

CONDOLENCES

Japan: Natural Disasters

The PRESIDENT—Before senators move out of the chamber, I want to make a very brief statement and remind senators—because I know some may have missed it on the last occasion—that there is a condolence book in the President’s walkway today to send our condolences to our colleagues in Japan. It should be there at least until midday. Feel free to come and access the book and express your sympathies and your thoughts to our colleagues in Japan.

UNPARLIAMENTARY LANGUAGE

Senator BRANDIS (Queensland) (9.31 am)—I seek leave to make a five-minute statement about proceedings in the Senate Legal and Constitutional Affairs Legislation Committee last week.

Leave granted.

Senator BRANDIS—On 16 March 2011, during the course of a hearing of the Senate Legal and Constitutional Affairs Legislation Committee, I described the conduct of the Speaker of the ACT Legislative Assembly as impertinent. Mr Rattenbury, the Speaker, was a witness before the committee. The chair of the committee, Senator Crossin, referred to you, Mr President, the question of whether in doing so I breached standing order 193(3). By a letter to Senator Crossin on 21 March, you indicated that in your view the words ‘impertinent’ and ‘impertinence’ were a breach of standing order 193(3). In view of your ruling, I unreservedly withdraw those words.

In doing so, may I add this. I have, since inspecting your letter, caused some research to be conducted into the use of those words in the Senate. Since the time of the election of the Howard government in March 1996, the words ‘impertinent’ or ‘impertinence’ have been used in the chamber by honourable senators on six occasions, without objection, under the presidencies of President Reid, President Calvert and indeed yourself. They have also been used on six occasions, without objection, in the proceedings of Senate committees. On one of those occasions, on 28 March 2006, the author of the word was Senator Bob Brown, who described the conduct of other members of parliament as an impertinence. That was not objected to, nor was it the subject of an adverse ruling by the chair. Nor is there any suggestion in the practice books, either Odgers’ or Harris’s House of Representatives Practice, that the words ‘impertinent’ or ‘impertinence’ fall beyond the proper conduct of a parliamentary exchange.

Mr President, none of those precedents are considered by you in your letter of 21 March. In view of the fact that the dictionary defines ‘impertinent’ to mean—

Senator Jacinta Collins—What you’re doing!

Senator Abetz—Withdraw it!

Senator BRANDIS—irrelevant, intrusive, out of place, absurd, lacking proper respect—

Senator Jacinta Collins—I withdraw. I don’t have his pattern of behaviour.

The PRESIDENT—Order! Senator Brandis is entitled to be heard in silence.

Senator BRANDIS—it would be very surprising to the opposition indeed if, on a considered view of the matter, it was prohibited in a parliamentary forum for a member of parliament to accuse another of conduct
that was irrelevant, intrusive, out of place, absurd, insolent or lacking proper respect. Mr President, in view of that and in view of the fact that your letter of 21 March does not advert to the 12 precedents in the last 15 years where the term has not been objected to and has been regarded as unexceptionable, might I respectfully request you to reconsider the matter in light of those precedents?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (9.36 am)—by leave—The purpose of my short statement is really to ask the opposition whether or not they have afforded Senator Bob Brown the opportunity of hearing what Senator Brandis has now said. It would seem appropriate to do that. If it has not been done, then Senator Brown should certainly be allowed the opportunity of at least responding to the issue that has been raised. I would have thought it was courteous to do that.

Senator BRANDIS (Queensland) (9.37 am)—by leave—Senator Brown is aware that the Senate convenes at 9.30. He is not here. If Senator Brown chooses not to be here, that is entirely a matter for him.

Opposition senators interjecting—

The President—No, we are not going to have this morph into a debate. I have called the Clerk to call on business.

TERTIARY EDUCATION QUALITY AND STANDARDS AGENCY BILL 2011
TERTIARY EDUCATION QUALITY AND STANDARDS AGENCY (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2011

PRODUCT STEWARSHIP BILL 2011

First Reading

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (9.37 am)—At the request of Senator Evans and Senator Farrell respectively, I move:

That the following bills be introduced:
A Bill for an Act to regulate higher education, and for other purposes.
A Bill for an Act to deal with consequential and transitional matters arising from the enactment of the Tertiary Education Quality and Standards Agency Act 2011, and for other purposes.
A Bill for an Act to provide a framework for reducing the environmental and other impacts of products, and for related purposes.

Question agreed to.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (9.37 am)—I present the bills and move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (9.37 am)—I table the explanatory memorandums relating to these bills and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—
Tertiary Education Quality and Standards Agency Bill 2011

This Government is committed to improving the quality and integrity of our higher education system.

In 2008, we initiated a review to examine the ability of our higher education system to meet the needs of the Australian community and economy.
The release of the Review of Australian Higher Education in December 2008 provided a clear direction for change.
The findings of the Review and the recommendations made by the expert panel led by Emeritus Professor Denise Bradley, called for a shift in the current funding and resourcing arrangements for our higher education system and to place students at its centre.

The Bradley Review was the catalyst for the package of reforms, announced by this Government in the 2009–10 Budget, to support our productivity and participation agenda.
The transformation of our higher education system is central to achieving our vision of a stronger and fairer country. Our reforms set new targets for higher education participation and access, along with increased resources for teaching, learning and research.

At the centre of the reforms is the move to a demand-driven approach in which funding for undergraduate student places will be based on student demand.
This is a far-reaching, fundamental economic reform.
It will allow our universities to grow with confidence and diversify in response to student needs.
It will free up universities to make the right strategic choices to better deliver on their unique goals and meet the needs of their student body.
It will encourage diversity and specialisation and will allow universities to play to their strengths.
It will help to transform the scale, potential and quality of our universities and higher education providers, allowing growth in the sector and opening the doors of higher education to a new generation of Australians.

As we enter a period of more rapid growth in enrolments of Australians in higher education, we need to be confident that the quality of the education that students are receiving can be assured.

This Bill establishes the Tertiary Education Quality and Standards Agency, or TEQSA, as a single national regulatory and quality assurance agency for higher education.

Using a standards-based approach to regulation, TEQSA will require institutions to meet or exceed threshold standards in order to be registered to deliver higher education in Australia.
This will ensure that the expansion of our higher education system will not come at the expense of quality.

TEQSA will combine the regulatory activities currently undertaken in the states and territories with the quality assurance activities currently undertaken by the Australian Universities Quality Agency.
It will replace the current state and territory based systems of registration and course accreditation and, in doing so, reduce the number of federal, state and territory regulatory and quality assurance bodies from nine to one.

As Professor Peter Coaldrake recently pointed out, it simply does not make sense for a country of our size in the world in which we operate, to countenance the idea of maintaining nine different regulatory and quality assurance bodies, each attempting to regulate higher education in a parochial way.

I wish to make it clear that the establishment of TEQSA is not about standardising the operations of our higher education providers, or restricting the right to academic freedom which is central to our traditions of higher learning.
The Government is committed to encouraging growth in the higher education sector and recognising the diversity of higher education providers, their curriculum and their methods of delivery.
Furthermore, we recognise the important roles universities have in society and the valuable contributions that they, and other higher education providers, make.
In establishing TEQSA, we have maintained our commitment to ensure that the independence and diversity of universities are preserved.

Universities will continue to operate under the Acts by which they are established.

Their authority to self-accredit courses of study will be automatically transferred to the new regulatory environment upon the establishment of TEQSA. It will also be explicitly recognised in the Provider Standards, which will be a legislative instrument.

I turn now to the specifics of the TEQSA Bill.

TEQSA will undertake a variety of regulatory functions including registration and re-registration, accreditation and re-accreditation and compliance and quality assessments.

TEQSA’s regulatory approach will be based on proportionality and risk.

To support this approach, the Government has established a set of basic principles for regulation to which TEQSA must adhere in all of its functions.

These principles are:

- the principle of regulatory necessity, which provides that TEQSA should not burden a provider any more than is necessary;
- the principle of reflecting risk, which provides that TEQSA should have regard to a provider’s history, including its history of compliance with state and federal laws relating to higher education; and
- the principle of proportionate regulation, which provides that TEQSA must exercise its powers in such a way that is proportionate to a provider’s non-compliance with the Bill and any risk of future non-compliance.

TEQSA will be required to tailor its regulatory actions in order to comply with these principles.

It will work with providers to address quality issues, to improve their performance and to address areas of risk.

TEQSA will focus its activities on encouraging and supporting both new entrants to the system and higher risk providers, while ensuring that existing, higher quality, lower risk providers will not be unnecessarily burdened.

Importantly, TEQSA will have the power to take enforcement action to address quality issues, where it is necessary to do so.

As a statutory agency, TEQSA will be subject to the Financial Management and Accountability Act 1997 and its staff will be engaged under the Public Service Act 1999.

Its governance arrangements will be based on a commission model, led by a Chief Commissioner.

The Chief Commissioner will be supported by four other commissioners—two of whom will be full-time and two part-time.

Consistent with the shared arrangements that exist in higher education, responsibility for TEQSA will be shared by the Minister for Tertiary Education and the Minister for Innovation, Industry, Science and Research, in line with their portfolio responsibilities.

All commissioners will be appointed by the Minister for Tertiary Education in consultation with the Minister for Research.

A key mechanism for consistent regulation will be the set of national standards established by the Bill.

The Higher Education Standards Framework will incorporate national quality standards and benchmarks. These will be central to ensuring that the bar for entry to the higher education sector is sufficiently high and provides a solid basis of performance from which all providers can build excellence and diversity.

The Framework will include the Threshold Standards, which are standards that a provider must meet or exceed in order to be registered by TEQSA.

The Threshold Standards will include the Provider Standards, which are based on the existing National Protocols, and the Qualification Standards, which are based on the Australian Qualifications Framework.

The development of these standards will set out the threshold which all higher education providers must meet in order to deliver higher education in Australia.

They will underpin the regulatory framework of TEQSA and provide appropriate safeguards to ensure students receive a quality education.
The Higher Education Standards Framework will be developed and maintained by the Higher Education Standards Panel. Its functions will be to provide advice and make recommendations to the Minister for Tertiary Education, the Minister for Research and TEQSA on matters relating to the framework.

To ensure the separation of TEQSA’s quality assurance and regulatory functions, the Panel will be independent of TEQSA and will provide advice directly to the Ministers. TEQSA Commissioners will not be eligible to be appointed to the Panel.

The Panel will comprise an appropriate balance of professional knowledge and demonstrated expertise including those in the fields of teaching and learning, research and research training, regulation or standards-setting.

It will work closely with the higher education sector and other interested parties on the development of the framework to ensure it reflects current practices relating to the delivery of higher education and to provide for a culture of continued improvement.

It will be the responsibility of the Minister for Research to make the Research Standards that form part of the Higher Education Standards Framework. The making of all other standards will be the responsibility of the Minister for Tertiary Education.

The Government recognises and understands the important work of the states and territories in the provision of higher education and the Bill reflects this.

The establishment of TEQSA will not affect state or territories’ capacity to establish or disestablish universities. The establishment of new universities will remain the responsibility of state and territory governments and new public universities will continue to require legislation in their jurisdiction to be established.

In performing its functions, TEQSA will be required to consult with the relevant state or territory Minister responsible for tertiary education before taking certain actions against providers who operate in the category which permits the use of the word ‘university’.

These actions include:

- the assessment of an application for registration made by a provider wishing to operate as a university;
- the decision to impose a condition on a university’s ability to self-accredit; and
- the cancellation of a university’s registration.

This will ensure that the close links that exist between the states and territories and the universities under their jurisdiction are preserved.

To ensure that states and territories are engaged in the process of making standards, the Commonwealth Ministers must consult with the appropriate Ministerial Council before making a standard.

TEQSA will be equipped with a broad range of investigative powers and sanctions similar to those found in other regulatory arrangements, including the Education Services for Overseas Students Act 2000.

These powers include administrative sanctions, civil penalties and criminal offences along with appropriate search and monitoring powers.

Where poor quality is identified, TEQSA will intervene with an escalating series of responses in accordance with its principles of regulation. The action TEQSA will take will depend on the risk of the provider and the seriousness of any contravention.

These may range from discussions with the provider to resolve the breach through to imposing conditions or sanctions. The penalty provisions are consistent with the Commonwealth’s policy framework for penalties and offences.

This enforcement regime is important in enabling TEQSA to take real action as required.

TEQSA’s enforcement powers are stronger than those available to existing state regulators and will ensure that TEQSA has a full suite of regulatory tools when dealing with poor performing providers.

A number of stakeholders have also contributed constructively to the design of this Bill to ensure that the regulatory regime is fit for purpose.

Concerns initially expressed by representatives of our higher education sector regarding the proposal to establish a single national regulator have
been addressed by the Government through an extensive process of consultation to develop this Bill, the related consequential amendments and transitional provisions Bill and the national standards.

Through the process of working together on the design of TEQSA’s regulatory approach, there has developed a much broader appreciation that improved quality assurance is essential in a new funding environment which will support substantial growth in higher education.

There has also been an increasing understanding that poor quality by anyone in the provision of higher education has the potential to damage everyone.

In this spirit, I would like to record my appreciation for the participation of Universities Australia, the Council of Private Higher Education, TAFE Directors Australia, the Australian Council for Private Education and Training, the National Tertiary Education Union, the Council of Australian Postgraduate Associations and the National Union of Students in contributing to the development of the legislation and associated standards.

I would also like to take this opportunity to thank Professor Denise Bradley, the Interim Chair of TEQSA, and Mr Ian Hawke, the Interim Chief Executive Officer of TEQSA, for the leadership they have provided in their roles.

Professor Bradley, particularly, has been a key contact for the sector and a source of independent advice for this Government on the development of TEQSA and its approach to quality assurance.

The introduction of a national approach to regulation will strengthen and streamline current practices to provide for greater national consistency and improved quality across the sector.

It reflects this Government’s commitment to creating a system which is diverse, innovative and responsive to the needs of students.

TEQSA will enhance the overall quality of our higher education system and ensure that the next generation of scholars receives a quality education.

Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Bill 2011

This Bill contains consequential amendments and transitional provisions which are required to give effect to the Government’s intention to establish the Tertiary Education Quality and Standards Agency, TEQSA.

The Bill contains a number of amendments to existing Acts that are required to ensure that the new regulatory framework interacts properly with other regulatory frameworks and funding programs.

Consequential amendments to the Education Services for Overseas Students Act 2000 provide for TEQSA and its staff to undertake the functions relating to provider registration currently undertaken by the states and territories and for the delegation of functions currently undertaken by the Department of Education, Employment and Workplace Relations.

This includes making TEQSA the designated authority under the Education Services for Overseas Students Act for providers registered to deliver higher education courses to overseas students.

Amendments to the Higher Education Support Act 2003 recognise that the TEQSA legislation, once enacted, will establish new registration requirements for higher education providers and that TEQSA will administer those requirements.

The Bill also provides for the Minister for Tertiary Education to make the first set of Threshold Standards which are part of the Higher Education Standards Framework.

These standards will be based on the existing National Protocols for Higher Education and the Australian Qualifications Framework. They are currently the subject of an extensive process of consultation with the higher education sector.

The Bill requires that the Higher Education Standards Panel must initiate a review of the first set of Threshold Standards within the first year of the Panel commencing operation.

These provisions balance the need to provide regulatory certainty for providers by establishing standards based on the current requirements
shortly after the TEQSA legislation comes into force, while ensuring that there will be timely expert review of these important instruments.

The transitional provisions of this Bill ensure that where a provider was registered under state or territory law, it will be automatically registered under the TEQSA legislation including, where applicable, the authority to self-accredit courses.

Similarly, courses which are currently accredited by a Government Accreditation Authority will also be automatically accredited under TEQSA.

Where a provider’s application for re-registration or course re-accreditation is pending, TEQSA will determine the outcome of their application.

Provisions have also been made to allow the sharing of information and transfer of copies of records from the states and territories to TEQSA.

This will ensure that regulatory activities are not interrupted during this transition period.

Amendments have also been made to ensure the continuity of quality assurance activities undertaken by the Australian Universities Quality Agency are transitioned to TEQSA.

In conjunction with the Tertiary Education Quality and Standards Agency Bill 2011, this Bill reflects the Government’s continued commitment to improving the quality of our higher education system and to provide for greater national consistency of regulation.

Product Stewardship Bill 2011

The Product Stewardship Bill 2011 implements a cornerstone commitment of the National Waste Policy, which heralded a new, coherent, efficient and environmentally responsible approach to waste management in Australia. The Policy, which was endorsed by the Council of Australian Governments in 2010, committed to establishing a national framework, underpinned by Commonwealth legislation, to support voluntary, co-regulatory and mandatory product stewardship schemes. Product stewardship involves shared responsibility for reducing the environmental, health and safety impacts of manufactured goods and materials across the life of a product.

Waste in Australia is growing. In the four years to 2007, the amount of waste generated grew by nearly a third to around 44 million tonnes, which is the equivalent of over 2000 kilograms for each Australian each year. Over the same period, the amount of hazardous waste doubled. Even if the current recycling level of about 52 per cent is maintained, this trend could result in an almost threefold increase in the waste generated over the coming decade.

The nature of waste is also changing. The waste stream today is markedly different from 50 years ago when motor vehicles, refrigerators and televisions were less common, and home computers, mobile phones and compact fluorescent lamps did not exist. Today’s goods are increasingly complex, and not only contain materials that can be re-used but also contain hazardous substances. As a result of their increasingly short product life, these goods now comprise a significant and growing component of the waste stream. At end of life these products are placing a disproportionate burden on the general community rather than on those who use them or benefit from their use. Sharing responsibility is central to product stewardship.

Australia—as a responsible global citizen—is party to a number of international conventions, including the Basel Convention and the Stockholm Convention, which seek to reduce and manage waste and hazardous substances, including those substances that are persistent in the environment, toxic and accumulate along the food chain. Product stewardship can play a part as one of the means by which to achieve these goals.

These international obligations do not remain static. Under the Stockholm Convention, some flame retardant chemicals present in many products are to be restricted or banned. There is also emerging global agreement on directions to reduce mercury emissions.

Mercury is present in many products. It is also harmful in minute amounts and long term, daily exposure above 25 millionths of a gram per cubic metre is considered unsafe. To place in context the importance of responsible end of life management of products—over 50 million lamps containing mercury, in particular street lights and commercial lighting, were imported to Australia in 2008 and these contained approximately 600 kilograms of mercury.

CHAMBER
The Commonwealth is responsible for ensuring that Australia’s international obligations are met and the states and territories have the primary role in the management of waste under the Australian Constitution. This has led to a long history of collaboration by all Australian governments, anchored in the 1992 National Strategy for Ecologically Sustainable Development. This was the first comprehensive domestic approach to waste and committed all Australian governments to improving the use of resources, reducing the impact of waste on the environment and improving the management of hazardous wastes.

The waste sector has also evolved to cover re-use, recovery, treatment and disposal of waste, and increasingly manages waste as a resource. This creates opportunities. Today the waste and recycling sector is valued at between $7 million and $11 million and employs a direct labour force of around 30,000.

The Regulation Impact Statement for the National Waste Policy estimated the savings from a national product stewardship approach to be $147 million over 20 years. The Regulation Impact Statement also identified the additional costs of jurisdictions implementing up to five separate product stewardship programs could be up to $212 million.

Product stewardship schemes are in place in many other parts of the world, including in North America, Europe and Asia. Electrical equipment, tyres, mercury lamps, batteries, packaging, chemical products and even cars are covered by such arrangements.

Australia has adopted many individual approaches to product stewardship. The Commonwealth’s Product Stewardship (Oil) Act 2000 covers lubricating oils and its Ozone and Synthetic Greenhouse Gas Management Act 1989 covers the management of ozone depleting substances and synthetic greenhouse gases. South Australia introduced a mandatory deposit-refund scheme on drink containers in 1977 and the Northern Territory has recently passed similar legislation. New South Wales, Victoria and Western Australia also have legislation that can require product stewardship schemes. Used packaging stewardship is covered by a National Environment Protection Measure that has been enacted differently in each jurisdiction since 1998.

A complex mix of rules and regulations applies to products and materials that are sold nationally by companies operating Australia-wide. A single piece of legislation that allows for the consistent regulation of products and materials provides a more effective mechanism than an array of individual product legislation at both Commonwealth and state levels.

There is no doubt that many companies wish to do the right thing and are already involved in voluntary product stewardship schemes. Some of these schemes are familiar. DrumMuster recycles used agricultural and veterinary chemical containers and has reformulated products to reduce packaging and waste. Planet Ark takes back printer cartridges, MobileMuster deals with mobile phones, and more recently Fluorocycle started recycling mercury from commercial lighting.

The states and territories, local government, industry, business associations, the retail sector, environmental groups and the community actively support the National Waste Policy, and a national approach to product stewardship. Extensive consultation has been undertaken over the past two years, with strong levels of participation. To date over 1000 people have attended some 80 public and bilateral meetings, and there have been around 320 public submissions.

This Bill efficiently addresses the need for a simple enduring national approach to product stewardship through a single piece of framework legislation. Three types of product stewardship arrangements will be catered for. Industries and products may be regulated through either a co-regulatory or mandatory approach and voluntary product stewardship schemes can be accredited.

This framework will allow for different products and materials to be covered over time as needs emerge, and for the arrangements to be tailored to suit different circumstances in a changing international, social, environmental and economic context. Importantly there is also a comprehensive suite of checks and balances built into the framework to ensure it is appropriate and transparent.
This Bill sets the framework under which products and materials can be regulated and the obligations placed on various parties. It sets out the governance arrangements, the powers of the regulator, and the reporting and audit requirements for organisations delivering product stewardship schemes. It provides the offences and penalties together with the compliance and enforcement powers.

For a product to be covered it must further the objects of the legislation, which are an expression of the aims and principles of the National Waste Policy and its product stewardship strategy. The product must also satisfy two or more specified criteria, such as whether the product is in a national market.

As each product, material and industry is unique, the regulations will set out the details of what is to be regulated and the actions to be taken. The actions required in the regulations may include the need to avoid, reduce or eliminate waste from products. There may be a requirement to reduce hazardous substances or to manage the waste as a resource. Importantly there may be the obligation to ensure that products or waste from products is reused, recycled, recovered, treated or disposed of in a safe, scientific and environmentally sound way.

The intent of the voluntary element is to encourage product stewardship without the need for regulation and provide the community with more certainty, through the use of a logo, that accredited schemes are actually achieving what they claim. In particular, product stewardship organisations that are accredited will meet specific reporting and audit requirements which will provide for both transparency and accountability.

Co-regulatory product stewardship schemes will be delivered by industry with only outcomes and basic operational requirements specified in regulation. A company will not be able to benefit from refusing to participate so there will be no free riders. Thresholds may be applied to avoid impacts on small business.

Mandatory product stewardship would set obligations for parties to take certain actions in relation to a product. The Bill provides a comprehensive set of product stewardship requirements that can be drawn upon for that purpose. These include the ability to require labelling, to require producers to take products back at end of life for recycling, or to require a deposit and refund be applied to a product. These requirements are based on those already in use, such as those in the Ozone Protection and Synthetic Greenhouse Gas Management Act 1989.

There will be a rigorous, transparent assessment and consultation process before a decision to make regulations on a product. This will follow the Australian Government’s regulatory impact analysis requirements.

Through the Environment, Protection and Heritage Council, all governments have agreed that a national television and computer product stewardship scheme should be the first to be regulated under this product stewardship framework legislation.

The Decision Regulation Impact Statement, published in 2009, showed that a national television and computer product stewardship scheme would provide a net benefit to society in the range of $517 million to $742 million over the period 2008-09 to 2030-31.

Industry, jurisdictions and the community have sought national regulation for end of life televisions and computers for more than a decade. Around 32 million new television and computer products were sold in Australia in 2008 with an estimated 16.8 million units reaching end of life in the same year. Only 10 per cent are recycled, well below the average rate of recycling for all waste of 52 per cent. The volume of television and computer products reaching end of life is expected to grow to 44 million per year by 2028. This electronic waste is classified as hazardous waste under the Basel Convention.

The decision by all governments and industry to deliver this scheme is an important step towards sustainable management of electronic waste in Australia.

This Product Stewardship Bill 2011 demonstrates the willingness of business, community and government to share responsibility for reducing the environmental impacts of products throughout their lives and will make a major contribution to a more sustainable Australia.
Ordered that further consideration of the second reading of these bills be adjourned to the first sitting day of the next period of sittings, in accordance with standing order 111.

Ordered that the Tertiary Education Quality and Standards Agency Bill 2011 and the Tertiary Education Quality and Standards Agency (Consequential Amendments and Transitional Provisions) Bill 2011 be listed on the Notice Paper as one order of the day, and the remaining bill be listed as a separate order of the day.

SCHOOLS ASSISTANCE AMENDMENT (FINANCIAL ASSISTANCE) BILL 2011

Second Reading

Debate resumed from 21 March, on motion by Senator McLucas:

That this bill be now read a second time.

Senator MASON (Queensland) (9.39 am)—The Schools Assistance Amendment (Financial Assistance) Bill 2011 seeks to amend the Schools Assistance Act 2008 to extend the current funding arrangements for non-government schools from 2012 to 2013 for recurrent funding and from 2012 to 2014 for capital grants. The coalition welcomes the extension to the current funding arrangements in this bill. It gives schools certainty and gives the review of school funding chaired by Mr David Gonski AC time to finish its work on reviewing the government funding formula for non-government schools.

I wish to foreshadow an amendment the coalition will move in the committee stage, but before I do that let me just give this debate a little bit of context. The Labor Party has had a long history of antagonism toward the funding of non-government schools, from right back to the prime ministership of Sir Robert Menzies and all the way, for 50 years, up to Mark Latham’s hit list of independent schools. For some reason—and I have never, ever been able to understand this—there has been an inherent loathing of, an antagonism towards, a suspicion of, non-government schools by Labor for over 50 years. This really is intergenerational loathing by the Australian Labor Party, and I have never quite been able to work that out.

Despite waxing and waning on the issue by the Labor Party, there is one very important golden rule in Australian politics, and it is this: the funding of non-government schools is never, ever safe, never, ever secure, under the Labor Party—ever. Funding for non-government schools is never secure under the Australian Labor Party. Every time they are in office, every time there is a review, non-government schools go into a huddle because the Labor Party will never secure their funding. Whether the Labor Party will continue to fund non-government schools, how much and by what formula always divides the Australian Labor Party between the Left and the Right. Non-government schools, Catholic schools and Christian schools can never, ever be certain, never be safe and never be secure about ongoing funding. That just is not possible under the Australian Labor Party. It never has been and it never will be.

Non-government schools are always in the Labor Party’s crosshairs. But this bill, which the coalition supports, means that the trigger will not be pulled on non-government schools at least until after the next federal election. What a coincidence. Again the Australian Labor Party has put off the decision about funding. There will not be a government reply until after the next federal election. Shock, horror, surprise—once again. Why? Because, in Australia, non-government schools, Christian schools and Catholic schools can never, ever take it for granted that the Labor Party will fund them—ever.
The Prime Minister has in the past, it is true, said that she is an economic conservative and then, on the weekend, by some divine revelation, the Prime Minister said she was a social conservative. Despite her now being both an economic and a social conservative, the Labor Party cannot be trusted with the funding of non-government schools. Let’s face it. I looked at the front page of the Australian today and Paul Kelly, a senior Australian journalist, said that Ms Gillard must come clean with her convictions. The fact is that Ms Gillard does not have strong convictions except those lent to her by the Labor lobbyists Hawker Britton. We now know that. But we should do what the Senate always does and review this legislation.

Senator Jacinta Collins—Stop laughing while you’re speaking!

The ACTING DEPUTY PRESIDENT (Senator Troeth)—Order! Senator Mason, resume your seat for the moment. Senator Collins, just as you would wish to be heard in silence when it is your turn to speak, Senator Mason deserves the right to be heard in silence. I would ask you to limit your remarks to your own speech.

Senator MASON—Madam Acting Deputy President, thank you for that. I assumed that Senator Collins was whispering words of support. I must have misheard her! Nevertheless, let me carry on.

I foreshadowed before that at the committee stage the coalition will be moving an amendment. This amendment does not debate the quality and structure of the national curriculum. This amendment does not debate the equity of funding for government and non-government schools. It is rather more simple than that. When I move the amendment in the committee stage it will be about having realistic time frames for non-government schools when the Gillard government has been dragging its heels. This amendment will seek to remove the 31 January 2012 deadline and replace it with a realistic time frame for non-government schools to implement the national curriculum prescribed by the regulations. This is a natural flow-on from Labor’s failure to keep to its original implementation schedule.

Why is this necessary? I am flagging it because at the last meeting of state and territory education ministers it was indicated that, in the real world, substantial implementation of the national curriculum will not begin in government schools until at least 2013. Yet the current act requires non-government schools to introduce the national curriculum prescribed by the regulations on or before 31 January 2012. Once again, the government has been dragging its heels, necessitating the coalition’s proposed amendment in the committee stage. This time line needs to be amended. Where is the common sense in the government asking non-government schools to introduce the national curriculum before its design is even finalised? What is needed here is a consistent approach to government and non-government schools. After all, we thought that was what the national curriculum was all about—having a common curriculum for non-government and government schools right across our country.

Last year we saw the government under-deliver on its original promise to have the national curriculum available to implement from the beginning of this year due to serious concerns about the quality of the national curriculum. The national curriculum has become another government failure as state education ministers last year at the ministerial council refused to begin implementation in January 2011 as was promised. I could, if I was provoked, again outline my concerns on the national curriculum. But I am not being provoked this morning, so perhaps I will not. I will spare the Senate a tutorial on my concerns about the national curriculum. The
national curriculum time line is behind Labor’s original schedule, with some states and territories having announced they will not implement it until 2013. This bill obviously needs to be amended to remove the 31 January 2012 deadline for non-government schools as it simply is not realistic.

We know all too well what happens when the Gillard government rushes into policy implementation. Again, we do not have to look too far. And, again, if I was provoked, I could give some background about the Building the Education Revolution program and the pink batts scheme. I have been known to do that. However, this morning perhaps I will spare the Senate. However, I think it is fair to say that there are some implementation issues with respect to the government’s capacity to implement even policies that one might see as creative. But the Gillard government is at it again. It has not learnt its lesson. Mr Garrett, the relevant minister, knows firsthand the effect that rushing into policy implementation can have. Again, the implementation of the national curriculum has been slow. It has not been well handled. State governments are no longer uniform in their consent to implement it, and at the moment this legislation is inaccurate in the sense that it does not accurately reflect when non-government schools will be able to implement it.

The amendment that I will move at the committee stage is a common-sense amendment that seeks to restore a realistic time line for non-government schools to implement the national curriculum as a result of the Gillard government’s failure to keep to its original and stated schedule. The coalition, however, does welcome this bill and welcomes the extension of funding arrangements to non-government schools but calls on the government to support the amendment that I will circulate in the committee stage.

Senator HANSON-YOUNG (South Australia) (9.50 am)—I rise today to speak on the Schools Assistance Amendment (Financial Assistance) Bill 2011 and highlight first up that the Greens will not be supporting this piece of legislation. This bill provides for the existing federal funding system for non-government schools to be extended for a further year until the end of 2013. It is the implementation of the announcement made by the Prime Minister during the election campaign last year. I said at that time that this bill adds yet another year to the growing delay in tackling the inequities in Australia’s school funding system. It means that any reform of the current system will not be implemented until at least 2014, over six years since the ALP government was first elected in 2007.

The government accepts that the SES system is flawed, yet we have seen an extension of this flawed system for a further six years when it did not necessarily have to be that way. The current SES funding system was introduced by the Howard government in 2001. The model links the residential addresses of students enrolled at a school to the census data to produce a socioeconomic profile of the school community and its ability to support the school. Under the SES model, funding is allocated according to the socioeconomic status of the community that the school is located in. A school’s SES score determines its per student general recurrent funding rate as a percentage of the average government school recurrent cost, ensuring increases in funding to public schools are passed on to non-government schools. That, of course, is the flaw in the system.

The current model has been acknowledged to be flawed and unfair by public school advocates, educational academics, the government—of course, when they were in opposition; we have seen very little direct criticism since they came into government—
and an internal report on the model commissioned by the opposition when they were in government. There has been acknowledgement from all sides of politics that this system is fundamentally flawed, yet what we have seen year after year is an extension of what is a fundamentally flawed and unfair system. The fact is that this government initiated a review into funding for schools in the acknowledgement that the current model needs reform. What is the reform going to be? We should have had the reform take place long before now. After the last election, we should have been in this place this year with at least something substantial to debate and to take forward.

The flaws in the current system were summed up well by the Prime Minister herself when she was opposition spokesperson for education. In a speech in 2000 she identified five flaws, all of which remain relevant to the model her government is now extending. Firstly, the model proceeds on the basis of the average government schools cost figure; therefore, funding to non-government schools increases when funding to public schools increases. She said:

… this model uses only some aspects of the census data—

I remind you that these are the criticisms put forward by the Prime Minister herself of the very same model which she is now advocating we extend—

… the model may lose veracity the more geographically dispersed the students of a particular school are.

… the model may lose veracity in highly differentiated areas where wealth and poverty live cheek by jowl.

… the model makes no allowance for the amassed resources of any particular school … This is a gaping flaw, one which the government would not allow to emerge in any other benefit distribution system.

They are the flaws identified by the current Prime Minister when, as I remind people, she was the opposition spokesperson for education.

Fundamentally, the problem with the SES model is that the formula to provide the funding has never been applied as intended because of the funding guarantee provisions. These provisions see about half of Australia’s non-government schools receiving more funding than they would be entitled to if the SES formula were strictly applied. By guaranteeing this level of overpayment for the next four years, non-government schools will have certainty and additional funding, while public schools will have no certainty. We know that there is in an increasing growth in the gap. Unfortunately, just like in 2008, this piece of legislation is simply extending the problem.

In 2006, under the Howard government, an internal review of the funding system found that funding guarantees delivered schools more than $2.7 billion above their SES entitlements and entrenched historical inequities. That review found a fundamental flaw under Senator Mason’s own past government. Now we see this government, a Labor government that is meant to be committed to public education, continuing this flawed system. The review said:

The consistency and equity of the SES funding arrangements is undermined by the fact that almost half the non-government school sector is funded outside the straight SES model.

This funding model does not work. All sides of politics have accepted this, yet what we see again is more legislation simply to extend a flawed, unfair, broken funding model. In government not only did the Labor Party keep the inequitable Howard model for another quadrennium of funding from 2008; it is now extending it for another year. We know it is flawed; everyone has said that.
Everyone knows that the evidence shows that the system does not work, that it is unfair, that it is inequitable and that it needs to be fixed. Yet, because of the lack of courage in this place of both the Labor Party and the Liberal Party, we see very little will to move and get it fixed.

The Greens however have always stayed consistent in their view that this current model for funding non-government schools requires fundamental change and that public education must be central to any new funding model. In 2008 in the debate on the legislation for the current quadrennium of funding to non-government schools, Senator Milne, the then Greens spokesperson on education, moved amendments to limit the funding to two years, until 2011. That is this year. We could have been dealing with the issues this year. We talk about the need to give certainty to schools. We talk about the need to ensure we fix the system and deal with the issues of inequity, yet in 2008 the Greens moved amendments to say, ‘Let’s by at least 2011 get it fixed and get moving.’ The government of the day and the current government did not want to do that and, of course, neither did the coalition.

It was the Greens’ belief that the review promised by the Labor Party prior to the 2007 election should be undertaken in two years from 2008 and a new funding formula developed by the time of the 2010 election. We wanted to be able to give schools, teachers, parents and students the certainty of what their schools would look like and of what resources and funding they would receive. We wanted to be able to ensure that schools, teachers, parents and students had that certainty before the last election. That is why we moved the amendments that we did back in 2008. But of course, no, no, no: neither major party wants to actually deal with the issue at hand. They would prefer to defer, defer, defer and continue an unfair, inequitable system—all critiqued, of course, by their own reviews and party policies.

Instead, it is likely that the Australian community will go through two elections before the government has the courage to implement a new model for Commonwealth funding of non-government schools. We continue to keep rolling it into the next election cycle, and we know what happens when both the Labor Party and the Liberal Party get into election cycles: they go absolutely weak at the knees when it comes to the need for reform. The continual delay in biting the bullet of real funding reform for education does not reflect well on this government at all. The report of the review of school funding is due to be given to the government by the end of 2011. I will be moving a second reading amendment calling on the government to respond to the review of funding for schools before then, ensuring that by 2012 the public schools, teachers, parents and students will understand what the government’s plan is, what they will actually do once this review has been completed.

Let’s not go to the next election with this view that we do not have to tell people what is going on. We do not have to commit to public education. We do not have to commit to fixing the system. We do not have to commit to ensuring that we agree that there is inequity and we will do something about it. Let us know what your plan is going to be before the next election. My second reading amendment does exactly that. We know that big parties gang up on this particular issue. They say, ‘Oh no, we can’t talk about school funding, can’t reform the system; we know it’s unfair but we don’t want to touch it.’ The major parties will gang up. They will vote for it. The Greens will be the sole voice for public education in this place, come a couple of hours, and we will vote against the legislation. The legislation will pass, but at least let us have a commitment from the government
that they will put their plan on the table so that we know—and the public knows, the teachers know, the parents know and the students know—what your plan is before the next election. Let’s not see another delay, delay, delay because it is all too difficult.

The Greens look forward, as this review is carried out, to a constructive debate on school funding as a result of this focused time to consider the flaws in the system. However, we do not resile from our position that the current model is fundamentally flawed and neither should the government. I have already read out the Prime Minister’s own critique of the system. Let’s not forget that it has not changed because it has been extended time after time after time. It is still as flawed as it was when it was first introduced under the Howard government. Let’s not pretend that this system can keep going the way it is. It needs root and branch reform.

The Greens are committed to ensuring public education is the priority for any new Commonwealth funding system. We want to see a public school system that sets the standard of education in this country. Any child wherever they are—whether they live in the city, in the suburbs, in the bush—should be able to access the best quality education. That means the public education system has to set the benchmark. In order to do that, more money is going to have to go towards public schools. We have to fix the funding system to make that happen. Every child in this country deserves the right to the best quality education possible and that can only happen if the only system that accepts all students on whatever basis, regardless of their geographical location or parental income, household resources or their socio-economic status—that means the public education system—sets the standard for what good quality education means in this country.

That should be the basis of this reform. That must be the basis of this reform.

We have a Prime Minister who says that she is the education Prime Minister. Let’s see her put her money where her mouth is. Let’s see the Prime Minister accept that this system is fundamentally flawed. It undermines the educational standards that kids in Australia should be able to expect from their education system every day. If Julia Gillard truly is the education Prime Minister, she will invest and ensure that the public education system sets the standards so no child in this country is left behind.

We understand that this legislation will pass the Senate. I reiterate that the Greens do not support the extension of a flawed system. It is flawed by everybody’s understanding, everybody’s critique of the way it is currently working. The Greens will not accept that, just because it might be too hard for some, we should not tackle the issue at large. To ensure that the government has to put its plan squarely on the table by 2012, before the next election, I move:

At the end of the motion, add: “but the Senate is of the opinion that the Government should respond to the Review of Funding for Schooling, chaired by Mr David Gonski AC, by March 2012, fully outlining the Government’s plans for Commonwealth funding for government and non-government schools”.

Senator Jacinta Collins (Victoria—Parliamentary Secretary for School Education and Workplace Relations (10.04 am)—I thank senators who have contributed to this debate on the Schools Assistance Amendment (Financial Assistance) Bill 2011. I thank Senator Mason for his comments welcoming the comprehensive and broadly supported review of school funding. But I must take this opportunity to make the point that there is absolutely no basis at all for his claim that Labor will not respond until after the next election on this matter.
Senator Hanson-Young, I would also like to welcome the Greens’ support of the school funding review. However, I need to tackle some other reflections made in your contribution very briefly, because I do want to get to the details of this bill. The lack of courage you report being involved in this matter needs to be put into perspective. As Senator Mason is here I need to put into perspective his comments on history as well. I do not want to take the time of the Senate in talking about the history of school funding. Suffice to say that the one interjection I made was that I was indeed a product of Labor’s support for non-government schools, as my schooling was within the Catholic education system in the 1960s. Perhaps anyone who was listening to Senator Mason might understand that there is a very different historical perspective that can challenge much of his contribution.

Regarding Senator Hanson-Young’s comments about the major parties ganging up on the Greens, with respect, this is a much more serious issue. This comprehensive review of school funding to deal with the very problems she highlighted the Prime Minister identifying is very critical. The courage that the Labor government has shown in conducting this very broad independent review of school funding, bringing all parties to the table, is absolutely critical. Senator Hanson-Young raises some important points about public education, but we are the government with responsibility for all schools. Perhaps those who understand the difference between state and Commonwealth funding in school education will reflect the challenge that is before us there in terms of the issues around the public education system as well and the Commonwealth’s historical role there.

With those comments, I will just go briefly to the purpose of the bill. The Schools Assistance Act 2008 provides the legislative authority for the government’s financial assistance for non-government, primary and secondary education for the years 2009 to 2012. The current funding arrangements under the act will expire on 31 December 2012. The bill amends the act to extend the existing funding arrangements, including indexation arrangements for grants for recurrent and targeted expenditure until the end of 2013 and for grants for capital expenditure until the end of 2014.

With respect to the implications and the issues of certainty around the context of the school funding review, this bill will provide funding certainty to the non-government school sector until the Australian government has had the opportunity to consider the findings of the review of funding for schooling and determine how schools will be funded in the future. The review is due to report to the government in late 2011 and there is no indication that there will be any delay in that time frame. The review provides the opportunity for substantial reforms to the way national education is delivered in Australia. It is about achieving a funding system that is financially sustainable, fair, transparent and effective in promoting excellent education outcomes for all Australian students, no matter which school they attend. It is about supporting our students on their path towards excellence. The bill will allow non-government schools and education authorities to plan their future funding priorities and will assist with the provision of school facilities and support the government’s commitment to making every school a great school. The extension of capital funding to the end of 2014 recognises the longer lead time for capital works, planning and construction.

With respect to the context, the bill builds on the investment of the Gillard Labor government in education across the board. The bill will continue to build on the government’s unprecedented level of investment in education and will enable every child to get a
great education. We are investing more than $64 billion in our schools over the years 2009 to 2012 to provide Australian students and parents with modern infrastructure, high-quality teachers, a national curriculum and unprecedented transparency on the performance of our schools. I commend the bill to the Senate.

Senator XENOPHON (South Australia) (10.10 am)—by leave—I wish to put on the record my support for Senator Hanson-Young’s second reading amendment. I think it is appropriate that the government respond to the review of funding for schooling chaired by David Gonski AC by March 2012. I think there ought to be a comprehensive response to that review that would fully outline the government’s plans for Commonwealth funding for government and non-government schools, and I do so having received concerns in relation to the funding of some non-government schools, which may mean that other perhaps more worthy non-government schools and, indeed, public schools have missed out on funding. I note an article by Michael Bachelard in the Sunday Age on 6 April 2008, and some more recent stories, about one particular type of school that is getting some significant funding and there being concerns about the transparency of that. I think that there ought to be adequate scrutiny of this.

I was asked to comment recently about the funding for some Exclusive Brethren schools. I absolutely respect the right of the Exclusive Brethren and other religions to set up schools, but where public funding is involved there ought to be levels of transparency, scrutiny and equity applied in relation to those schools. The information I have received about the level of funding for some of those schools, and arguably the efficacy of that funding, has left me with some very real concerns, because money for one school means money cannot be delivered to another school that could well be much needier, whether that is a non-government school or a public school.

I understand that this bill will go into committee stage at some later time and I will be asking more questions about the nature of the review and the nature of the scrutiny there is at the moment for degrees of funding for some non-government schools, where there has been a proliferation of certain types of non-government schools in recent times. I will be asking for further details on that. Having said that, I can indicate my strong support for Senator Hanson-Young’s amendment and I look forward to the committee stages of this bill so that I can ask for further details in relation to some of the funding arrangements that seem to have proliferated in recent times and the efficacy of them.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (10.13 am)—by leave—The government opposes the Greens second reading amendment. The government fully intends to respond as quickly as feasible to the review of school funding. The review is on track to report to government by the end of this year. This amendment is pre-emptive. We will take the appropriate amount of time to respond, based on the actual report. It is pre-emptive to anticipate that report. Nothing happened for 13 years under the previous government to properly reform school funding. We are committed to getting this right. The timing of the government’s response is a matter for the minister to determine and he does not need advice from the Greens as to how to carry out this reform. We are however pleased to note that the Greens are committed to reforming the funding system for all schools, both government and non-government.

Question agreed to.
Original question, as amended, agreed to.
Bill read a second time.

Senator MASON (Queensland) (10.15 am)—by leave—I did indicate before in my second reading remarks that the coalition would be moving an amendment during the committee stage but the coalition no longer wishes to do that. I flag that to the Senate.

Senator XENOPHON (South Australia) (10.15 am)—by leave—Given Senator Mason’s statement, and at the time I spoke previously I was not aware of that, I will be seeking that this bill go briefly into committee to explore some of the matters that I raised in my contribution to the debate on the second reading amendment.

In Committee
Bill—by leave—taken as a whole.

Senator XENOPHON (South Australia) (10.16 am)—I am happy for some of these questions to be taken on notice. A concern has been put to me in relation to how some schools receive funding. There has been some controversy in relation to some schools. I go to the Sunday Age report that some Brethren schools in New South Wales and South Australia receive category 12 funding despite not meeting the criteria. There is a concern about the transparency of that process and whether other schools that would arguably be needier on the basis of objective criteria are missing out on funding because of the way that some schools have been able to access funding. I want to make it clear that I am not exclusively referring to the Exclusive Brethren. There has been a proliferation of these sorts of schools and there is a concern about the transparency mechanisms.

The other issue, to the minister, is whether the Gonski review has received submissions in relation to these sorts of concerns. I understand that the minister, the honourable Mr Garrett, cannot direct the review, quite properly, as to what to look at. But is the minister aware whether the Gonski review will be looking at these concerns, which I think are quite legitimate public concerns, about the use of public funds in this way?

Senator JACINTA COLLINS (Victoria)—Parliamentary Secretary for School Education and Workplace Relations (10.17 am)—Thank you, Senator Xenophon. I think there are actually two issues there rather than, as you have described them, the issues around schools such as the Brethren schools that were in the weekend’s media. The issues are those that were partly referred to by Senator Hanson-Young as a component of the review, which is how well the current mechanisms operate in allocating schools into different categories. But I think the issue that you are also raising is whether some schools have inappropriately been categorised. I will take advice from the department on that second point, but I want you to understand that it is an issue at both those levels that you are raising.

On the issues around the Gonski review I might also need to take advice on whether perhaps the second component of what I have described as the query you have made has actually been before the committee. Certainly the first has, because it is all of the issues around the SES model and funding maintained schools and funding guaranteed schools, but the second one as to whether the current mechanism is inappropriately categorising schools is one that I would need to take some advice on, which I will briefly do now.

Senator Xenophon, it seems as if the Brethren schools may actually be funding maintained schools, in which case, yes, it is an element of the existing system rather than a mis-categorisation of the schools. I suppose you could say it is an issue of the integrity of
the system. So, it is the first of those—that our current system with all of its flaws, issues and problems is generating the problems that are occurring with the Brethren schools. They are getting too much funding in the sense that that is what the current system allows for because it is a very complex and complicated system. This is one of the issues.

It may help this debate a bit if I paint the broader context. The government’s transparency agenda is determined to deal with these issues and highlight these issues and difficulties so that the Gonski review is able to address them. With our transparency agenda via My School, we have been able to spark these debates at a very welcome time because it is as the Gonski review is occurring. This is one of the reasons why the government is determined to have the My School 2 information out and available during the Gonski review process so that we would be able to have an open, transparent and public debate about the anomalies that exist under the very complex existing funding arrangements.

At this point in time I feel assured that the issues raised around the Brethren schools are indeed the system rather than the integrity of the system, if you understand that distinction. But I will still take it on notice to confirm that issue. As I understand it, it is the current mechanism that is generating those anomalies, and the Gonski review is most certainly looking at those problems.

Senator XENOPHON (South Australia) (10.21 am)—I thank Senator Collins for her answer on behalf of the government. A media report going back almost three years, Michael Bachelard article—and I understand there have been similar, more recent articles—states:

Federal school funding documents show that the Brethren’s multi-campus NSW school, Meadowbank, and the South Australian school, Melrose Park, were funded at the same rate as “special schools”, giving them the same per-student funding as Nyangatjatjara College, in the Northern Territory, the Giant Steps school for autistic students and schools for the hearing-impaired.

The allegation has been made that the Exclusive Brethren’s MET School at Meadowbank does not meet the criteria for category 12 funding. It is in suburban Sydney, it has small class sizes and is financially supported by a community that boasts it has no poverty. I think it is extraordinary that a school for autistic students is getting the same level of taxpayer funded assistance as a school with a community which seems to be in a much better financial position—in fact, they boast that they have no poverty and I pay tribute to the Exclusive Brethren for that.

If I could refer the minister to a very good report, dated November 2010, of the Senate Education, Employment and Workplace Relations References Committee and, in particular, to the recommendation of government senators:

Government senators recommend that in the interests of transparency, accountability and facilitating meaningful comparisons, the My School website capture full disclosure of financial assets. Those schools who do not agree to this requirement should not receive public funding.

Can Senator Collins indicate what the government’s position is in relation to that? Will it be on the agenda down the track as a result of the Gonski review?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (10.23 am)—I think we need to, in part, separate the government’s transparency agenda from the Gonski review issue per se. The minister has been quite clear in saying that the My School website is an evolving process. We have made some very significant steps in getting the level and amount of information on My
School 2 which is currently available. My impression is that the community is still digesting what is presently available. Some of the indications seem to be that even for parents some of what is presently available is complex and difficult to interpret. In response, I would say that the My School website is an evolving process. We have not ruled out dealing with assets in the future, but I cannot say at this time that we have a clear position or commitment to actually proceed. As I said, we are currently digesting the level of financial information that is currently available on My School 2 and the government will continue to review how we provide further information not only for parents but for schools, the school communities and educators so that we can move this system closer towards excellence.

On the asset side, Senator Xenophon, you gave some information about a Sydney Exclusive Brethren school. That information, in part, is no surprise to me or to the government. We are aware of these anomalies in the existing system. That is what both this transparency process and the Gonski review are designed to deal with. My advice a moment ago was that those issues arise out of the former government’s ‘funding maintained’ status, which is indeed being addressed within the Gonski review.

Senator XENOPHON (South Australia)—I am grateful to the minister for that answer. Does that mean that what has happened in the past in terms of funding will not necessarily happen in the future? I think that is an acknowledgement by Senator Collins. Given the very moderate and modest recommendation of government senators, which simply said, ‘With respect to transparency, you need to publish what your assets are,’ is the government concerned that there could be schools that have an enormous asset base receiving the same sort of funding as funding received by schools in Indigenous communities in the Northern Territory or the Giant Steps school for autistic students? Is that on the government’s agenda for it to consider?

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (10.26 am)—Senator Xenophon, I have a few extra comments I can make in relation to what you have asked just now and previously. We have indeed made one announcement in relation to assets that I should bring to your attention where the minister has indicated that we will publish assets for MCEETYA to consider. In terms of how we proceed with respect to information around assets, that will be considered by state and federal ministers. There is obviously a concern about how we deal with assets within the overall funding picture. That is certainly a concern within the Gonski review process. But the government has yet to respond to this committee report that you are referring to, so I cannot preempt in any further detail what the government may say in response to those recommendations.

Senator XENOPHON (South Australia) (10.27 am)—Can I indicate that I am grateful to the government for their response to this, but I think it is a real issue. There is real concern that there are non-government schools and government schools that are struggling and are incredibly needy, that do not have the asset base of some of these schools that are getting these enormous levels of funding, millions of dollars of taxpayers’ funds—the Exclusive Brethren school is a particular example of that—and they are missing out.

Finally, can I indicate this so that everyone is given fair notice. I am sure that, as a result of the Gonski review, there will be some legislative changes. I would be surprised if there were not. But sometime next year, once the review is over and dealt with,
if the government does not do it, I will put up an amendment that is consistent with the government senators’ recommendation in terms of transparency. I hope I will not have to do that. I hope the government will embrace the recommendations of its own senators in relation to transparency in funding.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (10.28 am)—Indeed, Senator Xenophon, the evolution, which I have separated from the Gonski review, may well have occurred by the time we are dealing with the government’s response to the Gonski review next year. So the government’s evolving process of transparency may well indeed have dealt with that matter. I would also like to offer Senator Xenophon a more detailed briefing about how both the transparency agenda and the Gonski review process are moving at this stage. It is probably appropriate that I not go into too much detail around that here and now. But the government is more than happy to sit down with you or your staff and go through the detail of that.

Senator MASON (Queensland) (10.29 am)—I just wanted to ask the minister whether a delay in the implementation of a national curriculum that I flagged in my contribution to the second reading debate would have any effect on the commencement of this bill, due on 31 January 2012 for government schools.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (10.30 am)—If you bear with me for a moment, Senator Mason, I will go to my speaking points that were designed to deal with your amendment and might assist you in that question. We oppose the amendment because we do not believe that that issue is significant. I am aware that the dates need to be aligned, but it requires consultation with those affected.

On 8 December 2010 all Australian education ministers made a historic agreement to endorse Australia’s first national curriculum. They also endorsed the curriculum implementation timeline so that the Australian curriculum in English, maths, history and science will be substantially implemented by the end of 2013. All schools, both government and non-government, will therefore have in place our first Australian curriculum from foundation to year 10 in these subjects by 2013.

There was never an intention or an expectation that this matter would be dealt with as part of this bill, and to raise it through this amendment will not resolve the problem. I can assure the committee that the government has a process in place to resolve this issue and it will do so in consultation with stakeholders as appropriate.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations (10.32 am)—I move:

That this bill be now read a third time.

Question put.

The Senate divided. [10.36 am]

(The President—Senator the Hon. J J Hogg)

Ayes………. 44
Noes……….. 5
Majority…… 39

CHAMBER
AYES

Adams, J.
Barnett, G.
Boyce, S.
Bushby, D.C.
Carr, K.J.
Colbeck, R.
Coonan, H.L.
Crossin, P.M.
Faulkner, J.P.
Ferguson, A.B.
Fifield, M.P.
Furner, M.L.
Hurley, A.
Kroger, H.
Marshall, G.
McEwen, A. *
Moore, C.
O’Brien, K.W.K.
Payne, M.A.
Pratt, L.C.
Troeth, J.M.
Wortley, D.

Back, C.J.
Bishop, T.M.
Brown, C.L.
Cameron, D.N.
Cash, M.C.
Collins, J.
Cormann, M.H.P.
Farrell, D.E.
Feeney, D.
Fielding, S.
Fisher, M.J.
Hogg, J.J.
Hutchins, S.P.
Lundy, K.A.
Mason, B.J.
McLucas, J.E.
Nash, F.
Parry, S.
Polley, H.
Sterle, G.
Williams, J.R.
Xenophon, N.

NOES

Brown, B.J.
Ludlam, S.
Siewert, R. *

* denotes teller

Question agreed to.

Bill read a third time.

NATIONAL VOCATIONAL EDUCATION AND TRAINING REGULATOR BILL 2010 [2011]
NATIONAL VOCATIONAL EDUCATION AND TRAINING REGULATOR (TRANSITIONAL PROVISIONS) BILL 2010 [2011]
NATIONAL VOCATIONAL EDUCATION AND TRAINING REGULATOR (CONSEQUENTIAL AMENDMENTS) BILL 2011

Second Reading

Debate resumed from 26 November 2010 and 10 February 2011, on motions by Senators Ludwig and McLucas:

That these bills be now read a second time.

Senator NASH (New South Wales) (10.39 am)—I rise to make some remarks on the National Vocational Education and Training Regulator Bill and related bills. These bills aim to establish a national vocational education and training regulator, which is designed to shift responsibility from the states to the Commonwealth. The coalition is supportive of moving towards a national regulator, for a variety reasons. There are some very good arguments for doing that. However, we are not supportive of this legislation as it is somewhat shambolic. I know that my good colleague Senator Back, who was part of the inquiry, will elaborate on that comment.

We saw a COAG agreement in December 2009 which was designed to get a referral of powers from the states to the Commonwealth in order to establish the NVR—the National VET Regulator. Within that process we saw dissent from Victoria and Western Australia. Victoria and Western Australia had significant issues with where the government was headed. They broadly supported what the Commonwealth was doing, but only in the context of enacting mirror legislation in their own states. They would not sign up to the referral of powers. So from day one there was a split between the states on how this should advance.

Running up to where we are at this point in time, there has been a real concern with the lack of consultation with stakeholders. That has been a significant concern. There has been a very narrow context of consultation from the government with those stakeholders. Several substantive issues need to be addressed by the government. We think those issues are so substantive that they have led to our opposition to the bill. Western Australia, in particular, has a number of concerns. It has indicated that the agreement made with the Premier at COAG in 2009 on that VET regulation has not yet been sufficiently re-
reflected in the legislation as it stands. The understanding is that assurances were given to the Premier by the Prime Minister that the reforms would not result in the regulatory takeover of state-owned public providers, including the Western Australian TAFE colleges. That has been a very significant issue for Western Australia. They do not believe that the intent of the agreement has been reflected in the subsequent bill, and they want to see amendments to the legislation to address this.

Victoria certainly believes that the bills will undermine the consumer protections for VET students in Victoria. They are also very concerned that the bills are going to create uncertainty for the administration of TAFE colleges in Victoria, aligning with Western Australia’s concerns in this area. And they are significant concerns for those states. Victoria also has concerns about the regulation of apprenticeships. Victorian apprenticeships are to be overridden under the legislation. No equivalent arrangements are going to be established by the NVR bill to replace the state laws that it displaces, so a regulatory gap is going to be created by a lack of having anything established to replace it. The government should take some time to look at the anomalies in this legislation. It really does seem that it has been created in a very rushed manner. Obviously the government was trying to get referral from all states to get a conclusive agreement, but that has not happened. Victoria and Western Australia have these significant concerns that really are very substantial.

Victoria also believes that the non-referring states should retain responsibility for the regulation of all the VET providers based in their jurisdiction. Allowing the non-referring states to retain that responsibility hardly allows for a cohesive national system when we have these two states that still are not prepared to refer powers. Indeed, over the past year it seems to have become even more apparent, now that they have delved more deeply into the context of the bills and how they are going to operate, that their concerns have escalated.

There also seems to be the outcome with these bills that we are going to have two regulatory systems. It does appear that there will be state and federal systems for, my understanding is, at least 12 months. When the whole point of the legislation is to move to one national regulatory system to be able to get greater harmonisation and greater clarity around those rules as they apply across all states, it is very difficult to understand how the management of running concurrent systems will work. The other issue that that throws up is that there is the expectation that that will be a significant component of cost recovery in this. If the states are going to be running their own systems parallel, obviously they are going to need funding streams to be able to do that, which would indicate that that cost recovery component is not going to be available to the Commonwealth because those states are going to need that funding to run their own systems.

The coalition has a number of concerns. The three main ones are that there seems to be an attempt to bind the hands of parliament, if you like, in dealing with this bill properly. There is an issue from New South Wales, who have said that their agreement on referral of powers is contingent on the Commonwealth bill not being amended. That then provides a real conundrum for this place, I believe, where we do have the opportunity and we do utilise the opportunity on many an occasion, as my good colleagues Senator Marshall would agree. It is hamstringing the correct scrutiny of these bills if the charge is there that these bills cannot be amended because then the initial referral—and I understand that New south Wales is the host state—will not be able to go ahead. So it
is very messy. That is probably not the technical term to use but it is really very messy. The coalition is quite right in the expectation that they have of government to go back to the drawing board and fix this. The intent is right; we certainly support the intent. But the legislation has too many holes and there is not enough cohesion across the states obviously with the position of Victoria and Western Australia, and that needs to be fixed.

There is a suggestion that the legislation should be enacted on the basis of an intergovernmental agreement. The agreement apparently has not even been signed yet, which is another issue. So we have another case here of seemingly the cart before the horse and the government rushing to get this through rather than properly and sensibly working through all of these issues so there can be some cohesion and clarity in how this regulator is going to work nationally and to ensure that all the states are on board in doing that. In moving towards a national system it just stands to reason that we want all the states to be part of that movement forward, we want all the states to be happy, because if they are not the system is going to break down and is not going to work in the optimal manner that we would expect it eventually would.

With the intergovernmental agreement, the fact that it is now only in principle is a real issue. The draft agreement is not public. I understand the committee sought to see a copy but it was not provided. Indeed, in the coalition senators’ dissenting report they make comment on the fact that there was no agreed intergovernmental agreement and that in their view this puts parliament in a ridiculous situation. I think that is quite correct. Across a whole range of areas we have seen a poor consultation process, we have seen these issues with Victoria and New South Wales, which very simply means that we cannot have the operation of an NVR in the way we would envisage without that cohesion between those states and without making sure that we address these concerns that have been raised, and not just by those states. Obviously New South Wales has an issue in terms of its referral and the effect of any amendments, and stakeholders out there in the community also have a concern about how this is going to operate and the anomalies that are there and the difficulties that are being presented to us.

So I again indicate to the Senate that the coalition is not supportive of these bills. Having said that, as I said at the outset we do agree with the intent. There is a great deal of merit in having an NVR, a national VET regulator. Obviously for providers who operate in more than one state there will be a particularly good benefit in moving to one national system, as there will be for a whole range of stakeholders right across the country and for a whole range of reasons. However, these bills do not do it in any way, shape or form that is going to provide any clarity and any cohesion. There are simply still too many anomalies. There are too many deficiencies within these bills. We say to the government, go back, start again, have another look. The intent is right but get the bills right so that we can have a proper NVR in place that is going to be able to operate efficiently and effectively.

Senator MARSHALL (Victoria) (10.50 am)—Firstly I want to respond to a few things that Senator Nash said. Again we have a position where the opposition are saying they agree with the intent of the National Vocational Education and Training Regulator Bill but then scramble around to find some reasons to simply say no to it. I think that is what Senator Nash tried to do. She talked about a lack of consultation, and in a couple of moments I will take the chamber through the process of consultation and getting agreement through a COAG process. I think
anyone who has been around this place for any length of time will know how difficult that is and the extraordinary levels of consultation that have to go into it. Senator Nash also talked about Western Australia having a number of concerns. They have one concern, and their one concern is that they want to continue to self-regulate their TAFE system. There are a number of reasons and on the surface you can mount a reasonable argument for that, but when you delve a little bit deeper into those issues there are very good reasons why state TAFE systems should also come under a national regulator. I will go into those couple of things in a minute as well.

As Senator Nash indicated, there were a number of concerns raised with the bill, but all the stakeholders—every one of them—throughout the Senate inquiry supported the bill. Some of them supported amendments and some of them suggested clarifications, but on the whole the bill was supported and its need was identified. The only opposition to it comes from the states of Victoria and Western Australia—of course, if they are not going to refer they do not have to. But the chamber should know that both of those states will implement mirror legislation anyway, in effect trying to establish a national standard for a national regulator, albeit it will not be a true national regulator without those states in it. If they are going to have mirror legislation, I suspect it will simply be a matter of time before they realise it is a bit foolish to spend lots of money having a state regulator doing exactly the same thing as a national regulator. I think through the natural evolution of these things the opposition from Victoria and Western Australia will diminish. I suspect it is more to do with a bit of politicking than any serious objections.

Senator Nash said this is rushed. This process started in December 2008 with the Review of Higher Education, led by Professor Denise Bradley, which recommended the creation of a national regulatory body responsible for accreditation and quality standards of all providers of higher education in Australia. The review also recommended the Australian government explore with the states and territories the option of expanding the regulator’s role to include accreditation and quality standards for vocational education. So the genesis of this reform was an independent review, the well-known Bradley review, and it started many years ago. This is not rushed. This is a proper, orderly evolution of an issue that has been identified in a review leading to a COAG process, which I will get to in a minute, leading to the legislation that is before the parliament now. It is not rushed.

On 20 November 2009, the Ministerial Council for Tertiary Education and Employment reached a majority agreement for referral of powers to the Commonwealth for the establishment of an independent national regulator for the vocational education and training sector. Victoria and Western Australia did not support the proposal, instead recommending consideration of other models to achieve national regulation and the retention of the principles of state accountability. Then we go to December 2009, when the Council of Australian Governments agreed to establish a national regulator for the VET sector to drive better quality standards and regulation to strengthen Australia’s international education sector. The agreement envisages that the regulator will be established under Commonwealth legislation and will be responsible for the registration and audit of registered training organisations and the accreditation of courses. Victoria and Western Australia elected to retain responsibility for regulating RTOs in their jurisdiction. While retaining this responsibility, those states have agreed to enact mirror legislation to ensure the same standards of operation and accountability
across Australia’s VET sector. So we are going to get a common national standard at least. We do not yet have a national regulator, but that is clearly the objective of this government. It is a logical evolution and it is a logical outcome.

The COAG agreement provides for the national regulator to operate in non-referring jurisdictions. As I said before, Victoria and Western Australia determined that providers wishing to operate in more than one jurisdiction or enrol international students at post-secondary education institutions will be registered through the national regulator. COAG also agreed to establish a standards council to provide advice to the Ministerial Council for Tertiary Education and Employment for the development of national standards for VET regulation, including registration, quality assurance, performance monitoring, reporting, risk, audit, review and renewal of providers and accreditation of their qualifications. It is hard work to get agreement across the states, and once we have agreement across the states—New South Wales has referred its powers—my understanding and the advice I have received is that that then locks us into the bills that are before us, but it does not mean they cannot be changed later on. Any amendment here simply renders the whole process invalid; it sends everyone back to the drawing board. That is not a desirable outcome. It is not a desirable outcome for the VET sector or for quality standards of training and education in this country.

I am disappointed that the opposition is not going to support these bills. There are some difficulties with two states, and there may be a bit of politics involved with that, but I think eventually we will evolve into a truly national regulator. The opposition should support these bills. By supporting these bills they do not lock their colleagues who are in power in Western Australia and Victoria into the legislation. If those states do not want to refer they do not have to refer, but the opposition should support this package of bills to get the outcomes we desire.

Western Australia says, ‘Look, we want to continue to regulate our own system.’ The TAFE system is a high-quality system. Once upon a time, when I went to TAFE to do my apprenticeship, TAFEs were very rigid. They were fantastic education and training facilities, and provided great training, but they were incredibly rigid. They were very highly regulated and controlled by the states. Over the eighties and nineties, the whole VET sector and vocational education and training system was freed up. We saw the evolution of RTOs—registered training organisations—that also moved into some of the traditional areas that TAFEs were responsible for. As a consequence, TAFE had to get a little bit more flexible, a little bit more responsive to industry needs and we saw a very positive evolution of the TAFE system.

But that has led to a lot of entrepreneurial activity by the TAFE systems. We have seen them go into joint ventures and move into areas they have not traditionally moved in. Given that they are going to be that flexible, especially if they are entering into joint ventures with overseas training organisations or private training organisations—and they have been doing so for a long time—there is a need for them to come clearly under a national regulator as well. It is not simply about the state saying, ‘This is our system—we fund it, we control it and we will regulate it,’ because it goes a lot broader than that now. That argument would have stood up in the late seventies when I did my apprenticeship in the TAFE system. It does not stand up now.

I also think there is a bit of an issue when the state says, ‘This is our system—we fund it, we control it and we will regulate it, but we will also monitor it.’ I think that it would
be preferable if the state systems actually acknowledged that having an independent national regulator is actually good public policy for them. It is better that an independent national regulator regulates the state systems rather than the states doing it themselves. I do have a problem where a state says, ‘This is ours—we will regulate it, we will monitor it and we will be the final arbiters of whether it is doing the right thing or not.’ I do not think that is a good reason. I think the positions of the Western Australian and Victorian governments in wanting to continue to play that role are poor public policy. So we do not support those positions.

I do not know, because I was not there, what was actually said during the COAG meetings. Sometimes in discussions people say things to each other and the two parties come away with different views of what has been said and what has been agreed. All I know is that, in the committee’s inquiry, there was no evidence of any agreement being broken. Western Australia clearly say they had an undertaking from the Commonwealth that they would be able to exclude their state TAFE sector, but there was a complete absence of any written agreement or anything to back that claim up. I do not say for one second that they do not genuinely think that was the agreement reached at COAG. But often, as I said, there can be disagreement after the event if there is no written documentation of what was agreed. I thought, given that it was such an important thing, that there would be such a record—and maybe there is. But certainly there was no evidence presented to the committee that indicated that there had in fact been a breach of agreement, apart from WA saying that that was the case. I am not going to dwell on that issue. I just make the point that I do not know. So I am not going to comment further on the matter, but WA claim that that is the case.

As I said, the purpose of the bills is to provide for the establishment of a national regulator for the VET sector and a regulatory framework within which the National Vocational Education and Training Regulator will operate. The NVR bill will establish the National VET Regulator and provide the National VET Regulator with administrative and enforcement powers. Further, the bill creates offences and civil penalties relating to the conduct of RTOs and others involved with the VET sector. The bill also allows the use of infringement notices and enforceable undertakings as an alternative to criminal offences and civil penalties.

The need to regulate this industry is well established. This is an incredibly important industry for this country. These are the vocational skills that drive and underpin our economy. We already have a very high standard in the VET sector, compared internationally. It is high quality and it is important that we maintain that high quality. We have seen what happens when there is a lack of regulation and a lack of enforcement in the training sector. We saw some terrible things happening with international students and some colleges, some of which existed for reasons that I think were very dubious. I think some of these colleges were actually set up as immigration centres as opposed to training centres.

Through a lack of strength in the regulation and a lack of enforcement of what regulation there was, we saw the international standing of our whole education sector diminished—significantly diminished in some countries. We understand there were even protests in India about some of the things that were happening and that is of deep concern to this country. We understand why international students would want to come and utilise the Australian VET sector—it is one of the highest quality VET systems in the world. We encourage that. It is good for this
country, it brings in money and it is good for our relations with other countries that people can get high-quality skills, Australian skills, and take those skills back to their own countries to utilise. So there are many and varied reasons why this is a very important sector to us.

But if we do not have a national regulator with teeth and good standards and good laws to back it up, we will potentially see failures such as those we have seen in the past and we cannot afford to let that happen. This government has a responsibility to protect this sector from rogue operators. The states in the past have shown that they are not always 100 per cent on the ball on some of these issues. I do not want to name anyone in particular or blame anyone, but the facts are there—the history is there.

Senator Mason interjecting—

Senator MARSHALL—There has been a failure in the past and I know Senator Mason acknowledges that. But through the Bradley review and through the consultation and getting COAG agreement, this government has worked very hard to get us into a position where we are going to have a top-quality regulator, a national regulator, to ensure, hopefully, that we do not have the same sorts of problems that we have seen in other parts of the education sector. It is too important to this country; it is too valuable. We need to maintain the highest quality standards and we cannot afford to have our reputation trashed.

I am a little bit surprised and disappointed that the opposition is not supporting the government’s legislation. I have a lot of respect for Senator Nash but, as I said earlier, her contribution sounded to me as though she was scrambling around to find reasons to justify the opposition not supporting these bills more than having any genuine policy reasons. That is very disappointing given that, even though Western Australia and Victoria are not referring their powers, they are going to introduce mirror legislation so that at least we have the same standards.

The government want to get on with it. These bills are important to us. Sure, there could have been improvements in some elements of the legislation. In fact, the government senators’ report indicates a number of those areas. Overwhelmingly, on balance, the position to support the bills outweighs a thousand times any of the problems that could have been fixed. There is a serious technical problem about amending a bill when we already have the referral legislation from New South Wales. It would in fact make the whole process unworkable and send us right back to the drawing board. That is not necessary.

Government senators also recommend in the report that we have another look, after all the referrals have been taken, to see whether there are areas where it would be desirable to tidy up things or clearly, after the legislation has been operating for some time, to have another look at it and, if necessary, to revisit the legislation down the track. I am sure the government will accept those recommendations. The government senators’ report is very clear. We outline all the arguments for and against and mount a strong and compelling argument about why these bills should be supported in their current form. I am sorry I beat Senator Hanson-Young to the jump. I know she was before me on the speakers list but she was a couple of seconds late getting to her seat. I look forward to her contribution.

Senator HANSON-YOUNG (South Australia) (11.10 am)—I rise to speak to the National Vocational Education and Training Regulator Bill and associated bills. I am happy to have heard both sides of the argu-
ment before putting forward the Greens position.

First and foremost I would like to point out that the government’s objection to amendments to this legislation, regardless of people’s position—that is, that the legislation cannot be amended because, through COAG, we have already gone through a referral of powers process with the states—really does question the government’s wisdom. The government want to put forward legislation and to get the parliament’s backing but are attempting to pre-empt what the parliament should be doing because, through the COAG process, they have gone through a referral process behind closed doors and away from the parliament. While I accept that that process has happened, perhaps on these types of issues it would be wiser not to do that first. We have seen this done by the government on a variety of issues, not just in relation to these bills.

The legislation provides for the establishment of a national regulator for the VET sector and a regulatory framework within which the regulator will operate, including providing the regulator with administrative and enforcement powers. The Greens, like most stakeholders in the vocational training sector, welcome the commitment to the National VET Regulator. Most people from the opposition, the government, the Greens and the sector agree that there should be a national VET regulator. It is the process we go through to get there which is the sticking point.

I have spoken many times in this place about problems which have arisen in the sector in recent times, particularly for international students. We have all seen the negative international media coverage of Australia, for example in India, and also in our own domestic media. We know that young people who have come to Australia have received a pretty raw deal from some of the institutions they have studied with. We agree with the government that national consistency and regulation will help to ensure that appropriate standards will protect Australia’s reputation for excellent higher education services. That is what this is all about. If a student from anywhere else in the world wants a good quality education or wants to take their opportunities to the next level, why would they not choose Australia? It is a wonderful place to study. We have a wonderful array of institutions which do the right thing, which treat their students with respect and ensure their qualifications are world class. We need to protect that reputation and the National VET Regulator will ensure consistency and will protect the standards which we all agree should be upheld.

We are supportive of the National Vocational Education and Training Regulator Bill, which sets up the National VET Regulator, but we do have some concerns. These concerns have been raised by the sector at large, particularly in relation to consultation. We understand the government is prepared to further consider matters of concern which have been raised during the various Senate committee hearings as well as through other forums and we welcome the government’s commitment to consider future amendments to the legislation. My understanding is that, when the Minister for Tertiary Education, Skills, Jobs and Workplace Relations speaks to this legislation, a government commitment will be given to introduce amendments in August this year. It seems a roundabout way to go about this. I guess that comes back to the wisdom of getting referrals before allowing the parliament to debate the substantive legislation, but here we have it.

We are concerned with the process undertaken by the government in developing the legislation. There was clearly insufficient consultation with key stakeholders. This has
Come up time and time again, as it did with the university sector as well. Senator Mason, you would remember that in the discussion of the TEQSA Bill there was a lot of concern that the consultation was not right, so the government went back to the drawing board and consulted properly. Unfortunately, with the VET sector that has not happened, and the government do need to accept that that has been a flaw in their process.

There really did need to be more extensive consultation on the draft of this bill. You can see that through the evidence given to the Senate inquiry. It does highlight the importance of the Senate’s ability to review legislation and to give stakeholders and those who are going to be directly impacted by any piece of legislation the ability to feed into the process. We know the Senate has that responsibility and we relish the responsibility to get feedback on legislation, to refine, to fix, and to amend. Sometimes we do that in the vain hope that, even though they may have overlooked their role in consulting while drafting legislation in the first place, the government will listen to the concerns and the issues raised through those various Senate inquiry processes. Many of the concerns that remain with the text of the bill before us cannot be amended without putting that referral at risk. I do think we need to consider the wisdom of putting the cart before the horse. While the Greens are supporting this legislation at this time, the government does need to consider a much cleaner, simpler and better way to make sure that states do not override the primacy of the parliament. The government needs to ensure a much better process for similar arrangements in the future. I think that is the key point here. We have spoken about the issues and the coalition have obviously highlighted those. While the Greens will support the legislation, our concerns remain the same. This is not just because the Greens believe the legislation should of course be put to the parliament for discussion and that it should be the parliament that decides; it is also because the stakeholders have said there are concerns.

One of the key issues that stakeholders have is that there is no objects clause to this piece of legislation and there should be. Many pieces of legislation like this have an objects clause. The Senate has gone through a consultation process with the Senate inquiry to find out what the stakeholders actually think. The stakeholders, the AEU and TAFE Directors Australia, are asking why there is not an objects clause similar to that in the TEQSA Bill, which of course we will be dealing with in this place in due course. The objects of this legislation would include: (1) to provide for national consistency in the regulation of higher education; (2) to regulate higher education using a standards based quality framework; (3) to protect and enhance Australia’s reputation for quality higher education and training services and our international competitiveness in the higher education sector; (4) to encourage and promote a higher education system that is appropriate to meet Australia’s social and economic needs for a highly educated and
skilled population; (5) to protect students undertaking, or proposing to undertake, higher education in Australia by requiring the provision of quality higher education; and (6) to ensure students undertaking, or proposing to undertake, higher education have access to information relating to higher education in Australia. They are six objects that this bill is obviously trying to achieve and should be directly highlighted so that everyone knows what this is about. It makes sense to me. It is good practice for bills of this nature to include an objects clause and we would urge the government to consider including such a clause in the amendments they are committing to make in August this year.

More significantly, the Australian Education Union and TAFE Directors Australia have also called for this legislation to incorporate minimum standards into the VET quality framework. The standards suggested are common-sense requirements, such as that registered training organisations have as their proper or significant purpose the education and training of students, while also recognising enterprise RTOs. A basic standard for registered training organisations is that they believe their purpose is the education and training of students—pretty simple. If we want to have some national standards and a national regulator, why would we not set the most basic requirements? A second requirement would be that registered training organisations are required to act in the best interests of their students—pretty simple, pretty commonsensical. When we are talking about the need for a national regulator, let us make sure we put those standards in. A third requirement should be that RTOs are able to demonstrate the adequacy of their physical and human resource infrastructure and educational viability—again, pretty basic. If we are setting up a national regulator, let us make sure they are all sticking to those basic standards. We think that is the purpose of registered training organisations. It is preferable for standards such as these to be reflected in the legislation and we urge the government to work towards that outcome, but at the very least the practice and policy of the regulator should clearly reflect these matters. That is something I would like the government to go away and have a think about.

A further concern is that, unlike the regulatory scheme for universities, the VET Regulator does not allow for the development of provider categories of registration or provider category standards. In the VET context this means that the TAFE system—the public providers of vocational education and training—have no ability to be recognised as pre-eminent providers in the sector. I think due respect needs to be taken into consideration there.

Of course, again, because the Senate did its job and did the consultation that the government neglected to do, the report on the bill from the Senate Standing Committee on Education, Employment and Workplace Relations raised a number of concerns with the offence and penalty provisions and with the enforcement powers accorded to the regulator. I do not need to repeat all of those concerns as I think that everyone can have a read of the report and the various submissions. It is important for the Greens to say that we share these concerns and urge the government to work with stakeholders to modify the provisions. There is still a lot of tweaking that needs to happen to this legislation.

In particular I note the need to amend sections 60(1) and 60(2) to ensure that a student does not commit an offence if they do not return cancelled VET qualifications or statements of attainment in circumstances where they did not know the qualifications had been cancelled. I think we need to ensure
that we look after the best interests of students in this area. So, those are some more tweaks that this legislation clearly, clearly needs.

In conclusion, the Greens will support the passage of this legislation with a very clear commitment from the minister that these issues need to be dealt with in a common-sense manner, and that there will be a commitment to legislation amending this bill in August this year. That is what we want to see, and we would like the minister to commit to that in the speech today.

Students in the VET sector deserve high-quality education and training services, and a national regulator is an important step to ensuring higher standards. I will just reiterate that this process would not be looking so messy if the government had gone through the proper consultation that the sector deserved in the first place. Thankfully, that is what the Senate does well. We run inquiries into legislation, we review and we look at the direct impact that legislation would have. Thankfully, the Senate did its job. Unfortunately, we are in a messy situation because the government put the cart before the horse and neglected to do their job in consulting the stakeholders.

Senator MASON (Queensland) (11.24 am)—The coalition is, in principle, in favour of a national regulator for the vocational education and training sector. We support this idea for the same reason we support the creation of TEQSA, the Tertiary Education Quality and Standards Agency—which, of course, is for the university sector—to maintain consistent standards and quality across the sector on a national level. I note that the minister introduced the TEQSA legislation this morning in the Senate. Like Senator Hanson-Young, I look forward to that debate over the next few weeks.

If anything, the VET sector is much more in need of a national regulator than universities, which, in general, both manage themselves well and are well managed under existing institutional arrangements. The VET sector, however, has been much in the news lately and, sadly, usually for the wrong reasons. Everyone interested in education issues in Australia is aware of the spate of collapses of VET institutions, mostly, but not exclusively, in Victoria, many of which operated more as visa and permanent residency factories than as educational institutions. On that issue I join with Senator Marshall, who I think made as always an intelligent contribution to this debate, and he is quite right to suggest that some of those institutions were set up for that purpose. It certainly seems that they were. The government had to act in response to that.

There have also been many worrying reports of violence directed against overseas students undertaking VET courses, again, but not exclusively, in Victoria. The federal government has been slow to act on some of these issues and when it did—and it had to—it did so in a haphazard manner characteristic of the government’s general approach to post-secondary education. The visa requirements were eventually tightened; that is true. Arguably, however, they were tightened a little bit too much with the government going from laxity to overreaction, which is now making it much more difficult for genuine overseas students to seek education in Australia, and it is putting Australian educational institutions at a disadvantage in comparison with some of our foreign competitors.

The issue of violence against students, fortunately, does seem to have subsided but, again, Senator Marshall was right, as a bad impression seemed to linger, particularly I might add, in India. That country, of course, is a very important market. Be that as it may, the need for a national VET regulator does
remain if only so that the mistakes of the past are not allowed to happen again. The government has certainly made that case.

Although the problems I mentioned before have been largely restricted to the VET sector they do, sadly, cast a shadow across universities as well. The impact appears right across the higher education sector creating an inaccurate impression that Australia is somewhat unstable and even a bit violent and, indeed, even a bit of an unwelcome destination for overseas students. That is a mistaken but a bad impression. Education is far too important, economically, for Australia. We cannot afford to take another hit to our longstanding and otherwise good international reputation as a provider of quality education services.

All honourable senators will know that education is Australia’s fourth largest export industry after iron and coal. Only last year it was pushed from its traditional third position by the rise in the price of gold. Yet it remains Australia’s largest services export industry. A quarter of a million overseas students, who every year attend Australia’s schools, VET institutions and universities, inject billions of dollars into the Australian economy as well as billions directly into the education institutions they attend, thus cross-subsidising the teaching infrastructure and learning opportunities for our domestic students in Australia.

In addition to economic benefits there are also many intangible and sometimes immeasurable benefits as overseas students build lifelong friendships and connections with their Australian colleagues. They add to the international reservoir of goodwill towards our country and in some cases stay on to become residents and citizens, thus enriching Australia with their knowledge, their expertise and their hard work.

I was speaking to a government minister not so long ago who said that he was in Malaysia recently and was surprised but delighted to learn how many of the Malaysian cabinet had been educated here in Australia. There is no doubt that that serves as a great wellspring of good faith and cultural congruity with our country. That is a great thing. It is a good thing for Australia and for Malaysia.

Australia has for years, if not decades, been considered a world-class education provider for international students. Considering our small population, we have managed to attract more students per capita than just about any of our overseas competitors. The Australian educational achievement is quite remarkable. We have done very well in educating so many citizens of the world. We have built a strong and solid reputation as a welcoming destination offering a great lifestyle as well as excellent quality education for overseas students but, as all my colleagues this morning have said, our position has been under threat over the last few years. I think there would be unanimity on that in this place.

Our reputation has been affected by what some have called an almost perfect storm of unfavourable circumstances over the last few years. The global financial crisis has reduced the number of students seeking education overseas right across the globe. We have been hit by the GFC. Many of our target student markets such as India and China have been slowly but steadily developing their own quality domestic higher education services, negating the necessity for ambitious young people to travel overseas in order to gain a good education. In addition, our competitors in the international education marketplace—particularly the United States and, in very recent times, Great Britain—have been much more active and much more aggressive in recruiting international students to their marketplaces, somewhat putting pressure on ours. The high Australian dollar
also does not help. It makes education in Australia that much more expensive for overseas students than it perhaps has ever been before.

Lastly, the controversies surrounding our VET sector do not help our image and our reputation overseas. They do not help at all. All these factors have combined and led to a fall in the number of international students attending Australian higher education institutions both in the VET and the university sectors. That in turn has meant less income for these institutions, which are already very stretched for resources. The sector is under great pressure. It is true that the numbers seem to have started bouncing back again. They have bounced back but with still a long way to go. The worst of the global financial crisis is thankfully behind us although I think it is fair to say the international economy is rather patchy. We cannot do much about the growing education standards and opportunities across the developing world. We also cannot make our international competitors abandon their quest for a greater share of the market as the United States and Great Britain are not about to leave the industry. Nor can we magically decrease the value of our dollar.

We certainly are duty bound to do everything that is in our control in order to rebuild a somewhat frayed reputation and to show the world that Australia remains an attractive destination for international students, offering them quality education, as well as a friendly educational experience. That is where the National VET Regulator comes in. The fact that we support the legislation in principle—as my friend Senator Nash spoke about before—does not extend to blindly agreeing to anything that the government puts up. As always with this government, the devil is very much in the detail and in the implementation. It seems that no matter how noble their intention—and I think the intention of the government is good—the government has yet again managed to botch yet another of their flagship education initiatives. It has happened—another flagship and another botch.

This legislation before us essentially requires the referral of powers from the states to the federal government and abolishing the state based regulators. That is essentially what we are doing. Otherwise all we are doing is merely adding another layer of bureaucracy and red tape on the system, creating innumerable future problems and potential jurisdictional conflicts. So far only the New South Wales government has passed legislation referring its powers to the Commonwealth. However, we now know that, should there be any amendments of the bill before us, the New South Wales referral would not support such an amended bill. We will be back again to square one.

In addition, Victoria and Western Australia have refused outright to sign up to the idea of a national regulator and Tasmania, South Australia and the great state of Queensland will continue to maintain their state regulatory bodies alongside the national one, following what they refer to as a wait-and-see principle to find out how the new system works and whether it is in their interests to abolish their own state regulators. In other words, this is becoming a bit of a shambles. Instead of a blueprint for a truly national system, what we have from the states is one yes, two noes and three maybes. Despite this we are being asked to vote now for a piece of legislation that is predicated on the referral of powers by all the states—the whole lot. Should this legislation be passed, we will end up with a system that will have two layers of bureaucracy instead of one—more red tape, more capacity for conflict, more duplication and more confusion.
What the government should do, and I urge my friends in the government to do this, is pull this bill off the agenda, go back to the states, restart the negotiations, make sure that concerns of stakeholders are addressed, obtain an agreement from all the states that they all refer their powers to the Commonwealth and then, and only then, come back to the parliament and put it again before the Senate. I think then you may find that the coalition is more than happy to assist; otherwise, we are just wasting our time and participating in another Labor-created mess, another botched implementation that does not achieve its objectives. For these reasons the coalition will not vote in favour of this bill at this time. We remain in principle in favour of a national VET regulator but we remain even more in favour of good policy making, good governance, less duplication, less bureaucracy and much less red tape.

Senator BILYK (Tasmania) (11.37 am)—I also rise to speak on the National Vocational Education and Training Regulator Bill 2010 [2011] and the two associated bills that deal with transitional provisions and consequential matters arising from the main bill. The main bill, as we know, will form a new statutory authority, the National Vocational Education and Training Regulator, or NVR, with responsibilities and powers for the registration and audit of registered training organisations that operate in multiple jurisdictions, train international students or operate in the territories or one of the referring states in the accreditation of courses in the VET sector.

In speaking today I am somewhat amazed that those on the other side are not supporting this bill. Recently the Senate Education, Employment and Workplace Relations Legislation Committee undertook quite a lengthy inquiry into the National Vocational Education and Training Regulator bills. The first recommendation in the committee’s report is that the bills be passed in their current form. So I am somewhat perplexed by the attitude of those on the other side—but we do know that they oppose just about everything for opposition’s sake. Having listened to some of the arguments from the other side today, I think their arguments are particularly weak. We all know the importance of training. We all know how important it is to the community. We all know how important it is to students. We also know how exceptionally important the strong links are between vocational education and training in the move between compulsory education and work. I will speak more about the committee later and deal with the bills first.

The Commonwealth draws its power to establish the new authority from a referral of powers from most states and through its constitutional powers to operate in the territories and non-referring states. The bill empowers the National VET Regulator to register and audit training providers and to accredit courses. The bill gives the NVR the power to audit VET providers to ensure that they meet standards approved by the ministerial council. It also provides the NVR with an extensive set of regulatory options, which include administrative sanctions and civil and criminal penalties to ensure compliance with VET standards. This is of particular importance.

The transitional bill establishes the conditions to allow a smooth transfer of operations and staff from current state and territory regulators to the new national body. These include administrative actions by the state regulators such as the registration and suspension of providers and their courses, which will continue under the NVR. Unfortunately, there is always going to be some people who do not do the right thing in regard to training. Records in possession of the state regulators are to be transferred to the NVR upon commencement. In addition to that, any legal actions to which a state RTO, or registered
training organisation, finds itself a party will, on the commencement of the NVR, become the NVR’s to pursue.

The consequential amendments bill contains the final set of amendments needed to ensure that the new regulatory framework interacts properly with other regulatory frameworks and funding programs. The bill will amend the Education Services for Overseas Students Act 2000, the Higher Education Support Act 2003 and the Indigenous Education (Targeted Assistance) Act 2000. The ESOS Act amendments are primarily targeted at making the NVR the designated authority under the ESOS Act for providers which are registered with the NVR for the purposes of delivery of VET courses to overseas students. The act will also strengthen the regulation of the international students sector by allowing the minister to make standards for ELICOS and foundation programs.

With around 37 per cent of international students studying in the VET sector, the establishment of the national regulator is a very important measure to ensure quality of, and sustainability in, the international education area. One of the other inquiries that the Senate Education, Employment and Workplace Relations Legislation Committee was involved in and, as a member, I participated in was the international students inquiry that looked at issues concerning international students. The Joint Standing Committee on Migration has looked at these issues as well. So these issues are very important and it is high time we had a national regulator to help sort out any issues that arise in this area.

The changes to the Higher Education Support Act 2003 will also reflect the introduction of the new National VET Regulator. The amendments allow for the sharing of information between the minister and the relevant VET regulator for limited purposes such as deciding whether to approve a body as a VET provider. The changes to the Indigenous Education (Targeted Assistance) Act will ensure that its definitions reflect the introduction of the National VET Regulator and delete other outdated material.

The three bills together implement the decision made by COAG in December 2009 to create a national VET regulator as a Commonwealth statutory body. Back in 2009 COAG made the decision that we should have a national VET regulator. As I said, I am unsure why those on the other side of the chamber are opposing this legislation. I think it is just part of their general attitude of ‘let’s oppose everything for opposition’s sake’. As I said earlier, their arguments have been fairly weak and insubstantial. They might do better to support this legislation and get it through so that we can start work.

New South Wales will be the lead referring state and will pass referral legislation this year or has already passed it. Other referring states—Victoria and Western Australia—have committed to the introduction of mirror legislation. If the reason that the opposition is opposing this is that Victoria and Western Australia do not want to join, the fact that they are introducing mirror legislation should send a pretty firm message to those on the other side that they need to support this.

The National VET Regulator will use constitutional powers to regulate providers who have international students or who also operate in a referring state or territory in line with the COAG decision. The NVR will ensure that training providers comply with standards for NVR-registered training organisations. These standards will reflect the Australian Quality Training Framework standards approved by the Ministerial Council for Tertiary Education and Employment. This provides a mechanism by which the states, in
consultation with the Commonwealth, can continue to provide input on what represents the minimum standards for providers in the VET sector.

Funding for the NVR was included in the 2010-11 budget as a part of the Skills for Sustainable Growth package. The Labor government has committed $55 million over four years to create the National VET Regulator. The regulator will have appropriations of $94.9 million made available to it between commencement in 2011 and June 2014. The NVR will be able to cost-recover through a number of specific services that it will provide. It is expected that its cost-recovery activities will return $39.9 million to the budget over four years.

I would like to reflect on some comments made about these bills in the final report of the inquiry into the bills conducted by the Senate Education, Employment and Workplace Relations Legislation Committee, of which I am a member. Before I go into that, I will mention some of the facts to do with the inquiry. On 10 February 2010, the Senate referred the bills to the Senate committee for inquiry and report by 21 March 2011. The committee wrote to 87 organisations and individuals inviting submissions, which were due by 1 March. They received submissions from 22 individuals and organisations. I thank all those organisations and individuals who made submissions to the inquiry and all those who gave evidence at the public hearings.

The reason that we had this Senate inquiry was that in December 2008 the review of higher education led by Professor Bradley AC recommended the creation of a national regulatory framework. DEEWR provided some advice to the committee at a hearing on these bills that was similar to the advice that they provided on the corporations bill. I mentioned before that the committee recommended that the bills be passed in their current form. That was the first recommendation from this committee. It still surprises me that after this inquiry, which members of the opposition were involved in—Senator Back, who is here now, was involved in it; Senator Cash was—they do not want to take much notice of the outcome. For some reason that is yet to be determined they oppose these bills.

What happened back in 2008 was that Professor Bradley recommended the creation of a national regulatory body responsible for the accreditation and quality standards of all providers of higher education in Australia. The review also recommended that the Australian government explore with the states and territories the option of expanding the regulator’s role to include accreditation and quality standards for vocational education and training. I do not think that there is one person in this room or in this Senate that would dispute the importance of quality vocational education and training.

On 20 November 2009, the Ministerial Council for Tertiary Education and Employment reached a majority agreement for referral of powers to the Commonwealth for the establishment of an independent national regulator for the vocational education and training sector. Victoria and Western Australia did not support the proposal and instead recommended the consideration of other models to achieve national regulation and the retention of the principles of state accountability. Following that, on around 7 December 2009, the Council of Australian Governments agreed to establish a national regulator for the VET sector to drive better quality standards and regulation and to strengthen Australia’s international education sector. It was envisaged in the agreement that the regulator would be established under Commonwealth legislation and that it would be responsible for registration and audit of reg-
istered training organisations and the accreditation of courses. That is some of the background to why we had the inquiry and why the inquiry recommended that the bills proceed.

In the last few minutes, I will speak about the importance of this. The report concluded that Australia will benefit from a single national approach to vocational education and training. This was the message clearly sent by major stakeholders in the field.

I have a background in vocational education and training. I spent a couple of years working within the job skills sector until the Howard government chopped those programs. It was of great importance. The initial pilot program was related to employing 20 long-term unemployed mature-aged women in the childcare industry—and of course we all know how important it is to make sure we have quality, accredited and trained childcare workers; and back in the nineties, at entry level, there was no such course for long-term unemployed people. So it was wonderful to be able to set up this pilot, run out of Tasmania, my home state, and to see the benefits that that ensured. To this day, over 10 years later, there are still women that I am in contact with who were in that program and tell me not only that it changed their lives but it gave them the confidence to move on, because they actually had some training, even though they had been out of the workforce for over five years—in fact, many had been out of the workforce for 15 or 20 years. So that was a major achievement for the childcare industry, and it was a shame that Mr Howard saw fit to cut the Job Skills program as a whole.

After that pilot we were also involved in placing over 360 people into employment programs through local government within Tasmania. Many local governments participated in that program, to employ mainly blue-collar workers—but not all; there was a range of projects there, and a number of white-collar workers. That was a particularly beneficial program not only to the long-term unemployed but also to the employers, who had the chance of getting people in and giving them some on-the-job and off-the-job training. At the end of that time a number of those people were either retained in their local councils or found it easier to find work, because they had that experience behind them in local government in Tasmania.

So the importance of having the VET Regulator cannot be underestimated. I think that those on the other side who are proffering delays need to become a bit accountable about why they are not supporting this. As I said earlier, I have not really heard any deeply fulfilling arguments from those on the other side. If they have severe opposition to it, they need to voice that—because as yet I have not heard it.

But I have digressed. I was talking about the report from the Senate committee. The report concluded that Australia would benefit from a single national approach to vocational education and training. As I said, this was the message that was clearly sent by major stakeholders in the field. The benefits of a national approach include reducing complexity for businesses and having a key quality assurance mechanism, which improves confidence in Australia’s VET system. It can only improve confidence in the workplace, it can only improve confidence for employers and it can only lead to improvements in the Australian workforce and productivity in general. The Australian Council of Trade Unions supported the change. They said it was something that had been needed for some time. The Australian Council for Private Education and Training said:

… the proposed legislation significantly strengthens the ability of the regulator to take action against seriously non-compliant providers [and]
will therefore serve to improve the quality of vocational education and training being delivered in Australia.

The Minerals Council of Australia also welcomed the 'reduction in the complexity of the regulatory framework'. The Master Builders Association said a national regulator would deliver 'consistent robust national regulation of training providers and courses.' And ACCI, the Australian Chamber of Commerce and Industry, said that the establishment of the NVR would help to rectify problems with poor-quality providers and their lack of compliance with state and territory quality requirements. It is clear from the comments of these stakeholders that the creation of Australia’s VET system and reduce red tape for business. It will deliver these outcomes for more than 1.2 million students and thousands of Australian businesses committed to the sector. As the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, Senator Evans, has said:

The new regulator will ensure that students are better equipped to take advantage of the growing economy, and give employers greater confidence in the skills of Australia’s VET graduates …

As I said, I do not understand what the opposition is. I have yet to hear a clear and concise argument about why those on the other side are opposing this. Once again, I think it is them playing games maybe with regard to states that just happen to be in opposition hands at the moment, and wanting to be seen to be doing the right thing by those states. I think that is an inappropriate activity to undertake in regard to something as significant and important as vocational education and training in Australia and the future of our workforce, and a large number of students and employees who also undertake some VET education— (Time expired)

Senator Bilyk in her comprehension of why the coalition is not able to support a recommendation that the National Vocational Education and Training Regulator Bill 2010 [2011] and related bills proceed in their current form at this time. I earnestly hope, once they spend some time and get it right, that we can actually have this reintroduced without delay and we can pass it—because there is plenty of evidence, as has been stated by others, of RTOs and others strongly supporting a national approach to VET regulation and auditing, having regard to the number of organisations that operate across state and territory boundaries. Indeed, all states and territories see the merit of nationally consistent regulation and auditing of the sector, so what a great way to start.

The two states of Western Australia and Victoria have both said that they are prepared to introduce mirror legislation into their parliaments to give effect to this aspiration. You could not have a better sense of goodwill. The Western Australian Premier stated that he was given an assurance at COAG by the then Prime Minister—and he believed it—that the national system would not result in the transfer of regulatory responsibility for state owned RTOs, being mainly TAFEs, but of course this is not reflected in the legislation that is before the Senate today.

The states operate, fund and own the TAFE colleges and institutes in their states. Not unreasonably, Western Australia and Victoria believe that the regulation and auditing of the processes in their states is superior to that of others and superior to what we would be likely to see nationally, and they would ask why we would have a race to the bottom in this process. I again emphasis that they are interested in and want to see nationally consistent legislation, but that does not mean that consistency equals control. They would join me in the observation that there would be very few instances in which the
federal government has been able to demonstrate its superiority in delivering services over and above that of the states.

In its submission to this inquiry, Victoria raised some very interesting points about the draft legislation relating to constitutionality and whether or not, under NVR, registered training organisations may gain some immunity from Victorian laws governing administration of state TAFE institutes under. I believe, clause 93A of the bill. Those are very reasonable and reasoned objections and concerns. They also noted concern about the potential to regulate apprenticeships in the state of Victoria. Neither Western Australia nor Victoria—both now referred to as non-referring states—believe at this time that the national regulation is where it should be. I am sure Senator Bilyk is listening carefully when I say that it does allow the opportunity for the department to negotiate with those two states to address their concerns and bring them in as referring states.

The second point I wish to make goes to intergovernmental agreements and parliamentary scrutiny—after all, this is what we are here to do, as I understand it. The creation of a national approach to VET is underpinned by government negotiations and an agreement that there be referral of powers to the Commonwealth by the states and territories. Unfortunately, there is no agreement yet in that area. I am concerned about how under the Constitution the federal government could not introduce this legislation so it has done so through the agency of an act of parliament in New South Wales with referral back to the Commonwealth. We should all be concerned about this process. That legislation was passed in late November last year in New South Wales and given royal assent in early December, but it has not yet been enacted. One can only wonder after this weekend whether it might ever be.

We should have concerns for three reasons. Firstly, this has the effect of tying the hands of the federal parliament by preventing us from improving and examining legislation that we have been asked to enact. We cannot change it; we cannot amend it. I will come back to that. Secondly, there is a suggestion that the legislation should be enacted on the basis of an intergovernmental agreement when the agreement has not been signed by the participants, has not been made available for scrutiny by this committee or this parliament, and has not been made public. Those are real concerns. Thirdly, there was a poor process of consultation on the exposure draft of the legislation, including a failure to present it to the committee for its consideration. This surely goes to the heart of what the role of a Senate committee is.

We also note that the Senate Standing Committee for the Scrutiny of Bills had equal concerns and raised them with the Minister for Tertiary Education, Skills, Jobs and Workplace Relations. The minister advised that committee that if there is an amendment to the draft legislation in this parliament then the New South Wales referral will not support the enactment of the amended bill. This would happen even if a small number of amendments were made. Any amendments to the text of the New South Wales bill will therefore delay or prevent the establishment of the National VET Regulator. It is a shame that Senator Bilyk is not here because this goes to the heart of it.

In summary, the government is asking this parliament, even though the views of the legislators were never sought and the bills cannot be revised, to give consideration to legislation that we cannot change, amend, delete or alter. Finally, we are then being prevented from carrying out the scrutiny we are properly charged to undertake. Surely there would not be a senator in this place who would disagree that it would be wrong
to give haste to this legislation when those provisos have not been met. I come back to the point that there is widespread support for national consistency in VET regulation and auditing. That has been documented in the committee report and I, and others on my side, support it.

In his contribution, Senator Marshall said that the process must not be held up. There is no reason for the legislation to be held up if you get it right. If the agency of the New South Wales legislation is used it can be presented into the legislature of any other state for the same purpose. Should the legislation be right and should we be happy with it, there is no reason for delay. The parliaments of Western Australia, Victoria, South Australia and Tasmania are sitting. Once we have seen that this legislation is fit for passage there is no reason the same process used in New South Wales should not occur here. In other words, we can radically improve the legislation.

Senator Hanson-Young drew attention to the fact that there is no object in this legislation. How she could then go and say that they will support the legislation with such a glaring omission is beyond me, and I urge her and her party to reconsider, given the fact that there does not need to be a delay in the eventual passage of this legislation. We were told by the department that there is an intergovernmental agreement with the states and territories in which the objectives are set out, but it is known, as indicated by others, that there is no intergovernmental agreement in place. It has not been endorsed by all the states and territories. It has not been signed off; it is only a draft. Furthermore, the committee have not had the opportunity to scrutinise that draft.

In summary, the parliament here has been notified—it cannot revise the bills without invalidating the New South Wales referral powers. We are being asked to support legislation in the absence of a signed agreement between the jurisdictions and indeed even in the absence of its public release. This is not satisfactory.

I come, then, to the point of consultation, but not with the wider community. It was argued by the department and we were given instances of the dates on which various consultations took place with state and territory agencies. They were in fact disputed in some instances, but I will not go to that point here. What I will go to is the lack of consultation with this place. All of this legislation, in its draft form, could have been presented to the Senate Standing Committee for the Scrutiny of Bills and the Senate Education, Employment and Workplace Relations Legislation Committee in 2010, when the draft was going to the New South Wales legislature. We could then have had an opportunity to consider these bills at the time they were being provided to other stakeholders. On that basis the majority report of this particular committee agrees that that recommendation should have been given effect and it should have taken place in October 2010. We are being asked to pass the legislation well and truly after the horse has bolted.

I come to the question of investigatory powers, including the right of entry, search and seizure. When you look at the legislation, you have to pinch yourself as a reminder that it is actually to do with vocational education and training. Other points have been made today about how harsh it appears to be for graduates through the program. If for some reason they have lost their qualification and do not return it to the appropriate authority, they may be facing a strict penalty. I agree completely. Again, if the time is permitted for us to review and amend this legislation, I am sure that is one thing that the government would also wish to
fix up before the legislation comes back to this place.

The legislation equips the national regulator with significant investigatory powers, including the powers to search premises, warrant, question persons on the premises and seize documents. To the extent that those RTOs were abusing the process, as we saw, regrettably, with overseas students' educational aspirations, nobody could disagree with those particular clauses. However, I concur with the Scrutiny of Bills Committee in its view that the provisions do not contain sufficient safeguards or accountability measures, despite its requesting and receiving advice from the minister, who, I am pleased to see, is here in the chamber.

I support the view of the scrutiny committee in providing a number of options to bring the enforcement powers into line with best practice while still ensuring a robust, regular pre-response to RTOs who fail to comply with properly structured frameworks. I would support that entirely. However, I recommend that the bill be amended to ensure that the national VET regulators exercise their powers appropriately, with due regard to personal rights and liberties, and that the Fair Work Act be investigated as a possible model to exercise powers of entry, search and seizure. For some reason the draft legislation for the NVR seems to go well beyond even those powers that exist in fair work legislation. Again, without delaying the passage of the bill unduly: get this right, fix it up, bring it back and allow us to vote on it when that has been done.

I was deeply concerned with the evidence of some parties on enterprise RTOs, those being registered training organisations that are themselves enterprises. They are both government and private-sector organisations, the Australian Taxation Office being an example. In the private sector, Qantas is another example, as are the retailers Woolworths and Coles. In other words, these organisations attend to their own training. They are enterprise RTOs. The thrust of the submissions of some parties, who said that the only or dominant purpose of an RTO should be as a registered training organisation, deeply concerned me. I do not see the logic of that. I do not see why an entity such as the Australian Taxation Office or Qantas should be denied the right to frame, to conduct, to deliver and to examine its own training operations, as long as it is externally audited and complies with VET regulation. In fact, it has been argued that the enterprise RTOs probably lead the sphere, particularly in the private sector, for the excellence of their work. I would bitterly oppose any attempt to in some way hamstring enterprise RTOs so that their only or dominant activity is registered training other than what they undertake for the purposes of their commercial reality.

In summary, I agree—and my colleagues on the coalition side agree—with the concept of a nationally consistent VET regulator and auditor process. It would provide significant advantage, especially to cross-border RTOs and the students, employees and graduates who undertake the training within that sector. Passage of this legislation must be delayed until all avenues are exhausted to satisfy the reasonable concerns of the two non-referring states, Victoria and Western Australia. I am confident, having heard the evidence and having looked through the documentation, that proper negotiation with both of these states can in fact satisfy the concerns they have quite rightly raised so that we can move towards a full, nationally consistent format. Only the highest standards for regulation and audit should be adopted. I am not convinced that an audit process here in Canberra or in the eastern states is going to be the most effective in a state that is 3,500 to 4,000 kilometres away. If there are states that wish to

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pass this regulation and audit role over to the national regulator, that is all well and good. If the states that do not wish to do that want to put through mirror legislation, let them do so. Let them maintain control of the regulation and audit process. But let us ensure that that audit process is reported to the national body so that we can ensure consistency. Certainly there is no reason at this time for this legislation to be rushed through.

It has been put to us, and Senator Marshall in his contribution made the point, ‘Just put the legislation through and then by amendment et cetera we can address this afterwards.’ Regrettably, I do not have sufficient confidence in the government that it would be able or willing to do that. There is no reason for delay. We can get this right. We can address it, we can undertake that consultation, we can make the changes that we need in those areas that I have outlined, we can bring it back to this place, and having done so we can then refer it to another state for passage through their legislation and referral back to the Commonwealth, so that the due processes can be undertaken.

My final point is that it is the role of this place to properly scrutinise legislation that comes before its committees and through its committees by report to this parliament. If we are stopped, if we are sequestered, if we are emasculated in our processes of being able to review that legislation, then, as I asked during the Melbourne hearing, what are we doing here? It makes a mockery of that process if we are asked to actually consider legislation that has gone to the New South Wales parliament months ago when it could have come before our committees at that time and we are not able to even make small amendments. I commend the coalition senators’ position on this and urgently ask that the government give favourable consideration to it.

**Senator XENOPHON** (South Australia) (12.16 pm)—I will give a relatively brief contribution on the National Vocational Education and Training Regulator Bill 2010 [2011]. I indicate that I will be supporting this bill, subject to some assurances I believe the Minister for Tertiary Education, Skills, Jobs and Workplace Relations will be giving in relation to further amendments to this bill. Can I assure Senator Back after his very comprehensive contribution that I in no way will seek to emasculate him. Given the definition of the word ‘emasculate’, I will not be seeking to do that.

**Senator Back**—I’m relieved to hear that.

**Senator Mason**—He’s a vet.

**Senator Chris Evans**—There is only one person here who has successfully emasculated something.

**Senator XENOPHON**—As Senator Evans points out, there is only one person who has successfully emasculated any creature in this place, and that is Senator Back as a practicing and eminent veterinarian.

I indicate that it is important that this legislation is passed at these stages for these reasons. Firstly, this legislation establishes a national vocational education and training regulator to be responsible for registering vocational education and training organisations, accrediting VET qualifications and courses and establishing performance benchmarks. That is unambiguously a good thing which I think has been acknowledged in part by the opposition, by Senator Mason and by Senator Back. We need to have that level of oversight, of benchmarking, of performance criteria at a national level. The activities of this regulator will include registration, quality assurance, performance reporting, risk assessment and audit and renewal of registration and accreditation. I think it is crucial that we have this national approach because current regulation of the sector is dispersed between the states
and territories and this bill is following COAG agreement to establish national standards. I note the remarks in relation to Victoria and Western Australia in terms of not coming on board at this stage. I am sure that has nothing to do, Senator Mason, with the fact that they happen to be coalition governments—

Senator Mason—Just a coincidence.

Senator XENOPHON—Just a happy coincidence, Senator Mason. But of course they are entitled to raise concerns and they are entitled to hold out in relation to this. My concern is that the other states that have signed up on this will be missing out on a national scheme which I think is not only good for industry but, most importantly, gives security and some real reassurance to the hundreds of thousands of students who participate in vocational training colleges. It is very important that the consumers, the students, are protected, and this scheme will provide a great deal of protection.

I also note that, in terms of what I believe the minister and the government will be setting out, the key stakeholders, whether it is unions, industry, the Australian Council for Private Education and Training, the Minerals Council of Australia, the Australian Manufacturing Workers Union, the Australian Council of Trade Unions or the Enterprise RTO Association, are reassured that there will be a process in August of this year that brings further amendments. I assume this, and I am sure the minister can confirm it. If that is the case, I think it is important not to hold up this piece of legislation.

This is not a criticism of the coalition, but I note their very considered Education, Employment and Workplace Relations Legislation Committee minority report which was released earlier this month. In that dissenting report, which set out the position of Victoria and Western Australia, coalition senators recommended that the bill not be passed in its current form. They also made a number of recommendations, for instance that the bill be amended to address the concerns identified by the committee and the Scrutiny of Bills Committee and if necessary be followed by a new referral of powers to a state. In particular in recommendation 6 coalition senators recommended that the bill be amended to ensure that the National VET Regulator’s powers are exercised appropriately and with due regard for personal rights and liberties and that the Fair Work Act be investigated as a possible model for exercise of entry, search and seizure powers. That was the recommendation. It sounds like a very considered recommendation. I am not sure whether I necessarily agree with it but I would like to hear the arguments for it. Obviously a lot of consideration was put into that recommendation.

As I understand it, the coalition has not moved any amendments. I do not know whether Senator Mason can confirm that. We are not in the committee stage, but my understanding is that there are not any amendments in relation to this.

Senator Mason—Correct.

Senator XENOPHON—I think the coalition will have an opportunity to propose amendments that have not been moved at this stage. Again, this is not criticism of the coalition but there will be an opportunity to move those amendments and for them to be properly considered when this bill comes back in August this year. I think it is important that we have this framework sooner rather than later. It will provide important safeguards and protections for the hundreds of thousands of students that attend vocational training courses in colleges around the country. That is why I think that on balance this is a good piece of legislation, a beneficial piece of legislation, and I look forward
to some of the commitments from the minister in relation to this.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (12.22 pm)—I thank all senators for their contributions—it has actually been a good debate. I appreciate the support around the chamber for the measure, if not for the actual vote on the bills. I point out, particularly to Senator Mason, that there were only two points in his speech which I did not agree with enthusiastically: one where he failed to take responsibility, on behalf of the former Liberal government, for the disarray that occurred in the management of student affairs, which led this government to have to deal with that problem when we came to office in 2007, where successive cabinet submissions by relevant ministers in the former government to act on this problem were ignored. Nevertheless, it was a political defence he put up in defence of his great former leader, Mr Howard, of whom I know he was so fond and proud.

The other point was that after making the case very cogently for the bill, he said, ‘We’re going to vote against it.’ I think this is where the opposition are getting themselves in a bit of strife. They accept the need for a national VET regulator. Their colleagues in the New South Wales parliament—the Liberals and the Nationals, even, in fact, the Greens—all supported these bills. They say, ‘Everyone supports the National VET Regulator, but somehow we can’t quite bring ourselves to vote for it.’ Well, that is an issue for them. I do say that the work done by the Standing Committee on Education, Employment and Workplace Relations was positive. I appreciate Senator Back’s contribution, but then again he got to the point of saying, ‘Let’s do nothing, let’s defer it, let’s go back to square 1.’ That is clearly a recipe for inaction.

I remind senators that this is about ensuring ‘brand Australia’ in international education is protected. For too long, people have refused to face the reality of the abuse that was occurring in the international education system in this country. Too many people failed to act. Too many people, both in the former Liberal government and in the Victorian government, were in denial about the problems. But this government has acted to try and address those concerns. I think everyone now accepts that brand Australia is affected every time we have a problem in education in this country. If a small vocational education college with a dubious record falls over, the University of Melbourne, the University of Western Australia and the major TAFEs in this country all pay the price in terms of their marketing of international education and their reputation. This is a very important bill to address those issues. It is part of what we are doing both here and with TEQSA and is totally consistent with what we have done with the ESOS Act. I point out to Senator Xenophon, on the question of powers and the suggestion of using the powers of the Fair Work Act, that the powers in this bill are consistent with those in the ESOS Act, an act we have already endorsed in this parliament.

Before coming to some of the detail I indicate that I am very keen for the Victorian and Western Australian governments to come into this scheme. I have had positive discussions with Minister Collie and with Minister Hall, the new Victorian Minister for Higher Education and Skills. I know there are concerns which effectively go to states’ rights and the management of their own VET systems. I do not, and this government does not, want to manage their VET systems, but we do want to provide quality assurance, we do want to provide national standards and we do want to address this issue of uniform national standards and a quality framework that eve-
Everyone knows is best for the industry. We have had very strong support from all the major stakeholders. They have had some concerns at the margins, which we have tried to address. They have had some concerns about the consultation process, which I as the new minister have attempted to address. I think people are pretty happy with where we have got to. There are some issues that arose in the committee inquiry and in the Scrutiny of Bills Committee, which I am happy to address, but we need to pass this legislation to get it up and running. The other referring states are ready to go, and I am very anxious to work with WA and Victoria to see if we cannot get them to refer as well. This is not about a Commonwealth grab for power; it is about national standards, quality and our international reputation. I think everyone now accepts the need for that, and these pieces of legislation and the TEQSA bill, which I hope will go through the parliament as well, will give us a framework which builds on what has already been done through the ESOS Act and the good work Bruce Baird has done in taking us to this point.

The parliament has been a little hamstrung by the process of states referring their powers. I understand Senator Hanson-Young’s point, but there is no alternative to that process: we have to get a referral from the state government. We have got that and we are now committed, if you like, to passing the same bill without amendment. We have sought to address the concerns, and I am going to give a series of assurances now to address those concerns. I think senators would generally accept that they will be honoured. We agree, for instance, with the recommendation of the education committee to introduce further legislation to amend clauses 61 and 62 after passage of the bills to avoid any constitutional issues. I think that is a good amendment. We agree to amend the explanatory memorandum and provide an additional addendum to clarify points raised by that committee and the Senate Scrutiny of Bills Committee. I table that amendment to the explanatory memorandum to address those points raised by the two committees. The amendments include additional information about the offences framework; an explanation for the proposed extraterritorial operation of the offences; an explanation about the fee structure in clauses 17 and 232; clarification about the application of common law justice requirements at subclause 36(1)(b) and clause 37; additional clarification about the civil penalties at clauses 60 and 61; clarification about the role of delegation under clauses 224, 225 and 226; additional information about the enforcement powers of authorised officers at clauses 70, 71, 85 and part 5; and clarification about necessary assessments under clauses 103 and 105. We have done everything we can in the additional explanatory memorandum to address the concerns that have been raised. Again, I note that a number of the key players have been happy that we have done that and they have accepted that this is all we can do at the moment, but we have also given further assurances.

I have asked my department to hold a consultation process with stakeholders through April and May this year to pick up on some of the concerns. I think most of the concerns—I do not want to demean them—are at the edges, but they are serious concerns which we need to treat seriously. That process will identify amendments to the National VET Regulator Act, which needs to be passed unamended to keep the referral on foot. But I am happy to bring in amending legislation as early as I can—in August this year—to pick up those concerns without undoing the referral power. Those amendments would include a number of those identified in the Senate committee report, including to
more narrowly define the circumstances in which the regulator may make amendments to accredited courses; to clarify beyond doubt that, under clause 62, the person using a cancelled qualification will only commit an offence if they have knowledge of the cancellation; to clarify that the use of force in executing a warrant under clause 70 is to be recorded by video and does not extend to force against a person; and to identify the qualifications level and/or training for appointed authorised officers.

This consultation process will give us the opportunity to seek agreement with stakeholders on the NVR’s approach to risk management in the VET sector and the standards that would apply, noting these standards are endorsed by MCTEE, the ministers council, with the aim of aligning arrangements between the NVR and TEQSA. On the basis of these commitments, I think the concerns that the TAFE directors had have been met. I want to make it clear that we are serious about an engagement on these matters to make sure we get the best possible system in place. I am appreciative of the New South Wales government and the New South Wales parliament passing their referral legislation.

The other states, contrary to what Senator Back said, are ready to go and they will look to refer their powers. The bottom line people need to understand is that they do not want to have two forms of regulation, nor do they want to bear the cost of a separate state regulator if we are already doing the job.

So I think we have made good progress on this. It is never easy to coordinate and to get all your ducks in a row to get the states to refer powers, but there has been good cooperation with the states. There is a positive relationship between me and the two ministers from the non-referring states, and I am hopeful that we can overcome their concerns when this legislation is passed. They are both committed to quality education. They both understand the need for us to be able to market ‘Brand Australia’ as being a quality product in international education. I think we are all on the same page. As with my endorsement of Senator Mason’s speech, it sometimes looks as though WA Minister Collier and I have got the same speechwriter, because we fundamentally agree on the approach that needs to be taken. But there is this issue of concern to the states about their own VET providers. All I can say is that we are not interested in taking over their roles or interfering in their management, but a national regulatory and quality framework is essential for the protection of students. It is essential for the protection of students. It is essential for businesses operating across state borders. You have seen the strong support for this from national business organisations. They want a national system. We have got a pretty good framework now. This legislation will allow us to finish the job. I think within a year or so we will have one national VET regulator, because I am sure we have the goodwill between the Commonwealth government and the two non-referring states to get them to a position where we can agree on them participating as well.

I thank senators for their contributions. This was a good debate. I thank those senators who raised concerns for their constructive contributions. I would particularly like to thank Senator Marshall for his leadership on the committee and his speech today. I would appreciate the support of the Senate in passing this legislation and allowing us to get on with the job that was agreed at COAG more than two years ago now.

Question put:

That these bills be now read a second time.

The Senate divided. [12.38 pm]

(The President—Senator the Hon. JJ Hogg)
**Third Reading**

Bills passed through their remaining stages without amendment or debate.

**MATTERS OF PUBLIC INTEREST**

The ACTING DEPUTY PRESIDENT (Senator Hurley)—Order! It being almost 12.45 pm, I call on matters of public interest.

**Liberal Party**

Senator CAMERON (New South Wales) (12.42 pm)—I rise on a matter of public interest concerning the disintegration of the Liberal Party. The barbarians are at the gate of the Liberal Party. That is how we describe an event where the victims are watching things unfold but can do nothing to help themselves. The origin of the expression lies in the fall of Rome. The victims in this case are the moderates in the Liberal Party who are powerless to prevent their party being overrun by the barbarians at their gates.

Who are these barbarians? They are the extremists. They are the Tea Party imitators. They are the remnants of Pauline Hanson’s One Nation. They are the radio and newspaper bullies whose ignorance is in direct proportion to their pay packet. If you get close enough, you can smell the fear of the Liberal Party moderates as Mr Abbott leads them down to the dry well of fear and ignorance.

The Liberal extremists are a far cry from the party of Robert Menzies, who warned them against taking the path they tread today. In a radio broadcast on 24 July 1942, Menzies had this to say of his liberal creed:

Nothing could be worse for democracy than to adopt the practice of permitting knowledge to be overthrown by ignorance. If I have honestly and thoughtfully arrived at a certain conclusion on a public question and my electors disagree with me, my first duty is to endeavour to persuade them that my view is right. If I fail in this, my second duty will be to accept the electoral consequences and not to run away from them. Fear can never be
a proper or useful ingredient in those mutual relations of respect and good-will which ought to exist between the elector and the elected.

And so, as we think about it we shall find more and more how disfiguring a thing fear is in our own political and social life.

“Men fear the unknown as children fear the dark.” It is that kind of fear which too often restrains experiment and keeps us from innovations which might benefit us enormously. It is the fear of knowledge which prevents so many of us from really using our minds, and which makes so many of us ready slaves to cheap and silly slogans and catch-cries. It is the fear of life and its problems which makes so many of us yearn for nothing so much as some safe billet from which risk and its twin brother enterprise are alike abolished.

The essence of Menzies’ words in 1942 is the virtue of principled political leadership. Many of today’s Liberals must yearn for a leader like Robert Menzies. Today they have an unprincipled leader, who shamelessly peddles fear and ignorance. Nowhere is this clearer than in his fearmongering and vacillation on climate change. He described himself to the former Leader of the Opposition, Malcolm Turnbull, as ‘a weathervane on climate change’. On 18 December 2008, Mr Abbott supported an ETS. On 10 July 2009, he supported a carbon tax. Just over a fortnight later he was back supporting an ETS. Then in December 2010 he was against both an ETS and a carbon tax. On the same day, in July 2009, when he indicated support for an ETS he said he was unconvinced by climate science. Six months later, suddenly: ‘Humans do cause climate change.’ A year later, human activity is still contributing. But a week later, on 14 March, he is back to undermining climate science. Then the very next day he slipped back from the side of ignorance to the side of knowledge. Mr Abbott is not so much a weathervane; he is more a catherine wheel. Mr Abbott simply cannot be believed. He has a clayton’s climate change policy. The truth is: he does not believe the science. He is anti-science and he is deliberately misleading. He is a peddler of fear and ignorance. He is an unprincipled man who will do and say anything in pursuit of his personal ambitions.

It is not just on climate change that Mr Abbott is utterly unprincipled and a slave to silly slogans and catchcries. On the subject of race, asylum seekers and religious tolerance, Mr Abbott substitutes Menzies’ notions of leadership with appeals to fear and bigotry. When the shadow immigration minister, Mr Morrison, made his disgusting remarks about the appropriateness of helping the relatives of dead asylum seekers to attend the funerals of their loved ones in Sydney, it was not Mr Abbott who repudiated him. That job was left to the shadow Treasurer, and I commend him for doing so. Mr Abbott was deliberately mute. Presumably, Mr Morrison took his cue from shock jock Chris Smith, on radio 2GB, who runs a so-called quiz ‘Smithy’s Mystery.’ The day before the funerals, Smith introduced his puerile quiz this way: ‘Ah, it’s good,’ Smith said of the prizes—‘a great book, a great movie and a great DVD.’ He went on:

… how many asylum-seekers killed in the December tragedy will be buried in Sydney this week?

Smith ran a fanfare of applause when he announced the winner. It was a despicable bit of radio. Why Macquarie Radio allows him on air is beyond me. And he is outside parliament today, peddling lies and disinformation, pretending he is leading Tony Abbott’s ‘peoples’ revolt’ against a carbon price. He is one of the barbarians at the Liberal Party’s gates. He should go home—his village is missing its idiot. Does Mr Abbott ever rebuke these people? No, because they are central to his repudiation of Menzies and his embrace of the politics of fear and ignorance. When Senator Bernardi engaged in his divisive, sectarian nastiness, by claiming:
... Islam is a totalitarian, political and religious ideology—
was he repudiated by Mr Abbott? No, he was not. And, when the shadow immigration minister took a proposal to shadow cabinet to exploit fear and ignorance in the community about Islam, did Mr Abbott repudiate him? No, he did not. And, even on the occasion of the Christchurch earthquake, Mr Abbott just could not help himself. He just had to use the occasion as an opportunity to have a blow on the dog whistle. The House of Representatives Hansard of 23 February records Mr Abbott as saying:

As the Prime Minister has said, New Zealanders are family; they are not foreigners, and that is why this disaster has especially touched the hearts of every Australian.

While the Prime Minister did describe New Zealanders as family, only Mr Abbott saw the need to point out that they are not foreigners. Mr Abbott is the most self-indulgent of populists. His brand of populism poisons the well of tolerance, compassion and reason in public debate. He is intolerant of alternatives; he views them as ideas that only fools could favour.

**Senator Brandis**—On a point of order, Madam Acting Deputy President. We have been very forbearing, because we know a rabblerousing speech when we hear one. With respect, the President has ruled, as recently as this morning, that it is out of order to refer to a member of another parliament or another chamber as impertinent. If it is out of order to refer to someone as impertinent, surely it is out of order to refer to a member of another chamber in the abusive terms which Senator Cameron is using—to refer to them as intolerant, as poisoning the well of reason and the other rhetorical excesses which have dripped like venom from Senator Cameron’s lips. If you cannot call somebody impertinent, you certainly cannot abuse a senior member of the House of Representatives in the terms in which Senator Cameron is doing now.

**Senator Sherry**—Madam Acting Deputy President, on the point of order, if it is in fact correct, as Senator Brandis states, that the use of the word ‘impertinent’ has been ruled out of order by the President, I am not aware of that. But the senator in his speech did not use the word ‘impertinent’; he used some other descriptors that I think, in the context of debates in this chamber, are relatively modest compared to what I have heard over my many years in this place. He did not use the word ‘impertinent’.

**Senator Brandis**—Madam Acting Deputy President, I am with Senator Sherry on this. I entirely agree that robust language is perfectly appropriate in this forum, but unfortunately we are all bound now by the President’s ruling that the word ‘impertinent’ is so offensive that it may not be used against a member of another house. If such a mild criticism is unparliamentary, then necessarily, if you are to be faithful to the President’s ruling, the much more seriously abusive language that has fallen from Senator Cameron must equally—indeed, even more so—be ruled out of order.

**The ACTING DEPUTY PRESIDENT** (Senator Hurley)—Senator Brandis, I must say I had some difficulty following Senator Cameron because of the loud conversation and interjection on my left. I will listen more carefully in future. Senator Cameron.

**Senator CAMERON**—I will continue. Mr Abbott is intolerant of alternatives. He views them as ideas only fools could favour. He promotes suspicion—

**Senator Ian Macdonald**—Madam Acting Deputy President, I raise a point of order. If ‘impertinent’ is unparliamentary, certainly ‘intolerant’ must be. You would have heard that, and therefore I ask that you rule that
that is unparliamentary or at least undertake to refer it—sorry, is this a point of order on my point of order, or are you just standing up for the fun of it?

The ACTING DEPUTY PRESIDENT—Senator Macdonald, you will not address another senator across the chamber. Please finish your point of order.

Senator Ian Macdonald—Madam Acting Deputy President, is he trying to interrupt me? Should I sit down, or is he just wandering around?

The ACTING DEPUTY PRESIDENT—Senator Macdonald, you have the call. Finish your point of order.

Senator Ian Macdonald—At the very least, can you undertake to refer this to the President because, as I say, if the word ‘impertinent’ is unparliamentary then certainly that word just used by Senator Cameron, which I will not repeat, must be determined to be the same.

Senator Sherry—Madam Acting Deputy President, I would suggest that is a highly impertinent point of order and in fact you should refer—

Senator Brandis—Madam Acting Deputy President, a point of order.

Senator Sherry—I am on a point of order. How can a point of order be taken in the middle of a point of order?

The ACTING DEPUTY PRESIDENT—Senator Sherry has the call on a point of order.

Senator Sherry—The interruptions that the senator opposite offers the chamber are totally impertinent. As I pointed out, that was a very impertinent point of order from Senator Macdonald. It is drawing a very long bow indeed to make this argument about the descriptions Senator Cameron is using. He has not mentioned that word ‘impertinent’; he has not used it once.

Senator Heffernan interjecting—

Senator Sherry—Did I hear that? I certainly heard a word thrown across the chamber then that was clearly out of order.

The ACTING DEPUTY PRESIDENT—Senator Heffernan, you will cease interjecting. I am trying to listen to this point of order.

Senator Sherry—I would suggest that you rule Senator Macdonald’s very impertinent point of order out of order.

Senator Brandis—Madam Acting Deputy President, Senator Sherry obviously very deliberately, by repeating in a studied manner the unparliamentary word ‘impertinent’, is openly defying President Hogg’s ruling and is challenging you and defying your authority as the chair to enforce President Hogg’s ruling. So when you have disposed of the substance of Senator Sherry’s point of order, I ask you, consistently with President Hogg’s ruling, to require Senator Sherry to withdraw the word ‘impertinent’. That word was the subject of an explicit ruling by the President this morning.

The ACTING DEPUTY PRESIDENT—Senator Brandis, I do not accept that, in the context of the ruling this morning, Senator Sherry was out of order, and I would ask Senator Cameron to continue his remarks.

Senator Cameron—I do not come here to praise Tony Abbott. He is intolerant of alternatives. He views them as ideas only fools could favour. He promotes suspicion and rejection of science, industry and expertise; he draws a sharp line between those he sees as being in and those he sees as being out. In Mr Abbott’s world, foreigners are out. The ugly result of Mr Abbott’s politics is that hostility to reason increases. This is especially so when media demagogues, who have long abandoned any pretence that their role is to report and inform, are happy to fill his sails with the putrid winds of intolerance.
For them, it is all about the ratings, and our democracy dies a little every time their ratings tick upwards.

It will surprise many that, having already reflected favourably on the words of Bob Menzies once today, I should conclude with more of his words. In his inaugural Sir Robert Menzies lecture in 1970, he said this of the Liberal Party:

A political party must never be a party which chronically says “No”. If it never loses sight of its own ideas, it will be positive and creative. It must constantly formulate and fight for its own ideas, and never let either the people or its opponents remain ignorant of what those ideas are.

In brief, Australian Liberalism must present itself as the party of action, and the party of the future. We are not the ANTI party, but the PRO party. We must have a continuing faith, and such a belief in it that we become its constant crusaders.

Today’s Liberal Party has abandoned its roots. It is led by a man with no moral compass and no appreciation of his party’s origins.

Senator Brandis—Madam Acting Deputy President, I rise on a point of order. I ask you: ‘a man with no moral compass’! Does anyone seriously suggest that that is not an offence of reflection in breach of standing order 193?

The ACTING DEPUTY PRESIDENT—
I do not believe it is, Senator Brandis. Senator Heffernan, do you have a point of order?

Senator Heffernan—Madam Acting Deputy President, I am about to revisit on Senator Cameron some of his words and his days as a trade unionist, which would fit what he is describing to us. I think he has got haggis poisoning.

The ACTING DEPUTY PRESIDENT—
There is no point of order.

Senator CAMERON—Tony Abbott is a man who, for the basest motives, merely apes what he believes people want to see in him. He is the barbarian at the Liberals’ gate. By contrast, today’s Labor Party stands, as it always has, for a just and good society, a society that is unafraid of life and its problems, one that does not just curl up in a ball and seek refuge in silly slogans and catchcries—a society that embraces experiment, innovation and industry for the benefit of all, a society that values and nurtures knowledge, science and expertise and, above all, a society that leaves no-one behind, a society that is inclusive of everyone, paying no regard to their race, their creed or their religion.

Gerard Henderson wrote a history of the Liberal Party as part of the party’s 50th birthday celebration in 1994. It is entitled Menzies’ Child. Who would have thought that ‘Menzies’ child’ would be sacrificed on the altar of fear, intolerance and extremism.

Australian Film Industry

Senator BRANDIS (Queensland) (1.02 pm)—Last night the Screen Producers Association of Australia, SPAA, held a reception in the Mural Hall in honour of Emile Sherman, the Australian producer of that wonderful film The King’s Speech. I want to acknowledge the presence in the gallery this afternoon of officers of SPAA, including Mr Tony Ginnane, the president, Geoff Brown, the executive director, and Brian Rosen, SPAA film councillor and a former CEO of the Film Finance Corporation.

As honourable senators would be aware, The King’s Speech won many Oscars, including the Oscar for best picture at the recent Academy Awards, and last night Emile brought the Oscar statuette with him to Parliament House. It became an object of some veneration by members and senators. Emile Sherman joins a long list of Australians who have won international distinction in the film industry, several of whom have gone on to win Oscars. The names Cate Blanchett, Jane Campion, Russell Crowe, Baz Luhrmann and
Geoffrey Rush are household names to Australians. Other Australian Oscar winners include Dr George Miller for best animated feature, Dion Beebe for best cinematography, Dean Semler for best cinematography, John Seale for best cinematography, Adam Elliott for best short film and, this year, Kirk Baxter for editing, Dave Elsey for make-up and Shaun Tan for best animated short film.

These Australians are living proof that in cinema Australia punches well above its weight in a fiercely competitive international marketplace. The names I have mentioned also serve to remind us that it is not only the actors and film producers who have taken Australian cinema to its envied place in the world’s esteem. Just as important has been Australian excellence in the technical aspects of film production, what in the industry are commonly called the ‘below-the-line’ aspects of film production, such as cinematography, animation, visual effects, make-up and design. As Emile Sherman pointed out in his remarks last night:

The King’s Speech, despite having an Australian producer, an Australian executive producer and an Australian star in Geoffrey Rush, is a British film. Put simply, if the PDFF had been in place when I was financing The King’s Speech, then I would have been accepting the Oscar for Best Picture for a film that was officially Australian as well as British.

The PDFF to which Mr Sherman referred is the coalition’s policy for a producer-distributor film fund, to which I will return in a moment.

The Australian film industry has always enjoyed the strong support of Australian governments, in particular of coalition government. In fact it was the Gorton government which first established the Australian film and television school and the Australian Film Development Corporation, which was the forerunner of the Australian Film Commission. This may be seen as giving birth to a renaissance of the Australian film industry in the late 1960s and early 1970s. In 1980 it was the Fraser government which introduced the scheme of tax incentives in division 10BA of the Income Tax Assessment Act, which was the financial mainstay of the industry for the following decade and beyond. In 2007, as minister for the arts in a Howard government, I had the honour to introduce the package of measures developed by my predecessor in the portfolio, Senator Rod Kemp, which were the most important reforms to the film industry since division 10BA and which were warmly received by the industry. These reforms were based in particular on a measure called the film producer offset.

The producer offset was a significant shift in the way the film sector was supported and replaced the previous tax deduction based schemes. It was introduced to stimulate feature film production through a tax offset of 40 per cent on qualifying Australian film production expenditure on eligible projects, set against production company tax liability. The idea was for the producer to assume 40 per cent equity in the project, part of which could then be offered to potential investors. This is a far more flexible system than the old tax rebate scheme and was embraced by the industry as offering a deeper range of incentives and structures to support film sector investment rather than simply relying on investors looking to reduce their tax liability.

However, the effectiveness of the producer offset as a stimulant to production is under threat. The high Australian dollar makes it more difficult to attract pre-sales and, internationally, there has been a significant tightening in film financing, partly driven by a global decline in DVD sales and...
television advertising. As a result, new US movie production has declined by some 40 per cent over the last year and there are fears that a similar slowdown is looming here. The Screen Producers Association of Australia has advised me that, while the producer offset has helped shield Australia from the worst of the downturn, its effects have been uneven. Lower budget films have been able to resort to top-up funding from Screen Australia, while support from US studios is still available for major productions from established directors, such as Baz Luhrmann and George Miller. However, mid-range productions—that is, those with budgets of between approximately $7 million and $30 million—have struggled to find backing. These mid-range productions represent an important strategic opportunity for the Australian film industry. Productions using local talent and skills permit high production values without straying into budgetary excess.

The time to act is now, before the slowdown hits and much of our home-grown talent follows the work overseas, never to return. This has happened on occasions in the past in the Australian film industry. At the last federal election the coalition announced its support for a producer-distributor film fund to arrest the decline and create a dynamic environment for the crucial mid-budget productions. The scheme’s centrepiece is the early involvement of distributors in the financing, as well as the distribution, of films. Mid-budget productions in the past with early distributor involvement, including Picnic at Hanging Rock, The Man from Snowy River, Crocodile Dundee 2 and The Year of Living Dangerously, were significantly successful.

The involvement of distributors is unashamedly commercial. The distributor is the link between the filmmaker and the audience and has the expertise in identifying and marketing to the audience. The distributor is also committed to the release of the final product, which is often the point at which a production without an identified distributor can falter.

The other distinctive feature of the scheme—which I should say in passing was developed by my predecessor in the shadow portfolio, Steven Ciobo, the member for Moncrieff—is that it will be a loan fund, not an equity fund. The fund would not make equity investments in films, but instead would make project loans to the producer, matched by an equivalent distribution commitment secured against the proceeds from the film’s distribution. Matching funding would be dollar for dollar, with a minimum loan of $2 million and a maximum of $10 million. The fund and the distributors would share the risks of a film equally and recoup their advances side by side. The film proceeds would be applied according to a schedule, with the fund and the distributors to recoup their advances at the same rate and at the same time once approved marketing and release expenses and 50 per cent of the distributor’s normal distribution fee have been paid. The fund would be paid interest after the balance of the distribution fee has been paid.

The proposed level of the fund is $20 million annually for three years and it would be wound up after seven years. This should provide the time needed for the international film financing market to return to normal. This scheme, operating in tandem with the producer offset and Screen Australia investment, would provide support for $255 million of film production. That is up to 27 new films. It would create about 1,700 permanent jobs in the sector. Most importantly, it would bring producers and distributors together, change consumer expectations of Australian films and increase investor confidence in the industry. It would also break the cycle of direct subsidy dependence in the sector,
which has bedevilled it for decades. Further, the true cost would be much less than $20 million per year. The funds are advanced as loans, not equity, so they have priority for repayment. The best estimates are that the ultimate cost, even on a worst case scenario, would be in the order of about $8 million per year, or about 40 per cent of the funds invested. By contrast, the average equity investment in Australian films would realise only 16 per cent of the total invested, or a loss of 84 per cent.

The coalition has already announced its support for the PDFF and took that support to the last election. The government’s stance, I am sorry to say, is at best lukewarm. The signals from the government are that it prefers the traditional Screen Australia model for this crucial sector of the industry—a model that is not commercial in its approach to money or in its approach to audiences. That may give some in the Labor Party a warm inner glow, but surely the point is to support productions that people actually want to see. I must say that another of the problems that have bedevilled the industry in recent years has been the indifference of successive ministers: first, Mr Garrett, whose performance in the portfolio was regarded across the sector as a complete failure, and more recently Mr Crean, who has had responsibility for the sector added on, apparently as an afterthought, to a miscellany of other responsibilities.

According to some estimates, Australian governments have spent almost a billion dollars over the last 40 years nurturing an Australian film industry. Much of that money has been money well spent; much of it has been wasted. And whether it was well spent or wasted has largely been a function of the funding models adopted. I claim that the funding models adopted by coalition governments have been much more successful because they are more commercial than dependency based funding models adopted by Labor governments. Be that as it may, the Australian film industry has now matured to the point that we have some of the best producers, directors, actors and technicians in the world. It would be a tragedy, at a maximum price of $8 million a year, to lose them now.

World Tuberculosis Day

Senator BILYK (Tasmania) (1.15 pm)—I rise today to speak about tuberculosis, known as TB, and the impact that it has on society. World Tuberculosis Day is marked annually on 24 March, tomorrow, to commemorate the day in 1882 when Dr Robert Koch announced that he had discovered the cause of tuberculosis—a bacterium called Mycobacterium tuberculosis. World TB Day is intended to build public awareness that tuberculosis remains an epidemic in much of the world, with the World Health Organisation, WHO, declaring TB a global emergency in 1993.

The World Health Organisation estimates that in 2009 there were 9.4 million new infections and approximately 1.7 million deaths, occurring mostly in developing countries. For those who do not know much about TB, it is an infectious airborne disease. Only people who are sick with TB in their lungs are infectious or otherwise known as having active TB. When infectious people cough, sneeze, talk or spit they propel TB germs, known as bacilli, into the air. A person needs only to inhale a small number of these to be infected. The World Health Organisation estimates that if left untreated each person with active TB disease will infect, on average, between 10 and 15 people every year. People infected with TB bacilli will not necessarily become sick with the disease. The immune system walls off the TB bacilli, which, protected by a thick waxy coat, can lie dormant for years. This is known as latent
TB infection. However, when someone’s immune system is weakened, as in HIV-positive individuals, this may progress to active TB.

According to the National Foundation for Infectious Diseases, one-third of the world’s population is infected with TB and five to 10 per cent of these people will develop the disease at some time in their life. The sad thing about this is that TB is preventable and curable. Its effects on both morbidity and mortality can be significantly reduced with appropriate action. For example, as a result of improved TB control efforts between 1995 and 2009 a total of 41 million TB patients were successfully treated in directly observed treatment short-courses, or DOTS programs, and up to six million lives were saved, including two million women and children. This highlights the need for continued support and funding for TB programs worldwide.

According to the Centres for Disease Control and Prevention, intervention options to control TB include preventing infection by means of vaccination—that is, a live vaccine, but it is not always effective—and treating latent infections and active disease. DOTS refers to the short-course chemotherapy available to treat and cure TB and is the internationally recommended strategy for TB control that has been recognised as a highly efficient and cost-effective strategy.

A course of drugs for standard TB can cost as little as $20. Multidrug-resistant TB, or MDR-TB, poses further problems for TB control as this fails to respond to standard first-line drugs. While generally treatable, it requires extensive chemotherapy—that can be up to two years of treatment—with second-line anti-TB drugs, which are more costly than first-line drugs. The adverse drug reactions produced by second-line anti-TB drugs are more severe but are manageable.

The cost of drugs alone for treating the average MDR-TB patient is 50 to 200 times higher than for treating a patient with drug susceptible TB. The overall costs for care have been found to be 10 times higher or more. Extensively drug resistant TB, which is known as XDR-TB, occurs when resistance to second-line drugs develops on top of MDR-TB. Because XDR-TB is resistant to first- and second-line drugs, treatment options are seriously limited, thus posing a serious threat to TB control, particularly in settings where people are also infected with HIV.

The serious nature of XDR-TB in those infected by HIV was displayed by the mortality rates in a cluster of individuals diagnosed with XDR-TB in Natal, South Africa, in 2006. Of the 544 patients studied, 221 had MDR-TB with 53 of these cases defined as XDR-TB. Of these 53 patients, 44 had been tested for HIV and all were HIV-positive. Fifty-two of the 53 patients died within an average of 25 days, including those benefiting from antiretroviral drugs. The emergence of both MDR-TB and XDR-TB highlights the potential consequences of failure to adequately diagnose and provide effective initial treatment of TB, thereby confirming the urgent need to strengthen basic TB control.

According to the World Health Organisation, an estimated 1.7 million people died from TB in 2009, including 380,000 women. The highest number of deaths was in the African region. The World Health Organisation estimates that the largest number of new TB cases in 2008 occurred in the South-East Asia region, which accounted for 35 per cent of incident cases globally. However, the estimated incidence in sub-Saharan Africa is nearly twice that of the South-East Asia region.

The estimates of the global burden of disease caused by TB in 2009 are as follows:
9.4 million incident cases—that is, new infections; 14 million prevalent cases; 1.3 million deaths among HIV-negative people; and 380,000 deaths among HIV-positive people. Most cases were in the South-East Asian, African and western Pacific regions—35 per cent, 30 per cent and 20 per cent respectively. An estimated 11 to 13 per cent of incident cases were HIV-positive. The African region accounted for approximately 80 per cent of these cases.

HIV and TB form a lethal combination, each speeding the other’s progress. HIV weakens the immune system. TB is a leading cause of death among people who are HIV-positive, as I have already mentioned. In Africa, HIV is the single most important factor contributing to the increase in the incidence of TB since 1990. TB is the leading cause of death in people who are HIV-positive, with one in four affected by HIV-AIDS dying from TB. Without proper treatment, 90 per cent of people living with HIV-AIDS who with access to antiretroviral therapy could otherwise lead relatively healthy lives die within months of developing TB. Despite this, only 4.1 per cent of people living with HIV-AIDS are regularly screened for TB. There is a dual epidemic of TB and HIV. Therefore, collaboration between TB and HIV-AIDS programs is necessary in order to reduce the burden of TB among people living with HIV-AIDS and to reduce the burden of HIV among TB patients.

TB is now the third leading cause of death among women aged 15 to 44, killing some 700,000 women every year and causing illness in millions more. In 2008, 700,000 women died of TB, including 200,000 women living with HIV, while 3.6 million women fell sick with active TB. TB is a leading cause of ‘healthy years lost’ for women of reproductive age. Gender roles and norms in many societies affect a woman’s ability to access health information and services and to obtain appropriate treatment. These statistics clearly show that TB is a major women’s health issue, with particularly serious implications for women living with HIV.

The Gillard government’s $210 million pledge to the Global Fund to Fight AIDS, Tuberculosis and Malaria represents a 55 per cent increase on Australia’s previous commitment. This shows that the government is committed to this important global health issue. I am pleased to be part of the Gillard government, which has initiated an innovative funding arrangement to combat TB in Indonesia—that is, the Debt2Health swap through the global fund. The Debt2Health swap with the government of Indonesia will cancel debt owed by Indonesia to Australia in parallel with increased Indonesian government investment in programs combating tuberculosis.

The reduction and control of tuberculosis is an international health priority under Millennium Development Goal 6. It is also a national health priority for the Indonesian government, with tuberculosis one of Indonesia’s leading health burdens. The initiative will cancel up to $75 million in debt over six years owed by Indonesia to Australia. At the same time, the Indonesian government is expected to invest $37.5 million in the Global Fund to Fight AIDS, Tuberculosis and Malaria for approved tuberculosis programs.

There is an important new weapon in the fight against TB, and that is the Xpert diagnostic technology. It is fast, accurate, easy to use and has been endorsed by the World Health Organisation. This test could revolutionise TB care and control by providing an accurate diagnosis for many patients in about 100 minutes, compared to current tests that can take up to three months to have results. Many countries still rely principally on sputum smear microscopy, a diagnostic method
that was developed over a century ago. But this new ‘while you wait’ test incorporates modern DNA technology that can be used outside of conventional laboratories. It also benefits from being fully automated and therefore easy and safe to use. Evidence to date indicates that implementation of this test could result in a threefold increase in the diagnosis of patients with drug-resistant TB and a doubling in the number of HIV associated TB cases diagnosed in areas with high rates of TB and HIV.

Dr Giorgio Roscigno, the Chief Executive Officer of the Foundation for Innovative New Diagnostics, has said of this test:

For the first time in TB control, we are enabling access to state-of-the-art technology simultaneously in low, middle and high income countries. The technology also allows testing of other diseases, which should further increase efficiency.

While testing methods are improving, there is currently no effective vaccine for TB. The TuBerculosis Vaccine Initiative, TBVI, is an independent non-profit foundation that facilitates the development of new vaccines to protect future generations against tuberculosis. Research conducted by the mostly European based network has already resulted in promising vaccine discoveries.

New vaccines are urgently needed to stop tuberculosis. Every year around nine million new cases of this infectious disease are recorded. Investment in more effective tuberculosis vaccines is predicted to result in cost savings and a reduction in TB related deaths. Collaboration and funding are some of the major requirements for delivering new, more effective and safer vaccines against tuberculosis. Research shows that the introduction of a new vaccine could reduce the number of new TB cases by 90 per cent within 30 to 40 years. This makes the development of vaccines an essential part of the global strategy to stop TB.

The Gillard government are committed to health on an international level. We are committed to working with other nations to help those countries most at risk of terrible diseases such as TB. I would urge all members of the Senate and the House to recognise that 24 March is World Tuberculosis Day, as I mentioned in the beginning, in observance of the disease that still unfortunately claims the lives of 1.7 million people every year.

Proposed Pulp Mill

Senator MILNE (Tasmania) (1.29 pm)—As I stand here in the Senate today, Tasmania’s forests are still falling. That may well be news to people around Australia who have been hearing that there is a negotiation going on between the logging industry and the environment movement about ending the logging of high conservation value forests in Tasmania and that there had been an expectation that a moratorium would be in place by 15 March. It has not occurred. The logging goes on. It is absolutely disingenuous to say you have a moratorium when you continue to log coupes in identified high conservation areas and then pretend that somehow progress is being made. It is a real concern that what we have in Tasmania is the moratorium you have when you are not having a moratorium.

Worse still, as we continue to see these magnificent forests falling, there are reports in the media today suggesting that Mr Bill Kelty, who has been appointed as the mediator to report on the status of the talks, has suddenly put the pulp mill on the table as being the price for conservation of forests in Tasmania. That was not, is not now and will never be acceptable. When the forest principles document was signed, it said there could be one pulp mill in Tasmania. There was a specific understanding between all parties...
that that was not the Gunns pulp mill in the Tamar Valley.

Senator Brown and I put out a statement last night making it very clear that we do not support the Gunns pulp mill and that it is wrong to now try and lob it into the middle of these talks, suggesting that forest protection is conditional on the Gunns pulp mill. It is not and it will not be. We will not be accepting that pulp mill.

I will explain why, especially in the light of the fact that this has been going on for seven years. People have lost sight of what the people in the Tamar Valley have had to put up with over that time—in fact, what all of Tasmania has had to put up with over that time. Gunns proposed in 2004 that they would build a pulp mill in the Tamar Valley. They said it would be 100 per cent plantation based. They said it would be totally chlorine free. Those two promises were made at the very start by John Gay, who was both the chairman of the board and the CEO of the company in 2004. That was the pledge at the time. The Tasmanian government then fell into line very quickly and ran around with their pulp mill task force. They appointed Bob Gordon from Forestry Tasmania to the task force to go out and run a propaganda campaign supporting the mill on behalf of Gunns.

Bob Gordon actually went on the radio and said that because there was an inversion layer in the Tamar Valley in the wintertime, which we all know, the stacks from the pulp mill would be so high that they would go up above the inversion layer and the pollution would go out into the atmosphere and not be trapped under the inversion layer in the wintertime—a patently stupid comment to make, but he made it in that capacity at that time. At the time he also said that there was no doubt that the effluent that would spew out of the pulp mill into Bass Strait would disperse. His logic and evidence for that was from a then recent shipwreck in Tasmania from which the lifeboats washed up somewhere on Flinders Island. He said that proved that the pulp mill effluent would disperse. That is the kind of nonsense we had to put up with in Tasmania at the beginning of the process. It was so bad that the chair of the RPDC, the appropriate body for assessing the pulp mill, wrote to the Premier at the time, Premier Lennon, and said, ‘Stop your task force going out there spreading propaganda. It is jeopardising a proper assessment of the process.’ That is how bad it was.

So I was amused when I saw the Australian taking exception to my statement that the Tasmanian government was a company quisling. Let me tell you that it certainly is a company quisling. There has never been a time when Gunns has said, ‘Jump’ and the government has failed to jump accordingly. They have never stood up to Gunns. Even former Premier Bartlett’s famous ‘line in the sand’ was washed away pretty quickly when Gunns insisted it be washed away.

Right back in 1989, there was a consultant’s report that said that the Tamar Valley was unsuitable for a pulp mill for two reasons: (1) that the atmospheric inversion in the wintertime would trap the emissions from the mill and cause pollution of the valley, and (2) that Bass Strait off the Tamar is too shallow to be able to achieve the dispersion and dilution that is necessary for the effluent. That is why it was unacceptable in 1989 and nothing about the depth of Bass Strait or the topography of the Tamar Valley has changed in that time. What has changed is the desperation of Gunns to get a pulp mill up. They wanted it there because of the transport economics. That is all it is about. It is not about the amenity of the Tamar Valley at all. They imposed that pulp mill on the Tamar because their economics wanted it there and they tried to fit up the environ-
mental conditions to make it acceptable. We know this now from leaked documents that have become available. One of these leaked documents says:

The process is critical to the defence of the Bell Bay site. If we are seen to be pushing flimsy arguments I believe there is a real risk you could be asked to better justify the choice of sites (ie undertake a detailed site selection process) which will result in additional costs and time delays. The site selection documentation is already significantly deficient in what is required in the Guidelines, given that a detailed assessment process did not take place. We only have some flora and fauna memos, a heritage memo and a very brief desktop report conducted by JP to substantiate the claim that Bell Bay is the preferred site.

The leaked document goes on to say that the documentation falls well short of guideline requirements and:

Drawing attention to these deficiencies would not be beneficial.

No, indeed it would not. It would tell the community there was never a proper assessment of the site in the first place. In fact these documents say:

As Tony Dale and Julian Green have repeatedly stated, Addressing Section 5 (Site Selection) of the Guidelines is a critical requirement … The assessment process undertaken and documented by Gunns falls well short of the Guideline requirement and assessment which would be typically undertaken for such a project. By tampering or attempting to enhance that process you run a serious risk of jeopardising the validity of the site selection and consequently threatening the project approvals.

Absolutely right. That is correspondence between Gunns and the consultants. The consultants were clearly being told here, and the consultants were also telling Gunns, that they were on very flimsy ground indeed. Interestingly, they go on to say:

It is the marginal difference in rankings of Hampshire vs. Bell Bay the greens will run a hundred miles an hour with. They will quote … saying that Hampshire is a better site from an environmental perspective based on—

and not Gunns. This is a Gunns project where we have everything at risk and you have not. It will be the Gunns staff that defend this position in he hearings … Your people are clearly not taking note … Please make the changes in accordance with our instructions.

Les Baker
General Manager - Bell Bay Pulp Mill Project, Executive Director - Gunns Plantations.

Very clearly, there was never a process to assess the site. Then in March 2007, Gunns insisted that they pull out of the process because be RPDC was taking too long—in other words, it was too detailed. They knew they could not meet those site selection guidelines so they pulled out, making up a pathetic excuse that it was taking too long, that they had to have a fast-tracked process—an abuse of the process—and it would cost a million dollars a day while the deferral went on. That was in March 2007. It has cost them many millions of dollars and we are now in 2011. That was merely John Gay and Gunns instructing Premier Lennon at the time to blow up the proper assessment process, to put a fast-tracked process in place because Gunns could not withstand the assessment rigour which was going to be required.

The Australian then launch into this and suggest it has been a seven-year process involving deliberations by three federal ministers, and so on. They go on to say that there is a proper democratic process—there was not a proper democratic process; there was a fast-tracked process by a government, there was a quisling of the company, and it corrupted the process. From that day onwards there was no community support because the community saw what had gone on.
There is also discussion about social licence. Why are they so desperate to get the environment movement or the Greens to say something positive about their Gunns pulp mill project? It is because there is not a single respectable joint venture partner anywhere in the world who will touch this toxic project as long as they recognise that the community is opposed to it. And there will be protests against it because it is not in an appropriate site for a pulp mill and because it will pollute. It will put organochlorins into Bass Strait. Far from the promised totally chlorine free process, we now have an elemental chlorine free light process, which we are supposed to welcome. Well, I don’t. They promised it would be totally chlorine free and it should be totally chlorine free.

Secondly, it is a kraft process which is a sulphur process. There will be fugitive emissions of rotten egg gas in a valley famous for its food, wines and tourism. That is just unacceptable. Yesterday we had the Western Australian EPA rejecting a coalmine in the Margaret River area because it is seriously a conflict of interest between Margaret River and what it stands for and a coalmine. They can see that clearly in Western Australia and this is precisely the same. There are 30 vineyards and a wine route in the Tamar Valley which the federal government put $100,000 into promoting. You cannot put a stinking pulp mill into the middle of a winegrowing area and expect to maintain your reputation. Margaret River understands that, the Western Australian government understands that and the Western Australian EPA understands that; the Tasmanian government and the Tasmanian EPA clearly do not understand that, but the people of the Tamar Valley understand it absolutely, which is why they continue to oppose this project.

It is absolutely imperative that we get some clear understanding about what is going on and this notion of social licence. That mill will never have a social licence in Tasmania because the process approving it was corrupted. It goes right back to the time of the Howard government when Minister Turnbull was the federal minister. In the original discussions with the Tasmanian government, there was a deliberate decision to minimise the level of oversight the Commonwealth would have of this project and leave the rest to Tasmanian knowing full well that the Tasmanian government would never pursue a rigorous assessment. Tasmanians got that message loud and clear when the RPDC process was abandoned at the behest of Gunns and the premier of the day fast tracked the project at the behest of the company and foisted this onto a valley where it is not wanted and where there will never be a social licence.

For the benefit of the Australian, which does not understand the concept of the social licence, in order to make any timber or paper product today you need FSC—Forest Stewardship Council—certification. Part of that is community support through the social chamber of the FSC. Gunns are never going to have that for a project like this. Joint venture partners need to be on notice that the community does not accept this pulp mill. We have had nothing but double-talk from the company and from Forestry Tasmania throughout this entire process. We now have a forest agency in Tasmania which is on its knees in spite of the millions the Commonwealth has provided to it over time. It gives away the Tasmanian forests and the Tasmanian people have had enough. They want their high conservation value forest protected. They want the logging industry out of native forests. They want to make sure that downstream processing in Tasmania is ecologically sustainable and appropriately assessed, not what we have had put on the table as a result of this Gunns proposal.
It is lazy, disingenuous, disrespectful and abusive of people in the Tamar Valley to say, ‘This has been going on for seven years. For goodness sake, get over it. Just accept the pulp mill.’ You would not accept a development which was shoved into your backyard and undermined your industries when there was not a proper assessment process and for which, as these documents demonstrate, they did not do a proper assessment of the site in the first place. It would not have met the site selection guidelines. That is something the Commonwealth clearly needs to get into its head in terms of supporting this particular project and Bill Kelty needs to get the idea out of his head at once that protecting native forests is some kind of trade-off for agreement for the pulp mill. There is no social licence, no support, and Senator Bob Brown and I have made perfectly clear, from the point of view of the Australian Greens, that we will not and do not support the Gunns process. It was corruptly approved and has to go back to square one if they want there to be any hope of getting social approval for this mill.

World Down Syndrome Day

Senator BOYCE (Queensland) (1.44 pm)—I rise today to speak on a matter of public interest: the 15th anniversary on Monday, 21 March of World Down Syndrome Day. The 21st day of the third month is used because people with Down syndrome, quite uniquely, have three copies of chromosome 21. So it is very appropriate to use that day. The slogan for World Down Syndrome Day this year was, ‘Let us in!’ There is a very charming short video available on the Down Syndrome International website of people with Down syndrome from 45 countries demonstrating the theme of ‘Let us in!’ I recommend that everyone here watch it, not only to see what is a very charming video, but also to recognise the internationalism of Down syndrome and the diversity within the population of people who have Down syndrome. Monday, 21 March was also Harmony Day, and the focus of Harmony Day was celebrating diversity, an excellent and very worthwhile cause. In many ways, the fact that the two days occurred at the same time seems symbolic of some of the siloing that goes on in our society—putting people in different silos and not recognising that everybody in this community needs to be let into every aspect of life.

I would particularly like to spend a little bit of time talking about the second Down Syndrome International awards, which were announced on 21 March. Four individuals received awards: Mia Farah from Lebanon; Malgorzata Jablonska from Poland; Sujeet Desai from the United States of America, who is an accomplished pianist I have had the pleasure of hearing; and, most importantly for me, a young man from Buddina on the Sunshine Coast in Queensland called Ty Belnap. Ty went to Sunshine Beach State High School and was integrated into all areas of the curriculum. He undertook an inclusive education. Ty is now 32 but by the time he was at high school his potential was already very obvious. He was named the school’s sportsman of the year. He has represented Queensland at four Special Olympics National Games in swimming and he has been to three Down Syndrome World Swimming Championships in South Africa, Ireland and Portugal. He actually set six world records during his swimming career, from which he is now retired, and two of those world records continue to stand. He was awarded the senior sportsman award from the Sunshine Coast Council in this year’s Australia Day Awards. He is a very active member of the Mooloolaba Surf Lifesaving Club and has been for just on 14 years. He was the first person with Down syndrome ever to achieve the bronze medallion in surf lifesaving. I am told that at his last surf patrol a few weeks
ago he was involved in rescuing three people from the surf. So he is an extraordinarily active and well-known member of his community.

I could go on for some time about the aspects of Ty’s life, but one thing he has received recognition for is his volunteering work by the Creche and Kindergarten Association of Queensland. I would like to just quote briefly from Kendall Storti, who is the Director of the Caloundra Community Kindergarten, where this award was presented at the Creche and Kindergarten Association state conference. She said:

… it was a great morning, we were so glad Ty enjoyed it! I had so many people come up to me afterwards with so many positive comments and a lot from people who have a child with a disability and how Ty has shown them what you can do!! and all were so so impressed with Ty!! Once again he has touched the lives of so many, they tell me there weren’t very many dry eyes in the lecture theatre.

I think there we have an indication of one of the most important points. We truly see people with disability when we actually look at their ability, not their disability. We should look at their skills and their abilities rather than at their disabilities. Disabilities are something that we all have.

Whilst I was delighted to see Ty’s award and Ty’s achievements announced on World Down Syndrome Day, it was the same day that the Courier Mail published what was a charming photograph of His Royal Highness Prince William with a woman with Down syndrome in the Grantham area. The sad thing, from my perspective and from the perspective of the many phone calls I received about this, was that the woman was described as a Down syndrome sufferer in the story that went along with the picture. So there seems to be one step forward and one step back. I would like to congratulate the Courier Mail on fixing this error and pointing out that she was a woman with Down syndrome, not a Down syndrome sufferer, in their online version. So perhaps we are moving forward.

I would like to talk a little about two aspects of people with intellectual disability today. I would like to talk a little bit about inclusive education and bullying and then I would like to spend a little bit of time talking about the Productivity Commission’s recent draft report on the idea of a national disability insurance scheme. A report called *Walk a mile in their shoes* has just been produced by a US organisation called AbilityPath. It is a resource kit to look at bullying in schools and at ways to overcome bullying in schools. They use and confirm research done a few years ago in the UK that says that children with disabilities are two to three times more likely to be bullied than their student peers and that 60 per cent of students with disabilities reported being bullied at some stage during their education career.

I am a very, very strong advocate of closing down all our special schools and moving all the resources of the special schools into the mainstream. I see this as the only way that we will, long term, push inclusive education and, therefore, real inclusion into the education system. Schools that do not want to do the extra work involved in having a child with a disability in their student population can too easily try and push the child’s parents towards a special school rather than to look at how they might make inclusion work. I acknowledge here also that many schools are underresourced and underfunded, and that many teachers are not adequately trained or adequately resourced to do their best job. So, again, this is an area that needs work and an area where there has been some siloing. Without inclusive education there is a big chunk missing out of what a good life for a person with a disability would involve,
even if we do adopt a national disability insurance scheme.

I put forward the view that we should simply move all the resources from special schools into the mainstream education area a couple of years ago and what surprised me was the number of people who objected, not because they thought special schooling was better or that special education was better, but because children with disabilities would be bullied in the mainstream. To me this was a very strange way of dealing with a symptom. I would have thought that, if children with disabilities were being bullied in the mainstream education system, you needed to do something about the mainstream education system. Over and over people would say to me, ‘It’s bad enough for the kids without disabilities being bullied. It’s awful for the children with disabilities.’ Surely this says there is something wrong with our system rather than this is a reason to exclude children with disabilities. It also ignores the fact, of course, that bullying can just as easily go on in special schools as it does anywhere else. It is a symptom of our humanity rather than a symptom of inclusive education. I continue to suggest that we need to really re-analyse the way we are approaching inclusive education.

I would now like to speak briefly about the Productivity Commission’s draft report, Disability Care and Support, which was released recently. This report has been given bipartisan support by the government and the opposition, and everyone is looking forward to the release of the final report at the end of June. The first finding of the report was that the current system is poor and the report said:

The current disability support system is under-funded, unfair, fragmented, and inefficient, and gives people with a disability little choice and no certainty of access to appropriate supports.

It is not a system. I spoke earlier about the commission’s plan for a national disability insurance scheme for anyone who required it. The commission said that they have:

... laid out a blueprint for a coherent response to the significant problems that bedevil the provision of disability support services. But while many people need help urgently, implementation cannot occur overnight.

I would agree wholeheartedly that implementation cannot occur overnight, however, I would also like to urge people to look at the comment of ‘many people need help urgently’. The NDIS, as the Productivity Commission would have it work, would involve a rollout in one region of Australia in 2014 to assist about 100,000 people. They would see this being extended further in 2015 and then extended progressively so that coverage to all significant disabilities occurred by 2018. So we are talking 2018 before a full-blown national disability insurance scheme to meet the current urgent needs would be implemented.

I fully accept the Productivity Commission’s view that this scheme cannot be implemented quickly. However, when you look further and see that even the 2014 and 2018 dates are based on the idea that a memorandum of understanding between the federal and state governments would be signed by late 2011 or early 2012, my heart sinks that we are, in fact, even talking about 2014 or 2018 as start dates. COAG does not have a record of promptly developing MOUs.

I have received numerous phone calls about the urgency of this issue. I think you only need to look at some of the submissions that have been made to the Productivity Commission inquiry to realise that. One said:

No-one likes to see innocent kids suffer in any way and the pain we feel as parents having to watch this every day and to be helpless to change things, all we can do is scream out for assistance, and now is the time for some screaming.
I had a phone call yesterday from a Queensland-based disability advocate who made the point that she is currently working with three mothers in Townsville. They are all in their 70s and have been caring for their children with disabilities for more than 40 years. These are not people who can wait until 2018 for something to happen. We need to look at a way of urgently addressing some of the more egregious conditions and situations that are covered in the Productivity Commission draft report. A National Disability Strategy framework, whilst it is welcome and will help in the long term, again, does nothing to help here.

People with disabilities and their carers are among the most disadvantaged groups in Australia. This can be seen through measures of community access, through financial status and through personal wellbeing. Underfunding is a longstanding problem and it has led to rationing and the growth of waiting lists. It is an unmet demand which has existed for decades and will continue to exist unless we all adopt the view that we must let people with disabilities into mainstream Australia.

QUESTIONS WITHOUT NOTICE

Carbon Pricing

Senator ABETZ (2.00 pm)—My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to her statement at an Australian Industry Group lunch in February 2008 in which she said:

The introduction of a carbon price ahead of effective international action can lead to perverse incentives for such industries to relocate all source production offshore. There is no point in imposing a carbon price domestically which results in emissions and production transferring internationally for no environmental gain.

I also refer to research showing that China’s Copenhagen offer will see its carbon dioxide emissions rise by 496 per cent by 2020, on 1990 levels. Given China is responsible for 23 per cent of global emissions, does the government agree with this estimate? If not, does the government have any estimate of its own?

Senator WONG—Thank you for the question, which is actually the same question that Senator Abetz has previously asked me. He has actually put that very quote to me before. Perhaps I could assist him with some other quotes. I make the point that, from my recollection, the paragraph Senator Abetz is referencing from that speech is part of the justification the government was putting forward for ensuring that there was appropriate transitional assistance to our emissions-intensive trade-exposed sector. In other words, what we were saying is that we do need to take account of what is occurring in the rest of the world and we do need to ensure that there is proper transitional assistance to support Australian jobs, and that is what we did. That is what we put in place under the Carbon Pollution Reduction Scheme through negotiation and consultation with industry.

Senator Abetz can come in here and throw different quotes at us but I would say to him that we do have a fundamental difference between the two parties of government in this chamber: we think that we need to act on climate change; you do not. That is the difference: we think we need to act on climate change; you do not. What we have said very clearly is that we should ensure that we go through the process of designing the mechanism to do that with an eye very much to Australia’s national interest to ensure that we continue to support jobs through the transition as we are also creating jobs in the clean energy sector of the economy.

When it comes to China and other countries, those on the other side are very keen to
suggest that no-one else is doing anything. But the facts simply do not stack up, as usual, when it comes to the coalition and climate change. The government has commissioned the Productivity Commission to put forward a report about what is occurring in other countries. I look forward to that report because it may help ensure that this is a debate that proceeds more on facts and less on fear. *(Time expired)*

**Senator ABETZ**—Mr President, I ask a supplementary question. Is it a fact that China admits to 23 per cent of global carbon dioxide emissions? There is a fact you could answer, Minister. I also refer to the fact that, in the United States, there is no prospect that cap-and-trade legislation will pass before 2013, at the very earliest, in the wake of the fourth defeat of cap-and-trade legalisation in seven years. Given that the United States is responsible for 20 per cent of global carbon dioxide emissions, does the government have any forecast of what the US emissions will be in 2020? *(Time expired)*

**Senator WONG**—It is the usual negative approach from Senator Abetz. It is very interesting, isn’t it? In 10 or 20 years time we will look back and say: ‘Which is the party that said, “We recognise where the world is going. We are going to make sure we adjust our economy so that we can compete in that world. We’re going to make sure we’re not left behind. Which is the party that said let’s freeze—”

**Senator BRANDIS**—Mr President, I raise a point of order on relevance. The question asked whether the government agreed with an estimate. The only question asked was whether the government agreed with an estimate. I know you say, Mr President, that you cannot tell a minister how to answer a question, and the opposition accepts that, but you must ensure that all of the minister’s answer is directly relevant to the question that was asked. Not some of it but all of it must be directly relevant to the question that was asked. The question asked was: does the government agree with a quoted estimate?

**Senator CONROY**—On the point of order, Mr President: not even 20 seconds of the answer have gone by. It is almost impossible for Senator Brandis’s point of order to be upheld, on the basis that the minister has not had the time to get remotely close to complying with Senator Brandis’s demand. Senator Brandis has jumped too early once again. He is like a jack-in-the-box over there. He is ensuring that this question time descends into a farce—

**The PRESIDENT**—Senator Conroy, this is debating the issue.

**Senator CONROY**—I ask you to dismiss this point of order.

**The PRESIDENT**—The minister has been going for 18 seconds in response. The minister has a further 42 seconds remaining to respond to the question that has been asked. There is no point of order.

**Senator WONG**—The point I was making is that there is an international move to invest in renewable energies, in low-carbon efficiencies and in low-carbon economies. The fact is that the coalition do not want Australia to be part of that race. They do not want us to be competitive in that new wave of reform. They want us to try to freeze-frame the Australian economy. If you look at China, the reality is that we know that China is the world’s largest producer of solar panels. China is installing wind turbines at the rate of one every hour. We know, according to Ernst and Young, that China is ranked No. 1 as the most attractive location for investments in renewable energy and that the United States is second, and Australia is ranked 14th— *(Time expired)*
The PRESIDENT—The time has expired for the answer, but you were on your feet for a point of order, Senator Brandis.

Senator Brandis—Mr President, the point of order is this—and it flows from the consequences of your previous ruling: nothing the minister said in the entire time available to her was directly relevant to the question. The only question that was asked was whether the government agrees with an estimate of the level of American emissions by 2020. The minister began her answer by abusing the opposition. That was entirely irrelevant to the question. And she concluded her answer by speaking of Chinese levels of emission, which was entirely irrelevant to the answer.

Senator Ludwig—Mr President, on the point of order: what we have now from the opposition is the same point of order that they take. I rise to indicate that there is no point of order. What we now have is an opposition who ask for a question framed as to a yes or no answer. If they do not get the yes or no answer—

Senator Ian Macdonald—You can sit him down!

Senator Ludwig—I should be heard in silence too, you buffoon. What we now have—

Honourable senators interjecting—

The PRESIDENT—I remind senators on both sides that I need to hear Senator Ludwig.

Senator Ludwig—On that basis the minister was being directly relevant to the question but the minister is not required to answer in the direct way that the opposition requires.

Honourable senators interjecting—

The PRESIDENT—Senator Brandis, I will give you the call when there is silence.

Senator Brandis—Mr President, when you rule on the point of order perhaps you might care to give the chamber some guidance as to how it is possible to hold a minister to a directly relevant answer when, with the entirety of the time for the answer expired, it is not possible, according to your ruling, for you to direct whether the minister has been relevant or not.

The PRESIDENT—Senator Brandis, the standing orders allow the minister two minutes in which to respond to the primary question and one minute in which to respond to each of the supplementary questions. You were quite correct in what you said about my capacity to tell the minister how to answer the question. That is quite correct. I cannot tell the minister how to answer the question. I can listen to the minister’s answer and where the minister is not responding to the question I will draw the minister’s attention to the question. However, the standing order has not been compartmentalised in the way in which you are implying, and the minister has the full 60 seconds in which to respond. If the minister does not respond by giving you the answer that you desire, I cannot force the minister to do that. I cannot force a minister to give a particular response. So I remind those who ask the questions that the minister must be given the opportunity to respond without interjection, and I remind the ministers when responding that they need to respond to the question that has been asked.

Senator ABETZ (2.10 pm)—Mr President, I ask a further supplementary question. Is it a fact that China is responsible for 23 per cent and the United States for 20 per cent of global carbon dioxide emissions? What guarantee can the government give Australia, which produces—

Government senators interjecting—
The PRESIDENT—Order! Senator Abetz, you are entitled to be heard in silence as well on both sides. I am going to ask you to start again, Senator Abetz.

Senator ABETZ—Thank you, Mr President. Is it a fact that China is responsible for 23 per cent and the United States for 20 per cent of global carbon dioxide emissions? What guarantee can the government give Australia, which produces about one per cent of global carbon dioxide emissions, that under its carbon tax production will not simply transfer internationally for no environmental gain?

Senator WONG—Everybody knows that China and the United States are the world’s largest emitters and that is why this government spent so much time trying to ensure that we could be part of a global arrangement that dealt with all major emitters.

Senator Cormann—There is no global arrangement.

Senator WONG—Those on the other side want to simply expose their biases on this. I would make the point—

Senator Cormann interjecting—

The PRESIDENT—Order! I am trying to listen to the answer and I have got an interjection from Senator Cormann, which makes it—

Opposition senator interjecting—

The PRESIDENT—That may well be your view but it makes it difficult for me to hear the answer. Interjections are disorderly.

Senator WONG—I would make the point, firstly, in relation to the United States the President has committed to establishing a clean energy standard to double the share of clean energy in the electricity supply. It is also the case that—

Senator Abetz interjecting—

Senator WONG—Would Senator Abetz like to answer the question, Mr President?

The PRESIDENT—Ignore the interjections. Senator Wong, continue with your answer.

(Time expired)

Queensland Natural Disasters

Senator MOORE (2.13 pm)—My question is to the Minister Assisting the Attorney-General on Queensland flood relief and recovery, Senator Ludwig. Can the minister inform the Senate of the support the government is providing to individuals, small businesses and communities to assist them to get back on their feet after the natural disasters that have devastated Queensland this summer?

Senator LUDWIG—I thank Senator Moore for her question. I know that she remains keenly interested in the recovery and rebuilding of Queensland since the floods and cyclone. From the outset, the Gillard government has supported and will continue to support Queenslanders as they recover from not only the floods but also Cyclone Yasi. We will continue to stand side by side with them to ensure that they can rebuild the state of Queensland after those devastating events. The reconstruction effort will be expensive. The cost of the floods and Cyclone Yasi is estimated to be around $6 billion. That is why the government acted decisively to introduce the flood and cyclone reconstruction levy legislation. The passage of this legislation is good news for the people of Queensland and other affected states. The government made the right decision and has got this important legislation through parliament and is now getting on with the critical job of rebuilding Queensland and those other states that have been affected by floods and bushfires throughout Australia.

The modest one-year levy, combined with spending cuts, means that our communities
will be able to get back on their feet, rebuild roads, bridges and schools and ensure that public infrastructure is returned. Already we have provided over $730 million in Australian government disaster relief. Payments to affected individuals provided over $730 subsidy payments worth about $55 million to people who have suffered a loss of income. The government has provided over 5,100 cleanup and recovery grants totalling $26.5 million. The government has provided employers in the far north of Queensland wage assistance to help them retain workers in those affected regions. It has extended access to concessional loans of up to $650,000, including a grant of up to $50,000 to all category C affected areas of Queensland. (Time expired)

Senator MOORE—Mr President, I ask a supplementary question. Can the minister further outline to the Senate actions the government is taking to drive the recovery of Australia’s natural resources in the aftermath of recent natural disasters across the whole country?

Senator LUDWIG—I thank Senator Moore for her supplementary question. The Gillard government is committed to supporting the environmental and agricultural recovery in flood, cyclone and bushfire affected regions throughout Australia. It is vital that we take action now to ensure that our natural environment recovers from the disasters that have impacted our nation. Included in that effort, the government has announced that it will invest more than $8 million to support environmental recovery actions. These efforts include providing $4.9 million to regional natural resource management organisations in disaster affected areas so that they can undertake the important environmental recovery work that is required to assist Queenslanders and those throughout other parts of Australia. We have provided $1.35 million to Conservation Volunteers Australia to coordinate and deliver assistance from volunteers for critical on ground environmental recovery work. We have also provided more than $1 million to address the immediate impacts of floods and the cyclone on the Great Barrier Reef. (Time expired)

Senator MOORE—Mr President, I ask a further supplementary question. Can the minister update the Senate on how the government is working with the Queensland state government to ensure that Queensland recovers and rebuilds after the floods and Cyclone Yasi?

Senator LUDWIG—As the majority funder for the reconstruction of Queensland, it is vitally important that the federal government works closely with the state government. Today the Queensland Premier released Operation Queenslander. This state plan has been developed, in consultation with the Commonwealth, by Major-General Slater and the Queensland Reconstruction Authority. It outlines the structure and guiding principles behind the authority’s response to the natural disasters.

There are some extraordinary statistics that I want to share with the Senate. Ninety-nine per cent of Queensland has been declared disaster affected; 9,170 kilometres of state controlled roads were damaged, with about 41 per cent of these having been recovered; 11 of the 20 ports in Queensland were affected, with all but one now back to full operation; and 124 national parks were closed, with 20 having now reopened. The list, unfortunately, goes on. The work that the Queensland Reconstruction Authority is coordinating with councils and the federal government will get all of this fixed. (Time expired)

Carbon Pricing

Senator BIRMINGHAM (2.18 pm)—My question is to the Minister representing the Minister for Climate Change and Energy
Efficiency, Senator Wong. I refer the minister to her statement of 16 July 2007, which was made in conjunction with then Deputy Leader of the Opposition Julia Gillard and in which she said, ‘Labor will end the abuse of taxpayer funded government advertising.’ I also refer the minister to comments made yesterday by the Minister for Climate Change and Energy Efficiency that his department is ‘examining a number of options for public communications’. Has the government invited tenders or contracted an agency to undertake a multimillion-dollar advertising campaign in support of your carbon tax plans?

Senator Wong—The Minister for Climate Change and Energy Efficiency has made clear that the government has not made any decisions about an advertising campaign in this area. I would make the point to Senator Birmingham that when the coalition was in government there was a substantial amount of money spent on government advertising; from recollection, some $121 million was spent on advertising Work Choices. This government has reduced the advertising funding by a significant amount in a range of budget decisions over the last few years.

I make the point that there is obviously a discussion that can occur about the extent to which we need to get the facts out in this debate as opposed to some of the fear mongering that we have seen in recent times. I am interested, for example, in some of the comments written on signs outside parliament today. One said, ‘Carbon dioxide is not pollution’; another said, ‘I love CO2.’

Senator Brandis—Mr President, I rise on a point of order on relevance. The question specifically asked whether tenders had been let or contractors engaged. That is the only thing that the question was addressed to. From 15 seconds into her answer to the question until now—in other words, most of the time that she has been on her feet—the minister has been criticising the opposition for things it was alleged to have done when it was in government. That can on no rational view be regarded as a direct answer to the question, ‘Have you let tenders?’ Mr President, I draw your attention to standing order 73(iii). The test is not whether a minister is responding to the question but whether the minister is answering the question. To respond to the question is a different thing than to answer the question. The minister’s obligation under the standing orders is to answer the question.

Senator Chris Evans—Mr President, on the point of order: this is the most ridiculous point of order I think I have ever heard taken in this chamber. The complaint from Senator Brandis is that the minister answered the question in the first 15 seconds! His complaint is that the minister directly answered the question in the first 15 seconds. That is how far the opposition has got in terms of its credibility. The minister, having directly answered the question, went on to put it into context in terms of advertising campaigns—perfectly in order, Mr President. Quite frankly, as I said, this is the most stupid point of order I think I have every heard in my time in the Senate.

Senator Abetz—Mr President, on the point of order, and to respond to the submission by the Leader of the Government in the Senate, it really does stretch credulity to suggest that you can refer to slogans on placards outside of this place in response to a question as to whether or not tenders have been let for a certain situation. If we are going to have any semblance of relevance in question time then this has to be one of those cases where a ruling must be made.

Senator Conroy—On the point of order, Mr President, the agenda has just been revealed: if you do not give them the answer
they want in the first 15 seconds, you are clearly irrelevant. This is not a point of order. It should be dismissed. It is frivolous. And if those opposite keep doing this you should deal with them.

*Opposition senators interjecting—*

**The President**—Order! The minister still has 61 seconds remaining in which to answer any part of the question that has not been answered at this stage. If not, the minister need not continue.

**Senator Wong**—Thank you, Mr President. As I said, the government—

*Senator Abetz interjecting—*

**Senator Wong**—When Senator Abetz has finished arguing with the President, perhaps I could respond.

**Senator Ian Macdonald**—Oh, you poor little petal!

**Senator Wong**—No, I am not a poor little petal. I don’t think anyone would suggest I have ever thought that!

**The President**—Order! Debate across the chamber does not help.

*Honourable senators interjecting—*

**The President**—Order! This is not assisting the progress of question time. If people wish to debate other issues, they can do so later. Senator Wong, you have 46 seconds remaining.

**Senator Wong**—Thank you, Mr President. As I said, the government has made no decision about an advertising campaign. Obviously, any decisions regarding tenders or contracts are always subject to the usual disclosure requirements that apply to all government tenders, of which Senator Birmingham is well aware. But I would again make this point: there have been many times when governments have advertised. Perhaps some were more meritorious than others. When those opposite want to lecture this government about advertising, you might recall the excess of $120 million that you spent on your Work Choices campaign, Senator Abetz—which I know you were a prime architect of. That was a winning strategy, wasn’t it!

**Senator Birmingham**—Mr President, I ask a supplementary question. Given the minister’s tacit admission that the government will be running a campaign to ‘get the facts out’, I refer the minister to Labor’s 2007 election promise that:

… all government advertising and information campaigns in excess of $250,000 will need to be vetted by the Auditor-General or his designate.

Will the minister guarantee that any campaign will be subject to this process and that the minister will not follow the Treasurer’s example of declaring a national emergency to get around it?

*Honourable senators interjecting—*

**The President**—Order! When we have silence on both sides we will proceed.

**Senator Wong**—You may recall, Senator Birmingham, that a range of changes were made to the advertising guidelines. I do not have the details—

*Senator Abetz—Which were then junked!*

**Senator Conroy**—Oh, come off it!

*The President—Order! Interjections across the chamber do not assist in the conduct of question time.*

**Senator Chris Evans interjecting—**

*Senator Ronaldson interjecting—*

**The President**—Order! If honourable senators would like to debate this, the time is after question time.

*Senator Chris Evans interjecting—**

*Senator Ronaldson interjecting—*

**The President**—Order on both sides!
Senator Chris Evans interjecting—

Senator Ronaldson interjecting—

The PRESIDENT—Order! Senator Ronaldson and Senator Evans! If you wish to debate the issue, the time is after question time.

Senator WONG—Thank you, Mr President. I would make the point that this government has significantly reduced spending on advertising over the last few years. We have established more transparent and formal reporting arrangements. Advertising campaigns over $250,000 are independently reviewed, properly targeted and non-political. Campaign expenditures are also published and supplier lists are public. These are new procedures which enable the public to have access to information to see how their taxpayer dollars are spent. So, when those across from us in this chamber lecture people about advertising, let’s just remember the $120 million spent on telling working people why taking away their conditions was such a good thing.

Senator BIRMINGHAM—Mr President, I ask a further supplementary question. How can the minister claim that any advertising campaign regarding the carbon tax will in some way be an information campaign, when there is utterly no information to share—no price, no compensation, no inclusions, no exclusions, no detail and, frankly, no idea whatsoever?

Government senators interjecting—

The PRESIDENT—Order! Those on my right!

Senator Conroy interjecting—

The PRESIDENT—Order! Senator Conroy!

Senator WONG—In two questions now I have answered that no decision has been made of the sort that Senator Birmingham has referred to, so I find it hard to understand how he now can try to beat his chest over an answer he did not get. Perhaps the real question is this: why is it that people on that side of the chamber are lining up behind a leader who goes and addresses rallies where there are signs such as, ‘Carbon dioxide is a harmless trace gas, you fraudulent criminals?’ Seriously, one wonders where the liberals are inside this opposition.

Honourable senators interjecting—

The PRESIDENT—Order! I have called for order so that Senator Bob Brown could ask his question in silence. He is entitled to be heard in silence.

Coal Seam Gas

Senator BOB BROWN (2.30 pm)—My question is to the Minister representing the Minister for Resources and Energy, Senator Nick Sherry, and it is in regard to the increasing contention about coal seam gas and open-cut coal mining in rural areas of Australia. Has the government received representations from former National Party leader John Anderson, acting in his capacity as chairman of Eastern Star Gas Ltd, or Mark Vaile, as chairman of Aston Resources, to promote their interests in exploring and drilling for coal seam gas or coal? If so, which ministers and departments have been approached—

Senator Ian Macdonald—What about Eddie Obeid?

Senator Faulkner interjecting—

The PRESIDENT—Senator Macdonald and Senator Faulkner, it makes it very difficult to hear Senator Brown when you are talking across the chamber, even though he is on the microphone. I am trying to listen to him.

Senator BOB BROWN—Minister, what representations to government or instrumentalities have been made by these former
leaders of the National Party or the companies they now chair?

Senator SHERRY—In the initial part of his question, Senator Brown referred to some areas of disagreement, dispute and criticism of coal seam gas. I am aware that there are some areas of controversy. Whether those criticisms are valid or not, I am not aware.

Honourable senators interjecting—

The PRESIDENT—Wait a minute, Senator Sherry. Senator Brown is trying to listen to the answer. He is entitled to.

Senator SHERRY—I am aware there are some issues of contention with coal seam gas and I have seen various media reports on some aspects of that activity. I am aware that the use of coal seam gas as an energy source is a very longstanding practice in this country and it accounts for about 30 per cent of domestic gas production in the Eastern States. I could talk much more directly and extensively about the first part of your question about coal seam gas and the activities around the country of various entities.

To come to the second part of your question about Mr Vail and Mr Anderson, I am aware that they are officers of two companies. That is the limit of my knowledge. The companies you named may or may not be correct. It is not to my knowledge that they are officers of those companies. They may be, but I would have to take that on notice and find out whether that is correct. If it is correct, I am not personally aware of any activities that they have undertaken. They certainly have not seen or discussed with me anything in relation to what may be their perfectly legitimate representations on behalf of the commercial entities that they represent. As to any representations they may have made to any other ministers—(Time expired)

Senator BOB BROWN—Mr President, I ask a supplementary question. Minister, is it true that Eastern Star Gas Ltd, while John Anderson held office in 2009, made a donation of $22,850 to the New South Wales National Party?

Senator Ryan—No-one is allowed to make a dollar in Bob’s world.

The PRESIDENT—Senator Ryan! Senator Sherry, you can only answer that part of the question which pertains to the portfolio you are representing.

Senator SHERRY—No.

Senator BOB BROWN—I thank the minister for his answer. Mr President, I ask a further supplementary question. In the area of coal seam gas and open-cut mining—which is, as he acknowledged, an issue with food-producing farmers in northern New South Wales and southern Queensland—does he think it is proper that former National Party MPs should be engaged in lobbying government against the interests of those farmers or that money should be channelled from such companies? (Time expired)

Senator Joyce—On a point of order on relevance and the factual premise of his question, is he saying that these people still have an involvement in the federal National Party? They do not.

The PRESIDENT—Senator Joyce, there was no point of order. Senator Brown, the question you have just asked purely seeks an opinion of the minister and is out of order.

Carbon Pricing

Senator CORMANN (2.37 pm)—My question is to the Minister representing the Treasurer, Senator Wong. Why will details of the carbon tax revenue and related spending estimates from 1 July 2012 onwards not be included in the next budget when $12 billion in mining tax revenue and related spending estimates from the underdeveloped and now disbanded resource super profits tax—to take effect on the same day, 1 July 2012—were
already included in last year’s budget? Is it because the government has done even less homework on the carbon tax than it had done on the mining tax before announcing it, or is it because the government has something to hide?

Senator WONG—The Treasurer has made clear in public statements already—so I am surprised that the question is being asked—that—

Senator Cormann—I am asking you why.

The PRESIDENT—Interjecting after the question has been asked does not assist.

Senator WONG—The Treasurer has made clear publicly that we will be accounting in the normal way, when final decisions have been made, for the introduction of a carbon price, and we will do that. But, as Senator Cormann well knows, we have not made a decision about price or about coverage, other than the exception of agriculture, which I spoke about earlier this week. We have not yet made decisions, because we want to consult with industry about industry assistance, about transitional assistance and about managing energy security in the electricity sector.

Let us get some facts and some sensible policy discussion into this debate. This is a ridiculous question. It is utterly ridiculous to try to make politics out of the fact that the Treasurer has said, quite self-evidently, that if we have not made a final decision about how a carbon price will be effected—the key decisions about price and so forth—then of course we will adjust the budget figures after those decisions have been made. It is a bit like the question you asked yesterday or the day before; I cannot recall—it is completely inconsistent, completely incoherent and driven only by your political biases.

Senator CORMANN—Mr President, I ask a supplementary question. I refer to the minister’s assertion about the government’s so-called strict fiscal rules, which include a two per cent cap on real spending growth. Will the government blow this cap in 2012-13 as a result of the billions of dollars in new carbon tax related spending?

Senator WONG—I have made clear in this chamber for some time, as has my predecessor, as has the Prime Minister and as has the Treasurer, the nature of the fiscal strategy and the fiscal rules. The two per cent cap on expenditure is one of the fiscal rules, along with returning the budget to surplus in 2012-13. It would be useful, perhaps, if those senators on the other side who have an interest in matters economic and fiscal could turn their sights to the lack of fiscal responsibility being demonstrated by the opposition. We see, yet again, opposition senators putting forward policies that are not costed and not funded, adding to the $10.6 billion black hole.

Senator Cormann interjecting—

Senator WONG—Senator Cormann, you can beat your chest and yell all you like, but the facts speak for themselves.

Senator Brandis—Mr President, on a point of order, are you seriously going to rule that what Senator Wong has been saying for the last 15 or 20 seconds has any relevance whatsoever to the question?

The PRESIDENT—I am listening closely to the answer the minister is giving. The minister still has 13 seconds remaining. If the minister has anything additional to add to her answer to the question, she is invited to do so. I draw the minister’s attention to the question. If the minister does not have anything to add, then the minister may resume her seat.

Senator WONG—As I have said, the fiscal strategy does include a two per cent cap on real growth as the economy returns to above-trend growth. This is a more restric-
tive cap on real growth and expenditure than—(Time expired)

Senator CORMANN—Mr President, I ask a further supplementary question. Given that the government has previously claimed more than $40 billion in new Labor Party taxes as ‘savings’, will this $11 billion-plus carbon tax in 2012-13 also be classified as a budget saving or as what it is: a great big new tax on everything?

Senator WONG—Again I say, we have a fiscal strategy. It has been articulated very clearly in the budget papers by the Prime Minister, by my predecessor, by the Treasurer and by me.

Senator Cormann interjecting—

Senator WONG—I will take that interjection; I have just been described as dishonest.

The PRESIDENT—That will need to be withdrawn.

Senator Cormann—I withdraw.

Senator WONG—What is being dishonest, Senator Cormann, is pretending you are a party of fiscal responsibility and being so innumerate that you have a $10.6 billion black hole in your election costings.

The PRESIDENT—Senator Wong, you should withdraw that, too.

Senator WONG—I withdraw.

The PRESIDENT—We need to get through the questions. I like to see people get the opportunity to ask a question—

Senator Fielding interjecting—

The PRESIDENT—Is it your turn today, Senator Fielding? No? It is Senator Xenophon. Never mind, Senator Xenophon, you can sit down—I am just thinking of you for later in the day! It is the most excited I have seen you for a long time, Senator Xenophon. Senator Wong, there are 39 seconds remaining for your answer to Senator Cormann’s question.

Senator WONG—I am just trying to get over that picture of Senator Xenophon! The opposition is entitled to ask questions about the government’s fiscal strategy. I accept that, but I think the opposition and anybody listening should perhaps consider whether or not the opposition itself is going to demonstrate some fiscal responsibility. The fact is that you have not. With a $10.6 billion black hole, you continue to introduce bills with a fiscal impact that you are not offsetting. You cannot preach fiscal responsibility if you refuse to practise it.

Climate Change

Senator POLLEY (2.45 pm)—My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Can the minister outline to the Senate the importance of taking a science based approach when seeking to tackle climate change? What are the alternatives to taking a science based approach to this challenge?

Senator Bernardi—This is not about me.

The PRESIDENT—Senator Bernardi, interjections are disorderly. That was almost completely disorderly.

Senator WONG—This is a government that does believe that you make decisions based on good evidence and good science. The reality is that climate scientists are telling governments all around the world that carbon pollution is contributing to climate change. Senators might like to know that 2010 was the warmest year on record and equal warmest were 2005 and 1998.

Senator Bernardi—On what record?

Senator WONG—It is about time for you to start interjecting here, Senator Bernardi. The decade 2001-10 was the warmest decade on record. The CSIRO and the Bureau of
Meteorology have advised that, if we do not reduce our carbon pollution, average temperatures could increase by 2.2 to over 5 degrees Celsius by 2080 as compared with 1990.

Opposition senators interjecting—

Senator WONG—I am unsurprised by the interjections, because those on the other side are led by someone who does not believe climate change is real. In this chamber the opposition is dominated by individuals who do not believe climate change is real. We have on one side the CSIRO, the Bureau of Meteorology and the world’s respected climate scientists—but no, on the other side, the opposition know different. We know that Mr Abbott’s approach is somewhat confusing. It seems to change depending on who he is speaking to. On 14 March Mr Abbott said:

... whether carbon dioxide is quite the environmental villain that some people make it out to be is not yet proven.

He also said:

I don’t think we can say that the science is settled here.

Then two days later Mr Abbott said:

... climate change is real. Mankind does contribute to it.

And today Mr Abbott goes and addresses a rally which has signs such as ‘Carbon dioxide is not pollution. I love CO2’ and ‘CO2 is a harmless trace gas, you fraudulent criminals’. People are entitled to express those views—we disagree with them—but these are the sorts of views that the opposition is now lining up behind. (Time expired)

Senator POLLEY—Mr President, I have a supplementary question. Can the minister outline to the Senate any scientific basis that might exist for refusing to take action on climate change?

Senator WONG—No, I cannot.

Senator Cash—The glaciers are not melting.

Senator WONG—Senator Cash’s interjection just demonstrates the sort of ideas, or lack of ideas, on that side of the chamber. They are led by a man who changes his mind depending on the audience. I think we saw that today when a man who wants to be the Prime Minister of this country is out in front of a rally that has signs such as the ones I read out, signs referring to genocide and signs such as ‘Pauline knew 10 years ago’. Those on the other side ought to be ashamed of themselves that they are allowing their leader to go out there and play to that audience. You should hang your heads in shame. And some of you are.

Senator POLLEY—Mr President, I have a further supplementary question. Why is scientific evidence so important to the government—

Honourable senators interjecting—

The PRESIDENT—Senator Polley, resume your seat. If senators wish to carry on this debate, carry it on after question time in the time to take note of answers, but not now.

Senator Joyce—Mr President—

Honourable senators interjecting—

The PRESIDENT—Senator Joyce, I cannot even give you the call because there is a debate going on across the front of the chamber here. It will need to cease.

Senator Joyce—On a point of order, Mr President, something I think needs to be withdrawn. A comment was just made that that audience was apparently a representation of the Ku Klux Klan.

The PRESIDENT—I have not heard any such comments in this chamber and if there were quiet at the other end of the chamber I might have a chance to hear some of the comments instead of the interjections that do take place.
Senator POLLEY—Mr President, why is scientific evidence so important to the government in determining the appropriate policy response to tackling climate change? And I would like the opportunity to be able to listen to the answer.

The PRESIDENT—Senator Polley, continue with your question.

Honourable senators interjecting—

Senator POLLEY—Mr President, would you like me to commence again?

The PRESIDENT—Senator Polley, just hold on. Senator Xenophon gets one question a week. I do not think it is very fair if people keep interjecting on both sides and wind down the clock for Senator Xenophon, who gets that one opportunity a week. I think if people have differences of opinion on issues in question time they can go outside and debate them outside. Continue, Senator Polley.

Senator POLLEY—I think I had completed my question. I was asking: why is scientific evidence so important to the government in determining the appropriate policy for tackling climate change. And I would like to be able to hear the answer.

Senator WONG—The science is important and, notwithstanding the efforts of those on the other side to try and drown out the scientific evidence, the reality is the scientific evidence is overwhelming. The question really should be: what is the proper policy response to deal with the risk, not just for this generation but for subsequent generations, and how to make that transition in the most economically efficient way. One of the sad things about the Leader of the Opposition is that if you read his comments—

Senator Abetz—Only one? I’m sure you’ve got a long list!

Senator WONG—I know you are very sensitive about this, Senator Abetz. If you read his comments it is quite clear that he comes to this issue not on the basis of conviction but only on the basis of opportunism. Mr Abbott said in April 2010:

I don’t think my assessment of the science or of the policies ever changed that much. I think all that really changed was my assessment of the politics of the issue.

Never a truer word. (Time expired)

Carbon Pricing

Senator TROETH (2.54 pm)—My question is to the Minister for Innovation, Industry, Science and Research, Senator Carr. Can the minister advise the Senate whether the government intends to protect Australia from job losses in manufacturing industries, such as the cement industry, in its proposed new carbon tax arrangements?

Senator CARR—I thank Senator Troeth for her question; I trust it is not the last. I note that she does obviously get a question every now and again—it is rare for her to be provided with the opportunity.

The PRESIDENT—Senator Carr, come to the question.

Senator CARR—Mr President, she is one of the very few remaining liberals on that side of the chamber, and I just want to acknowledge that.

The PRESIDENT—Senator Carr, that is not the point of the question.

Senator CARR—I also want to acknowledge that she is genuinely concerned about manufacturing, coming as she does from Victoria. It is a pity a few more on the other side do not display that level of interest. This government is committed to ensuring the prosperity of manufacturing in this country. We recognise the concerns of industry, and we also recognise the fact that there is an opportunity here to transform Australian industry in such a way as to ensure that jobs in Australia will grow.

Opposition senators interjecting—
The PRESIDENT—Senator Carr, resume your seat. I draw the attention of those on my left to the fact that I am waiting for silence so question time can proceed.

Senator CARR—Jobs in Australia will continue to grow with a carbon price where there is incorporation of appropriate levels of assistance and co-investment. This government is determined to ensure that new jobs are created in new industries and that existing industries are able to be transformed to meet the challenges of the 21st century. Sustainability and carbon efficiency ought to be the touchstones of every business in this country, and we are ensuring that those opportunities are developed to ensure that that actually happens. The government is working to ensure that existing manufacturing jobs and important skills in new manufacturing industries are able to meet the challenges of a carbon constrained world.

A very good example of that is occurring in all sorts of industries, particularly in the automotive industry in Victoria where we are seeing already an industry transforming itself to meet the challenges of a carbon constrained world. This government is working with industry to ensure that we keep our manufacturers and the goods that they produce internationally competitive. We want to ensure that the carbon price—(Time expired)

Senator TROETH—Mr President, I have a supplementary question. Is the minister aware that, in many cases, sending jobs offshore, which may occur because of the government’s policy, may also lead to increases in global CO2 emissions as Australian industry is often more greenhouse efficient than its competitors?

Senator CARR—The opposition is seeking to pretend that Australia is rushing ahead in the global fight against climate change. That is a bit like trying to claim that Australia won the Ashes. We have a situation where Australia is, in fact, falling behind in the race to develop clean technology solutions and clean energy solutions. Countries around the world are transforming their industries to the realities of the 21st century at a much faster rate than we are in this country. We now have a situation where emissions trading schemes operate in some 27 countries of the EU, in New Zealand and, of course, in many parts of the United States. Carbon taxes are being applied in Britain, Denmark, Norway, the Netherlands, Canada and India. We are seeing it in Japan and South Africa. We are seeing whole new approaches being taken to ensure that their economies—(Time expired)

Senator TROETH—Mr President, I have a further supplementary question. Will the minister advise the Senate whether it is more important to deal with job losses from manufacturing industries as a result of this new tax or to provide income redistribution from the revenue of the scheme?

Senator CARR—Senator Troeth has misunderstood the nature of the scheme. What we have indicated is that every cent raised as a result of this scheme will be redistributed to assist this country adapt to a carbon constrained world, whether it be to households or industry. We are in the business of ensuring that Australian industry remains competitive and, by doing so, is able to transform itself in such a way as to be able to deal with the challenges that every business in this country has to face up to. It is foolish and incredibly short-sighted to believe that we can persist with business-as-usual approaches to the issues of climate change. What is required is for us to engage with business in such a way as to enable every firm in this country—every business, every enterprise in this country—to adjust to the circumstances that we are facing in the contemporary environment. That is exactly what this government is doing. We are engaging with manufacturers; we are engaging
with all other aspects of the economy. *(Time expired)*

**Honey Bees**

**Senator XENOPHON** (3.00 pm)—My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. In 2008, the House of Representatives Standing Committee on Primary Industries and Resources handed down a report into Australia’s honey industry. The *More than honey* report made some 25 recommendations, the first of which was to establish Pollination Australia, an industry alliance aimed at addressing the problems facing the industry and creating opportunities for the future. What government funded activities or studies are Pollination Australia currently undertaking and do they include the threat to pollination from the Asian honey bee? And why is it that Pollination Australia does not even seem to have a website?

**Senator LUDWIG**—I thank Senator Xenophon for his question. Pollination Australia was established to address the risks facing, and to promote opportunities for, the pollination industry. It was a recommendation, as Senator Xenophon has correctly identified, from the *More than honey* report released in May 2008. In recognition of the importance of a strong working relationship between the honey bee industry and the industries that rely on honey bee pollination, the government supported the development of Pollination Australia. In 2007 and 2008, the government contributed over $300,000 to establish Pollination Australia. This funding amounted to $313,000 in 2007 and 2008 and was supplemented by a further $53,000 provided by the Rural Industries Research and Development Corporation.

Pollination Australia is funded and managed by its member organisations in the honey bee industry and the horticultural and plant based industries that are most depend-

ent on honey bee pollination. Can I be clear: it is an industry driven initiative. The activities conducted by Pollination Australia are determined by industry priorities and investment within that industry. Pollination Australia is of course not the only source of research and development funded by government in relation to the bee industry. A draft honey bee industry and pollination continuity strategy has been developed to support preparations that industry and government are now making to deal with any potential Varroa mite incursion and its effects on crop pollination. The strategy focuses on strengthening the capacity of the honey bee and honey-bee-pollination-responsive crop industries, strengthening postborder biosecurity preparedness and coordinating investment and research in this area. The strategy is currently being finalised after the two rounds of public consultation.

I also add that the Rural Industries Research and Development Corporation has in addition—dealing with Senator Xenophon’s broader question—finalised a five-year honey bee R&D program which will run until—*(Time expired)*

**Senator XENOPHON**—Mr President, I ask a supplementary question. The report states that honey bees contribute directly to between $4 billion and $6 billion worth of agricultural production annually because of pollination and it makes recommendations in relation to biosecurity to ensure the industry is not decimated by outside pests. Which of the 25 recommendations in the report has the government implemented to protect this vital contribution?

**Senator LUDWIG**—In 2009 the government tabled its response to all the recommendations in the *More than honey* report. The honey bee industry is a small but vital part of the Australian economy and a contributor to the success of Australian agricul-

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ture. This issue of the protection of the honey bee industry is tied to the wider issue of biosecurity reform. The Gillard government remains committed to reforming the biosecurity system. This requires the introduction of a risk based approach to biosecurity measures. The biosecurity issue raised in the More than honey report was dealt with in the framework of the Beale review. The government released the report of the Beale review and its preliminary response on 18 December 2008. The government also raised several recommendations of the primary industries standing committee and the government continues to actively monitor Australia’s border for pests and incursions related to the bee industry, including—(Time expired)

Senator XENOPHON—Mr President, I ask a further supplementary question. Given that the funding for the Asian honey bee eradication program will end on March 31, just eight days away, does the minister concede that the end of this funding will increase the risk of irreparable harm to Australia’s honey bee industry and up to $6 billion worth of annual agricultural production?

Senator LUDWIG—The Gillard government takes any threat to Australian biosecurity seriously, but let us not forget that, when the Asian honey bee was first discovered in Queensland in May 2007, the Minister for Agriculture, Fisheries and Forestry at that time was Mr Peter McGauran. The Liberal Party had the opportunity to act immediately at that time and did not. It did not do anything. The Asian Honeybee National Management Group, which includes industry representatives, has formed the view that eradication is no longer feasible. But this does not mean that control activities will cease. The government is working with all parties, including states and territories and industry, to determine the best way forward to suppress the bee. The Asian Honeybee National Management Group called for the establishment of a cross-government and industry group to consider what future actions, if any, could be undertaken. This group has already met for the first time. It had its first meeting on 15 March. The group noted that Queensland, as the state managing the current incursion—(Time expired)

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

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Asylum Seekers

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (3.06 pm)—On 2 March 2011, Senator Hanson-Young asked me a question about asylum seekers. I seek leave to incorporate in Hansard further information from the Attorney-General in response to that question.

Leave granted.

The answer read as follows—

• ASIO’s priority and responsibility is to ensure that Australia’s security is not compromised. Security assessments must therefore be thorough.
• The Attorney-General is not aware of the specific advice (from the Immigration Department to ASIO) to which the Senator referred.
• I can confirm that there is no ‘time limit’ for the provision of ASIO security assessments in respect of irregular maritime arrivals.
• ASIO regularly reviews and revises the allocation of resources to security assessment, as required.
• ASIO works closely with DIAC on the visa security assessment caseload. ASIO relies on DIAC to prioritise the caseload.
• ASIO also works closely with DIAC and other agencies to achieve maximum process-
ing efficiencies and effectiveness, and achieve whole-of-government outcomes.

- Processing times vary in accordance with several variables, including:
  - the circumstances of each individual case;
  - the size and complexity of this caseload; and
  - external factors beyond ASIO’s control (e.g., Christmas Island infrastructure, other agency priorities and processes).

- In conducting its assessments, ASIO carefully balances security considerations with facilitating the timely provision of assessments.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Carbon Pricing

Senator TROETH (Victoria) (3.06 pm)—I move:

That the Senate take note of the answer given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to a question without notice asked by Senator Troeth today relating to the cement industry and the proposed carbon tax. Senator Carr is on record—I believe in today’s press—as saying that the debate on industries and climate change should be based on facts not on fear. He also mentioned in today’s answer that it is a fallacy to believe that Australia is ahead of the rest of the world in releasing greenhouse gases. I point out to him that particularly since 1990 the cement industry in Australia has achieved a 23 per cent reduction in CO2 emissions through, firstly, investments in best technology, secondly, the use of alternative fuels and raw materials and, thirdly, the use of supplementary materials. Yet there is a genuine fear on the part of the nine plants which are operating mostly in regional Australia, with an annual turnover of $2.14-plus billion, that they will be shutting down as a result of the government’s carbon tax policy and that we will have to import cement.

If Senator Carr and the government have been so good at explaining the carbon tax and reassuring these industries that they have a bright future, why are they so afraid? If we import cement from Asian countries such as Japan, China, Thailand, Taiwan, Philippines and Indonesia the likely result will be higher emissions than if we continue to use Australian produced cement. In the first place, Australia, as I have said, is an efficient producer of cement, emitting fewer tonnes than average of CO2 per tonne of cement. Secondly, as I would have thought any reasonable person would agree, importing cement will result in emissions from shipping.

A cement plant, by nature, is highly emissions intensive. When you consider that cement is manufactured by heating a precise mixture of limestone, clay and sand, which results in the production of cement clinker, which emerges from the kiln, is cooled and then finely ground to produce cement, of course this process results in emissions. Why do we want to import cement when we can produce it here with fewer emissions than imported cement causes and also, most importantly, produce it with a largely regional labour force in regional Australia, a long way from our capital cities? Regional Australia depends on that labour force to remain economically active. As I said, the job losses will occur from existing plants in regional areas.

I have been to the cement plant in Waurn Ponds in Victoria and they genuinely fear job losses as a result of this legislation. They also operate in Western Australia at Kwinana, at Angaston and Birkenhead in South Australia, at Railton in Tasmania, at Kandos, Maldon and Berrima in New South Wales and at Rockhampton and Gladstone in Queensland. We want a viable, efficient in-
industry in this country of ours. We certainly do not want any proposed tax which will stop our highly emission efficient domestic industries maintaining their full production. It would be a very poor environment policy if global greenhouse gas emissions went up by importing more cement into Australia at the expense of the Australian cement industry.

If a carbon pricing mechanism is to deliver any kind of certainty, other than certain death, it must deal with leakage, provide a long-term price signal and provide support for technological development. Nothing that I have heard of the government’s proposed carbon tax is going to fulfil any of these requirements. If Senator Carr wants facts, what I provided in the questions I asked today and the information in this speech are facts; what the government is spreading is fear.

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary for Immigration and Multicultural Affairs and Parliamentary Secretary to the Prime Minister) (3.12 pm)—It is a fascinating debate when the proposition put forward in the motion to take note by those opposite only tells a fraction of the story and tells that fraction inaccurately. We have just heard from Senator Troeth that there is no word about innovation, investment in renewable energy and the sorts of technological innovation that we need to take this country forward. In fact, all of those policies are in place. Those policies are implemented through a range of investments, including the restoration of the research and development investments through our public universities and our research and development system of innovation in Australia.

Senator Boyce interjecting—

Senator LUNDY—It has gone backwards. I recall coming into this place in 1996 and one of the very early speeches I gave was reviewing the then Howard government’s absolutely massive cutbacks to both the higher education system in this country and the research and development budgets. It was only through the re-election of a Labor government that the integrity of that public investment in our public universities’ research and development was finally restored, and this was through a period of economic growth under the Howard government which we know was completely and utterly squandered. We did not invest in our future. We did not invest in the kinds of jobs that our future will be built on.

We find ourselves in 2011 arguing the basics of a carbon trading scheme that was established as bipartisan policy a long time ago and only abandoned by the coalition, by the opposition, when it was politically expedient for them to do so. The betrayal by the opposition of the Australian public as a result of their walking away from a then bipartisan commitment to an emissions trading scheme for Australia was one of the greatest abrogations of their public responsibility as a major political party in this country.

We now find ourselves in the midst of a climate debate again reasserting, as is the responsible thing for a government to do, the strong science that underpins the argument for a price on carbon, yet we are dealing with such a base opposition that they are even contending the science. These issues were resolved a long time ago and the science continues to come in. I noted with great interest today that Senator Wong shared with you some of the scientific facts about climate change in the chamber. I think it is important to remind those opposite that it is one thing to just sit there and say mistruths again and again about the science; it is another thing to be confronted with the facts on a daily basis, which we will continue to do.
We find ourselves today having a debate about a price on carbon and whether or not that is somehow creating fear amongst business. I can tell you that, apart from a number of notable contributors to this debate, business needs a price on carbon. They need it for business certainty. They need it to be confident that the Australian economy is going to be prepared for the future. If we are going to be serious about ensuring that our economy can compete, we need to put a price on carbon. The government has again done the responsible thing within the circumstances. We have put a price on carbon that is a price on pollution for Australia. It is an appropriate first step; the polluters must pay. Call it a carbon tax if you like but the polluters will pay it. The proposal by the opposition is to make householders pay through their so-called direct action plan. Those are the alternatives confronting the Australian public at the moment. We are a government that is taking a sensible first step to a market based trading scheme for carbon and, in the first instance, placing a price on carbon for which the details will be resolved as we go forward.

Senator Troeth stood up here and talked about fear among business and then gave a speech promoting fear. It was unfounded in facts and uninformed by the actual policy that we have put forward, and it ignored the opportunity that we have put out there to allow business to provide feedback and interact with this government on the details of the policy. This is the most responsible way to go to allow that kind of input. Again, Labor has put in place a policy that makes polluters pay and we will provide for those householders and for industries affected by that in the first instance. (Time expired)

Senator NASH (New South Wales) (3.17 pm)—What a load of rubbish we are hearing from this government when it comes to the impact of a carbon tax on the people of Australia. They seem to be living in what I can only call a fairyland of unreality when it comes to the impact that this is going to have on people. What have we seen today? We have seen Minister Wong making the outrageous statement that there are no contrary views to the science. What a load of utter rubbish. We have just had Senator Lundy saying the science is resolved. This is absolute rubbish.

Let me take you just for a moment to some of those scientists and professors who do have the contrary view that Senator Wong is denying. There is your denier; she is denying that there is even another view. Whether or not she accepts it is entirely up to her but she should admit that there is another view. Let us have a look at Professor John Christy, who is the lead atmospheric scientist of the IPCC. We have got Professor Roy Spencer, Professor Bob Carter and Professor Ian Plimer, just to name a few who have a different view. We were not asking Senator Wong whether she agreed with them; we were asking her to say whether or not she recognised they even exist and she said no. That is how far this government have their heads buried in the sand over this whole issue.

Let me share with you what Professor John Christy actually said in his statement. He concluded:

… this pervasive result from climate models has not been detected in the real atmosphere.

What a surprise when we have got colleagues on the other side of this place from the government telling us that there is no other view and that the science is settled. All we were saying was that the government should recognise that there are scientists with an alternative view. The minister, Senator Wong, chose to say, ‘No, there is no contrary view.’ Senator Lundy is here saying, ‘No, the science is settled.’ It is absolute rubbish—I would use a stronger word but I am in the
chamber amongst very good company. The minister, Senator Wong, should say right now that there is an alternative view, because she is misleading the Australian people. If she truly does not believe that there is another scientific view, there is your denier, right over there across the chamber in the government.

What other extraordinary things did she say today? We had a carbon tax rally out the front of this building today from people who were so concerned about what the impact of this carbon tax is going to be. There were over 3,000 people out there on the lawns of Parliament House and I note that the Prime Minister did not even bother to turn up. According to the minister, Senator Penny Wong, they are not a real audience—‘that other audience’ I think was the phrase she used. Those people who were out there on the front lawn are mothers, fathers, daughters, children and grandmothers. There was a 91-year-old lady there, and I do hope she is feeling all right because the day was a little hot and a little too much for her. We have got a 91-year-old woman prepared to go out there and stand up for those people who are saying there should be no carbon tax. That is a real person; that is not ‘the other audience’ that we were with out there, as the minister contends.

If that is what she seriously thinks about mainstream people in Australia, if that is what she seriously thinks about those working families who took time out to travel from right across this country to come to this place and give the Prime Minister their view, that is appalling. It just shows the arrogance not only of the minister, Penny Wong, but of this entire government. They will not recognise the impact this is having on the Australian people and the Australian people are saying no. What the government is putting forward is not going to make the slightest bit of difference to the climate. All of this pain—the taxes, the costs and the hikes that are going onto the Australian people—and the major emitters around the rest of the world are doing absolutely nothing. It is not going to make that slightest bit of difference to the climate.

Senator Feeney—and I must repeat this because unfortunately the President did not hear it at the time—today referred to those at the rally as somehow part of the Ku Klux Klan. That is appalling and he should have withdrawn it off his own bat. This government needs to take a long hard look at itself. The Australian people are saying no to a carbon tax and it is about time the government realised it.

Senator BILYK (Tasmania) (3.22 pm)—It is all right to get hot-headed, bang the desk and carry on about it all, but that does not actually—Senator Nash interjecting—That is exactly right, Senator Nash. I saw other senators yesterday doing the same sort of thing and then throughout question time I saw the same sort of thing. The dramatics of the situation from your side do not change the fact that we need to have a carbon price. It is the right thing to do for the economy. As has been mentioned on numerous occasions, a fixed priced for the first three to five years will help to provide certainty with carbon pricing.

Senator Wong spoke about facts earlier today and I interjected—but, unfortunately, it was not heard—but it is the facts versus the fiction. The fiction comes from those on the other side. Our side has evidence based science to back up our arguments; all your side has is dramatic technique, which you think might help win the day. I do not know what school the other side sends their senators to for dramatic technique but, really, it is overkill.

Senator McEwen—It’s Playschool.
Senator BILYK—Yes, it is Playschool. I will take that interjection, Senator McEwen, it probably is Playschool. To be honest, I do not think it adds any value to your argument to get up and be dramatic all the time and oppose everything, as you have been doing for months on end. Senator Nash was saying that we have talked a lot of rubbish. Well, let me tell you that the rubbish is not coming from this side of the chamber; the rubbish is coming from the other side of the chamber. You cannot validate your arguments. You have a leader who wants to tax households. We want to tax the polluters. Your leader has stated that he wants to increase the tax on everything and he wants to tax households. Not only that, he is completely out of step with members of his own side, and in referring to that I am talking about the member for Wentworth.

Senator Fifield—You’re a fantasist.

Senator BILYK—No, I am not a fantasist.

Senator Fifield—You are a fantasist.

Senator BILYK—I am not. The fantasist side is your side. You tried to recreate history on a number of occasions; you tried to rewrite history on a number of occasions. You almost live in an alternative world, a second life world where the opposition people belong.

Senator Troeth mentioned the issue of internationalism in regard to carbon pricing. Scores of countries have already started the transformation to a low-pollution economy, so for Senator Troeth to stand up and speak as she did earlier is misleading. There are 32 countries and 10 US states that already have emissions trading schemes in operation. Others, including China, Taiwan, Chile and South Korea and a number of Canadian provinces, are either considering developing their own or already have trial emissions trading schemes in place. Carbon taxation is in place in the UK, Denmark, Finland, Norway, Sweden and the Netherlands. It is also in Canada, China and India. So, for those on the other side to stand up and purport that it is not an international issue, or that Australia is going it alone, is completely untrue. It is misleading the public and that is inappropriate.

The opposition exaggerate on a number of issues. One was the exaggeration on the number of people that were allegedly on the front lawns today. My sources told me that there was nowhere near the number as purported by the other side. We know they are climate change deniers and we know that they base their arguments on fear and on trying to scare the Australian people. When the Australian people understand what the direct action plan from those on the other side is, they will not think that is appropriate either. But it is appropriate to get the big polluters to pay. That is the appropriate way to go. In regard to jobs and manufacturing it is the right thing to do for the economy. As I said earlier, when we have a fixed price, it will give some certainty to businesses to be able to determine what they do.

The other thing I must mention, of course, is the Leader of the Opposition’s many views. As the last count I did he had eight—(Time expired)

Senator BOYCE (Queensland) (3.27 pm)—I would have preferred to take note of the excellent question and speech by Senator Troeth today than to have to take note of the answers, or nonanswers, to the questions that we received on the topic of carbon tax and carbon pricing. I am bemused by the fact that this government and Minister Carr would try to suggest that facts should somehow get in the way of the carbon tax debate, as though they have never engaged in deception. We have Senator Bilyk claiming that there is no other way. She claimed the road ahead must
lead directly to a carbon tax to save the economy. She said it is a carbon tax that will save the economy.

Let us look at the deception piled on deception that this government is currently indulging in. It was only the day before the last election that the Prime Minister said that there would be no carbon tax, and that a carbon tax would never be imposed on the frail Australian economy by a Gillard government. That was the day before the election. That is deception No. 1. Now we are told that there will be a carbon tax. In fact we are told that there must be a carbon tax, and that this government is the sole custodian of truth on the topic of carbon tax.

You then say: ‘No-one is debating with us. No-one is working on the detail.’ What detail? There is no detail. They have never set out any detail. There is no pricing out there at all in the current situation. How can we argue about what this is going to do to the Australian economy without pricing? We can certainly say that the deception by Senator Wong and others that only the big polluters will pay it is just that: an outright deception. Unfortunately, I think it is based on their complete lack of experience and knowledge of how manufacturing and business in Australia work. I do not think they deliberately set out to be dishonest on this particular point, although that is what their rhetoric achieves in the end. You cannot claim that only the big polluters will pay.

Perhaps we could look at why there are emission-intensive companies and operations in Australia. Why are they there? They provide products absolutely vital to our economy. Senator Troeth mentioned the cement industry. I would like senators to think for a moment about what it is in Australia that can be constructed without the use of cement. The answer is nothing. If we import all that, what will happen is that emissions will rise by at least 15 per cent because every one of the competitors to our current producers is at least 10 to 15 per cent higher in their emissions production than those of our current manufacturers.

Let us look at other areas where there is indeed fear. Irrespective of what Senator Carr says, there is fear within the steel manufacturing industry, within the coal industry and within the mining industry. There is fear everywhere. Yes, these companies are a high polluters. They are (a) less polluting than their international competition and (b) they are providing what are absolutely vital and essential inputs for every business in Australia. It is not just big polluters who will pay; it is everyone. It is every business, it is everybody who ever builds anything, it is everybody who ever uses any product made using a polymer—and the list goes on and on. It is Australia that will pay, and to pay in a situation where we do not have the capacity to match our international competitors is folly; it is complete folly and deception.

Question agreed to.

PETITIONS

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

Asylum Seekers

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

The petition of the undersigned shows:

Growing concern at the moral, rhetorical and cultural decline of political discourse in Australia as demonstrated in respect to policies concerning the migration of persons of the Islamic faith.

Recent statements and acts, such as the tabling of petitions with clearly divisive undertones, surrendering the secular, non-discriminatory moral foundations our nation holds dear.

Your petitioners ask/request that the Senate:

1. Endorse the expansion family reunification policy for the compassionate settlement of family members of current Australian citizens or refu-
gees with residential status, where said family members have been affected by violence, upheaval and displacement due to recent events in North Africa and the Middle East

2. Endorse and re-articulate the policy of non-discrimination on the basis of race, religion, or colour

3. Reject the recent calls for the discrimination of Moslem refugees and immigrants and a reduction in immigration quotas on the basis of religion or race

4. Endorse the notion of Australia as an inclusive and welcoming country, particularly with respect to those people who have suffered torture and torment in overseas lands

5. Support legislation to ensure the above policies and processes

6. Support legislation which will result in a renewed vigilance in monitoring the nation’s media and appropriate measures if said media is found guilty of racist sentiment or of inciting an intolerance towards religious freedoms in Australia

by Senator Humphries (from 98 citizens)

Petition received.

NOTICES

Presentation

Senators Pratt and Carol Brown to move on the next day of sitting:

That the Senate—

(a) recognises that 24 March 2011 is World Tuberculosis Day, in observance of a disease that still claims the lives of 1.7 million people every year and which:

(i) is currently the leading killer of people living with HIV and the third leading killer of women,

(ii) has the highest growth in the southeast Asian region, which accounted for the largest number of new tuberculosis (TB) cases in 2008, and

(iii) could be dramatically reduced by improved detection and diagnosis;

(b) recognises that the Global Fund to Fight AIDS, TB and Malaria currently provides more than two-thirds of the global funding to combat TB and that:

(i) Australia should increase aid to 0.5 per cent of gross national income to ensure the resources for TB as well as AIDS and malaria are sufficient to achieve the goal of significantly reducing the number of people suffering from these diseases, and

(ii) action by Australia to increase its commitment may influence other donor countries to also increase their support; and

(c) acknowledges that the widespread adoption of the new Xpert diagnostic tool, which cuts the time for diagnosis from several weeks to less than 2 hours, would lead to significant improvements in detection and treatment of TB and requests the Government to facilitate the adoption of Xpert in southeast Asia.

Senator Ludwig to move on the next day of sitting:

That the following matter be referred to the Procedure Committee for inquiry and report:

The operation of standing order 55(2) to (5) relating to the meeting of the Senate.

Senator Fifield to move on the next day of sitting:

That the Senate notes the Gillard Government’s reliance on new ad hoc taxes such as the flood tax, student tax, mining tax and carbon tax instead of undertaking genuine tax reform in the national interest.

Senator Ludlam to move on the next day of sitting:

That the Senate—

(a) notes:

(i) Main Roads Western Australia have submitted a proposal to build a road to James Price Point through pristine Kimberley bushland which is prime habitat for the bilby, acknowledged as a vulnerable species by both the Western Australian Government and the Federal Government,
(ii) that building a road through this area would directly destroy the habitat as well as threatening the species by opening up its habitat to predators such as dogs and feral cats,

(iii) the construction of a major road through this area may contravene the Australian Government’s own National Recovery Plan for the greater bilby,

(iv) the status of the greater bilby in large parts of Western Australia is unclear, as identified in the National Recovery Plan, and

(v) that the decision to locate a gas hub or other heavy industry at James Price Point is still being considered under the Federal Government’s environmental assessment process and this proposal presupposes the outcome of that process; and

(b) calls for:

(i) the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to take careful note of the information provided through the environment protection and biodiversity conservation process and this proposal presumes the outcome of that process;

(ii) investment in more scientific research into the status and habitat of the bilby.

Senator Colbeck to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities (Senator Conroy) by 6 pm on Thursday, 24 March 2011, a copy of the interim report on the Tasmanian Forestry Negotiations prepared by Mr Bill Kelty, or if the Minister has not yet received the report, within 24 hours of receipt of the report from Mr Kelty.

Senator Colbeck to move on the next day of sitting:

(1) That a select committee, to be known as the Select Committee on Australia’s Food Processing Sector be established to inquire into, and report by 30 June 2012 on the following matters:

(a) the competitiveness and future viability of Australia’s food processing sector in global markets;

(b) the regulatory environment for Australia’s food processing and manufacturing companies including but not limited to:

(i) taxation,

(ii) research and development,

(iii) food labelling,

(iv) cross-jurisdictional regulations,

(v) bio-security, and

(vi) export arrangements;

(c) the impact of Australia’s competition regime and the food retail sector, on the food processing sector, including the effectiveness of the Competition and Consumer Act 2010;

(d) the effectiveness of anti-dumping rules;

(e) the costs of production inputs including raw materials, labour, energy and water;

(f) the effect of international anti-free trade measures;

(g) the access to efficient and quality infrastructure, investment capital and skilled labour and skills training; and

(h) any other related matter.

(2) That the committee consist of 9 senators, 4 nominated by the Leader of the Opposition in the Senate, 3 nominated by the Leader of the Government in the Senate and 2 nominated by any minority party or independent senators.

(3) That:

(a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate or any minority party or independent senator;

(b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the
(c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.

(4) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(5) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate and, as deputy chair, a member nominated by any minor party or independent senators.

(6) That the deputy chair shall act as chair when the chair is absent from a meeting of the committee or the position of chair is temporarily vacant.

(7) That the chair, or the deputy chair when acting as chair, may appoint another member of the committee to act as chair during the temporary absence of both the chair and the deputy chair at a meeting of the committee.

(8) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, have a casting vote.

(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to examine.

(10) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings, the evidence taken and such interim recommendations as it may deem fit.

(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(12) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) notes that smoking is the largest preventable cause of death and disease in Australia and places our health system under severe financial strain;

(b) recognises that Australia has in the past been a world leader in anti-smoking initiatives;

(c) acknowledges the important ongoing work and recent initiatives of Australian governments to reduce the burden of diseases caused by smoking, including plain packaging, advertising and point of sale bans, mass media campaigns, the Tackling Indigenous Smoking initiative and cessation support;

(d) expresses concern at the investment of more than $100 million of taxpayers money in shares in international tobacco companies by the Commonwealth Future Fund; and

(e) calls on the Government to review and revise investment criteria as a matter of urgency to ensure that the Future Fund is invested into ethical enterprises that are consistent with the health and wellbeing of the nation and not into tobacco.

Senator Siewert to move on the next day of sitting:

That the Senate—

(a) notes that 15 April 2011 will denote 20 years since the release of the report of the Royal Commission into Aboriginal Deaths in Custody in 1991;

(b) draws attention to increasing and alarmingly high rates of incarceration of Aboriginal and Torres Strait Islander people,
who are 14 times more likely to be incarcerated and represent 26 per cent of our prison population, despite representing less than 3 per cent of our total population and that between 2000 and 2010 their rate of imprisonment increased from 1 248 to 1 892 prisoners per 100 000 adults, as compared to a change from 130 to 134 non-Indigenous prisoners per 100 000 adults;

(c) raises concern at continuing disproportionately high rates of deaths in custody of Aboriginal and Torres Strait Islander people with 269 deaths in custody since the report in 1991, that is, nearly one in 5 of all deaths in custody;

d) expresses concern that 20 years later the vast majority of the recommendations of the Royal Commission have not been implemented; and

(e) calls on the Government to:

(i) establish a review of the implementation of the recommendations of the Royal Commission to report on progress and map out further action,

(ii) implement national standards and independent monitoring for places of detention, and

(iii) implement the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, including setting up national preventive mechanisms.

Senator Mason to move on the next day of sitting:

That the Senate—

(a) deplores the waste and mismanagement by the Gillard Government which has led to the decision to abolish the Australian Learning and Teaching Council (ALTC);

(b) condemns this decision because the ALTC better directs the expenditure of billions of taxpayers' dollars on teaching and learning in higher education;

(c) considers that, in light of the Gillard Government nominating education and skills as top priorities for 2011, the abolition of the ALTC sends the signal that, despite its rhetoric, the Government does not care about improving excellence in teaching and learning;

(d) considers that the abolition of the ALTC will have a deleterious effect on the Bradley agenda of higher education reform, particularly the Government's commitment to increase the participation in higher education to 40 per cent of all 25 to 34 year olds by 2025; and

(e) notes that more than 2 200 concerned citizens have now signed an electronic petition calling for the ALTC to be retained.

Senator Siewert to move on the next day of sitting:

That the following matter be referred to the Community Affairs References Committee for inquiry and report by 18 August 2011:

The effectiveness of the special arrangements established in 1999 under section 100 of the National Health Act 1953, for the supply of Pharmaceutical Benefits Scheme (PBS) medicines to remote area Aboriginal Health Services, with particular reference to:

(a) whether these arrangements adequately address barriers experienced by Aboriginal and Torres Strait Islander people living in remote areas of Australia in accessing essential medicines through the PBS;

(b) the clinical outcomes achieved from the measure, in particular to improvements in patient understanding of, and adherence to, prescribed treatment as a result of the improved access to PBS medicines;

(c) the degree to which the ‘quality use of medicines’ has been achieved including the amount of contact with a pharmacist available to these patients compared to urban Australians;

(d) the degree to which state/territory legislation has been complied with in respect to the recording, labelling and monitoring of PBS medicines;

(e) the distribution of funding made available to the program across the Approved
Pharmacy network compared to the Aboriginal Health Services obtaining the PBS medicines and dispensing them on to its patients;

(f) the extent to which Aboriginal Health Workers in remote communities have sufficient educational opportunities to take on the prescribing and dispensing responsibilities given to them by the PBS bulk supply arrangements;

(g) the degree to which recommendations from previous reviews have been implemented and any consultation which has occurred with the community controlled Aboriginal health sector about any changes to the program;

(h) access to PBS generally in remote communities; and

(i) any other related matters.

Senator Williams to move on the next day of sitting:

That the Senate

(a) notes, with concern, the decision of the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to assess under the Environment Protection and Biodiversity Conservation Act 1999, the decision of the Victorian Government to allow the grazing of cattle in the Alpine National Park; and

(b) further notes the undisputed evidence that cattle grazing in national parks reduces fuel load and reduces the risk and severity of bushfire.

Postponement

The following item of business was postponed:

General business notice of motion no. 199 standing in the name of Senator Cormann for today, relating to a proposed tax summit, postponed till 24 March 2011.

Withdrawal

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.30 pm)—I withdraw general business notice of motion No. 207.

VETERINARY EDUCATION

Senator BACK (Western Australia) (3.30 pm)—by leave—I, and also on behalf of Senator Milne and Senator Ludwig, move:

That the Senate:

(a) notes that:

(i) 2011 marks the 250th anniversary of veterinary education with the establishment of the first veterinary school in Lyon, France, in 1761, and

(ii) around the world, 2011 is being designated World Veterinary Year to honour the contribution and achievements of the veterinary profession in the community to animal health and production, public health, animal welfare, food safety and bio-security;

(b) recognises that:

(i) in Australia, 2011 marks the 120th anniversary of the first class of graduates from the inaugurated Melbourne Veterinary College,

(ii) seven schools of veterinary medicine are now established in Victoria, New South Wales, Queensland, Western Australia and South Australia,

(iii) veterinarians are dedicated to preserving the bond between humans and animals by practising and promoting the highest standards of science-based, ethical animal welfare with all animals, large and small,

(iv) veterinarians are on the front line in maintaining Australia’s status as being free from exotic diseases that threaten the environment and human and animal health, and that veterinarians provide extensive pro bono services annually through the ethical treatment of unowned animals and wildlife,

(v) veterinarians are vital to ensuring the high quality of Australia’s commercial herds and flocks and the security of our food supply,
(vi) veterinarians provide a valuable public health service through preventative medicine, control of zoonotic disease and scientific research, and

(vii) significant contributions and achievements have been made by many individual members of the Australian veterinary profession, including:

(A) Nobel Prize winner and Australian of the Year, Dr Peter C Doherty, who achieved major breakthroughs in the field of immunology which were vital in understanding the body’s rejection of incompatible tissues in transplantation and in fighting meningitis viruses,

(B) Professor Mary Barton, a leading veterinary bacteriologist with a distinguished career in government and in veterinary public health, who has a strong research background in bacterial infections of animals and in antibiotic resistance in animal and human health, and

(C) Dr Reg Pascoe, a renowned equine surgeon and dermatologist, and a leader in his profession for more than 50 years, who, while running a busy practice in Oakey, published 70 research papers and many texts while earning a doctorate, and has also dedicated years to the National Veterinary Examination and the Veterinary Surgeons’ Board of Queensland; and

(c) further recognises:

(i) that 2011 is World Veterinary Year,

(ii) the valuable and diverse roles veterinarians perform in the Australian community, and

(iii) the veterinary profession as it celebrates the past and continuing contribution by veterinarians.

It is a privilege to move this motion which recognises World Veterinary Year, marking the 250th anniversary of veterinary education in the world with the establishment of the first school in Lyon, France, in 1761. To put it into perspective, that was nine years before Captain Cook discovered the East Coast of Australia and 18 years before European settlement. The first school was established following yet another horrific 18-year epidemic of the disease rinderpest throughout Europe. It was first described in 3000 BC and it was only in October 2010 that the world was finally declared free of the disease.

The motion honours the contribution and achievements of the profession to animal health production and welfare, disease prevention, public health and food safety and biosecurity. I quote the Australian Veterinary Association’s President, Barry Smyth, who I believe is in the gallery this afternoon, who said, ‘The greatest contribution Australian veterinarians have made to the livestock industry and indeed the country is the eradication of three major infectious diseases of cattle, being bovine tuberculosis, brucellosis and pleuroneumonia.’ Dr Smyth said this was achieved by many veterinarians in the field, in abattoirs and laboratories who worked in accordance with excellent and informed planning, devised and directed by veterinarians.

The motion recognises the significant contribution and achievements of three members of our profession whose names appear in the papers. In addition, I pay tribute to some others: Professor Ken Jubb, who received a Medal of the Order of Australia in January this year for his services to veterinary science and pathology; to the memory of Dr Tom Hungerford, whose legacy was the establishment of the Postgraduate Foundation in Veterinary Science; to my colleague Dr Peter Reid, an equine practitioner in Brisbane who was present when the first known Hendra outbreak occurred in 1994 and who has been a constant advocate for the development of rapid tools and vaccination for
horses; and to the memory of my friend, classmate and colleague Dr Chris Baldock, who tragically died in 2005.

I now turn to the role played by the majority of veterinarians today, and that is in the care of our companion animals. We are a nation of animal lovers and no-one underestimates the value of the bond between humans and pets. I pay tribute to the role that veterinarians play in this relationship, taking seriously the task of preserving the health of animals to support the relationship. The motion speaks of the provision of pro bono services each year in the ethical treatment by veterinarians of unowned animals and wildlife. I wish to record that they join the many thousands of volunteers across Australia who every year help out when natural disasters devastate our communities. The horse industry is another that has been well served by the profession over many, many years. This was most evident with the outbreak of equine influenza in 2007 and its subsequent eradication.

I do thank Senator Ludwig and Senator Milne for joining me in moving this motion. I commend it to the Senate. Deputy President, I thank you for the opportunity to present it.

Question agreed to.

COMMITTEES

Rural Affairs and Transport References Committee

Reference

Senator FISHER (South Australia) (3.38 pm)—I, and also on behalf of Senator Hef- fernan and Senator Xenophon, move:

That the following matter be referred to the Rural Affairs and Transport References Committee for inquiry and report by 2 November 2011:

Operational issues arising in the export grain storage, transport, handling and shipping network, with particular reference to:

(a) any risks of natural, virtual or other monopoles discouraging or impeding competition in the export grain storage, transport, handling and shipping network, and any implications for open and fair access to essential grains infrastructure;
(b) the degree of transparency in storage and handling of grain and the appropriateness of any consequent marketing advantages;
(c) equitable access to the lowest cost route to market, including transport options;
(d) competition issues arising from the redelivery of grain;
(e) the absence of uniform receipt, testing and classification standards and practices and any implications for growers and/or for Australia’s reputation as a quality supplier;
(f) equitable and efficient access to the shipping stem; and
(g) any other related matters.

Question agreed to.

Finance and Public Administration References Committee

Reference

Senator PARRY (Tasmania) (3.39 pm)—I seek leave to amend general business notice of motion No. 2 standing in the name of Senator Cormann by omitting the reporting date of 6 May 2011 and substituting the reporting date of 13 May 2011.

Leave granted.

Senator PARRY—At the request of Senator Cormann, I move:

That the following matters be referred to the Finance and Public Administration References Committee for inquiry and report by 13 May 2011:

The administration of health practitioner registration by the Australian Health Practitioner Regulation Agency (AHPRA) and related matters, including but not limited to:
(a) capacity and ability of AHPRA to implement and administer the national registration of health practitioners;
(b) performance of AHPRA in administering the registration of health practitioners;
(c) impact of AHPRA processes and administration on health practitioners, patients, hospitals and service providers;
(d) implications of any maladministration of the registration process for Medicare benefits and private health insurance claims;
(e) legal liability and risk for health practitioners, hospitals and service providers resulting from any implications of the revised registration process;
(f) liability for financial and economic loss incurred by health practitioners, patients and service providers resulting from any implications of the revised registration process;
(g) response times to individual registration enquiries;
(h) AHPRA’s complaints handling processes;
(i) budget and financial viability of AHPRA; and
(j) any other related matters.

Question agreed to.

MEDIA REPRESENTATION AND BODY IMAGE

Senator PRATT (Western Australia) (3.40 pm)—I move:

That the Senate—

(a) acknowledges the Government’s continued commitment to improved media representation of women through the 2010 launch of the Voluntary industry code of conduct on body image (the code);
(b) recognises that body image is an important health and wellbeing issue, as evidenced by research, including:

(i) the recently released report, Australian Guides say... 2010: An insight into the minds of girls and young women in Australia today, which shows that 63 per cent of girls aged 10 to 14 years, and 75 per cent of those aged 18 to 30, believe that the media think the most important aspect of being a girl is to look ‘pretty and thin’ and that pressure to look good was listed by survey respondents as one of the top 10 worst things about being a girl,

(ii) Mission Australia’s National survey of young Australians 2010: Key and emerging issues, which states that body image is the top personal concern among 11 to 24 year old Australians, a highly regarded survey which had 50 240 participants, with 53.9 per cent of the respondents being female,

(iii) research published in 2000 by the Faculty of Health, Queensland University of Technology, which showed that anorexia nervosa is the third most common chronic illness after obesity and asthma for adolescent girls in Australia, and

(iv) a report published in the Annual Review of Medicine, dated February 2010, which states that anorexia nervosa has the highest mortality rate of any psychiatric order with the death rate higher than that of major depression;

(c) applauds the important work of Equality Rights Alliance, led by YWCA Australia, to promote and strengthen the code; and

(d) notes that as Australia’s largest network of organisations advocating for women’s equality, women’s leadership and acknowledgement of the diversity of women, Equality Rights Alliance celebrated 100 years of International Women’s Day held on Tuesday, 8 March 2011, with ‘Sharing Young Women’s Stories’, a project to promote positive body image.

Question agreed to.

COMMITTEES

Joint Standing Committee on Migration

Meeting

Senator McEWEN (South Australia) (3.41 pm)—At the request of Senator Bilyk, I move:
That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 11 May 2011, from 10.30 am to 12.30 pm.

Question agreed to.

Select Committee on the Reform of the Australian Federation

Extension

Senator PARRY (Tasmania) (3.41 pm)—At the request of Senator Trood, I move:

That the time for the presentation of the report of the Select Committee on the Reform of the Australian Federation be extended to 20 June 2011.

Question agreed to.

Select Committee on the Reform of the Australian Federation

Meeting

Senator PARRY (Tasmania) (3.41 pm)—At the request of Senator Trood, I move:

That the Select Committee on the Reform of the Australian Federation be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 24 March 2011.

Question agreed to.

AI-LIVE

Senator SIEWERT (Western Australia) (3.42 pm)—I, and on behalf of Senator Fifield, move:

That the Senate—

(a) acknowledges the success of the Deafness Technology Demonstration Forum in Parliament House on 19 August 2009, and notes the interest expressed by parliamentarians in technologies to enable deaf students to better participate in mainstream education;

(b) draws the attention of senators to recent progress in further development and application of the ‘Ai-Live’ system, which combines voice recognition software with trained re-speakers to deliver real time word accurate text translation or captioning of speech to the student and its successful application in schools and further education;

(c) recognises the transformative impact that technology has had on the engagement and learning of deaf students with access to the technology, who as a result are now able to understand and follow what their teacher or lecturer is saying in real time;

(d) notes that state and territory education departments have indicated in principle commitment to a national pilot of Ai-Live in high schools, which would see them meeting 75 per cent of the costs; and

(e) calls on the Federal Government to provide supplementary funding, to cover technology, infrastructure and support costs, to enable a national pilot of Ai-Live to commence.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (3.42 pm)—I seek leave to make a statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—During this parliament we have had by and large a non-political approach to disability issues. It is somewhat disappointing that the coalition and the Greens have put up this motion in this way. The government clearly supports—can I put it on the record—the first four points of the motion but cannot agree with the final point.

It is a well respected principle that parliaments are not the best place to make operational decisions on the delivery of programs or select the preferred providers of programs such as this. Whilst Ai-Live have demonstrated to the Parliamentary Secretary for Disabilities and Carers, there are a range of other technologies both in current use and in development that may also assist children who are hearing impaired or who are deaf.$
with their education. This government is committed to providing world-class education for all children and has demonstrated that through delivering the national curriculum, the BER program and the current review of funding for schools under Mr David Gonski. We will not and should not decide in this place which company should be funded to provide assistive technologies to our children. Surely, with respect, this is best done through the appropriate processes.

Senator SIEWERT (Western Australia) (3.44 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator SIEWERT—Firstly, if the government had wanted to ask us to amend this motion, they should have contacted me. I had no contact from the government about this. It is usual practice for them to contact people, and I am sure that Senator Fifield would have joined me in accommodating a discussion with the minister about this.

Secondly, this is an excellent program. I have seen it demonstrated a number of times and it has shown excellent and promising results. The problem at the moment is that there is no proper system through which people can get support for this type of project. There is no clear path. What happens is that people have to jump through a variety of hoops with there being no clear process to get funding for good projects. What we have here is good technology that is showing promising results and that is worth funding. And this could apply to another type of technology. We have seen a student, for example, go from the bottom of a class to the top of the class in three weeks using this technology. It is time that we saw this work at a larger scale. I do not like people not having clear access to this sort of technology, which would really help people with hearing impairments. We are saying to the government that they should please look at this. People have been jumping through hoops and not getting anywhere, which denies people with disabilities access to this sort of good support. If the government wants to come back to us and modify the motion, please talk to us.

Senator FIFIELD (Victoria)—Manager of Opposition Business in the Senate (3.45 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator FIFIELD—I agree with Senator Siewert. The opposition would have been very happy to make amendments to this motion so that there could have been unanimity. One of the reasons that the opposition is keen to support this motion is because funding a pilot program would enable this particular product to be made available to students with hearing impairments throughout Australia. Should a coalition government be elected, this is the sort of support for students with disabilities that the coalition’s education card, announced at the last election, would support. Up to $20,000 would be available to be directed to the school of the parent’s choice. This is exactly the sort of technology that that education card should support.

This is an extremely worthy project. The money in question to support the trial is not large. I and Senator Siewert would be absolutely delighted if shortly the government found its way clear to supporting this sort of project. It is a good project because it has demonstrated its effectiveness by lifting dramatically the educational outcomes of individual students in a short period of time. This is something very practical, very achievable and very doable. It is something that could be rolled out in a very short period of time. This particular pilot project or trial is well worth the government supporting and I
hope that they see their way clear to doing so.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (3.47 pm)—I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator LUDWIG—I thank Senator Siewert and Senator Fifield for their contributions. I will draw the minister’s attention to the transcript of what they have just said on these two points.

Question agreed to.

GOVERNMENT ADVERTISING

Senator BIRMINGHAM (South Australia) (3.48 pm)—I move:

That the Senate—

(a) notes the past statements by the Prime Minister (Ms Gillard) in relation to Government advertising, specifically that ‘Labor will end the abuse of taxpayer funded government advertising’;

(b) expresses its regret at the hypocrisy on display as a result of the Government having confirmed it is developing options for an advertising campaign related to its planned carbon tax; and

(c) states its clear opposition to any such taxpayer funded advertising campaign prior to consideration by the parliament of the Government’s carbon tax proposal.

Senator XENOPHON (South Australia) (3.48 pm)—by leave—I move:

Paragraph (b), omit “hypocrisy”, substitute “inconsistency”.

Question agreed to.

The DEPUTY PRESIDENT—The question now is that the original motion, as amended, be agreed to.
ing campaigns. These guidelines emphasise that campaigns must be factual, objective and not directed at promoting party political interests. The Labor government has also significantly reduced spending on government advertising. In 2010, the government spent $140 million less than the Howard government did in 2007. We have undertaken these measures to fix the disastrous system that operated under the Howard government and it is clear, transparent, open and accountable.

Senator XENOPHON (South Australia) (3.52 pm)—I seek leave to make a brief explanation.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator XENOPHON—I support this motion because I have real concerns, and have consistently had real concerns, about governments, Liberal and Labor, using taxpayer funds for advertising purposes—effectively, party political ads. Just because the Howard government was, I think, pretty outrageous in the way it went about things, particularly in relation to the Work Choices ads, does not make it right that this government is proposing to do the same thing, which many would see as party political.

Senator Ludwig—We’re not doing the same thing.

Senator XENOPHON—To be fair to Senator Ludwig, I acknowledge that he says they are not doing the same thing. But I think the mining tax ads, as counterproductive as they were—

Senator Fifield—They usually are!

Senator XENOPHON—were an example of that. Senator Fifield acknowledges that they usually are counterproductive. I think, if a politician wants to get a point across, they can do so: they can hold a media conference, or they can get the party to fund the ads, but using taxpayers to push a line before legislation has been passed—and that is a big distinction—

Senator Ludwig—No government advertising? What about health related issues?

Senator XENOPHON—Senator Ludwig is interjecting, and I am happy that he is. There is a big difference between explaining the effects of legislation once it has been passed, and how it will impact on people, and before legislation has been passed. The distinction is that, before legislation has been passed, you have to consider: is it a cheap way of doing the party’s ads?

Senator Ludwig interjecting—

Senator XENOPHON—if I could hear Senator Ludwig, I would respond to his interjections!

The DEPUTY PRESIDENT—I would ask you to ignore Senator Ludwig and conclude your remarks.

Senator XENOPHON—How can you ignore Senator Ludwig, Mr Deputy President? I indicate that I support this motion. But I think that the coalition have acknowledged that they have been in the wrong on this in the past as well.

Senator BIRMINGHAM (South Australia) (3.54 pm)—Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT—Leave is granted for two minutes.

Senator BIRMINGHAM—I thank Senator Xenophon for his contribution and for his indication of support for the amended motion. I have noted what Senator Ludwig has had to say in this regard, and can I say that hypocrisy is writ large in what the government has to say on this matter. Senator Ludwig wanted to talk in great terms about what the former coalition government did. Yet, of course, he ignored the government’s own words in relation to that previously:
those words, from the then Deputy Leader of the Opposition and now Prime Minister, and the then spokesman on government waste and now finance minister, that Labor ‘will end the abuse of taxpayer funded government advertising’.

Senator Ludwig spoke about the committee process, the Auditor-General reviews that have been put in place, yet we know they were circumvented on grounds of so-called ‘national emergency’ for the mining tax campaign. What is to say you will not do this again? We know that Mr Combet has confirmed the government is looking at options for public communications. The government should rule this out. This is a highly charged political debate. There is no place for government advertising in this debate at this time, and Senator Xenophon is quite right: politicians should be able to sell these issues on their merits. That is the challenge for the government.

There is also a challenge in this for the Australian Greens. I have not heard their position on this motion, but I challenge them to support this motion. Senator Brown has previously championed issues of government waste in advertising. He has introduced bills to do so, and he has claimed, in introducing them, that such bills are ‘designed to protect both the public purse and public interest from self-invested government advertising’. I challenge Senator Brown and the Australian Greens to support this motion and, through their involvement in the carbon tax with the government, ensure the Australian purse is protected from such self-interested advertising in the future.

Senator Ludwig interjecting—

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (3.56 pm)—I seek leave to make a short statement.

Senator Ludwig interjecting—

The DEPUTY PRESIDENT—Order, Senator Ludwig! Senator Brown is seeking the call.

Senator BOB BROWN—Thank you, Mr Deputy President. The matter we are—

The DEPUTY PRESIDENT—Sorry, you must seek leave.

Senator BOB BROWN—I had sought leave.

The DEPUTY PRESIDENT—Sorry, I did not hear you. Leave is granted for two minutes.

Senator Parry interjecting—

Senator BOB BROWN—Yes, it is two minutes for everybody, Senator Parry.

The DEPUTY PRESIDENT—I have to say that it is for two minutes, because leave can be granted unconditionally. But it has been granted for two minutes.

Senator BOB BROWN—Then two minutes for all, you may say, Mr Deputy President. Senator Birmingham requires a position from the Greens. We will be voting against his motion. The difficulty for the opposition is complexity—they are frightened of it, but we are not. I have a bill before the Senate which requires such advertising as this to go before the Auditor-General, and I would expect that will be the case if advertising is devised—and I know the government has indicated that is the case.

On the other hand, the opposition leaves out of this the most potent factor at play, to bombard and distort democracy—that is, the power of the corporate, tax-deductible advertiser. We saw in the mining tax advertising $22 million from the big corporate sector, who are very much invested in the issue of reducing any carbon price in the future. They effectively used advertising to get an arrangement which is going to rip $10 billion per annum out of the public purse over the next 10 years. That is $10 billion for schools,
hospitals, transport and housing every year, through a targeted advertising campaign that had the current Labor government take a much weaker stand, and of course the opposition back off all together. I do not think we should allow public opinion simply to be exposed to that without any sensible, well thought out and fair rejoinder.

Question put:

That the motion (Senator Birmingham’s), as amended, be agreed to.

The Senate divided. [4.03 pm]

(The President—Senator the Hon. JJ Hogg)

Ayes………… 34
Noes………… 32
Majority……… 2

AYES

Abetz, E.  Adams, J.
Back, C.J.  Barnett, G.
Birmingham, S.  Boyce, S.
Brandis, G.H.  Bushby, D.C.
Cash, M.C.  Colbeck, R.
Coonan, H.L.  Cormann, M.H.P.
Eggleston, A.  Ferguson, A.B.
Fielding, S.  Fifield, M.P.
Fisher, M.J.  Heffernan, W.
Humphries, G.  Johnston, D.
Joyce, B.  Kroger, H.
Macdonald, I.  Mason, B.J.
McGauran, J.J.  Minchin, N.H.
Parry, S. *  Ronaldson, M.
Ryan, S.M.  Scullion, N.G.
Troeth, J.M.  Trood, R.B.
Williams, J.R.  Xenophon, N.

NOES

Arbib, M.V.  Bilyk, C.L.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Cameron, D.N.
Conroy, S.M.  Crossin, P.M.
Farrell, D.E.  Faulkner, J.P.
Feeney, D.  Forshaw, M.G.
Furner, M.L.  Hanson-Young, S.C.
Hogg, J.J.  Hurley, A.
Hutchins, S.P.  Ludlam, S.
Ludwig, J.W.  Lundy, K.A.

Marshall, G.  McEwen, A. *
Milne, C.  Moore, C.
O’Brien, K.W.K.  Polley, H.
Pratt, L.C.  Sherry, N.J.
Siewert, R.  Stephens, U.
Sterle, G.  Wortley, D.

PAIRS

Bernardi, C.  Collins, J.
Boswell, R.L.D.  Wong, P.
Ferravanti-Wells, C.  Carr, K.J.
Nash, F.  Evans, C.V.
Payne, M.A.  McLucas, J.E.

* denotes teller

Question agreed to.

ISRAEL: BOYCOTTS

Senator FIFIELD (Victoria) (4.06 pm)—I move:

That the Senate—

(a) notes:

(i) the boycott of Israel instigated by Marrickville Council – part of the Global Boycott Divestments and Sanctions (GBDS) – banning any links with Israeli organisations or organisations that support Israel and prohibiting any academic, government, sporting or cultural exchanges with Israel,

(ii) letters from Marrickville Council to Members of Parliament asking them to support the GBDS, and

(iii) reports of the intention of the Greens Marrickville Mayor, Ms Fiona Byrne, to seek to extend the boycott of Israel to the entire state of New South Wales;

(b) acknowledges that Israel is a legitimate and democratic state and a good friend of Australia; and

(c) denounces the Israeli boycott by Marrickville Council and condemns any expansion of it.

Question agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (4.06 pm)—I ask that the Australian Greens’ opposition to this motion be recorded.
PROBLEM GAMBLING

Senator SIEWERT (Western Australia) (4.07 pm)—I, and also on behalf of Senator Xenophon, move:

That the Senate—

(a) welcomes the launch of the Australian Churches Gambling Taskforce on Tuesday, 22 March 2011;

(b) raises concern at the significant impacts of problem gambling on our community, including relationship breakdown, mental health issues, unemployment, debt and financial hardship, theft and social isolation, with an estimated cost to our community of $4.7 billion a year;

(c) notes the Productivity Commission’s findings that:

(i) for every problem gambler, on average seven other people are adversely impacted as a direct result, and

(ii) of the 600 000 Australians who play poker machines on a weekly basis, approximately 15 per cent are problem gamblers and account for around 40 per cent of expenditure on the ‘pokies’, with an estimated average loss of $21 000 per problem gambler per year, and another 15 per cent are at risk of becoming problem gamblers; and

(d) commends the ongoing effort to introduce a national pre-commitment scheme for all electronic gambling machine venues and expresses hope that we can reduce the impacts of problem gambling on those vulnerable to gambling addiction, their families and loved ones.

Question agreed to.

COMMITTEES

Rural Affairs and Transport Legislation Committee

Reference

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting the Attorney-General on Queensland Floods Recovery) (4.07 pm)—I table the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011 and seek leave to move a motion to refer the documents to a committee. Additionally, I seek leave to incorporate in Hansard a statement setting out the reasons.

Leave granted.

Senator LUDWIG—I move:

That the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011 be referred to the Rural Affairs and Transport Legislation Committee for inquiry and report by 10 May 2011.

Question agreed to.

The statement read as follows—

EXPOSURE DRAFT

ILLEGAL LOGGING PROHIBITION

BILL 2011

I am pleased to table a draft of legislation and a draft explanatory memorandum for the Illegal Logging Prohibition Bill 2011. I refer the draft materials to the Senate Standing Committee on Rural Affairs and Transport and ask them to hold a public inquiry and report back to the Senate by 29 April.

This draft bill delivers a commitment the Labor Party made in 2007 and reiterated in 2010. By referring the drafts, I am also fulfilling an undertaking that I made in December 2010 to introduce the legislation after public consultation.

The government has already consulted widely with forest industry stakeholders, manufacturers and retailers of wood products, and with conservation interests on this matter. The legislation benefits from substantial research commissioned by the government including a proposed framework for assessing and managing the risk of sourcing illegally logged timber products, a generic code of conduct and regulatory and small business impact statements.

The committee may wish to note this research is all available on my department’s website.
The legislation prohibits the importation of illegally logged timber. It provides a framework for a co-regulatory approach which will be implemented by subordinate legislation.

The legislation supports international efforts to combat the trade in legally logged timber products which poses unfair competition between illegal and legal timber suppliers.

This is an appropriate matter for the Parliament to consider in the United Nations International Year of Forests 2011.

MATTERS OF PUBLIC IMPORTANCE

Carbon Pricing

The DEPUTY PRESIDENT—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 lack of appreciation and understanding of cost of living pressures facing Australian families and intention to add to these by the introduction of a carbon tax and other new taxes.

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 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 FIFIELD (Victoria) (4.09 pm)—It has been said before, but I think it bears repeating, that this government formed office on the back of a lie. Julia Gillard put her hand on her heart and declared—and I quote, again: ‘There will be no carbon tax under the government I lead.’ That was on Channel 10 on 16 August 2010. I repeat this again: ‘There will be no carbon tax under the government I lead.’ That was Prime Minister Julia Gillard. We have heard this falsehood repeated time and again. On this side of the chamber we have spoken of it often. It has been canvassed in the media over and over again. In fact, it has been heard so often that the sheer audacity of the statement is almost starting to lose its impact. That is why I think it is well worth spending a moment on that absolute, complete and utter falsehood again. This government slid into office on the back of a lie.

But this is not the first time. Cast your mind back to the 2007 election. You might remember that Labor was going to ‘ease the squeeze’, that Labor’s greatest concern in that election campaign was for working families and the cost-of-living pressures that they faced. Oh how the Australian Labor Party felt and shared the pain of Australian households, how they felt the pain of working families! Labor was so keen to demonstrate that care, that concern, that it came up with a couple of policies. One was Grocery-Watch, which has now gone into infamy. The other was Fuelwatch, which has also faded into political history. The theory was that by watching something—by watching the price of groceries—those prices would magically fall. By setting up a website, grocery prices would tumble. There was the parallel policy that by watching petrol prices they would fall and that by setting up a website and a petrol commissioner, again, they would magically fall.

Labor are not completely without some capacity. They knew that these measures would never work. As we know, Grocery-Watch was abandoned. The website was a debacle. It was originally outsourced to Choice, I think, and then the whole thing fell over. Fuelwatch, too, was abolished. There may well still be a petrol commissioner. I do not know; I lost track. He may still be there, but who cares? It does not really matter. It was never going to achieve anything. It was
all a con and a sham. The truth is that in 2007 Labor did not care about cost-of-living pressures. Labor never intended to do anything about cost-of-living pressures. They merely adopted a posture of care. They had a furrowed brow and a tilted head, but it meant nothing.

The reason I am harking back to 2007 is to make evident that Labor has form when it comes to cost-of-living issues. They fib, they pose and they posture. They talk a good game; you have to give them that. They talk a very good game, but it does not result in anything. In 2007, Labor’s sins were sins of omission. Labor broke a promise—the promise to do something to help. They failed to do what they said it would do.

In 2010 Labor’s sins are ones of commission, the promise broken not to do something. They promised that they would not introduce a carbon tax. Their broken promise is that they did something which they said they would not do. And not only did Prime Minister Gillard commit on 16 August 2010 not to introduce a carbon tax, she did so again on 20 August 2010, on the front page of the Australian newspaper. But this was not just any edition of the Australian newspaper; this was not just any day; this was the day before the election, the day when Australians really focus on the policies of each party. It was the front page, stop the presses: ‘I rule out a carbon tax.’ No qualification, no equivocation, no hesitation, no subclauses; it was a pure, straight, simple statement ‘I rule out a carbon tax’.

So the party that was elected in 2007 promising to fix grocery prices and petrol prices, the party that formed government in 2010 on a promise to not introduce a carbon tax, has a policy that will increase the cost of living for Australian families, that will put pressure on Australian families, that will push up electricity bills by an extra $300 per year in the first year of operation of a carbon tax. And that is on top of what prices will already naturally increase by. Petrol is to rise by 6.5c a litre, again in just the first year of operation of the carbon tax. That is on top of whatever petrol may already be going to rise by. Gas prices will rise by 10 per cent in the first year as well, and groceries will rise. Groceries—that great concern of 2007, that great concern that prompted GroceryWatch: the carbon tax is going to increase grocery prices. Petrol, that great concern that prompted Fuelwatch in 2007: the government’s policy is going to see petrol prices increase. Manufactured goods will rise. It is all bad news for Australian families.

The response of the government, the Australian Labor Party, will be as always that this side of the chamber are climate change deniers, that this side of the chamber are red-necks. The truth is that on this side of the chamber we do acknowledge that man does make a contribution to global warming. This opposition does have a policy to address that; a very practical policy. We are going to set up a $10.5 billion fund to cover the period between now and 2020 and we are going to use the money to buy back greenhouse emissions to meet the target that both sides of the chamber share of reducing emissions by five per cent by 2020. It bears repeating, because I think this is important to know, that these incentives will cut emissions through things such as capturing carbon in soil, planting trees, cleaning up coal-fired power stations, cleaning up gases from coalmines and making buildings more energy-efficient. We have a plan.

The debate here is about good policy, what constitutes good policy, what constitutes an appropriate response, what constitutes an effective response, what constitutes a response that will not increase the cost of living for Australian families. That is the debate here; it is one of policy. It does not
matter how much those on the other side seek to shift the debate about who might be out the front of Parliament House today, whether they are the sorts of people that the Australian Labor Party might keep company with on a Sunday morning over breakfast. That is not actually the issue. The people out there in front of Parliament House are entitled to their views. They are Australian citizens, they are entitled to put their view—

Senator Cameron—Pauline Hanson and Tony Abbott.

The ACTING DEPUTY PRESIDENT (Senator Trood)—Order! Senator Cameron, those sorts of interventions are unhelpful. I see your name on the list. You can make your contribution later on.

Senator FIFIELD—A couple of weekends back I was in Werribee in front of Prime Minister Gillard’s electorate office with about 400 Australians who were rightly angry at the breach of promise by this Prime Minister, who were rightly concerned about the increasing cost of living pressures—400 real, regular, everyday Australians who turned up to Werribee in front of Julia Gillard’s electorate office on a long weekend in Melbourne on a sunny day, and they deserve to have their view heard. Their anger is justified. Their anger is righteous. This government stands condemned for its policy to hit Australian families.

Senator FURNER (Queensland) (4.20 pm)—I am really proud to be in a position today to make a contribution on this motion on carbon pricing. The opposition needs to focus on the track record of the Labor government in terms of economic responsibility. We have a proven track record on this. You only need to go back two years ago—

Opposition senators interjecting—

Senator FURNER—I know those opposite are suffering from acute amnesia because you forgot we had a global financial crisis. Go and sort out your acute amnesia, because you forgot all about that. You forgot how this Labor government handled economic responsibility on that matter.

Senator Cash—We haven’t forgotten.

Senator FURNER—You haven’t forgotten. That is why you keep denying and opposing this government’s logical and reasonable policies to help out working families—working families that need assistance. You sit over there and you oppose the stimulus packages and you oppose the flood levy and the cyclone package on the basis that you do not want to care about or help out Queenslanders. You want to sit back and not let them get to work even though the railway bridges have been washed away and the roads are in disrepair. You are prepared to sit back and do nothing the way you usually do. That is your position.

I am a member of the Joint Standing Committee on Foreign Affairs, Defence and Trade, and numerous ambassadors appear before us. One thing they have told us over the last couple of years since 2009, when the global financial crisis hit us, is that they acknowledge how well the federal government of Australia has handled this global financial crisis. We are the envy of the world. These ambassadors cannot believe the way we have handled the economy. For the first time, and I stand to be corrected, we have got the mantle of economic responsibility as a government—something that the opposition certainly used to crow about and claim that they held. But now the public respect the way we manage the economy. They trust us on the way we manage the economy and, once again, we have a proven track record on that.

I will use as an example one of the stimulus package mechanisms we put in place—the Building the Education Revolution. I know it is another part of the stimulus package that those opposite opposed. I know that
some of them do not turn up to the openings of those marvellous establishments—the halls, libraries and refurbished schools—but there is a handful of them in Queensland who come along with big grins on their faces for the photographs. They love standing in front of the new hall or library for which anything up to $3.2 million was received and which has stimulated the economy and provided jobs during a time when the global financial crisis was starting to bite. What did the opposition do? They opposed the program because they were not prepared to stand up and protect workers and jobs at a time of global financial crisis. They did nothing. They opposed it in the same way they opposed the Queensland flood and cyclone levy. They are not prepared to assist workers when the time and need arise.

Senator Cameron—Just say no!

Senator Furner—I take that interjection, Senator Cameron. No is an easy position to take when you have nothing to provide, nothing to put forward. The Australian Labor Party stands for working-class people, and that is our background. We stand for working families: we care for them and we are prepared to assist them in times of need. I accept the fact that those opposite built up a surplus, but they squandered the benefits of that surplus by not spending at times when it was needed. We had to stimulate the economy and that is why we injected billions into school buildings and halls. I have seen schools that were desperately lacking in resources and it was only a Labor federal government that was prepared to put money into a system so depleted by a coalition government.

Let us go back to that period of time when the opposition did not want road and rail infrastructure—as happened with the Queensland flood levy. Once again they wanted to sit on their hands and do nothing. The stimulus package amounted to $42 billion in infrastructure, and along with that we provided stimulus into the economy through a $900 bonus, which stimulated the retail sector. We looked at all facets and all areas where people were in need, and in some circumstances, like the retail sector, they survived as a result of those injections of money into the economy. People went out and spent that money and stimulated the economy.

The Building the Education Revolution injected $16.2 billion into school halls, libraries and science centres. On just about every occasion those buildings are opened—in some cases there are three in a day—the principals, P&C presidents and mums and dads say, ‘Go back to the Prime Minister, go back to Senator Evans, and tell them how grateful we are that a Labor government stimulated the economy and provided these halls, science centres and libraries for us! They are something we would never have had, had it not been for a Labor government.’ That is gospel—they are so grateful to have received those buildings. I will rattle off a few of those: Dayboro State School received $2.65 million, Lawnton State School received $2.12 million, Chevallum State School, on the Sunshine Coast, received $2.65 million and so on.

It is amazing to see a matter of public importance like this which claims that we have no appreciation or understanding of the cost-of-living pressures facing Australian families. We do know what affects working families. We do know how to treat them and how to inject money in areas where it is appropriate. We will continue to prosecute that understanding in our carbon price. Conversely, the opposition claims they want to handle the carbon price by rolling it back. How irresponsible is that measure? Let us consider that. Mr Hockey said:

We will repeal the carbon tax and there will be no need for compensation, so we will unwind the
compensation because you don’t need to have compensation if you have no carbon tax.

That demonstrates their incompetence and their irresponsibility. Should they ever, let us hope they do not, end up in government and be in a position to turn back—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT—Senator Fifield, that is disorderly, as you know. Calm yourself.

Senator Fifield—Senator Conroy is not being entirely orderly either.

The ACTING DEPUTY PRESIDENT—Perhaps both of you could restrain yourselves.

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT—Order! Minister, you are interfering with your own speaker’s contribution to this debate.

Senator FURNER—Let us not forget this point. The opposition will roll this back. They will reach into the pockets of working families and take out what we have provided. We will be providing incentives like we did through the global financial crisis. We know how to handle the economy. We know how to deliver for working families, unlike that lot opposite. The only way they know how to look after working families is by introducing legislation like Work Choices. That is all they stand for.

Senator Fifield interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Fifield, please restrain yourself. Please proceed, Senator Furner.

Senator FURNER—Thank you. We recognise that a carbon price is the cheapest and fairest way to cut pollution and drive investment in a clean energy future. The detailed features of the carbon price mechanisms, including the starting price, the length of the fixed price period and the assistance arrangement for households and industry, are yet to be decided, and therefore their impact cannot be determined at this particular time.

There are people out there providing reasonable alternatives and proposals. One I will turn to is Professor Garnaut. He supports the framework announced by the government to drive investment in a clean energy future. Today I was fortunate enough to hear from the UK ambassador on this subject. Over in the UK, they are doing reasonable things on carbon pricing. They are doing that in concert with the economy. They are developing new and exciting initiatives and emissions trading scheme programs. That is another prime example of what is happening in other countries, including the EU. The opposition claims that this is not happening anywhere else in the world and that we are leading the way. We are not. We are here, in train, working with the rest of the world to produce initiatives that will save our climate. When it comes to climate change, the Labor government is at the forefront and we will make sure working families are protected.

Senator McGAURAN (Victoria) (4.30 pm)—I think it is my responsibility to pull this debate back to its origins and what this matter of public importance is all about. It was clear Senator Furner—he has walked out of the chamber—never believed a word he said. He could not get out quickly enough. It was obviously dumped on him just minutes before the debate. It was the most hollow of hollow rhetoric I have yet heard in this chamber. I nearly jumped out of my seat when he said that we had squandered the surplus. It is exactly what the previous government left this government—a surplus. We did not squander it. We left $20 billion and the $60 billion Future Fund.

But I will not be seduced by the lightweight argument of the previous speaker. Rather, I will pull this debate back to the
matter of public importance that it is. It ought to be said, for those listening to the broadcast, that matters of public importance get preference in the Senate over any other business. It is a time that the opposition and the government can debate matters of, as the title says, public importance—matters that the public is concerned about, that the chamber is concerned about. Yet I am stretched to recall even one occasion when a minister has come in and spoken on a matter of public importance to defend their government. I cannot think of any such occasion. I can only put it down to an arrogance that they get when they get onto the front bench; an arrogance in government and certainly an absolute contempt of their own backbench.

Today, on this of all issues, the Minister for Finance and Deregulation—who is also a former minister for climate change—has not come in to speak. Where is Senator Penny Wong on this issue? Why would she not come in and support and give some morale to the backbenchers? Instead you get the likes of Senator Furner coming in to put up the case and the arguments. That is contemptuous.

**Senator Conroy**—On a point of order, Madam Deputy President: I would like you to invite the speaker to address the chair.

**The ACTING DEPUTY PRESIDENT (Senator Pratt)**—Senator McGauran, please continue your remarks. There is no point of order.

**Senator McGauran**—I was talking about Senator Wong. From time to time, a minister ought to come in and speak on this issue—and there is no issue more important than this issue today. I am very much reminded of the great political dictum, still so true today, put down by the former Premier of Queensland, Wayne Goss. He was talking about Paul Keating and the arrogance of office. He said: ‘The Australian people do not forget. They sit on their verandas with their baseball bats just waiting for the next election to come along.’ That dictum applies to those on the other side—because you have allowed your ministers, you have allowed your leaders and you have allowed your cabinet to ride roughshod over you.

Senator Cameron is following me. He is someone who does speak up. I am always looking for Senator Cameron’s comments and clippings. I cut them out and I carry them with me. I loved his zombie comments.

**Senator Conroy**—You stalker.

**Senator McGauran**—Yes, I stalk Senator Cameron because the man, love him or leave him—mostly leave him—speaks his mind and truth. He does stand up. He called all of you on that side zombies. He told it as
it was and I was given the opportunity to read it out. He is still talking. He is still talking big, although hardly ever delivering. But I have another clipping of Senator Cameron giving advice to the Prime Minister on the carbon tax. Give him credit; he will stand up to the Prime Minister. The article says:

Labor Senator Doug Cameron urged the Prime Minister to move quickly on revealing the detail of the planned carbon tax—

which we know nothing about; we do not even know the parameters that are being set—

saying that the debate would be “quite easy” to win when the public was better informed.

He might think that, but I cannot agree with him. The Prime Minister is not listening to him anyway, but I cannot agree with him that it will be quite easy to convince the public. At least he is speaking out. But he will not win the debate. You can give us all the detail you like. Whether it is with detail or without detail, the fact of the matter is that we have been to this debate before—it was called the emissions trading scheme—and you lost it. You lost it badly, terribly.

The Prime Minister has also been here before. This Prime Minister has been engulfed in this debate. This is the Prime Minister who previously adopted and urged the party to take on the emissions trading scheme. Then she talked Kevin Rudd into abandoning the emissions trading scheme. Then she dumped him for abandoning the emissions trading scheme. Then she promised, before the election, that there would be no emissions trading scheme—and then she goes and introduces an emissions trading scheme. Who is the real Julia? It was in the Australian today. Even Paul Kelly, a leading writer—20, 30, maybe even 40 years in the business—has to ask that question about the Prime Minister. Who is the real Julia? Who is the fake Julia? I am not sure Julia knows herself. For me, she is one and the same—she is a real fake and she is playing with you all over the shop.

This issue is about the living standards of the Australian people. No public representative can escape the concern of the Australian people, of the new-found dread of the Australian people in regard to living costs. It is nothing new to talk about living costs in this parliament but there is a new atmosphere about the increasing living costs—in utilities, in power, in water, in transport, in health and in education. There is a new-found dread among working families, pensioners and individuals that maybe this time they just will not make it, that maybe this time they cannot meet their power bills or their education bills. The introduction of the carbon tax is going to multiply their problems. In fact, they will lose their jobs. Only a couple of weeks ago, the Prime Minister made a speech in South Australia to tell us that the coalminers and the steelworkers may lose their jobs, given the Greens want to shut the coalmines down tomorrow, but we can retrain them and put them into green jobs—waiters at rainforest resorts. That is what the coalminers will be reduced to.

I would like to go on but time does not permit—it never does in this place. We need a good 20 minutes on an MPI. Eight minutes is never enough to go into detail, but you know the detail. I have the detail here. Costs of living are skyrocketing and you know it. That is what the next election will be about and the carbon tax will be at the centre of that debate.

Senator CAMERON (New South Wales) (4.39 pm)—I always like to hear Senator McGauran in full flight. I am so pleased he is stalking me—

Senator Conroy—That was his valedictory.
Senator CAMERON—His valedictory—that is right. I am so pleased he is interested in what I say because what I say is important in terms of the issues that face ordinary Australians. What the Labor Party says is absolutely fundamental to the living standards of all Australians. The problem for Senator McGauran, the problem for Senator Williams and the problem for Senator Fifield, who spoke previously, is that they do not go back to the origins of this debate. I am glad to go back to the origins of the debate, which are simply this: should governments around the world and should the Australian government take action to deal with carbon pollution? That is the fundamental issue. The reason the opposition go on is that they do not believe carbon pollution is real. They do not believe in climate change. Their leader absolutely believes that carbon pollution is crap, that climate change is crap—that is the Leader of the Opposition’s position. We must put everything we hear from the opposition in that perspective.

It is hypocritical of the opposition to pretend—that is what they are doing—that they care about the living standards of working people in this country. That is the greatest lot of codswallop I have ever heard. Watch them react in a minute when I press the Work Choices button. They are reacting already. A smile is on their face; a smile which says, ‘Please don’t mention Work Choices because you’ve got us pinged. You’ve exposed the hypocrisy of the coalition.’ Don’t talk to me about looking after working families. Don’t talk to me about rising costs of living when you can set out to take away the right of workers to negotiate with their employer to get a decent standard of living in this country.

What about the Leader of the Opposition, Tony Abbott? He still believes that Work Choices should be there. Back on 1 December 2009 he was asked:

Is that that still part of your manifesto now?

He said:

Well, the phrase WorkChoices is dead. No-one will ever mention it again, but look, we have to have a free and flexible economy.

So you are never going to mention Work Choices, but in reality you want Work Choices back in. That will do more damage to workers’ standard of living in this country than any carbon price would ever do. Tony Abbott also said back in 2008:

The Howard government’s industrial legislation, it was good for wages, it was good for jobs and it was good for workers. And let’s never forget that. I will tell you what we will never forget. We will never forget the impact of Work Choices on the standard of living of Australian families. We will never forget that because we know that you do not care. You come here arguing about the standard of living for ordinary working people and you really do not care. It is all a mass of hypocrisy. It oozes out of every pore of your body. What was the impact of Work Choices? Work Choices was devastating on Australian families’ standard of living—absolutely devastating. More than a million Australians on awards suffered a real pay cut of up to $97.75 a week, almost $100 a week, and you have the hide to come here and talk about the standard of living of workers. You have absolutely no idea about the needs of ordinary working people.

Hundreds of thousands of workers were pushed onto individual contracts. Seventy per cent of workers lost their shift loadings. You have got a responsibility to stand up and tell us how that squares off with protecting the standard of living of ordinary workers. Sixty-eight per cent lost their annual leave loading. Annual leave loadings went down the tube with the coalition. Sixty-five per cent lost their penalty rates. That is the history of the coalition and their so-called concern for workers’ standard of living. Forty-
nine per cent lost their overtime loadings. That was your contribution to ordinary workers’ standard of living. Do not come here and lecture us about standards of living for working people. Do not come here with your hypocrisy oozing out every pore.

Twenty-five per cent lost their public holidays. That was your contribution to the standard of living of workers in this country. More than 3½ million Australians lost protection from unfair dismissal. That was how you cared for workers in this country. An unknown number of workers—they just could not be counted—were sacked or treated unfairly and had no recourse during the coalition push on Work Choices and the implementation of that legislation. So do not come here lecturing us about standards of living when you were the destroyers of workers’ standards of living under Work Choices.

Not only were you the destroyers of workers’ standards of living under Work Choices, you were absolute economic incompetents when you were in government. It is interesting to note that Senator Fifield, who has left the chamber, was an advisor to one of the worst treasurers this country has seen, Peter Costello. Peter Costello has built a myth around himself, yet what was Peter Costello? He was one of the weakest treasurers we have ever seen. When John Howard went to him and said, ‘We are going to squander the surplus; we are going to dole it all out in the budget,’ Peter Costello did not have the fortitude, the backbone or the guts to stand up to John Howard. Not only did he not have the guts to stand up to him in relation to economic policy, he did not have the guts to stand up to him when he was demanding the leadership of the Liberal Party. He just did not have it. So I am not one who comes in here and swoons about Peter Costello. I do not buy the rhetoric about Peter Costello. He had people like Senator Fifield advising him when they were lying back there watching the money roll in from the mining boom and doling it all out on tax cuts that were doing nothing to build this country for the future. You may understand that I am not a Peter Costello fan. I am not a fan of somebody who is weak. I am not a fan of somebody who does not look after the country well. I am not a fan of someone who delivered this.

This is what Peter Costello delivered: a failure of investment in this country under the coalition. Less than two-thirds of profits were ever reinvested in this country. So investment did not come in. There was a failure of innovation. We were amongst the lowest in research and development and innovation in the world. There was a failure of productivity. Our productivity growth was at the bottom of the OECD. There was a failure of development. Our transport manufacturers share fell from 23½ per cent to 17½ per cent. The things that you make, the things that are the knowledge industry, fell under the Howard government. There was a failure of competitiveness. There was a failure of balance because you ripped $30 billion out of the wage share in this country and you put it into the profits of big business through Work Choices. That is what you lot did, so do not come here with your hypocrisy and lecture us about cost-of-living issues.

The biggest problem that you had was a failure of sustainability. You know John Howard wanted to bring in a price on carbon. You know he wanted a trading scheme but he could never get it up because the extremists were there. Why did he want to get it up? At least Howard did recognise what the scientists were saying because he was getting the advice from the scientists. What were the scientists saying? They were saying: that there were surging greenhouse gas emissions around the world; that recent global temperatures demonstrate human induced warming;
that there is an acceleration of the melting of the ice sheets, glaciers and ice caps; that there is rapid Arctic sea ice decline; that the sea levels predicted by 2010 are likely to rise twice as much as the projections; that if we delay action it will result in irreversible damage; and that the turning point must come soon.

Yet what do we see the coalition do about this? We see the Leader of the Opposition out there playing footsy with Pauline Hanson in front of the parliament today. That is the level of leadership you get from the Leader of the Opposition, Tony Abbott—an absolute disgrace. He was out there misrepresenting the facts and misrepresenting the science on global warming. This guy is not fit to be the Leader of the Opposition and will never be fit to be the leader of this country. Yet what do we get from the coalition? They say, ‘We will put a plan in that is cheaper. We have got a direct action plan.’ I have to say to you that no-one accepts the direct action plan will work. There is no-one around, other than the shadow minister, Greg Hunt, who thinks that will work. He sat down one night and said, ‘We have got to get something to try to give us a buffer against the science and the reality of how the market works,’ and he came up with direct action.

As I said in a speech earlier today, the Liberal Party have basically rejected Menzies. Menzies was there arguing about dealing with facts and dealing with the market. What do the Liberals do now? They reject the market. The people who have been arguing about market forces for as long as I can remember have now walked away from the market. As I said today, the barbarians are at the gate of the Liberal Party; the barbarians are taking over the Liberals. They are out there holding hands with Pauline Hanson, out there with Chris Smith—the shock-jocks that are out there—pouring bile and animosity on migrants and on asylum seekers in this country. They are out there playing footsy with them.

The reality is, if you want an economy that does look after ordinary Australians, you must deal with the issue of climate change. The real issue that will make the difference between increases in the cost of living of a huge amount and reasonable increases in the cost of living is getting a carbon price in and making sure that our industry is at the forefront of innovation, making sure that our industry is creating the jobs of the future, building the wind turbines, building the tidal turbines and building the technology that is required to turn this economy around. If we fail to do that then costs will increase. Electricity prices will continue to spiral because there is no certainty in the electricity industry.

The problem for you in the coalition is that it is not an argument about economics from you; it is an argument about belief. You do not believe that the world is warming. You do not believe in carbon pollution. You do not believe in the market. You have lost your beliefs. You are an absolute rabble. Do not come here lecturing us about the cost of living when you are such a bunch of economic incompetents.

Senator WILLIAMS (New South Wales) (4.54 pm)—That was Senator Cameron talking about the cost of living and the working families. I have reminded Senator Cameron before about the 25.25 per cent interest rate I was paying under the so-called world’s greatest treasurer, Mr Keating. Senator Cameron, do not forget the figure—25.25 per cent. Put it in your mind and remember that cost of living.

It is amazing that they talk about working families and the working class. I have said it before, and Senator Conroy might listen to this: it was the shearers in western Queen-
sland at Barcaldine under the Tree of Knowledge that started the Labor Party. You know, Senator McGauran, not one of those Labor senators would know how to load a hand-piece let alone knock the wool off a sheep. I had the privilege of being at the Braidwood show two weeks ago and they said, ‘Can you shear a sheep?’ and I said that I would love to. It was two minutes and 29 seconds of my life that I really enjoyed, but I am glad that I do not do it all day these days.

But back to the cost of living. The taxes that this government have to pursue are amazing. They started off with the alcopops tax. That was going to fix all the problems of the young ones binge-drinking. Now they buy a full bottle of rum instead of a can of rum and coke, for example, and the trouble is worse. Then along came the next tax, the luxury car tax. ‘How dare you work successfully and hard in your life and get enough money to afford a luxury car. We’ll make sure we bring that to a finish.’ Then, of course, there was the mining tax. It was amazing how they said, ‘When we get this money on the resource super profits tax we’re going to spend it on superannuation for the Australian workers.’ Who owns the mining companies? Superannuation companies have a huge share in the mining companies. When those mining companies make a profit they actually give it to the super funds for the retirement of our workers. So the government thought, ‘We’ll take it off them. We can’t have them retiring on good money.’ This is what we call ‘the way to get level with the mining industry that is being successful in Australia’. What was next? The flood tax. There is the old saying of save some money for a rainy day. How true it is. What happened when too many rainy days came over the last few months and we had the devastation of the floods in Queensland, Victoria and northern New South Wales where I live on the border regions on the Dumaresq River? The government then looked into the tin to see how much money was left. There was not a cent there. In fact there was only a piece of paper and in red print it said ‘$184.6 billion’. That is what was in the tin. There was no money saved for the rainy day. So what did they do? Another tax.

Then, of course, the tax of all taxes, the carbon tax—the tax we were never going to have—was among the broken promises from our national leaders, the Prime Minister and the Treasurer. I am sure that Senator Conroy is a man of figures and I am sure he will listen to these figures I am about to put to you, Madam Acting Deputy President Pratt. Each year the world expels around 40 billion tonnes of CO2, a figure similar to the amount of money that Minister Conroy is going to borrow to roll out his NBN scheme. I am sure he is familiar with the figure. Australia produces 550 million tonnes of that 40 billion. So, what are we going to do?

Let us bring it down to scale so those on the other side can understand it. Let us go down to 40,000 compared to 550. That will be 40,000 from the world and 550 from Australia. We are going to reduce that by five or 10 per cent. What is that going to do? If the rest of the world keeps emissions exactly the same—and they will not because we know China’s and India’s will go up five billion tonnes per year by the year 2020—we are going to reduce ours from around 550 million tonnes back to 500 million tonnes.

Senator McGauran would be interested in this—I did the figures this morning. The concern is too much CO2 in the atmosphere. The government’s plan will reduce the current levels of 380 parts per million of CO2 in the atmosphere. How far will it reduce, given that the rest of the world will remain the same—and they will not. It will reduce CO2 levels from 380 parts per million all the way
down to 379.5 parts per million. Have you got the figures, Minister Conroy? It is 0.5 of one part of a million; a half of a part of one million.

It is the same as having a great big tin with forty thousand $1 coins in it. Imagine that, Madam Acting Deputy President: between us is a big tub with forty thousand $1 coins in it and Australia put in 550 of those coins—just 550 of the 40,000 CO2 emissions each year. So we are going to take fifty $1 coins out of the tub of forty thousand $1 coins, and guess what? That is going to save the world. We are going to take it out at a cost of about $14 billion a year to each and every Australian. That is what the cost will be. Out of the tin of forty thousand $1 coins we are going to take out 50, and that is going to save the world!

That is outrageous. It will shift our industries overseas. We know what is going to happen: pressure the steel industry and the aluminium industry—I am sure Minister Conroy is well aware of the aluminium industry and how much electricity it uses, along with the cement industry; transfer the jobs overseas; expel more CO2; and bill the Australian people $14 billion. We do not know the details. They have talked about certainty and that the whole issue of a carbon tax is to bring certainty. We do not know how many dollars a tonne it will be. We do not know if it will be on fuel. We do not know when it is going to go to an ETS, and when it does convert to an ETS the price of carbon will then depend on the traders on the world market. We will not have a clue what it is going to be trading at. This is what is called certainty! It is outrageous and the people of Australia will not be fooled. We had enough out there today, and that was only a start. They will not let you put our nation down the tube, and there will be more to say on this at a later date.

Senator WORTLEY (South Australia) (5.01 pm)—It is interesting sitting here, watching those opposite wave their arms around and speak in the way they do, thinking that they have an answer when in fact they had 11 years to provide an answer and failed to do so. I rise to speak on the Gillard government’s appreciation and understanding of the cost-of-living pressures facing Australian families and also its commitment to action on climate change.

The government is taking action on climate change because it is the right thing to do. The government does not shirk its responsibilities to the Australian people because the issue is difficult. Hundreds of thousands of Australians are also determined to act on climate change in their own homes, and they want a strong federal government to do the same. It is tragic, then, that while we are getting on with the job, Tony Abbott is still deciding on the accuracy of the climate change science. As one ABC commentator said, Mr Abbott is continuing his ‘ritual carbon tax throttling’. Every day, Mr Abbott dreams up a new horror and in shrill tones conjures up another warning, a new warning, a fresh drama.

It is really difficult to take Mr Abbott and his party seriously on all things climate related. Mr Abbott’s climate policy is nonsense and, despite efforts to convince people that, this week, maybe he really does accept the climate science, his own words that climate change science is ‘absolute crap’ keep coming back to haunt him. The government accepts the science and will implement a carbon price to cut pollution and drive investment in a clean energy future. It is the right thing to do for Australia and the right thing for the economy and Australian jobs.

Carbon pollution is damaging our environment and we want industries that are causing pollution to clean up their act. Pol-
luters will pay every time they emit carbon pollution. We need to get this fact clear: a carbon price is not aimed at households but at some of our largest industries. The carbon price will make these companies pay a price for each tonne of pollution they produce. This will encourage them to produce less pollution and encourage investment in cleaner energy sources and it will lead to new jobs being created while ensuring a cleaner Australia.

The sooner we put a price on that pollution the sooner we will start to transform our economy. A carbon price will create incentive for business to cut pollution. These industries really do have a choice: if they do not want to pay for carbon emissions, they cut their pollution. We understand that many people are concerned about price impacts and we are determined to provide assistance. We will look at the possibilities, we will look at options that are available and we have promised that the assistance we provide to households will be generous.

Of course, the welfare of pensioners and low-income households will come first. You cannot automatically assume that all of the household assistance will be provided to taxpayers, because there are many people who do not earn enough to pay tax, including age pensioners, who will require support after the introduction of a carbon price. So, in designing a system, we need to recognise that the funds are limited and that they need to be shared by number of different groups in our community, not just taxpayers.

Labor will continue to look after Australians who need help, and that means assistance with tight family budgets and it means protecting jobs, just as we did so successfully during the GFC. This government’s proposed carbon price is the cheapest, fairest and most efficient way to cut pollution. Climate expert Professor Ross Garnaut has highlighted the need to provide industry with assistance throughout the transition to a clean energy future. The Prime Minister accepts this and has stated that the government will help emissions-intensive trade-exposed industries as they move to a clean energy future. The assistance will be designed to support existing jobs while creating new ones. Most importantly, Professor Garnaut has said that market based mechanisms to price carbon are superior to direct measures. Mr Abbott’s proposed direct action policy will fail to achieve any significant environmental outcomes and it will cost working families because taxes will increase under the Liberal plan. (Time expired)

Senator FISHER (South Australia) (5.06 pm)—I rise to speak to this government’s lack of understanding of cost-of-living pressures, particularly on Australian families, as a result of the government’s proposed carbon tax. After all, how can you understand the impact of cost-of-living pressures when you do not even understand the details of your own policy, when you have not set a price on carbon, when you have not said who is going to have to pay the carbon tax, when you have not said who is not going to have to pay the carbon tax, when you have not said who you are going to compensate, when you have not said who you are not going to compensate? How can you possibly understand the impact of a carbon tax on the farming commu-
nity? How can you possibly understand even if you have said that for now agriculture will be exempt from a carbon tax—which, of course, begs the question: for how long? But just assume that agriculture is exempt from the carbon tax: how can you possibly understand the impact of a carbon tax on that sector when you do not understand that farmers will pay indirectly the costs of a carbon tax through their inputs? Doesn’t the government realise how dependent the farming community is on energy? Some 45 per cent of their inputs are dependent upon energy related things. What about petrol to transport goods from farm, to drive machinery such as headers and seeders? What about electricity to light packing sheds and to drive machines like rotary milkers? What about the cost of fertiliser, which is 30 to 40 per cent responsive to the cost of energy that goes into it? How can the government possibly understand the impact of those costs on farmers when they have not even bothered to start to understand the detail of their policy?

Professor Garnaut talks about how agriculture is more trade exposed than other sectors from the threats that would result from the imposition of a carbon tax. All of that is totally okay because Minister Combet says it is. On 9 March, Minister Combet told Lateline’s Tony Jones: ‘Yes, it is okay to float a policy intention because we will consult. It is responsible.’ Tony Jones is probably here in the building today for the ABC presentation; maybe he can remind Minister Combet of what he said about reassuring Australians that it was responsible to announce a carbon tax framework with no details, before consulting with industry. That of course begs the question that you will consult with industry. Tony Jones said: ‘Is it a good idea to announce a carbon tax with no details?’ Minister Combet replied: ‘It is a perfectly valid way to develop an important policy like this to allow stakeholders to have solid input as to the detailed design of the policy.’ When I say ‘stakeholders’, I mean important members of the business community who have an interest in this tax. Those important members of the business community, at least three of whom are members of the government’s business roundtable, told the media today that they have not heard a thing from the government. Mr Kraehe from BlueScope Steel said:

... the business roundtable has been a sham ... There’s no real consultation.

... ... ...

The consultation between government and business is appalling.

Jock Laurie, another member of the business roundtable and boss of the NFF, said:

There were ... discussions at the business roundtable about how there was going to be consultation—full consultation—and everybody would be included. ... A lot of people have been taken by surprise.

Peter Anderson, the boss of ACCI and also a member of the roundtable, said:

... the Government has ... established a business advisory group for ... meaningful input— but instead the government has used— the multi-party parliamentary committee.

Politicians like me may be well intentioned but we do not know the impact of the carbon tax on business. This government should do as it has promised and consult with the members—(Time expired)

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! The discussion on the matter of public importance has concluded.

COMMITTEES

Procedure Committee

Report

Senator BUSHBY (Tasmania) (5.12 pm)—At the request of the Deputy President, I present the first report of 2011 of the Pro-
procedure Committee relating to the temporary order for question time.

Ordered that the report be printed.

Senator BUSHBY—I seek leave to move a motion in relation to the consideration of the report.

Leave granted.

Senator BUSHBY—I move:

That consideration of the report be made a business of the Senate order of the day for the next day of sitting.

Question agreed to.

Scrutiny of Bills Committee Report

Senator BUSHBY (Tasmania) (5.12 pm)—At the request of Senator Coonan, I present the third report of 2011 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 3 of 2011, dated 23 March 2011.

Ordered that the report be printed.

Senator BUSHBY—I move:

That the Senate take note of the report.

I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—

In tabling the Committee’s Alert Digest No. 3 I particularly draw the Senate’s attention to the Committee’s comments on the National Health Reform Amendment (National Health Performance Authority) Bill.

One aspect of the bill is that it grants the Minister a broad discretionary power to terminate the appointment of a National Health Performance Authority member ‘at any time’.

The Committee’s view is that this discretionary power should be exercised according to a structured dismissal process and confined to relevant grounds. The Committee will be seeking the Minister’s advice about this and a number of other provisions in the Bill.

Several other Bills also contain issues of potential concern under Standing Order 24 and I draw the Senate’s attention to all of the Committee’s comments in Alert Digest No.3.

In relation to scrutiny concerns raised in previous Digests the Committee recently received detailed replies to all of its requests for advice and thanks Ministers for their attention to the issues raised and for the corrective action proposed. These replies are discussed in the Committee’s Third Report.

I particularly draw the Senate’s attention to two significant scrutiny issues mentioned previously in Alert Digests about which the Committee has continuing concerns. The first relates to the Customs Amendment (Serious Drugs Detection) Bill which allows customs and border protection officers to undertake an internal body scan using prescribed equipment of a person who is reasonably suspected to be internally concealing a suspicious substance.

The Committee had expressed concern that the requirement for prescribed equipment to be locked to prevent access to broader scanning functions than those needed for the purpose of this bill is not reflected in the primary legislation.

In response the Minister has suggested that if locked calibration is needed (depending on the capability of the equipment procured) the requirement will be prescribed in regulations. The Committee thanks the Minister for his consideration of the issues but retains some concern about the proposed solution: although the regulations would be disallowable, given the significant potential to trespass on personal rights and liberties, the Committee remains of the view that the principle of appropriately limiting equipment capacity should be included in the primary legislation. The Committee will seek further advice from the Minister on this matter.

A second issue arises from the Human Services Legislation Amendment Bill. Items 74 and 76 will reduce the obligations on the Chief Executive of Medicare to notify a patient that their records have been seized as part of a Part IIID investigation. The Committee was concerned to ensure that any patient whose records are scrutinised is required to be notified. The Minister has provided a detailed response and advised that ‘every patient
whose clinical details are actually scrutinised would still need to be notified.’ The Committee thanks the Minister for her consideration of the issue and her advice, but will seek further advice to check whether there could be any patients whose records are accessed and other (non-clinical) details such as personal or financial information are obtained. If so, the Committee is interested to know if there is an obligation for these patients to be notified that their records have been seized and scrutinised.

I commend Alert Digest No. 3 of 2011 and the Third Report of 2011 to the Senate.

Question agreed to.

Parliamentary Budget Office Committee Report

Senator FAULKNER (New South Wales) (5.13 pm)—I present the report of the Joint Select Committee on the Parliamentary Budget Office on the proposed Parliamentary Budget Office, together with the Hansard record of proceedings and submissions received by the committee.

Ordered that the report be printed.

Senator FAULKNER—I move:

That the Senate take note of the report.

I present the report of the joint select committee on the Parliamentary Budget Office entitled Inquiry into the proposed Parliamentary Budget Office—not a very exciting title, I would have to admit, but nevertheless a very important report.

The committee was appointed by the parliament to consider the proposal to establish a Parliamentary Budget Office or PBO. The Agreement for a better parliament provided that the PBO ‘be established, based in the Parliamentary Library, to provide independent costings, fiscal analysis and research to all members of parliament, especially non-government members.’ In addition, the agreement provided that the ‘structure, resourcing and protocols for such an office be the subject of a decision by a special committee of the parliament which is truly representative of the parliament.’ The membership of the committee consisted of senators and members of the Australian Labor Party, the Liberal Party of Australia, the Nationals, the Australian Greens and an Independent member of parliament. Committee members not only considered matters raised in submissions and public hearings but also represented the views of their party colleagues.

In line with its terms of reference, the committee looked beyond the scope of the Agreement for a better parliament and examined various successful aspects of international PBO models. In so doing, the committee considered a broad range of services and possible structures for the PBO, with the aim of creating a PBO framework which could serve the Australian parliament effectively.

Key values underpinning the joint select committee’s recommendations included incorporating mechanisms into the PBO which could enhance transparency of process, ensure equality of access to its services and maintain independence. The committee found that the establishment of a PBO is warranted as the most practical way to provide high-quality research and analysis on fiscal policy and budget related matters to the parliament. The committee recommended that the mandate of the PBO be to inform the parliament by providing independent, non-partisan and policy neutral analysis on the full budget cycle, fiscal policy and the financial implications of proposals. In line with this mandate, the committee recommended that the main functions of the PBO should be: to respond to the requests of senators, members and parliamentary committees; formally contribute to committee inquiries; publish self-initiated work; and prepare costings of election commitments.

The committee found that the election costings provisions of the Charter of Budget
Honesty Act have significant shortcomings in enabling the electorate to be better informed about the financial implications of election commitments. As a result, the quality of political debate during the election period is lessened as voters go without an independent and potentially very valuable source of information. The committee has recommended new measures to provide incentives for parties to use a costings process for the purpose of enhancing transparency and accountability of policies and better informing the wider community. These new measures include amending the Charter of Budget Honesty Act to enable minor parties to access the existing election costings process, while also providing an alternative source of costings through the PBO.

In line with international best practice, the committee has recommended that the position of Parliamentary Budget Officer be created as an independent officer of the parliament. In this way, the Parliamentary Budget Officer and their office will more clearly serve the ongoing financial information and scrutiny needs of the parliament as a whole, thereby enhancing fiscal transparency and executive accountability in the longer term.

Related recommendations in the report seek to further strengthen the ability of the PBO to provide independent and robust analysis. These include: provisions to assist the PBO to access information held by government departments; the appointment, dismissal and remuneration arrangements for the Parliamentary Budget Officer; and mechanisms for the oversight of the Parliamentary Budget Office by the Joint Committee of Public Accounts and Audit.

On the committee’s behalf, I would like to acknowledge and thank the government agencies, parliamentary departments and other organisations and individuals who contributed their expertise and time to this inquiry. In particular, I thank international organisations, with a special mention of the Canadian Parliamentary Budget Officer and his staff, who shared their experience and their knowledge with the committee and made themselves available to the committee at short notice. I also extend my thanks to committee members for actively participating in this inquiry and shaping the recommendations of this unanimous report to the parliament. Finally, I place on my record my sincere appreciation and that of all other members of the joint select committee to our committee secretariat. We received magnificent support from the secretariat and I wanted to take this opportunity today to record in the chamber my appreciation for their work. I commend this report to the Senate.

Question agreed to.

Australian Commission for Law Enforcement Integrity Committee Report

Senator BUSHBY (Tasmania) (5.22 pm)—On behalf of the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity, I present the report of the committee on the examination of the annual report for 2009-10 of the Integrity Commissioner, together with the Hansard record of proceedings.

Ordered that the report be printed.

Public Works Committee Report

Senator BUSHBY (Tasmania) (5.22 pm)—On behalf of the Parliamentary Standing Committee on Public Works, I present two reports of the committee as listed at item 12 on today’s Order of Business, and move:

That the Senate take note of the reports.

Senator BUSHBY—I seek leave to have the tabling statements incorporated in Hansard.

Leave granted.
The reports read as follows—

Tabling Statement

Public Works Committee: Seventy-Fourth Annual Report

On behalf of the Parliamentary Standing Committee on Public Works, I present the Committee’s seventy-fourth Annual Report, concerning the Committee’s activities in the calendar year 2010.

This report is a requirement under section 16 of the Committee’s Act, and the Committee presents this summary of its proceedings shortly after the end of each year.

During 2010, the Committee conducted inquiries into nine works, with a combined cost of $491.5 million. Appendix A of the report lists all works and their individual costs. The Committee also considered fifty-one medium works projects – those with a budget of between two and fifteen million dollars – and the combined cost of these works was $416.8 million. Appendix B of the report lists these works. The Committee held 24 meetings throughout the year, in Canberra, Melbourne, Adelaide, Perth, Darwin and Sydney, and these are all listed in Appendix C of the report.

Mr President there are a few matters I would like to highlight. The Committee is rightly proud of the efficiency with which it conducts inquiries. In 2010, the average time from the referral of a work to tabling the report was nine weeks. The Committee also introduced a new procedure manual, which is increasing the detail of the Committee’s scrutiny of Commonwealth expenditure, with new referral requirements for agencies proposing works. These requirements seek information that has not previously been collated by agencies. Agencies have reported that the new requirements help improve their internal preparation, as well as providing the Committee with more useful detail for its scrutiny role.

The Committee reiterates the importance of all Commonwealth agencies fulfilling their obligations to the Parliament, including the requirement to bring medium works to the Committee before any contracts are let. The Committee continues to work hard to ensure that projects do not fall through the cracks.

Mr President, a number of works were exempted from Committee consideration in 2010, and the Committee considers this an unacceptable state of affairs. The exemption provisions in the Committee’s Act are for unforeseen and truly urgent circumstances, not for remedying poor planning by agencies. As I noted before, the Committee has a speedy process, and the Committee expects all agencies, no matter how big or small, to be aware of their obligations to the Parliament under the Public Works Committee Act.

I would like to give special thanks to officers of the Special Claims and Land Policy Branch of the Department of Finance and Deregulation, who assist agencies in preparing their proposals for Committee consideration.

I thank Senators and Members for their work throughout 2010, and in particular thank the members of the Committee of the 42nd Parliament, and the Chair at the end of that Parliament, Senator the Hon Jan McLucas.

I commend the report to the Senate.

Tabling Statement

Public Works Committee: Report 2/2011

On behalf of the Parliamentary Standing Committee on Public Works, I present the second report of 2011, addressing Referrals made in November 2010.

This report deals with two public works, with a total estimated cost $69.5 million. In both cases the Committee has recommended the House of Representatives agree to the works proceeding.

One work, for the Department of Defence, involves the construction of workshops, vehicle bays, hardstands, classrooms, warehouses and a gatehouse, at various locations in Queensland and Victoria. The second work is a building fitout for the Australian Taxation Office in Albury, NSW.

Mr President, let me first turn to the Land 121 project for the Department of Defence. This work would provide the Department with new facilities to assist with the rollout of new vehicles for the Australian Defence Force. The facilities would provide for the reception, inspection, refitting, operator training and maintenance training associated with these new vehicles.

The Committee sought evidence from Defence about why they had chosen the particular sites in question, and how the facilities would fit into the...
overall Defence infrastructure. The Committee is satisfied that the scope of works proposed by Defence will meet the needs of the project.

Mr President, the Committee was concerned to learn at its hearing that there has been a significant delay in the transfer of a piece of land from the Department of Immigration and Citizenship to the Department of Defence, necessary for the project to be completed. Due to Immigration’s uncertainty, Defence is unable to give a date by which the land transfer will be complete, and the Committee is not satisfied with this state of affairs.

Whilst Defence has assured the Committee that this will not delay the commencement of works, the Committee is nonetheless uneasy that Defence was only informed of the latest development regarding this transfer on the day of the hearing. Agencies must ensure that they are aware of factors outside their control – such as the decisions of other agencies – and that these factors do not cause surprise at the last moment.

Mr President, the second work addressed in this report is a fitout for the Australian Taxation Office in Albury, the third fitout project for the ATO that the Committee has considered in the past year.

The Committee is always interested in ensuring that the Commonwealth gets good value for money. The ATO gave evidence at the hearing that the project will save money over the long term, due in part to more efficient building systems. The ATO is a major employer in Albury, and the site in Albury is one of the ATO’s larger facilities. The Committee was pleased to note that the project will create significant local employment during construction, as well as ensuring the ATO can remain a significant employer in Albury.

Mr President, I would like to thank Senators and Members for their work in relation to these inquiries. I commend the report to the Senate.

Question agreed to.

AUDITOR-GENERAL’S REPORTS

Report No. 33 of 2010-11

The ACTING DEPUTY PRESIDENT (Senator Crossin)—In accordance with the provisions of the Auditor-General Act 1997, I present the following report of the Auditor-General: Audit report No. 33 of 2010-11: Performance audit: The protection and security of electronic information held by Australian Government agencies.

UNPARLIAMENTARY LANGUAGE

The PRESIDENT (5.23 pm)—Order! Earlier today Senator Brandis made a statement in relation to proceedings before the Legal and Constitutional Affairs Legislation Committee and a ruling of the chair, which the committee referred to me. I tabled my correspondence to the chair of the committee. In the correspondence I confirmed that her ruling was in accordance with the practices and precedents of the Senate and I explained the basis on which I came to that conclusion.

As I made clear, the issue is not the meaning of individual words, which may in themselves be innocuous; it is the combination of words that constituted a personal reflection on a witness who, under standing order 193, is a person who attracts protection from such reflections. It is not a difficult concept and nor is it a difficult concept that respect for the chair is fundamental to the effective operation of this place.

Senator BRANDIS (Queensland) (5.24 pm)—I seek leave to ask a question of the President.

Leave granted.

Senator BRANDIS—Mr President, this morning in making the withdrawal of the words that were the subject of your ruling I asked you, in light of the precedents that I then referred to and that had obviously not been considered by you when you wrote the letter of 21 March to Senator Crossin, to reconsider your ruling. Am I to understand that the statement you have just made to the Senate constitutes your reconsideration of that ruling and, if that is so, is that reconsideration embodied in the form of a document that
among other things deals with the precedents to which I have referred you?

The PRESIDENT (5.25 pm)—I simply reaffirmed the statement made in the correspondence to Senator Crossin, as chair of that committee. I just made the point quite clear, and I thought it was clear in the statement that I have just made now. I did not separate out the constituent parts of that. Mine was a statement of the whole. You asked me to look at an individual part. I did not make a determination in respect of the individual part of that statement that I made to Senator Crossin; it was in respect of the context of the statement of the whole.

Senator BRANDIS (Queensland) (5.26 pm)—For clarification, is the Senate to understand that the statement you just made is your response to the request made by me this morning?

The PRESIDENT—Yes, it certainly is, Senator Brandis.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Crossin)—The President has received a letter from a party leader relating to the membership of committees.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (5.27 pm)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Environment and Communications Legislation Committee—

Appointed—

Substitute member: Senator Colbeck to replace Senator Troeth for the committee’s inquiry into the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011

Participating member: Senator Troeth

National Broadband Network—Joint Standing Committee—

Appointed—Senators Carol Brown and Cameron.

Question agreed to.

AUSTRALIAN CIVILIAN CORPS BILL 2010

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bill.

COMBATING THE FINANCING OF PEOPLE SMUGGLING AND OTHER MEASURES BILL 2011

ELECTORAL AND REFERENDUM AMENDMENT (PROVISIONAL VOTING) BILL 2011

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (ELECTION COMMITMENTS AND OTHER MEASURES) BILL 2011

TOBACCO ADVERTISING PROHIBITION AMENDMENT BILL 2010

First Reading

Bills received from the House of Representatives.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (5.29 pm)—I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.
Second Reading

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (5.30 pm)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

**Combating the Financing of People Smuggling and Other Measures Bill 2011**

**Introduction**

This government is determined to disrupt and deter people smuggling operations. People smugglers need money to launch ventures. People smugglers charge large sums to vulnerable people for the dangerous and illegal voyages that they organise.

Remittance dealers accept cash, cheques and other forms of payment in one location and arrange the payment of an equivalent amount of cash to someone in another location overseas. Remittance dealers range from global money transfer businesses and their franchisees and agents, to smaller entities that may operate out of a small business, such as a grocery store. There are around 6,500 remittance dealers operating in Australia. We believe that the vast majority of remittance dealers conduct legitimate businesses and provide important services to the community.

We need to make sure that remittance dealers are not misused to give people smugglers the funds they need to organise illegal smuggling ventures, or to support other forms of criminal activity.

Australian law enforcement agencies have indicated to the Government that they are concerned about the role the remittance sector can inadvertently play in facilitating payments for people smuggling. Further, law enforcement agencies have already used financial intelligence to counter people smuggling ventures. For example, AUSTRAC data is relied upon to profile targets that facilitate payments to other countries for people smuggling activities.

This Bill will reduce the risk that remittance dealers will be involved, deliberately or inadvertently, in financing people smuggling, laundering money or financing terrorism. It will improve intelligence and also protect against criminal infiltration of the sector and ensure the Australian Transaction Reports and Analysis Centre, known as AUSTRAC, can crack down on remitters acting unlawfully and improperly.

These initiatives build upon the legislative changes made in 2010 as part of the Anti-People Smuggling and Other Measures Act. As a result of those laws, those who provide material support to people smuggling face ten years imprisonment, and fines of up to $110,000.

**Enhanced regulation of the remittance sector**

**Enhanced registration scheme**

Remitters are already required to register with AUSTRAC. Providing services without being registered is an offence that carries a penalty of 2 years imprisonment or a $55,000 fine, or both. The automatic granting of registration to a remitter upon application, however, affects AUSTRAC’s ability to effectively regulate and supervise the sector.

This Bill will introduce a more comprehensive registration scheme. Remitters applying for registration will be required to provide information relating to their suitability for registration. The AUSTRAC CEO will have the power to refuse, suspend, cancel or impose conditions on registration. Standard internal and external administrative review mechanisms will be available for all registration decisions made by the AUSTRAC CEO.

People who pose an unacceptable risk of people smuggling, money laundering, or terrorism financing risk will not be allowed to provide remittance services in the community.

**Enforcement Powers**

Sanctions available to AUSTRAC under the existing Act to ensure compliance with AML/CTF obligations require AUSTRAC to initiate civil proceedings or take criminal action. In many cases, particularly where minor breaches are involved, this may not be a proportionate response
to the alleged breach. These processes can be costly and time consuming for all parties involved.

The Bill enables the AUSTRAC CEO to issue infringement notices if a person:

- provides a remittance service without being registered; or
- fails to advise the AUSTRAC CEO of material changes in circumstances relevant to registration.

The Bill makes provision for the AML/CTF Rules to set tiered penalties for breaches, not exceeding 24 penalty units for an individual or 120 penalty units for a body corporate. The higher end of penalty amounts will apply where: lower amounts would be an insufficient deterrent, or to take account of multiple contraventions, or previous infringements. The infringement notice scheme will provide the AUSTRAC CEO with an efficient enforcement mechanism which will act as an effective deterrent against non-compliance.

**Regulation of Providers of Remittance Networks**

Networks play a key role in the remittance industry. Currently, large entities that are profiting from providing remittance networks that enable money transfers to and from Australia are not responsible for addressing money laundering and terrorism financing risk within the network. Instead, the AML/CTF Act focuses on the smaller businesses taking and receiving money from customers including the smaller, relatively unsophisticated remittance dealers that are agents of these network providers.

Many remittance network providers already provide considerable support to their agents to assist them to comply with their AML/CTF Act obligations. The proposed reforms will ensure that the regulation of the sector reflects the structure of the industry. It will regulate the remittance sector more efficiently.

The Bill introduces a new designated service into the AML/CTF Act, which will extend regulation to businesses that operate a network of remittance dealers.

Remittance network providers will also have responsibility for undertaking some of the AML/CTF Act reporting obligations on behalf of their agents. This measure takes into account the relationship between network providers and their agents and largely reflects the support already offered by network providers as part of the international funds transfer process.

**AML/CTF Rules**

In keeping with the tenor of the AML/CTF Act, the amendments in the Bill provide the high-level principles for the enhanced regulation of the remittance sector, with the operational detail to be set out in the AML/CTF Rules. AUSTRAC will develop the Rules in consultation with the remittance sector.

**Other Measures**

There are a number of other measures contained in the Bill, which are designed to improve Australia’s AML/CTF regime.

**Increased information sharing**

The December 2008 National Security Statement recognised the growing threat of these transnational activities to Australia’s national security and identified the need for improved coordination among Commonwealth agencies, including enforcement, regulatory and intelligence agencies.

The current arrangements do not fully provide for the contribution financial intelligence could make to the analysis of national security issues, particularly organised crime, terrorism and counter-proliferation.

The measures in this Bill build on the steps already taken by the Government to enhance information sharing between agencies, such as the new Criminal Intelligence Fusion Centre in the Australian Crime Commission, which was launched in July 2010, to generate and share information and intelligence on organised crime.

The Bill will improve information sharing of the financial intelligence prepared by AUSTRAC amongst the Australian Intelligence Community, ensuring a more holistic approach to Australia’s national intelligence effort. The Bill will extend the list of designated agencies with which AUSTRAC can share financial intelligence to include the Department of Foreign Affairs and Trade, the Defence Imagery and Geospatial Organisation, the Defence Intelligence Organisation,
the Defence Signals Directorate and the Office of National Assessments.

This Bill will enhance information sharing to ensure that government agencies work together in a coordinated way to counter threats to Australia’s national security.

Verification of Identity

The Australian Law Reform Commission considered the use of credit reporting information for electronic verification in its 2008 Report, For Your Information: Australian Privacy Law and Practice. The verification of identity measures implements one of the recommendations made by the ALRC.

The Bill will also amend the AML/CTF Act and the Privacy Act 1988 to enable reporting entities to use credit-reporting data to verify the identity of their customers. The Bill introduces a number of privacy protections to ensure that information is only used for the purpose of verifying identity.

Firstly, customer consent will be required before a business can verify identity against credit reporting data and alternative verification options must be made available to them.

Secondly, a credit reporting agency will not be permitted to disclose personal information held on the credit information file. It will only be able to report on whether the personal information it was provided matches information that it holds on the file. For example, a person’s full name, date of birth, or current address.

It also requires credit-reporting agencies and reporting entities to retain information about verification requests for 7 years and to delete it at the end of that period. These requirements enhance the transparency of the verification process by ensuring that records can be reviewed to ensure compliance with the Act, and to enable individuals to obtain access to verification requests or assessments that relate to them.

Finally, the Bill establishes the offences of unauthorised access to verification information, obtaining access to verification information by false pretences and unauthorised use or disclosure of verification information. Each offence carries a penalty of 300 penalty units, which currently amounts to $33,000.

The verification of identity measures will make it easier for example for consumers to open bank accounts online, improving competition between online businesses and those with traditional branch structures.

Exemptions from obligations under the FTR Act

The Financial Transaction Reports Act 1988, which I will refer to as the FTR Act, preceded the AML/CTF Act and imposed reporting controls on the financial, bullion and gambling sectors. The FTR Act continues in force and operates parallel to the AML/CTF Act.

The Bill will introduce into the FTR Act an exemption power that will enable the AUSTRAC CEO to exempt, by way of written instrument, a specified person from one or more provisions of the Act. This will bring the FTR Act in line with the AML/CTF Act.

Conclusion

The enhanced regulation of the remittance sector will reduce the risk of criminal infiltration and abuse of the remittance sector in Australia by giving AUSTRAC greater knowledge of, and control over, those operating in the sector. The reforms will also shift the compliance burden away from small business agents who make up the vast majority of the remittance sector and on to their remittance network providers. This reflects the existing structure and practices of the sector.

The reforms will ensure that the Government has measures in place to reduce the risk of remittance dealers facilitating access to funds for people smuggling, money laundering, terrorism financing and other serious crimes.

The Bill demonstrates the Government’s commitment to stopping the funding of people smuggling and preventing organisers of these dangerous and inhumane ventures profiting from this serious crime. It will also serve to prevent money laundering, terrorism financing and related criminal activities at home and abroad.

Electoral and Referendum Amendment (Provisional Voting) Bill 2011

I am pleased to present legislation to repeal the requirement for provisional voters to provide
evidence of identity as a pre-condition to these votes being included in the count for an election. Provisional votes are a type of declaration vote cast at a polling place on polling day.

There are four main reasons a person will be asked to cast a provisional vote. First, the person’s name cannot be found on the certified list. Second, a mark appears on the certified list which indicates the person has already voted. Third, the polling official doubts the person’s identity. Finally, the voter is a silent elector.

When casting a provisional vote, ballot papers are placed in an envelope. Written on the outside of the envelope are the voter’s details including name, address, date of birth and signature. This allows the Australian Electoral Commission to examine the eligibility of the voter before including the vote into the count – this is known as ‘preliminary scrutiny’.

The Electoral Act and the Referendum Act currently require a person casting a provisional vote to provide evidence of identity by the first Friday following polling day. If the voter does not provide evidence of identity by this deadline the vote does not progress to ‘preliminary scrutiny’ and is not counted.

At the 2010 general election over 28,000 provisional votes were rejected because the voter did not provide evidence of identity by the deadline. There might be a number of reasons why a voter has not provided evidence of identity by the deadline. It does not necessarily indicate an attempt to vote fraudulently.

Out of the 28,000 rejected votes, the Australian Electoral Commission found over 12,000 instances where the name of the voter was subsequently found on the certified list. This result is not surprising as a provisional vote is cast in circumstances where a polling official has doubts regarding the voter’s identity or if a mark on the certified list appears to indicate the voter has already voted. It might also indicate a miscommunication between the voter and the polling official, or a simple mistake by the polling official in not finding the voter’s name on the certified list. Whatever the case, the result is that otherwise eligible votes were excluded from preliminary scrutiny.

The requirement for a provisional voter to provide evidence of identity leads to inconsistency in the treatment of different types of declaration votes. Otherwise eligible voters who do not provide evidence of identity by the deadline would have had their vote counted if they had voted by absent vote, postal vote or pre-poll declaration vote. There is no reason why otherwise valid provisional votes should be treated differently to other forms of declaration voting such as postal voting and absent voting.

This bill will repeal the requirement for voters casting a provisional vote to provide evidence of identity. Instead, if there is any doubt as to the bona fides of the elector, the signature on the provisional vote envelope will be compared with the signature of the elector on previously lodged enrolment records.

Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further Election Commitments and Other Measures) Bill 2011

This Bill delivers on three important election commitments made by the Government during the 2010 election campaign to improve support for Australian families and children. These will make the system of family tax benefit advances more flexible to better meet families’ needs, and make sure children have a health check before they start school.

The Bill also includes a measure from the 2010-11 Budget on streamlining notification of compensation payments, along with some minor clarifications to family payments and technical amendments.

An additional two election commitments for Australian families were included in an earlier Bill. These were:

- improved support for families with teenagers, which will provide substantial increases in family assistance for families with teenagers aged 16 to 19 in secondary school or vocational equivalent; and
- better access to the baby bonus to assist families with the upfront costs of having a new baby.
Together, these commitments will significantly improve the assistance available to Australian families to assist with the costs of raising children.

**More flexible family tax benefit advances**

The first election commitment in the Bill being introduced today overhauls the advance payment rules for family tax benefit Part A to better meet families’ needs. This initiative is part of the Government’s Better Access to Family Payments package, which will give families improved and more flexible access to their family payments.

One element of the Better Access to Family Payments package has already been introduced in a recent Bill—a $500 upfront payment of the baby bonus for eligible parents.

Managing the household budget can be a delicate balance, especially when something unexpected happens. The fridge or washing machine can break down, or a school uniform can get damaged and need replacing.

The measure in this Bill will ensure that advance payment rules for family tax benefit Part A are more flexible, helping families deal with unexpected expenses.

Under the new rules that will apply from 1 July 2011, families will have more choice over the size and timing of their advance payments.

For some families, this new flexibility will mean avoiding higher credit card bills or small loans from high interest providers such as payday lenders. For others, it will make it easier to manage the family budget around one-off expenses like the car registration or a broken fridge.

Currently the maximum advance amount is fixed at around $330 for six months for all families, and this full amount can only be advanced twice a year—on 1 July and 1 January. This means that families do not have the flexibility to request advances when they actually need them to meet unexpected costs.

Under the new rules, families will be able to choose the value of their advance payment between minimum and maximum amounts. The minimum amount for all families will be 3.75 per cent of the maximum standard rate for a child aged under 13—this would give a minimum advance amount of around $160.

The maximum amount will be linked to the family’s usual annual rate of payment. Generally, a maximum of 7.5 per cent of that rate will be available for advance payment.

For a family not receiving rent assistance, and with one child under 13, this would give a maximum advance amount of around $320. For a family not receiving rent assistance, and with two children under 13, the maximum advance would be around $640.

The maximum advance would be higher for a family receiving rent assistance.

An overall maximum will apply, set initially at $1,000 in 2011-12, and maintained at the same percentage of the maximum rate for one child under 13 as in the first year.

Some families on the base rate of family tax benefit Part A would have access to a smaller advance amount because of their smaller existing entitlements.

Families will repay their advances through adjustments to their ongoing fortnightly family tax benefit Part A entitlement in the following six months.

From 1 July, families will be also able to request advances at any point in the year, and can have multiple advances up to their maximum advance amount.

However, Centrelink will not approve advance payment requests if they would result in financial hardship. Families making repeated requests will also be assessed to see whether they may benefit from financial advice or financial counselling.

There are currently around 1.5 million families that could benefit from this measure if they choose to take these more flexible family tax benefit advances.

These reforms for families are similar to the improvements that this Government has already implemented for age pensioners as part of its historic pension reforms.

**Healthy start for school**

The second election commitment delivered through this Bill will set up a new requirement for income support recipient parents of four year-
olds, to make sure their children have a health check before they start school.

The new arrangement will make payment of the family tax benefit Part A supplement (which is paid to families at the end of a financial year) conditional for these families on the children undergoing a health assessment, such as the Healthy Kids Check.

The new requirements apply to families where either member of a couple has received income support for any part of the year.

The requirement will also apply to non-parent carers who have received family tax benefit for a child in their care for at least 26 weeks, and who also received an income support payment at some time during the financial year. In addition, the new requirement will only apply to non-parent carers who still have the care of the child at the end of the financial year.

Pre-school health checks make sure children are healthy, fit and ready to learn when they start school. These important checks promote early detection of developmental issues and illnesses.

Research indicates that disadvantaged children not only begin school less well prepared, but that early gaps persist and even widen as children progress through school. An early check is critical to help detect any developmental barriers, such as hearing or sight impairment.

The health checks to be included will be set by Ministerial determination. Many children receive health checks through child and maternal health clinics or through other health services. In 2008, the Federal Labor Government also introduced a Healthy Kids Check for four year olds so that families also have the option of receiving these services from a general practitioner or practice nurse.

Parents will need to confirm with Centrelink that the check has been done. There will be an exceptional circumstances provision to waive the new requirement, such as when the child has a severe disability or terminal illness.

This requirement will apply from the entitlement year that begins on 1 July 2011 and it is estimated around 92,000 children aged four, whose families receive income support at some point in the year, will be affected by this measure each year.

This important measure is another example of this Government putting the health and wellbeing of children and families at the centre of our welfare reform agenda.

The Government’s welfare reforms reflect the expectations of the broader Australian community—that people receiving welfare support should take personal responsibility for themselves and their families. People must participate in study, training or work and parents must care for their children.

It builds on the new model of non-discriminatory income management already rolled out in the Northern Territory, and the income management trials in Cape York and across metropolitan Perth and the Kimberley. Income management makes sure welfare payments are spent in the best interests of the child.

Income management is having positive results:

- More welfare money is being spent on food, clothing and school-related expenses and less on alcohol, gambling, cigarettes and drugs.
- Over half of those who could have left the scheme in the Northern Territory have volunteered to stay on it—they find the Basics Card is a helpful budgeting tool.
- And in Western Australia, two-thirds of people on compulsory income management and 82 per cent on voluntary income management said they recommended income management to others—a pretty good endorsement.

**Strengthening child support compliance**

In the third election commitment in this Bill, the compliance regime on the use of default income in child support assessments will be strengthened.

A new, more accurate, default income arrangement will be introduced that uses a parent’s previous taxable income, increased by wages growth, instead of a lower default income in cases where they have not lodged a tax return.

Currently, when a parent has not lodged a tax return, their child support assessment is estimated at two-thirds of the Male Total Average Weekly Earnings. However, this figure often understates the parent’s actual income.
Almost one in four child support cases have incorrect assessments due to late or non-lodgement of tax returns. Some parents have failed to lodge returns for over seven years. This non-compliance with tax obligations works against the policy objective of the Child Support Scheme that parents contribute towards the cost of raising their children according to their capacity to pay.

Under legislative changes made in 2006, and implemented during 2008, a new default income of two-thirds of Male Total Average Weekly Earnings has applied in child support cases where a person does not lodge their tax return for more than two years. This default income is around $39,000 per annum.

Since 1 July 2008, there has been a 570 per cent increase in the use of this default income where it is lower than the person’s previous taxable income.

To ensure a more accurate child support assessment and therefore better support for children in separated families, the new process will generally use the parent’s last known taxable income, indexed by the growth in average wages. However, if the current calculation of two-thirds of Male Total Average Weekly Earnings would produce a higher income, that figure will be used instead.

This measure will help ensure that child support assessments are fairer and more accurate and remove the unintended incentive for parents on higher incomes to benefit from a lower child support assessment if they do not lodge a tax return.

**Streamlining of compensation payments notification**

A measure from the 2010-11 Budget will also be introduced in this Bill. This measure will streamline the process of notifying Centrelink when payments are made by compensation payers and insurers.

These compensation payers and insurers will now need to tell Centrelink before compensation payments (lump sum payments as well as ongoing periodic payments) are made to compensation recipients or their partners.

The new requirement will help make sure people are paid their correct Centrelink entitlements and avoid overpayments and unnecessary debts accruing.

This measure will help simplify the process of Centrelink notification for recipients of compensation who also receive Centrelink payments.

**Minor amendments**

Lastly, some minor clarifications will be made to several family assistance and child support provisions. These clarifications do not change current policy.

This Bill delivers on three important election commitments and a measure from last year’s Budget. The measures in this Bill will improve support for Australian families, improve child support assessments and help prevent compensation recipients accruing unnecessary debts with Centrelink.

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**Tobacco Advertising Prohibition Amendment Bill 2010**

The Tobacco Advertising Prohibition Amendment Bill 2010 seeks to make it an offence to advertise tobacco products on the internet and in other electronic media.

This brings electronic means of advertising—whether it be on the internet or by mobile phone—in line with restrictions already in place in other media.

Australia’s comprehensive approach to tobacco control with sustained and coordinated actions from Commonwealth and State governments including excise measures, advertising bans, bans on smoking in workplaces and public spaces and anti-smoking advertising campaigns over several decades have seen smoking rates cut from 30.5 per cent in 1988 to 16.6 per cent in 2007.

But there is still more to do.

Tobacco smoking remains one of the leading causes of preventable death and disease among Australians.

Smoking kills over 15,000 Australians every year and costs around $31.5 billion each year.

In 2007, some 16.6 per cent of Australians aged 14 years and over smoked daily.

That is why in April 2010 the Government announced a comprehensive Anti Smoking Action package aimed at delivering on its commitments to reduce the smoking rate to 10 per cent by 2018.
and to halve the rate of smoking among Indigenous Australians.

The Bill is part of this package which included:

• the 25% tobacco excise increase introduced on 29 April 2010,
• record investments in anti-smoking social marketing campaigns, and
• legislation to mandate plain packaging of tobacco products by 2012.

We all acknowledge that messages and images promoting the use of tobacco products can “normalize” tobacco use, increase uptake of smoking by youth and act as disincentives to quit.

A national ban on tobacco advertising—that is, direct cigarette advertising on radio or television—first came into effect in 1973.

At that time, Australia also introduced mandatory health warnings on cigarette packs.

Over a decade later, the Smoking and Tobacco Products Advertisements (Prohibition) Act 1989 nationally banned tobacco advertising in newspapers and magazines.

In 1992, the Commonwealth introduced a more rigid ban with the passage of the Tobacco Advertising Prohibition Act 1992 (the Act).

The Act serves as the primary vehicle governing advertising of tobacco products in Australia.

It makes it an offence to give publicity to, or promote tobacco products. While much of the emphasis is on cigarettes, the Act applies to all tobacco products including cigars, pipes and pipe tobacco, loose tobacco, cigarette papers, etc.

Since the passage of the Act in 1992, the use of the internet as an advertising medium has become increasingly widespread.

The media platforms accessed by young people today are continually evolving.

The internet is clearly becoming a major vehicle by which young people can be exposed to tobacco advertising.

Unregulated internet advertising and promotion of tobacco products undermines the effectiveness of the Act and fosters the false perception that smoking is the norm.

Unregulated retail activity on the internet can also undermine tax pricing policies aimed at deterring smoking, facilitate the purchase of tobacco products without appropriate graphic health warnings and contribute to the promotion of smoking more generally.

At the Ministerial Council on Drug Strategy (MCDS) in 2007, the States and Territories expressed their support for the Commonwealth to seek to regulate tobacco advertising on the internet.

National and international efforts signal the level of concern surrounding tobacco advertising on the Internet.

Australia is a signatory to the World Health Organization’s Framework Convention on Tobacco Control (WHO FCTC).

Guidelines developed under Article 13 of the WHO FCTC require that, where internet sales of tobacco products are not yet banned, restrictions should be imposed, allowing only textual listings of products with prices, with no pictures or promotion features.

I note that a complete ban on internet retail sales has not been included in this Bill.

This is consistent with the policy of consecutive governments that the internet should be maintained on the same footing as, and not be disadvantaged, compared to other retail points of sale.

This helps ensure, for example, that people living in rural and regional areas are not disadvantaged when purchasing grocery items including tobacco products over the internet.

Currently, ambiguity exists as to how the provisions of the Tobacco Advertising Prohibition Act 1992 may be applied to the advertising of tobacco products on the internet and whether or not advertising of tobacco products over the internet is permitted.

The intended effect of the amendments is to make it a specific offence to advertise tobacco products on the internet and all other electronic media and future technologies, unless such advertising complies with State or Territory legislation or with Commonwealth regulations.

Section 34 of the Act allows the Governor-General to make regulations prescribing matters...
required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to this Act.

It is proposed that regulations will be made under the Act to prescribe specific requirements as to:

- the size, content, format and location of tobacco advertisements;
- the inclusion of health warnings, warnings about age restrictions on the sale of tobacco products, information about any fees, taxes and charges payable in relation to tobacco products; and
- age restricted access systems for access to tobacco advertisements.

The maximum penalty for each offence under these amendments is 120 penalty units, which is $13,200.

This is consistent with the penalty units for other offences under this Act and for legislation of a similar nature, such as the Interactive Gambling Act 2001.

The Gillard Government remains concerned about the harms and subsequent health costs relating to the consumption of tobacco.

As a consequence the Government is committed to reducing the effects of tobacco on Australia’s population.

This Bill will bring restrictions on tobacco advertising and promotion on the internet into line with restrictions in other media and at physical points of sale.

It creates a level playing field—the restrictions placed on over the counter sales and on-line sales will no longer be different.

This legislation and the proposed regulations are part of this comprehensive approach to tobacco control which is helping to give Australia one of the lowest smoking rates in the world.

Ordered that further consideration of the second reading of these bills be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Messages have been received from the House of Representatives informing the Senate of the appointment of members to joint committees as follows:

Christmas Island tragedy of 15 December 2010—Joint Select Committee—Mr Perrett, Mr Husic, Mr Champion, Mr Keenan and Mrs Markus.

National Broadband Network—Joint Standing Committee—Mr Symon, Mr Husic, Ms Rowland, Mrs D’Ath, Mr Turnbull, Ms Ley, Mr Hart-suyker, Mr Fletcher and Mr Oakeshott.

Legislation Committees

Reports

Senator POLLEY (Tasmania) (5.31 pm)—Pursuant to order and at the request of the chairs of the respective committees, I present reports on the examination of annual reports tabled by 31 October 2010.

Ordered that the reports be printed.

Education, Employment and Workplace Relations References Committee

Report

Senator BACK (Western Australia) (5.31 pm)—I present the final report of the Education, Employment and Workplace Relations References Committee on industry skills councils, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BACK—I seek leave to move a motion in relation to the report.

Leave granted.

Senator BACK—I move:

That the Senate take note of the report.

The matter of industry skills councils was referred to the committee on 22 June 2010 and deferred due to the prorogation of the
I thank the 119 people and organisations who made submissions to the committee. The committee was pleased to learn that most submitters were broadly satisfied with the contribution ISCs make to furthering the nation’s skills and training objectives. There were, of course, a number of submissions which raised significant points of concern and drew isolated difficulties within certain sectors to the committee’s attention. The committee considered these and is confident that they will be resolved by the parties concerned using existing channels of communication.

ISCs produce training packages which form the basis for industry endorsed national qualifications that reflect the needs of the labour market. These packages are developed through a consultative process which is designed to reflect workplace requirements. They undergo regular reviews to ensure their ongoing relevance and credibility.

Training packages produced by the ISCs need endorsement from the National Quality Council, soon to become the National Standards Council. This is a process which requires ISCs to show evidence of product quality and consultation with and support from industry. It is also a process which has attracted some criticism from submitters questioning the role of the NQC in product quality assurance. Some of these submitters felt that the NQC imposed excessive bureaucratic constraints on the ISCs which compromised the quality of their training packages. The committee appreciates the fine balance required between ensuring evidence based product quality and minimising delays caused by red tape.

The committee also heard that some stakeholders feel that ISCs may not possess sufficient industry-specific expertise to develop targeted training products. Problems were expressed by the automotive industry, who were of the view that the federal government’s decision to hand responsibility for that industry to a particular ISC was in fact not in the best interests of that industry. The committee is satisfied that Manufacturing Skills Australia is attempting to engage with the industry and is working hard to respond to stakeholders’ calls in this regard.

The committee considered the question of the production of training materials by ISCs, having heard that some ISCs may be exhibiting signs of anticompetitive behaviour, especially towards smaller, private sector training material developers. The existence of such views is cause for concern and led the committee to recommend that ISCs review their activities to ensure that their focus remains on training package oversight and not on development or production. The committee cannot stress enough how important it is that there is separation between the work of ISCs and registered training organisations in product development and training delivery.

The committee has recommended that the ISCs examine ways to develop a template for the environmental scans they conduct on behalf of government and industry on an annual basis, in order to minimise the burden on stakeholders in having to expend excessive time and energy scanning separate information from each of the 11 ISCs. There is a process through the ISC chairs and CEOs which the committee believes would be appropriate to undertake this development.

Other significant points that the committee assessed centred on issues of accountability in funding and corporate governance. As ISCs have contractual agreements with the Department of Education, Employment and Workplace Relations which underpin the allocation of funding, they are clearly accountable to government for money spent.
The committee concluded its inquiry with a strong view that ISCs must use government funding to pursue core activities and that they must be transparent and accountable in discharging them.

It did become clear from the presentations by different ISCs and others that there have been differences between ISCs and from industry to industry. These became apparent in almost all aspects of the inquiry, and to a certain extent it is normal. We would expect that, with 11 separate agencies dealing with such diverse industries and equally diverse challenges, some will perform better than others. It is for this reason that the committee believes that the government would do well to develop standard contracts with clauses detailing accountability measures for all paid work undertaken for any government agencies—both DEEWWR and any other agency of government. If these were incorporated into contracts between the department and each ISC the committee believes we would see fewer inconsistencies and causes for concern.

The committee would like to see an improvement in the ISCs’ relationships with state and territory advisory bodies in order to increase the uptake of ISC training packages. We do acknowledge that stakeholders are mindful of the deficiencies where they exist and are making efforts to address them. The committee’s ability, however, to assess the formal structures in place for these relationships was regretfully hampered because the department declined to make a submission to this inquiry, despite repeated calls from the committee through the secretariat. The committee believes this was an opportunity missed.

Nonetheless the committee has drawn several important recommendations to the department’s attention, aimed at supporting the objectives of the ISCs and ensuring that they are unfailingly accountable for public moneys. The committee believes it is of paramount importance that the federal government holds all ISCs up to standards and helps them remove inconsistencies in funding and corporate governance arrangements. We hope that the government and the department will work to finetune those arrangements currently in place.

Having said that, on behalf of the committee I reiterate that most submitters are broadly satisfied with the effectiveness of ISCs. We understand that both ISCs and the workforce development packages they produce are—relatively speaking—new and constantly evolving to meet current and future needs, which are forever changing. As stated in the report, this is not an exact science and is almost certain to generate dissatisfaction amongst some stakeholders some of the time. The committee, however, does not believe that the current industry configuration under each ISC should be set in stone. It is possible that some ISCs cover too large and diverse a set of industry sectors to give each one, particularly small businesses within them, adequate time and consultation. For this reason we strongly recommend that the department include in its next contracts with ISCs, which are to be written from June-July of this year, a clause which will provide for the renegotiation of industry coverage, and potentially the splitting of some ISCs if deemed necessary.

Two ISCs in particular cover such an extensive cross-section of industries that consideration could be given to splitting them to achieve more equitable outcomes for participants in their industries.

The importance of training and workforce development to this nation’s future productivity cannot be emphasised strongly enough, and that was a unanimous view supported by the committee. The committee welcomed the
opportunity to be part of the effort to address concerns voiced by members of the wider community in the interests of improving outcomes for employers and employees across Australia.

I take the opportunity to thank the members of the committee and the secretariat for the excellent manner in which this was conducted and for the effort of the secretariat in assisting the committee in all phases of our investigation.

In conclusion, there are 10 recommendations that have been made as a result of this report, and I commend the report and its recommendations to the Senate.

Senator MARSHALL (Victoria) (5.41 pm)—I rise also to add my support to and commend Senator Back for the contribution that he just made. The Senate Education, Employment and Workplace Relations References Committee rarely manages to get unanimous reports. The areas that the committee covers often reflect some of the sharp differences between the policies of the coalition and the government, but in this case I was pleased to be part of a unanimous report and I commend the chair, Senator Back, for his efforts and his cooperation in being able to achieve that.

Given that it was a unanimous report, I can say that I endorse all the remarks that Senator Back just made, so I will not go on and repeat any of that detail, apart from saying that industry skills councils are an important part of the vocational education industry. It is important—and I think we have quite a unique system here in this country—that the industry itself develops training packages that suit the industry’s needs and that the industry itself looks at its skills needs over the next 12 months, five years and even 10 years. It is an important form of intelligence for the government in setting the policy parameters to ensure that we have a skilled workforce, a quality workforce, into the future.

As Senator Back said, we find that the industry skills councils, on the whole, work very, very well. There is always room for assessment and improvement, and I think the inquiry which we conducted was a timely inquiry and a valuable inquiry. I think that some years down the track the committee should do it again and just see whether we are constantly improving in this regard.

I am pleased that we have made the recommendations that we have. They are supported by the government senators on the committee. Again, I congratulate all members of the committee for being able to get a unanimous report on this subject.

Question agreed to.

BUSINESS

Rearrangement

Senator CHRIS EVANS (Western Australia—Leader of the Government in the Senate) (5.44 pm)—I move:

That intervening business be postponed till after consideration of government business order of the day no. 6 (Civil Dispute Resolution Bill 2010).

Question agreed to.

CIVIL DISPUTE RESOLUTION BILL 2010

Second Reading

Debate resumed from 25 October 2010, on motion by Senator Sherry:

That this bill be now read a second time.

Senator BRANDIS (Queensland) (5.44 pm)—The Civil Dispute Resolution Bill 2010 seeks to encourage parties to a dispute to take what are described as genuine steps to resolve the dispute before commencing civil proceedings in the Federal Magistrates Court or the Federal Court. It is intended to complement the Access to Justice (Civil
Litigation Reforms) Act 2009, which imposed a requirement that federal civil procedure be directed towards the just resolution of disputes as quickly, inexpensively and efficiently as possible. It implements the recommendations of the National Alternative Dispute Resolution Advisory Council in its 2009 report *The resolve to resolve*.

The principal measure in the bill is to require an applicant in proceedings in the Federal Magistrates Court or the Federal Court to file what is described as a ‘genuine steps’ statement at the time of commencement of the proceedings, describing the steps that have been taken in an attempt to resolve the dispute. The requirement does not apply to family law or to native title proceedings, which have their own alternative dispute resolution processes. It also does not apply to criminal or quasi-criminal proceedings; appeals, including appeals from tribunal decisions; where a party has been declared a vexatious litigant; proceedings that relate to warrants or compulsory disclosure notices; and ex parte proceedings. Where proceedings are urgent, or if the safety or security of a person or property would be compromised by taking alternative steps, the statement may specify the reasons that such steps were not taken.

The sanctions applicable to failing to take genuine steps are at the court’s discretion and are in the nature of other failures to comply with the rules of court, such as appropriate interlocutory orders and orders as to costs. Examples of alternative steps include mediation, conciliation, expert appraisal, early neutral evaluation and arbitration. Less formal processes, including simple offers to negotiate and the timely exchange of information and documents, would also be captured by the requirement.

However, there are in the opposition’s view potential problems with the bill in the form in which it is drafted. One problem arises in relation to the obligation imposed upon lawyers to advise clients as to the compliance with the requirement. The bill provides that the lawyer must not only advise but also ‘assist’ clients to comply. Costs may be ordered against legal representatives personally if they are considered to have failed to have complied with that obligation. Lawyers already have a duty to assist their clients and, where the client accepts the advice, re-stating it adds nothing. The question, however, arises as to the scope of the obligation imposed upon the lawyer to ‘assist’ a party to comply with its duty in circumstances in which a party chooses to conduct the proceeding in a manner which may not be in compliance with the duty imposed upon the client. Disputes of this nature may require inquiries into matters covered by lawyer-client privilege, foment discord between lawyers and their clients, penalise innocent parties and result in further costs and delays while alternative representation is being arranged.

A more fundamental issue arises in relation to the discretion to award costs in respect of a failure to take genuine steps to resolve a dispute. The duty imposed upon a party under clause 12 of the bill expressly applies to the conduct of a party in negotiations for settlement of the matter which is the subject of the dispute. On one view, the application of this provision may permit the court when considering the question of costs to have regard to matters which would ordinarily be the subject of settlement or—without prejudice—privilege. This may amount to the abrogation of the settlement privilege, at least by implication. I understand that the government proposes amendments to ensure that the steps taken by the parties are not to be disclosed.

Finally, clause 4 provides a loose definition of ‘genuine steps’ by way of some ex-
amples. These include: notifying the other person of the issues that are, or may be, in dispute and offering to discuss them, with a view to resolving the dispute; responding appropriately to any such notification; providing relevant information and documents to the other person to enable the other person to understand the issues involved and how the dispute could be resolved; considering whether the dispute could be resolved by a process facilitated by another person, including an alternative dispute resolution process; if such a process is conducted but does not result in resolution of the dispute, considering a different process; and attempting to negotiate with the other person, with a view to resolving some or all the issues in dispute or authorising a representative to do so. These are commonplace initiatives in litigation and not all are necessarily appropriate in all disputes. Many of them are steps already required under the court’s rules of procedure.

The term ‘genuine steps’ is, in the opposition’s view, itself problematic. The assessment of genuineness necessarily includes a degree of subjectivity. An objective assessment creates more certainty and is more closely aligned with the policy intentions of the bill. What is genuine is not necessarily reasonable but what is reasonable is of necessity genuine. The term ‘reasonable’ is used in Victoria’s Civil Procedure Act 2010 and is proposed for the New South Wales Civil Procedure Act 2005. The Federal Court itself has commented that ‘any difference in terminology’ between acts governing the federal courts—that is, the Federal Magistrates Court and the Federal Court—and state supreme courts is likely to lead to arid disputes in interpreting comparative legislative provisions. Comity matters here.

It was for the consideration of these issues that the bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee. The committee reported on 2 December 2010. I am pleased to note that the concerns I have mentioned were shared by the committee, and I understand that the government proposes to move amendments to reflect some but not all of them. Those amendments will have the opposition’s support. However, I understand the opposition’s concern in relation to the use of the word ‘genuine’ as opposed to the use of the word ‘reasonable’ has not been agreed to by the government. Therefore, at the committee stage, I will be moving amendments to that effect.

The coalition supports sensible legislation that increases the efficiency and accessibility of the federal judicial system. The initiatives in this bill that may hasten settlement of certain cases and reduce the strain on judicial resources are welcome measures. Those results, however, must not be achieved at the expense of the courts’ cardinal duty—that is, to do justice. If the coalition’s concerns can be met by amendments, we will support the bill. As I have foreshadowed, I understand that in all but one respect, that will be so. Subject to the reservation I have made, the coalition supports the bill.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (5.52 pm)—I was going to thank all senators for their contribution to the debate on the Civil Dispute Resolution Bill 2010, but I will just thank Senator Brandis; it seems there are no other contributions. In summing up, I will put some remarks on the record. I think Senator Brandis’s assessment of where we are at in terms of amendments is correct. The government will be moving three amendments to respond to the concerns raised as a result of the committee process, but he is right to identify that we still have a disagreement over the terminology about reasonableness. I am hoping that Senator Ludwig will be in the chamber for that de-
bate when we get to it in the committee stage, because for a non-lawyer it seems a little arcane. I will of course support the government’s position, but I do not feel capable of going toe to toe with Senator Brandis about what lawyers do or do not understand by those terms, as interesting as that debate is.

I would like to thank the Senate Standing Committee on Legal and Constitutional Affairs, which delivered their report on the bill on 2 December last year. That committee noted that the introduction of the bill is an important initiative in ensuring that there is a focus on resolving a matter before costly and time-consuming litigation is undertaken. Even when matters are not resolved, there will be a benefit to parties if the issues in dispute are clarified and narrowed. As Senator Brandis made clear, the committee made three specific recommendations. The first was to amend the bill to provide for an inclusive definition of the word ‘genuine’ to better reflect the intention of the National Alternative Dispute Resolution Advisory Council’s report, *The resolve to resolve*. The second recommendation was to amend the bill so that the court, when taking into consideration the genuine steps that have been taken by a person when it is exercising its powers or performing its functions, also takes into account the circumstances of disadvantaged litigants.

The government has responded to both these recommendations by proposing a definition of ‘genuine steps’, which provides that a person takes genuine steps to resolve a dispute if the steps taken by the person in relation to the dispute constitute a sincere and genuine attempt to resolve the dispute having regard to the person’s circumstances and the nature and circumstances of the dispute. The government believes this new provision gives effect to the committee’s intentions and those of NADRAC. It will clarify for prospective litigants what may constitute genuine steps and will make it clear that it is to be determined in the light of their particular circumstances and those of their dispute. It will make it clearer that it is not the government’s intention to impose onerous or prescriptive obligations.

The third recommendation was to amend the bill so that information disclosed while taking genuine steps to resolve a dispute cannot be used for any other purpose outside the resolution of the dispute at hand. The government has responded to this recommendation by proposing a government amendment to the bill to explicitly provide that nothing in the bill excludes or limits the operation of a law of the Commonwealth, a law of a state or territory or the common law, including the rules of equity, relating to the use or disclosure of information, the production of documents or the admissibility of evidence. The bill is not intended to diminish the effect of any existing provisions or rules that may protect communications made in an attempt to resolve the dispute. This provision will ensure that the status quo is maintained. While this may not fully implement the committee’s recommendation, the government proposes to consider the matter further in the context of NADRAC’s recent report on the integrity of ADR processes, which specifically addresses these issues.

As I said, we will not be supporting the opposition’s amendments. The government considers the term ‘genuine’ provides more meaningful guidance to parties about the types of actions they can include in their genuine step statements, but obviously we will debate that when we get to the amendments at the committee stage. One of the government’s highest priorities is improving access to justice. This bill is an important step in that direction. It complements the strategic framework for access to justice as it encourages the early resolution of disputes at
least cost. We appreciate the support around the chamber for the bill and we thank the committee for its work. I commend the bill to the Senate. The government will move three amendments and will also consider the opposition’s amendments during the committee stage.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BRANDIS (Queensland) (5.59 pm)—by leave—I move opposition amendments (1) to (29) on sheet 7047 together:

(1) Clause 3, page 2 (line 12), omit “genuine”, substitute “reasonable”.

(2) Heading to clause 4, page 2 (line 14), omit “Genuine”, substitute “Reasonable”.

(3) Clause 4, page 2 (line 16), omit “genuine”, substitute “reasonable”.

(4) Clause 4, page 3 (line 18), omit “genuine”, substitute “reasonable”.

(5) Clause 5, page 4 (line 3), omit “genuine”, substitute “reasonable”.

(6) Heading to Part 2, page 5 (line 1), omit “genuine”, substitute “reasonable”.

(7) Heading to clause 6, page 5 (line 4), omit “Genuine”, substitute “Reasonable”.

(8) Clause 6, page 5 (line 6), omit “genuine”, substitute “reasonable”.

(9) Clause 6, page 5 (line 8), omit “genuine”, substitute “reasonable”.

(10) Clause 6, page 5 (line 18), omit “genuine”, substitute “reasonable”.

(11) Clause 6, page 5 (line 20), omit “genuine”, substitute “reasonable”.

(12) Heading to clause 7, page 5 (line 24), omit “Genuine”, substitute “Reasonable”.

(13) Clause 7, page 5 (line 25), omit “genuine”, substitute “reasonable”.

(14) Clause 7, page 5 (line 27), omit “genuine”, substitute “reasonable”.

(15) Clause 7, page 5 (line 29), omit “genuine”, substitute “reasonable”.

(16) Clause 7, page 5 (line 30), omit “genuine”, substitute “reasonable”.

(17) Clause 7, page 6 (line 1), omit “genuine”, substitute “reasonable”.

(18) Heading to clause 8, page 6 (line 4), omit “Genuine”, substitute “Reasonable”.

(19) Clause 8, page 6 (line 5), omit “genuine”, substitute “reasonable”.

(20) Clause 9, page 6 (line 9), omit “genuine”, substitute “reasonable”.

(21) Clause 10, page 6 (line 16), omit “genuine”, substitute “reasonable”.

(22) Heading to clause 11, page 7 (line 3), omit “genuine”, substitute “reasonable”.

(23) Clause 11, page 7 (line 8), omit “genuine”, substitute “reasonable”.

(24) Clause 11, page 7 (line 11), omit “genuine”, substitute “reasonable”.

(25) Clause 12, page 7 (line 17), omit “genuine”, substitute “reasonable”.

(26) Clause 12, page 7 (line 20), omit “genuine”, substitute “reasonable”.

(27) Clause 18, page 11 (line 7), omit “genuine”, substitute “reasonable”.

(28) Clause 18, page 11 (line 8), omit “genuine”, substitute “reasonable”.

(29) Clause 18, page 11 (line 10), omit “genuine”, substitute “reasonable”.

Opposition amendments (1) through to (29) are in common form and in each case the effect of the amendment would be to delete the word ‘genuine’ and to insert in its place the word ‘reasonable’. Let me elaborate for a moment, if I may, on why this is an issue that does matter. It may sound to Senator Evans like an arcane lawyer’s dispute and I will try and lead him through it gently. It is a very important difference, in considering whether appropriate—if I may use a neutral word—steps have been taken in accordance with the scheme of the bill to resolve a dispute, whether the test to be applied in making that
determination is an objective test or a subjective test. In the opposition’s view, consistent with similar legislation—including equivalent legislation in the states of Victoria and New South Wales, it is obvious that an objective test should be applied.

The notion of reasonableness is one of the most well-known notions in the law. It has operation across the entire area of the law, whether it be the law of tort, whether it be revenue law, whether it be criminal law. The notion of reasonableness is well known to lawyers and to courts. A huge body of jurisprudence and doctrine has developed which enables courts to make fine and accurate judgments about reasonableness. To put it very simply, reasonableness is an objective test.

Genuineness is a subjective test which is accompanied by no equivalent body of legal doctrine, precedence or jurisprudence at all. It is a layman’s word. It is not a word which has a specialist legal meeting which would make its application easy or free of difficulty by a court of law that was seized of a controversy about the matter. If anything, the government’s proposed amendment (1), which would introduce a definition of genuine steps, makes the matter worse. If I can anticipate and refer to the government’s proposed amendment (1), which the opposition will oppose, the proposed amendment would give a definition of ‘genuine steps to resolve a dispute’ as being ‘steps taken by the person in relation to the dispute that constitute a sincere and genuine attempt to resolve the dispute’. That is, with all due respect to the draftsman who drew it, a dreadful piece of legislative drafting. We know that these are about steps to resolve a dispute, so that part of the definition is surplusage. To define genuine steps as genuine is circular. So one is left with the remaining element of the definition, ‘sincere’. Genuine is defined essentially as sincere.

The term ‘sincerity’, like the term ‘genuineness’, has no understood or well received legal meaning. But what it does do is it introduces a subjective criterion to determine whether the appropriate steps have been complied with. That is absolutely the wrong way to test these matters. The right way to test these matters is to test them objectively, to ask the question that courts so commonly do: what would a reasonable person so circumscribed do in these circumstances? It is for that reason, primarily, that the opposition urges the government to reconsider this rather artless approach to the drafting of the legislation.

As well, if I can repeat a point I made in the second reading debate, it is very important that there be comity between the federal jurisdiction and the state jurisdictions. This legislation is largely modelled on similar legislation which exists in the states of Victoria and New South Wales. In both of those jurisdictions, the test is one of reasonableness and the legislation uses the expression ‘reasonable steps’. For some reason, unknownst to the opposition, some creative mind has decided that the federal judiciary will under Commonwealth legislation be applying a different test than the state courts—a test which has no received legal meaning at all and is therefore attended by enormous uncertainty. How paradoxical is it that the purpose of this bill is to make the resolution of disputes quicker, cheaper and more efficient and yet the test which the Commonwealth proposes to introduce is a test which, because of its novelty and ambiguity, will in fact make the process of making that judgment more ambiguous, costly and complex?

Whosesoever was the directing mind that settled upon this form of words has made an artless and foolish decision. I might say that that was the evidence to the Senate committee as well, which made a recommendation
along the lines of the opposition’s amendment. The Law Council of Australia made a submission to the effect of the observations I have made in this contribution. So did the Castan Centre for Human Rights Law. Its witness, Ms Penovic said:

I do prefer the Victorian formulation of reasonable steps. I think it is broader and it is a more meaningful way of gauging the steps that have been taken. Genuine steps may extend to steps that are genuinely taken by parties but may not fall within the threshold of reasonableness.

So we have this rather bizarre situation: a law designed to facilitate and expedite the resolution of legal disputes is to be handicapped by an inappropriate definition of the appropriateness of those steps—a definition that is inconsistent with equivalent state law. It is a definition that has no well understood or received legal meaning and has been criticised not only by the professional association, the Law Council of Australia, but also by the Human Rights Law Resource Centre. It is a friendless formulation, so I would, at this late stage, urge the government not to hamper the very appropriate legislative intent of this bill by using this formulation but to accede to the views of the expert witnesses before the Senate committee, bring the bill into conformity or consistency with the analogous state legislation, and accept the opposition’s amendment to replace the test of ‘genuine steps’, which has no received legal meaning, with the test of ‘reasonable steps’, which has a well understood and received legal meaning and which would facilitate the purposes of the bill.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (6.09 pm)—First of all, I need to reject Senator Brandis’s accusation that this formulation is friendless. It has a friend in me and has a friend in the minister, so that outrageous accusation ought to be ruled out.

I understand that Senator Brandis’s interest and advocacy in this matter is genuine and his support for the bill is appreciated. There is a difference of view about this definitional issue but the government prefers ‘genuine’ as we think it sets a more meaningful goal for parties to consider. This is advice the government received from the National Alternative Dispute Resolution Advisory Council, who came up with this formulation. It was their recommendation. As I understand it, that council includes practitioners, those with academic expertise and those with experience as registrars in this field. So it is a body of people who have expertise in this area and they have recommended to the government the use of the word ‘genuine’.

I understand that that body is chaired by Murray Kellam, a retired justice of the Victorian Court of Appeal. So the government does rely on some expert advice in this matter. We think it provides more meaningful guidance to parties about the types of actions they can include in their genuine statements. Courts have tended to say that ‘reasonable’ means ‘not unreasonable’. In that light it might not be unreasonable for a lawyer to write a formal notice outlining their side of the dispute and asking the other side to capitulate, but that may not constitute a genuine attempt to resolve the dispute.

We think changing the term ‘genuine’ to ‘reasonable’ would go beyond what was recommended by the NADRAC and what was recommended by the majority of the committee. We think, consistent with NADRAC’s advice, that ‘genuine steps’ is a phrase that can usefully be given its ordinary meaning in the circumstances of any particular dispute. It is a term that should be well understood by Australians from every walk of life. Consequently, the government is of the view that there are significant advantages in the use of the term ‘genuine’ rather than ‘reasonable’. We think the phrase ‘reason-
able steps’ has a more legal connotation and, while well understood and familiar to lawyers like Senator Brandis, may be less transparent for ordinary Australians. I have been advised that the term ‘genuine’ is also used in the Family Law Act in the context of resolving disputes. That provides some support for the government’s position in the sense that it has not been the cause of any difficulties in the family law context.

I note that Senator Brandis rightly drew attention to the views of the Law Council. They are obviously important views in a debate such as this. We think, though, that the advice of NADRAC is important. It noted in its report that mandatory pre-action protocols may also impose unnecessarily high costs on people who would otherwise settle their dispute without the need for a court hearing. The bill has been crafted to avoid imposing prescriptive pre-action requirements. It does not introduce mandatory ADR or any onerous obligations. It does not require parties to take any particular genuine steps; instead it encourages the people in the dispute to consider what steps, if any, are appropriate in the circumstances to attempt to resolve the matter.

Consistent with existing case management principles, the judge who finally hears the matter if it proceeds to court will also have the discretion to consider whether the steps that a party took were sufficient in the circumstances. This just reinforces good practice and is a measured and appropriate encouragement for parties and their lawyers to do the sensible thing. As I said, the standing committee supported the government’s position.

The Victorian Civil Procedure Act, I am advised, establishes a more prescriptive regime. Chapter 3 of that act requires the parties to take reasonable steps to resolve their dispute. While that requirement will be repealed by the passage of the Victorian amendment bill, the court will retain the power to consider the extent to which parties have complied with any mandatory or voluntary pre-litigation processes and the extent to which the parties have used reasonable endeavours to resolve the dispute by agreement or to limit the issues in dispute. This position is consistent with the Civil Dispute Resolution Bill 2010, which also includes powers for the court to take into account whether a person took genuine steps to resolve their dispute.

On the basis of the advice from the National Alternative Dispute Resolution Advisory Council and the government’s own advice, we think that the proposition put forward by the government to retain ‘genuine’ as a more meaningful goal for parties to consider is the right one. As I say, I accept that Senator Brandis’ arguments for what he sees as an improvement to the bill are made in good faith, but the government’s advice is that we ought to maintain the use of the word ‘genuine’ rather than ‘reasonable’. It is a debate I have learned a lot more about in the last 10 or 15 minutes, and I rely very much on the advice provided to me in this debate. But, as I say, I think there is clearly goodwill in trying to get this legislation right. I appreciate that, but the government intends to persist with its view about the use of the term ‘genuine’ rather than ‘reasonable’, and will therefore oppose the opposition amendment.

Question negatived.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (6.16 pm)—I move:

(1) Clause 4, page 2 (after line 14), before sub-clause (1), insert:

(1A) For the purposes of this Act, a person takes genuine steps to resolve a dispute if the steps taken by the person in
relation to the dispute constitute a sincere and genuine attempt to resolve the dispute, having regard to the person’s circumstances and the nature and circumstances of the dispute.

This is the amendment that addresses both recommendations 1 and 2 from the recent report on the bill by the Senate Legal and Constitutional Affairs Legislation Committee. We have accepted the view of the committee, but we think the committee’s objective may be implemented in a more meaningful and helpful way by giving greater guidance in what is meant by ‘genuine steps’. I am happy to provide further explanation but I understand we have opposition support for the amendments.

Senator Brandis—Not for this one.

Senator CHRIS EVANS—Sorry; perhaps I will provide some more information as I was not aware that that was the case. The government accepts the view of the committee that greater guidance could be given to what is meant by ‘genuine steps’. However, a definition of ‘genuine’ may provide little guidance for parties as it would do little more than provide the equivalent of a dictionary meaning of the term. So in the government’s view the objective of the committee is given better force by giving greater guidance about what is meant by ‘genuine steps’.

NADRAC noted in the report that it considered ‘genuine steps’ as a phrase that can usefully be given its ordinary meaning in the circumstances of any particular dispute. Accordingly, the government proposes to insert a provision that makes it clear that a person takes genuine steps to resolve a dispute if the steps taken by a person in relation to the dispute constitute a sincere and genuine attempt to resolve the dispute. The proposed definition incorporates the ordinary meaning of the term ‘genuine’, as suggested by NADRAC, and will give prospective litigants greater comfort about what actions they can take that will constitute genuine steps and can be included in a genuine steps statement.

In relation to the second recommendation, the committee noted submissions that raised concerns about disadvantaged litigants and their participation in the civil justice system. In particular, the committee was influenced by the views that stressed that cost and delay should be minimised for disadvantaged litigants, and that the requirements of the bill should not add to them. To ensure that disadvantaged litigants are not further disadvantaged by having to take inappropriate additional steps, the committee recommended amending the bill so that courts can take into account the circumstances of disadvantaged litigants when exercising their powers or performing their functions.

The government accepts the Senate committee’s view. It is not the intention of this bill to impose prescriptive or mandatory requirements on prospective litigants that will simply add to costs and delay. Rather, it is intended that genuine steps that people take should be appropriate to their personal circumstances and their particular dispute. For that reason, the government proposes that the new definition of ‘genuine steps’ include the words:

… having regard to the person’s circumstances and the nature and circumstances of the dispute.

This will ensure that all parties who undertake genuine steps are considered in their own circumstances in the dispute at hand when deciding what action is appropriate for them to take. The court will also take this into account when it considers whether parties took genuine steps and what those steps were. Accordingly, the government is moving the amendment at clause 4(1A) to insert a new definition of ‘genuine steps’ which will read:
For the purposes of this Act, a person takes genuine steps to resolve a dispute if the steps taken by the person in relation to the dispute constitute a sincere and genuine attempt to resolve the dispute, having regard to the person’s circumstances and the nature and circumstances of the dispute.

Government amendment (1), as I say, is designed to respond to the sentiment of recommendations 1 and 2 in the committee’s report on the bill. We think this gives effect to the sentiment expressed by the committee.

Senator BRANDIS (Queensland) (6.20 pm)—The opposition opposes the government’s amendment for reasons I outlined in my remarks on the opposition’s amendments. Briefly, this amendment is afflicted by the triple vices of circularity, redundancy and vagueness. It is circular because it defines genuineness in terms of genuineness. It is redundant because it defines genuine steps in terms of steps taken in seeking to resolve the dispute, which is the object of the bill in any event. It is vague because ultimately the only new element of meaning that is introduced by the definition is the concept of sincerity.

The rules of court are not romantic novels. Human sentiment has no part in their dry and dusty pages. If the draftsmen were seeking some notion of good faith then they could have used the term ‘good faith’, which has a received legal meaning. If the opposition’s proposal had been adopted then the term ‘reasonableness’ would necessarily have implied good faith because it is difficult to imagine that a step could be reasonable unless it were also genuine or, by the extended definition of ‘genuine’, sincere. So we think this is a poor definition. It is very sloppy and it applies the wrong test. For those reasons, we oppose it.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (6.24 pm)—by leave—Yes, Madam Temporary Chairman. I thank you and Senator Brandis for your cooperation. I move:

(3) Page 11 (before line 3), before clause 18, insert:

17A Act does not exclude or limit law relating to disclosure of information, etc.

To avoid doubt, this Act does not exclude or limit the operation of a law of the Commonwealth, a law of a State or Territory, or the common law (includ-
We oppose clause 14 in the following terms:

(2) Clause 14, page 8 (lines 1 to 3), to be opposed.

I understand the opposition will be supporting these amendments so I will not delay the chamber unduly. I appreciate that support. The amendments respond to the committee’s third recommendation, although they probably do not go as far as the committee recommended. As I say, we think these amendments improve the bill and we agree with the committee and the organisations that made submissions to it that the bill should not diminish any existing provisions or rules that may protect communications made in an attempt to resolve a dispute. Amending the bill to make this explicit is appropriate.

I thank the opposition for its support for these two amendments that will improve the bill. I indicate that I should have earlier tabled the supplementary explanatory memorandum relating to the government’s amendments to be moved to this bill. I think the memorandum was circulated in the chamber but I have not formally tabled it, so I do so now.

Senator BRANDIS (Queensland) (6.26 pm)—As Senator Evans has indicated, the opposition does support these amendments for the reasons foreshadowed in my speech on the second reading.

The TEMPORARY CHAIRMAN—The question now is that clause 14 stand as printed.

Question negatived.

The TEMPORARY CHAIRMAN—The question now is that amendment (3) be agreed to.

Question agreed to.

Senator BRANDIS (Queensland) (6.26 pm)—Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations) (6.28 pm)—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator CHRIS EVANS (Western Australia—Leader of the Government in the Senate) (6.28 pm)—I move:

That government business order of the day no.3 (National Radioactive Waste Management Bill 2010) be postponed till a later hour.

Question agreed to.

FAMILIES, HOUSING, COMMUNITY SERVICES AND INDIGENOUS AFFAIRS AND OTHER LEGISLATION AMENDMENT (BUDGET AND OTHER MEASURES) BILL 2010

Second Reading

Debate resumed from 22 November 2010, on motion by Senator Farrell:

That this bill be now read a second time.

Senator FIFIELD (Victoria (6.29 pm)—I rise to speak on the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Bill 2010. Before I turn to the specifics of the bill, I do want to say that I am disappointed that the government did not bring this legislation on last year. Senators will recall that it was listed for debate at the end of last year. This bill was time sensitive because it contained provisions that were meant to be commencing from 1 January this year, including changes to special
disability trusts. Obviously because the bill was not brought on by the government it could not be voted on and those provisions were not able to begin by their scheduled starting date. Senator McLucas at that time sought to blame the opposition for the government’s own failure to present this bill at the end of last year, and I will talk about that a little later.

Before I do, I would like to go to the substance of the bill. The bill does contain a number of non-controversial measures. Schedule 1 of the bill seeks to relax the purpose and work capacity tests in relation to special disability trusts and gives trustees greater flexibility. Special disability trusts seek to assist families to make financial provision for the current and future care of a family member with a severe disability. Special disability trusts were an initiative of the coalition and in particular a former minister, the Hon. Dr Kay Patterson. They were announced by former Prime Minister Howard in 2005 and following a consultation phase the legislation was passed in September 2006. Kay Patterson’s commitment to helping people with a disability was strong and genuine and continues today. That her reform has stood the test of time and is being embraced by this government and further improved by these amendments before us today is a great tribute to her work as a minister.

These amendments are in response to the report of the inquiry of the Senate Standing Committee on Community Affairs entitled Building trust: supporting families through disability trusts, tabled in October 2008. The committee made a number of recommendations to make special disability trusts more attractive. When special disability trusts were announced it was thought that over four years there would be around 5,000 trusts established. Unfortunately, the uptake of the trusts has not been as strong as expected. As at 30 September last year only 119 trusts had been set up.

This bill deals with only a small number of the recommendations of that inquiry, in particular the relaxation of the work capacity and trust purpose requirements. Schedule 2 of the bill creates an ongoing requirement for residence in Australia for the disability support pension, bringing the pension into line with other workforce age payments. The 13-week portability provision in the Social Security Act is designed to allow DSP recipients to travel overseas for personal matters. Some DSP recipients have used this provision and the absence of a residency requirement to effectively live permanently overseas. The bill amends the Social Security Act to require that a person must be an Australian resident to receive DSP. The bill include some grandfather provisions and maintains the exemption allowing DSP recipients who are severely disabled and terminally ill to go overseas to be with a family member or return to their country of origin. The opposition sought an inquiry into an issue related to schedule 2, namely the portability of disability support pension for recipients in particular circumstances, which I will return to later in my remarks.

The original schedules 3 and 4 of the bill were removed in the House after the opposition flagged some concerns and these have been subject to a Senate inquiry and are no longer part of this bill. The opposition had indicated last year its willingness to cooperate with the government to pass the time-critical measures contained within this bill and thank the government for its cooperation in removing schedules 3 and 4 so that they could be properly inquired into without further delaying the rest of the bill.

Schedule 5 of the bill deals with a matter relating to family tax benefit and Australian students studying overseas. The Family As-
sistance Legislation Amendment (Participation Requirement) Act 2009 introduced an activity test for the first time for children aged 16 to 20. The act effectively excluded those children who were studying overseas full-time. The proposed amendments eliminate this exclusion. The bill allows the students studying overseas full-time to be treated for family tax benefit purposes in the same way as full-time students undertaking study within Australia.

Schedule 6 of the bill makes amendments to address some anomalies arising from the pension reform legislation enacted in 2009, and schedule 7 makes some minor technical corrections.

I would now like to take the opportunity to address an issue which is related to schedule 2 of this bill. As senators would be aware, the Social Security Act 1991 is the key piece of legislation dealing with the disability support pension. The act allows DSP recipients to travel overseas for up to 13 weeks without losing their entitlement. The act also sets out extremely limited circumstances under which a person’s portability period will be extended or unlimited. Examples of such circumstances currently include a recipient who is terminally ill and travels overseas to be with a family member or return to their country of origin and a recipient who is involved in a serious accident overseas and is unable to return within the 13-week period.

It is right and proper that there be limits on the portability of the disability support pension. The main purpose of the DSP was described by former Senator Kay Patterson in her second reading speech to the 2003 FaHCSIA (Budget and Other Measures) Bill in November of that year as being to engage people of workforce age in activities in Australia that will lead to greater levels of economic and social participation. The coalition still supports that principle and it is why we have a 13-week portability limit applying to the DSP. However, whilst limits on portability of the DSP are necessary, those limits are proving punitive to a small class of recipients due to circumstances beyond their control, in particular recipients with a severe disability who have impaired decision-making capacity. Such recipients, who by virtue of their disability are unable to make their own decisions, can find themselves travelling overseas due to the decision of their guardian or carer. As a consequence, if the recipient travels to a country without a social security treaty they forfeit their pension after 13 weeks.

During its inquiry into the bill, the Community Affairs Committee heard how such circumstances can affect a family. The committee heard evidence from Mr Hugh Borrowman, who together with his partner is the legal guardian of their severely intellectually disabled adult son. Mr Borrowman appeared in a private capacity, but he is employed by the Department of Foreign Affairs and Trade. Those opposite might recall that in 2009 Mr Borrowman was nominated by the then Minister for Foreign Affairs to be Australia’s ambassador to Germany. However, in an unprecedented intervention, the then Prime Minister, Mr Rudd, blocked Mr Borrowman’s appointment on dubious grounds in what was an entirely unsatisfactory episode. Mr Borrowman was then nominated for appointment as Australia’s ambassador to Sweden, but turned down the appointment as Australia does not have a social security treaty with Sweden, and his son would therefore have lost his DSP entitlement after 13 weeks. Australia does have a social security treaty with Germany and Mr Borrowman’s son would have been covered had that appointment continued.

Mr Borrowman is a carer—quite clearly. Late last year, with much fanfare, the gov-
The government passed into law the Carer Recognition Bill 2010. The Minister for Families, Housing, Community Services and Indigenous Affairs, Ms Macklin, and her colleagues celebrated its passage in a press release on 28 October, stating that the legislation:

… delivers on our commitment to provide better support for carers so they have the same opportunities as other Australians to live healthy, happy lives and reach their full potential.

The bill itself contains a ‘Statement for Australia’s carers’, whose very first item states:

All carers should have the same rights, choices and opportunities as other Australians …

That is a fine statement, but carers like Mr Borrowman are not currently enjoying the same rights, choices and opportunities as other Australians …

I would like to invite you to consider what the alternatives are for people in our situation. Is it to give up our son’s care to the state? Clearly, that is not a possibility, but I would invite you to consider the economic and social cost of actually doing that. Is it not to follow the career option that I have chosen? I do not know how that squares with modern sentiments about carers in our community … Should DFAT, the defence forces, BHP, anybody operating in an international environment add a rider to their job ads saying, ‘Carers need not apply’?

When a carer is caring for a person with a severe intellectual disability, such that they have impaired decision-making capacity, the person with a disability must accompany their carer if their carer needs to travel overseas for a significant period—for example, on a diplomatic posting. Carers then have to make the difficult decision whether to pursue such opportunities, in the full knowledge that doing so may mean a loss of DSP entitlement for the person for whom they are caring. Not only that, but on their return to Australia carers then face enduring the re-application process to have re-instated the entitlements of the person for whom they are caring. This is an unfair burden to place on carers. Clearly, carers ought not to be excluded from career opportunities due to their caring role. That the current DSP portability arrangements are preventing quality individuals from serving overseas is clearly an issue that needs to be addressed.

The current arrangements are also unfair for DSP recipients themselves, who lose their entitlements through no choice or decision of their own. As Mr Borrowman put it at the inquiry:

The social security system deems my son as making a choice to go and live somewhere else. He cannot make that choice. The law recognises that. He has no concept of that choice. It is just not a meaningful concept and yet he is being penalised for it because in pursuit of our lives, which are all bound up, we would need to take him with us or not go.

The fundamental principle at stake here is this: should a person with a disability entitlement lose that entitlement when a choice is made for them to travel overseas? The opposition contends they should not. Finding a solution to this issue was the main reason why the opposition sought to refer this issue to a Senate inquiry. The response of FaHCSIA was disappointing: the department seemed unwilling to discuss possible solutions to the situation that I have described. This is despite the fact that the government had already conceded that the current situation was an issue, as it offered a special deal for Mr Borrowman to encourage him to accept the posting to Sweden. Offering a solution to an individual is acknowledgement of a problem. But full credit to the principled stand that Mr Borrowman took in rejecting this deal because he believed it to be inappropriate. Furthermore, he did not want to accept a solution that only catered to his situation and did not resolve the issue for all
carers who might find themselves in the same circumstances.

The matter was raised with the government by Mr Borrowman and me more than 18 months ago. The then Parliamentary Secretary for Disabilities and Children’s Services, Mr Shorten, assured us it was being examined, but 18 months is more than enough time to find a solution. We can only conclude that finding a way to help carers and people with a disability in this sort of situation was buried in a rather large ‘too hard basket’ somewhere in the ministerial wing. For government senators to recommend in their committee report that FaHCSIA and the minister discuss ways to resolve these issues was just more delay. The coalition senators recommended in a minority report:

1. That the Bill be supported with an amendment to address the portability issue affecting DSP recipients with a severe disability and impaired decision-making capacity and whose carers are travelling overseas for work purposes.

It is time to solve the situation and it is time for real action. To that end, at the end of last year I foreshadowed that the opposition would seek to move an amendment to the bill during its committee stage to make provision to allow the Secretary to grant unlimited DSP portability to recipients who were severely disabled and travelling overseas to reside with their carer who was outside Australia for work purposes. At that time the government decided not to bring this bill before the parliament. I was extremely disappointed at the time that Senator McLucas issued a press release entitled ‘Coalition playing politics with people with disability’, in which she quoted me saying that we:

… would do whatever was required to facilitate the passage of this legislation.

That is true; we would have. She went on to say:

… the Opposition are refusing to support the passage of this bill without further amendment or delay …

We were not threatening the bill; what we were proposing was indeed the very amendment which the government are moving today. Our amendment would not have delayed the bill. We undertook that, even if the amendment had failed, we would not have delayed the bill. We would have hoped that the government would have seen fit to bring the bill into the chamber and let us move the amendment. So I was extremely disappointed that that release was issued, being inaccurate as it was, particularly given that the government found time for the National Measurement Amendment Bill 2010 at the end of last year but not for this piece of legislation.

The amendment that we were looking at would have ensured that DSP recipients, such as the Borrowmans’ son, would not unfairly lose their entitlements due to their carer travelling overseas for work purposes. It would have represented a step forward for carers at that time and it would have put into action the principle espoused in the government’s own carer recognition legislation.

Last year, Mr Borrowman advised that he approved of the amendment we proposed. Also last year, my office was contacted by the Defence Special Needs Support Group, an organisation which supports families of ADF personnel who have dependents with special needs. They advised that they too would have supported our proposed amendment. It is now very much belatedly that the government, having had the best part of 18 months to conceive this sort of amendment, are now seeking to amend their own legislation. That is all we were proposing to do at the end of last year—to make a very similar amendment to this legislation—but the government did not put—
Senator McLucas—An amendment I had not seen until this day.

Senator FIFIELD—We did have it drafted. We were waiting for this bill to actually come into this chamber so we could circulate it. But the bill did not come into this chamber, into a position where it could be debated and where we could have a committee stage. What we were intending to do—

Senator McLucas interjecting—

Senator FIFIELD—in fact, Senator McLucas, we had a conversation about this at the time, so do not misrepresent the situation. We were prepared to move an amendment and we had the amendment drafted. All that was needed was for the bill to be listed so it could actually be dealt with. But the government ensured that the bill was not in a position where it could be dealt with and they sought to blame us. Why? Because we sought to move the very amendment that the government is moving today. We on this side of the chamber will not cop the blame for your decision not to put the bill into the chamber for debate at the end of last year, which would have allowed the amendment to be moved. Having said that, we are now extremely pleased that the government is seeking to move that amendment and we look forward to it being passed.

But the credit here today goes to Mr Hugh Borrowman, who has been tenacious, who has been principled and who has been dedicated not only to the interests of his son but to the interests of all Australians with disability. He was not prepared to accept a special arrangement for his circumstance. He wanted to fight through. He deserves great credit. I am pleased that the government is seeking to amend their legislation, but Senator McLucas will recall that we had a conversation at the end of last year and that that conversation revolved around the fact that we were intending to move an amendment to this legislation. But of course the legislation was not presented, so we could not debate this and we could not circulate our amendment. So I will not accept that misrepresentation for one minute.

I think today—or tomorrow, as it looks like we will run out of time—will be a good day for Australians with disability. This is a small victory for Australians with disability and a small victory for carers. It is due to Mr Borrowman’s efforts that it looks like this legislation will have a clause which addresses their needs.

Debate interrupted.

DOUMENTS

Consideration

The government documents tabled earlier today were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Crossin)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

National Ride2School Day

Stephanie Alexander Kitchen Garden Program

Senator POLLEY (Tasmania) (6.51 pm)—Supporting our children to make healthy life choices and lead active lives is one of the most important tasks we have been given. There are a number of initiatives that occur, primarily through our schools, that specifically aim to educate children about healthy life styles, good nutrition and the importance of physical activity. One of these initiatives is National Ride2School Day, which was celebrated last week on Wednesday, 16 March, by teachers, parents and students all over Australia. Ride2School Day is a great opportunity for parents and
teachers to instil positive exercise habits in children as well as showing them the enjoyment and fun they can experience from riding or walking to school. Programs such as Ride2School Day foster an excellent culture of undertaking physical activity as a family, and this was obvious at the participating schools I visited.

Early last Wednesday morning I travelled to Youngtown Primary School to greet students and families as they rode, walked and scooted through the school gates. The positive response from the greater school community was overwhelming, with almost 200 students participating from a school with a total enrolment of 350 children. These numbers are particularly impressive when you look at the general trends associated with children and physical activity.

I am particularly concerned by the fact that Australia has witnessed a steep decline in childhood physical activity rates in recent years. In the 1970s more than 80 per cent of students walked or rode to school but alarmingly that number has fallen to only 20 per cent today, even though the majority of students live within a two-kilometre radius of the school gate. This worrying trend has continued despite a consensus amongst health experts that children need at least 60 minutes of physical activity each day.

The 2006 Children’s Participation in Cultural and Leisure Activities Survey collected information on the participation of children aged five to 14 years in organised sports and informal sports. It provides us with some important insights. The survey collected information on informal sports, such as bike riding, rollerblading and skateboarding, to get some indication of children’s involvement in informal physical activity. The survey found that 68 per cent of children had been bike riding and 24 per cent had been skateboarding or rollerblading in the previous two weeks. The amount of time spent on these informal activities was the same as organised sport participation.

I find this to be very encouraging. In the busy lives we lead not all parents have time to take their children to sports practice or weekend sporting events. However if we can encourage children to be proactive and use their initiative to participate in physical activity themselves, such as riding to and from school, I believe this will have a great impact on the general health and wellbeing of our youth.

Overall the Ride2School Day initiative was an outstanding success. The event involved 140,000 children from 1,090 Australian schools. These figures represent formal registration of participation. However, there were numerous additional schools who participated in an informal manner. Although the focus of Ride2School day is about having fun and enjoying physical activity, there is also a serious side to the day. As we are all aware, preventable childhood diseases such as type 2 diabetes and obesity are becoming increasingly common in our society. Thankfully, the government recognises that there are increasing issues with preventable childhood diseases and is taking steps to improve the situation.

Obesity is a major contributor to the global burden of chronic disease and disability. Levels of childhood obesity have been rising for a number of reasons, including children eating more foods that are high in fat and sugars and spending less time participating in physical activity. Issues relating to children being overweight and obese are a major health concern. Studies have shown that once children become obese they are more likely to stay obese in adulthood. They are also more likely to have an increased risk of developing both short- and long-term health conditions such as type 2 diabetes and
other heart diseases. This sends a clear message that, when it comes to a healthy lifestyle, we must begin educating our children at a very young age in order to ensure their continuing good health into adulthood. Obesity related health issues not only have a significant impact on the individual affected, but they also have considerable social and economic impacts.

In 2008, the total annual cost of obesity for both children and adults in Australia, including health system costs, productivity and carer costs was estimated to be around $58 billion. The recognition that these preventable diseases are having such a large impact on our society, health sector and economy has led to a number of programs being implemented by the government. As I mentioned, these programs include initiatives designed to educate Australian children about health, nutrition and good eating habits.

An example of a program which focuses on good nutrition is the Stephanie Alexander Kitchen Garden Program, which is now becoming a part of many schools. The kitchen garden program has been hugely successful at a number of levels including re-engaging students with active learning and providing a practical approach for the literacy and numeracy skills that are taught in the formal setting of a classroom. For many students who find the parameters of formal classroom learning difficult or simply do not excel in this environment the kitchen garden program can offer them with a different avenue in which to excel and to gain confidence and self-esteem.

The school garden program has been adopted by many schools across Australia. I had the pleasure of visiting one of them last week in my home state of Tasmania. The Summerdale Primary School in Launceston has been working over the past six months to establish their kitchen garden and I see this as another successful step towards addressing the health issues I outlined earlier. There are separate stations throughout the kitchen garden including garden beds for vegetables, an orchard, outdoor learning areas and a working kitchen. The aim of this program is to teach students not only about growing and harvesting fruit and vegetables but also how to prepare and cook them, and to enjoy the nutritional value these fruits and vegetables provide.

In our contemporary society it is evident to me that fast and processed food is becoming more ‘normal’ and fresh fruit and vegetables are becoming a less common part of our diet. It saddens me to see young children who have never seen a pear, do not know what a tomato tastes like and cannot tell the difference between a zucchini and a cucumber. I am a strong supporter of ensuring that we do not let our future generations down by neglecting to educate them about the most basic of things—diet and exercise.

Although there are many factors in our lifestyles that contribute to increased health problems, I remain confident that through grassroots solutions such as school kitchen gardens we can begin to turn these problems around. Our schools are an excellent place to begin education about physical activity needs and healthy eating because not only does the information reach the children but also it goes home and reaches parents, grandparents, carers and other family members. The family participation and support was something I found very encouraging at this year’s National Ride2School Day. I was so impressed to see the strong support shown by parents. Not only were many of the students accompanied by parents who were also riding bikes but many mums and dads had gone to the effort of waking early to make sure their children were able to ride to school. If we can work together at all levels I remain
confident that we will succeed in bucking the current trends associated with preventable disease, obesity and lack of adequate physical activity.

Last week on my visit to Summerdale Primary School in Launceston, I saw the establishment of their kitchen garden program. From talking to the teachers and the students, I heard how enthusiastic they are. I was able to donate their first apple tree to begin their orchard. I would also like to put on the record that Youngtown Primary School have had a kitchen garden program running for quite some time. Over the last six years, since I have been in the Senate, I have been to that school a number of times. Last week when the children were squeezing grapes to make grape juice, I saw joy in the eyes of the students. I commend the teachers for their initiative and leadership. I commend to the Senate and to the Australian community the kitchen garden program.

**International Development Assistance**

**Senator BIRMINGHAM** (South Australia) (7.01 pm)—I rise to speak on a matter of great importance for Australia—that is, foreign aid. Foreign aid is truly a tale of hopes and despairs. Hopes spring within people who can see a glimmer of light at the end of a long tunnel of suffering, while despair crushes those enduring unimaginable poverty with no end in sight. Hope comes also from those who give hoping that their funds will make lives better, while despair emerges when people see funds wasted, corrupted or misappropriated.

Investment in foreign aid is of utmost importance, but aid as we know it and run it is far from perfect. Revelations of expenses in the aid program have raised serious questions in some quarters. Extraordinary payments for technical assistance highlighted by the ANAO showed that Australia was spending double the proportion on consultants compared to the OECD average. Many Australians were shocked at examples such as a junior consultant in PNG earning $240,000 per annum or some senior consultants earning $360,000 within our aid programs. While there is clearly a place for quality technical assistance and it is important for aid programs to bring in specialists where needed, the ANAO has clearly highlighted some genuine questions about whether we are getting value for money.

Sadly, these stories only fuel the ‘charity begins at home’ crowd, who bemoan aid expenditure no matter how desperate a situation is or how much benefit it can bring to the lives of some of the world’s least fortunate. This argument overlooks both our duty as a country of such fortune to help those with so little and the strategic advantages that are inherent in Australia providing such assistance. The aid debate should be about doing what is right, not what may be politically expedient. We have such terrible poverty around the world and so close to our shores. Aid offers something many Australians take for granted—opportunity; opportunity to learn, to work and to start a business; and opportunity for a better future. It is not just our close neighbours in need but also countries where our military presence has liberated people but not yet brought the economic freedoms we had hoped for.

The opportunity aid presents can be an important tool in battling fanaticism, which so often preys on the desperation of the vulnerable, while also avoiding the risk of failed states, especially right on our doorstep. Aid programs in these instances not only benefit the recipients but of course provide benefit to Australians, especially through reducing the threat of terrorism. Giving foreign aid is in our interest as a nation. There should be win-win outcomes for everyone involved, giver and recipient alike.
Transparency and accountability are vital in this process, not only to ensure value for taxpayers but also so people can see the value in and results from our aid spending. Taxpayers deserve to get value for money for their aid dollars while recipients of course deserve maximum bang from our buck. The government should shine a spotlight on its aid programs, not only to look for where they can be doing better but also to highlight progress and the very real benefits of aid. I hope the review being undertaken at present delivers that.

This is why AusAID’s unwillingness to allow a documentary maker to film work being undertaken by the agency is so perplexing. Many of our aid programs rightly demand transparency from recipient governments. Our aid program should equally be open and transparent. We need our aid to be as effective as possible because aid can literally save and change lives. Every day thousands of children die of hunger and disease, yet we rarely see this human tragedy on the news or in the newspaper compared to some of the domestic challenges we face.

For the last decade we have, as a world, been committed to achieving the Millennium Development Goals. These goals have been grouped into eight key areas, including the eradication of extreme poverty and hunger, the achievement of universal primary education, the reduction of the child mortality rate and the improvement of maternal health. While not all goals will be reached by the 2015 target, I am pleased to say that significant progress has been and is being made. I am pleased that the proportion of people in developing regions living on less than $1.25 per day has fallen from 46 percent to 27 percent, that the enrolment rate in sub-Saharan schools has increased from 58 percent to 76 percent of all children, that the enrolment rate of girls in schools is approaching parity with that of boys in this region and that the mortality rate for children under five in developing countries has fallen 28 percent since 1990. But clearly there is still much, much more to be done.

It is not just government funded organisations that deliver aid to the world’s poor; in fact, much of the heavy lifting is done by non-government organisations. Wherever there are children dying of disease or in need of education, organisations like UNICEF are there. Where mothers face terrible birthing conditions, organisations like World Vision are there. These organisations do great work, often with small amounts of money.

Approximately 200 million children in the developing world under the age of five suffer from stunted growth as a result of chronic maternal and childhood malnutrition. In Ethiopia, UNICEF partnered with a government led health extension program to train health workers in the case management of severe acute malnutrition. To date this program has trained and deployed 33,000 health workers to deliver basic healthcare services and therapeutic food services to over 3,200 local health posts. We can see real benefits. More than 270,000 Ethiopian children living in highly food insecure districts now benefit from life-saving therapeutic feeding treatment. This is just one of UNICEF’s $87.4 million child survival program in Ethiopia—a program that is delivering great results.

NGO’s achieve results because they literally have to. If they do not, people would not donate, governments would not give and the organisations would not exist. They have expertise, networks and experience, and efficiency to get the job done. We should do more to harness their skills with our aid spending, with appropriate transparency and accountability mechanisms, to allow them to do even more. We must also look at our technical and economic programs. I believe our aid program must be more than a hand-
out if it is to be truly effective in the long run—it must also be a hand up. Our aid should be building capacity in recipient communities to allow countries to stand on their own two feet.

The Institute for International Trade based at Adelaide University has been working with Pacific Island trade officials from 14 different countries offering training, research and technical assistance on how Islanders can develop, negotiate and implement sound trade and economic policies that build the fundamentals of sustained growth and poverty reduction. Australian aid is being used to share the tools of good critical economic analysis that allows Islanders to make informed decisions leading to more equitable economic development and, hopefully, greater political stability. Pacific Islanders learn from and work with Australian customs officials, meet with successful exporters and importers and work on how trade in agriculture and services such as tourism can assist in building their self-reliance so that in the future they can become less dependent on aid.

Innovation in aid is equally important. I congratulate AusAID for its work on the Enterprise Challenge Fund. This fund provides an open tender to Pacific businesses to bid for funding of up to 50 per cent of capital to set up new businesses. This is delivering new jobs, new investment and new opportunities in Pacific economies. The Enterprise Challenge Fund has provided capital to businesses like Solutech in Timor-Leste, who are bringing affordable solar lighting solutions to families in partnership with a microfinance organisation, and Reddy Farms in Fiji, which is helping sugarcane farmers move from an uncompetitive industry into the duck meat industry.

Clearly delivering an effective aid program is not without its challenges but I am greatly encouraged by world leaders such as the UK Prime Minister David Cameron, who has seized on the importance of aid and, despite that country’s fiscal challenges, committed to meet the international target of 0.7 per cent of GNI spent on aid by 2013. Both the Labor and Liberal parties in Australia, I am pleased, are committed to an equally significant expansion of our aid program to shift to 0.5 percent of GNI by 2015-16.

Mr Cameron’s approach to aid is one focused on outcomes for recipients, capacity-building in recipient communities, transparency and accountability. Prime Minister Cameron says of Britain’s new, dynamic and transparent approach to aid:

... despite the economic pressures we face, this new government has been determined to hold firm. ... Our aid programme, like the activities of the myriad of charitable aid organisations, literally saves lives. It helps prevent conflict, which is why we have doubled the amount of our aid budget that is spent on security programmes in countries like Pakistan and Somalia. And for millions of people our aid programme is the most visible example of Britain’s global reach. It is a powerful instrument of our foreign policy and profoundly in our national interest.

One of the most interesting features of this new approach is that it will see delivery agencies paid for performance not promises. This is remarkable and an approach I hope Australia can shift towards. It is an approach that I hope ensures that foreign aid in future is a story in a tale more of hope than of despair.

Vietnam: Orphanages

Senator BILYK (Tasmania) (7.11 pm)—There are times in your life when you experience something that has a profound effect on you, makes you see things differently and even forces you to change your priorities. I had such a moment when I met the children in Phu My Orphanage in Ho Chi Minh City, formerly known as Saigon. My husband is part of St Josephs Parish in
Hobart and we joined the Passionist pilgrimage, which travelled to Vietnam in December 2010, to help in some of Saigon’s orphanages. This was a privately funded trip, I must point out. There was no taxpayers’ money spent on this trip.

Father Peter Gardiner CP led the group of 33 volunteers from Passionist parishes from all parts of Australia and New Zealand. Father Peter, who is Chaplain at Christian Brothers College in Adelaide, has been taking groups of school students to Vietnam and the Philippines for the last six years. For many of these students it is their first opportunity to experience a different culture. But, more than that, under Father Peter’s guidance, these students derive great benefits from their volunteer work at Phu My Orphanage. The immersion experience, which is both challenging and emotional, gives these students a wider understanding of the world and of other people lives and an appreciation of their own gifts and the need to share these with the world.

The December pilgrimage enabled Father Peter and the Passionists to give a group of adults this same opportunity to move out of their comfort zone and be confronted by the challenge of working with children with severe disabilities in conditions far removed from our normal comfortable Australian lifestyle. It is difficult not to be moved by seeing these children and the way they live.

In organising many trips to Phu My over these last six years, Father Peter has enabled hundreds of people to work with the children of Phu My Orphanage. In doing so Father Peter is continuing the work of his Passionist order, founded by Paul of the Cross in 1720. Passionists preach and minister among the poor and the marginalised of every kind. Passionists see that it is their role to care for those members of the society that have been forgotten—the sick, the poor and the abandoned. It is from this ideal that the Passionists, and Father Peter in particular, have developed the pilgrimages to undertake voluntary work in the orphanages of Vietnam.

Phu My Orphanage, or the Centre for the Protection of Handicapped Orphans, is home to over 300 children with disability. The orphanage was established in 1875 by the Sisters of St Paul de Chartres and they have continued to provide care for the orphans even though the government took control of the orphanage in 1975. In fact the sisters still live on the premises.

Most of the children have cerebral palsy and many have further complications such as autism, and some have Down syndrome. Some of the children are more able-bodied while most are confined to beds or can be transported only with assistance. The children are cared for by some 20 staff. So, for 300 children with disability, there are 20 staff. There are ancillary staff such as cleaners and people who do the laundry and the like. There are medical specialists in support although the numbers appeared limited.

Children at the orphanage have either been taken there by the families who are unable to care for them or been abandoned altogether. In all the time I was there, I certainly did not see any parents of children in the facility. The orphanage also provides day care for up to 200 children with disability, and this allows these children to remain with their families while receiving the specialist care they need. But, of course, you have to be able to afford to pay for that.

Vietnam is a developing country. Its people are resourceful and many find a way to live modest lives. But if you cannot provide for yourself or your family, life is hard. When a family has a child with disability, it can find that it is not capable of providing for the child. Phu My is one of many places that step in to care for these children. However,
with many more children than staff, Phu My is not able to give the children the individual attention they need. This is where the assistance offered by volunteers becomes vital. While the orphanage can provide the children with the medical attention they need, staff at the orphanage welcome volunteers to spend time with the children, to play games, help feed them, push them in their wheelchairs, read stories, sing—really just to spend time with them and give them some individual care and some much needed one-on-one attention.

Although most of our time was spent working at Phu My, we also spent time helping in a number of other charitable establishments around Saigon. Robert and I spent two days at the Annunciation Orphanage in the outer suburbs of Saigon. In this situation there are two nuns who care for about 50 children in a very small three-story building. I think if they had the size of this chamber, they would be beside themselves. The children who live at the orphanage are of all ages, from a few weeks old up to about 16 years. The youngest when we were there were two one-month-old babies. They were not twins; both had been abandoned separately.

The older children help to care for the younger ones. One of the interesting things I noticed there was the real sense of family between the older children and the younger children. The older children made sure that the younger children were all fed before they got their own meals. They helped to feed the children who could not feed themselves. None of these children have family support; they rely totally on the orphanage’s ability to look after them.

Whilst all the children are treated with kindness and compassion and are clean and healthy, the orphanage needs additional funds to operate, and all donations are used directly to benefit the children. For example, the group we were with bought toys to take to the orphanage because they just do not have the money to spend on that type of thing. The things that the average Australian child takes for granted were not to be seen in these orphanages.

We visited Mai Tam shelter, which provides education and support for families affected by HIV/AIDS, as well as being a hospice for those who are in the terminal stages of AIDS. We met many of the children in care and visited a classroom where the students gave us a wonderfully warm welcome. They sang us a song and were very excited to have visitors. We briefly visited the hospice and spent time with the patients. From my perspective, this was probably the most moving experience. When we think of a hospice in Australia, we think of somewhere that is warm and friendly. In this hospice there were about 10 patients. They had camp stretcher beds of the sort you see in army disposal shops, and old pillows if they were lucky. It was quite moving for everybody who went there.

Between this site and the second site, Mai Tam shelter cares for about 60 children and some of the mothers as well. The children living at Mai Tam are both infected and affected by HIV-AIDS. Some are HIV positive or have AIDS, and some are the children or orphans of people with HIV-AIDS. Since it was established in 2005, the Catholic Church of Vietnam has funded the orphanage with additional support from donors in other parts of the world.

Other members of the group visited the House for the Blind Woman, which houses and educates blind girls, and the Buddhist Cooking House, where group members helped prepare some of the 3,000 meals a day produced at the cooking house. These
meals are distributed to the needy, including the hungry at the public hospital.

After working, we had time to reflect on our experiences at the orphanages and the time to put these experiences into perspective. We realised that we are indeed fortunate to live in a comfortable, safe country like Australia. We benefit from all the hard work done by our predecessors and we are blessed by having wonderful natural resources which underpin our comfortable lifestyle. However, for many people around the world, and especially in our near neighbourhood, daily life is still a challenge. How is it that some people live in relative comfort while others have been delivered into a life of hardship, burdened by physical problems and economic adversity? It is a challenge for us all to face this dilemma and then to confront it and respond decisively.

The world has numerous problems and we can feel overwhelmed in trying to respond to them. They can seem too big for us to deal with. We each have our own problems that we battle with on a daily basis. Life can be a struggle, but for some the struggle is much harder than for others. Our struggles are put into perspective when we see the lives of those who are in desperate need, and this is where we can make a difference. It may be a little difference in the whole scheme of things but, for one small, helpless child, a small contribution can make a big difference in their lives.

We all had the chance to do this. If you can change one person’s life you can make a big difference to the world. There were wonderful committed and compassionate people in our group. It was a privilege to meet them, spend time with them and get to know them. One, a student wise beyond her years, gave us a card on which was written a quote titled ‘What Matters’, author unknown, which said:

One hundred years from now, it will not matter what kind of car I drove, what kind of house I lived in, how much I had in my bank account, nor what my clothes looked like. What matters is that the world may be a little better because I was important in the life of one child.

100-Year Anniversary of International Women’s Day

Senator CROSSIN (Northern Territory) (7.21 pm)—I rise tonight to talk about the 100-year anniversary of International Women’s Day. International Women’s Day first emerged at the turn of the 20th century across Europe and North America, from the activities of the labour movement. The first National Women’s Day was held in the United States on 28 February 1909. The Socialist Party of America designated that day in honour of the 1908 garment workers’ strike in New York, where women protested against their working conditions. The idea soon spread eastwards, across to Europe. In 1910, the Socialist International held the first international women’s conference in Copenhagen. There, Clara Zetkin, an influential socialist German politician active in women’s rights, proposed a Women’s Day, to be celebrated internationally, honouring the movement for women’s rights and to develop support to achieve universal suffrage for women. The proposal was greeted with unanimous approval by the 100 women from 17 countries who attended the conference. At this time no date was selected for the day.

Stemming from the Socialist International initiative, the first International Women’s Day was observed for the first time on 19 March 1911, in Austria, Denmark, Germany and Switzerland. More than one million women and men attended rallies in those countries and demanded women’s right to vote, to hold public office, to work and to do vocational training and called for the end of discrimination at work. The date 19 March was chosen because on that day, some 60
years earlier, the Prussian king, faced with an uprising, promised many reforms, including votes for women—a reform that went unfulfilled. In 1913 and 1914, International Women’s Day also became a vehicle to protest the First World War, with Russian women observing their first International Women’s Day as part of the peace movement. It was held on the last Sunday in February. At the time, the Russians were using the Julian calendar, so the date was actually 8 March according to the Gregorian calendar.

On or around 8 March women held rallies across Europe either to protest the war or to express solidarity with other activists. In 1917, in the wake of two million Russian soldiers dying in the war, Russian women again chose the last Sunday in February to strike for ‘Bread and Peace’. Political leaders opposed the timing of the strike but women ignored them and protested as planned. The rest, as they say, is history—or ‘her story’, in fact. Four days after the protest, the Czar abdicated and the provisional government granted women the right to vote. The women’s protests in Russia are seen as the beginning of the Russian Revolution. In 1965 International Women’s Day was declared a non-working day in the then USSR in commemoration of women. We might strive to achieve that in Australia one day—a non-working day for International Women’s Day.

The United Nations declared the year 1975 as International Women’s Year, and it was also the year the United Nations officially sanctioned, and began sponsoring, International Women’s Day. Over the years, progress has been made on addressing women’s issues. Women’s access to education, health care, paid labour and even public office around the world has improved, and many countries have passed legislation that promises equal opportunities for women and respect for their human rights. South Australia led the world in giving women the right to vote in 1895, with Australia at a federal level guaranteeing that right seven years later.

The first International Women’s Day rally in Australia was held at the Sydney Domain on 25 March 1928. It was organised by the Militant Women’s Movement and called for, amongst other things, equal pay for equal work, an 8-hour day for shop girls, paid annual leave and a basic wage for the unemployed. The first International Women’s Day march took place in Sydney and Melbourne in 1931. The Sydney march had approximately 3,000 to 4,000 people with banners demanding equal pay and other women’s rights. The slogans touched on more general issues as well, such as opposition to wage cuts. The Melbourne rally was smaller, with 150 women marching from the corner of Victoria and Russell Streets to the Yarra Bank, holding a banner affirming ‘Long Live International Women’s Day’. There, Grace de La Lande addressed the marchers and spoke on the need to organise women politically.

The first woman was elected to parliament in Australia in 1921, when Edith Cowan was elected in Western Australia. The federal parliament saw its first female representatives in 1943 and the nation’s first female federal cabinet-level minister was appointed in 1949. In 1966 it was still the requirement that women working in the public service resigned once they got married—a requirement which was banished that year. The equal pay for equal work of equal value principle was recognised in 1969, and federal legislation banning discrimination based on gender was made law in 1984. Incredibly enough, up until 1984, a woman could be dismissed from her job for falling pregnant, or not chosen for a job simply because she was of prime child bearing age and could fall pregnant at any time. Let us hope we have moved on since those days.
Australia’s first female head of government was Rosemary Follett—a good member of the Australian Education Union, if I remember correctly. She was elected Chief Minister of the ACT in 1989. Australia saw its first female Prime Minister last year, in 2010—nearly 110 years after Federation. Another major milestone was achieved on 1 January this year, when Australia finally left the USA behind and joined the rest of the developed world and provided its citizens with government funded paid parental leave.

These are the major milestones in the fight for women’s rights in Australia, and International Women’s Day is about celebrating these achievements. Women from all walks of life have fought for these rights over many years. Yet International Women’s Day is also about ensuring that the fight for women’s rights and equality continues. Women currently make up only 28 per cent of the current federal parliament, even though we make up around 50 per cent of the population. We greatly outnumber men in lower earning industries, such as aged care, child care, health and education, whereas men greatly outnumber women in higher earning industries and in management roles. Women make up 45 per cent of the workforce, yet only two per cent of CEO positions and 5.9 per cent of executive line manager positions are held by women—the latter is actually down from 7.5 per cent in 2006. Women chair only two per cent of ASX 200 companies—meaning they literally chair only four boards. Sixty-five per cent of law graduates are female, yet they account for only 16 per cent of equity partners, approximately 15 per cent of total barristers and 16 per cent of the bench in the Federal Court.

The concept of equal pay for equal work of equal value seems like such a simple and logical concept, and yet the gender pay gap is currently at 17 per cent. In monetary terms, women earn 82c for every dollar a male earns. This gap widens even more when part-time and casual earnings are taken into consideration.

What I want to do now is spend some of my last remaining time talking about what we did in the Northern Territory to celebrate International Women’s Day. In the Northern Territory this year there were many functions celebrating the 100th anniversary of International Women’s Day. There was the traditional walk through the Darwin CBD organised by the United Nation’s Association of the Northern Territory. There was the Northern Territory Women’s Network and the UN Women Australia’s breakfast in Darwin and the Zonta Club’s breakfast in Alice Springs. There was the annual International Women’s Day Dinner organised by the Northern Territory Antidiscrimination Commission and the union now known as United Voice. This was held at the Cyprus Community Centre.

The Northern Territory Working Women’s Centre had a great movie night as well. Just imagine a cinema filled with women watching Made in Dagenham, a movie about the amazing women in Dagenham, England, who in 1968 decided that their sewing skills at a Ford plan should be recognised as a skill and thus paid at the same rate as the men, leading to the equal pay for equal work of equal value principle. I am not going to reveal how the movie ended—you have to go and see it. But I will say that there was a lot of cheering in the cinema when the husband of one of the female activists was left to cook, clean and tend to the children while his wife went off and fought for women’s rights. International Women’s Day is also a day to remind people that women are still not quite equal to men and that in many parts of the world we still have a long way to go.

Senate adjourned at 7.31 pm
DOCUMENTS

Tabling

The following documents were tabled:


Indexed Lists of 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 to 31 December 2010—Statements of compliance—

Attorney-General’s portfolio.
Australian Taxation Office.
Department of Foreign Affairs and Trade.
Health and Ageing portfolio.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Strategic Indigenous Housing and Infrastructure Program**

*(Question No. 218)*

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 Strategic Indigenous Housing and Infrastructure Program [SIHIP] work is released in packages:

1. What packages have been released, or commenced, to date.
2. What is the value of each of the above packages.
3. How many new dwellings, rebuilds and renovations are in each of the above packages.
4. What penalties apply for failure to complete all specified new dwellings, rebuilds and renovations in a package.

Senator Arbib—The Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator’s question:

1. Eleven packages in the following areas have been allocated to alliance partners: Tiwi Islands, Southern Refurbishments, Groote Eylandt, Maningrida, Wadeye, Gunbalanya, Galiwinku, Ngukurr, Lajamanu, Tennant Creek Town Camps and Alice Springs Town Camps.
2. The total value of funds allocated to these packages is almost $550 million for new housing, rebuilds and refurbishment works. Infrastructure works are being funded through the National Partnership Agreement on Remote Indigenous Housing as foreshadowed in the August 2009 SIHIP Review. Release of funds for these packages by the Commonwealth is subject to targets being met, and as such not all funds have been released as yet.
3. Across these 11 packages, 693 new houses and more than 2,180 rebuilds and refurbishments will be delivered. This includes some rebuilds that have been brought forward as part of the acceleration of the National Partnership Agreement on Remote Indigenous Housing in the Northern Territory.
4. The alliance contracting methodology used for the Strategic Indigenous Housing and Infrastructure Program 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.

**Parliamentary Triangle: Paid Parking**

*(Question No. 224)*

Senator Humphries asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 20 November 2010:

Has the Minister received any correspondence relating to paid parking in the parliamentary triangle; if so: (a) from whom and on what date was that correspondence received; and (b) can a copy of the correspondence along with the Minister’s response be provided?

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 the Minister for Regional Australia, Regional Development and Local Government has not received any correspondence relating to paid parking in the parliamentary triangle.

**Infrastructure and Transport: Stationery**

(Question No. 235)

Senator Humphries asked the Minister representing the Minister for Infrastructure and Transport, upon notice, on 29 November 2010:

Since 14 September 2010, for each Minister and any Parliamentary Secretaries in their portfolio:

(1) What has been the total amount spent on stationery and publications, including a breakdown of all spending.

(2) What has been the total amount spent on printing ministerial letterhead.

(3) What is the grams per square meter [GSM] of the ministerial letterhead.

(4) Is the letterhead carbon neutral.

Senator Carr—The Minister for Infrastructure and Transport has provided the following answer to the honourable senator’s question:

(1) From 14 September 2010 to 30 November 2010, the total spent on stationery and publications is $6,502.

**Minister Albanese**

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**Parliamentary Secretary King**

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(2) $76.61 per ream (500 sheets).

(3) 120 gsm.

(4) No.

**Social Inclusion: Stationery**

(Question No. 248)

Senator Humphries asked the Minister representing the Minister for Social Inclusion, upon notice, on 29 November 2010:

Since 14 September 2010, for each Minister and any Parliamentary Secretaries in their portfolio:

(1) What has been the total amount spent on stationery and publications, including a breakdown of all spending.

(2) What has been the total amount spent on printing ministerial letterhead.

(3) What is the grams per square metre [GSM] of the ministerial letterhead.

QUESTIONS ON NOTICE
(4) Is the letterhead carbon neutral.

Senator Arbib—The Minister for Social Inclusion has provided the following answer to the honourable senator’s question:
I refer the honourable senator to the response given to question in writing number 249 which appeared in the Senate *Hansard* on 28 February 2011.

**Infrastructure and Transport**

**(Question No. 277)**

Senator Humphries asked the Minister representing the Minister for Infrastructure and Transport, upon notice, on 29 November 2010:
Since 14 September 2010, for each Minister and any Parliamentary Secretaries within their portfolio:
(1) Do the Minister and Parliamentary Secretaries have access to a departmental credit card; if so, can a copy be provided of all bank statements.
(2) (a) How many mobile devices are provided to the Minister’s office; and (b) what is the total spend on mobile devices for each office to date.
(3) At what level is each staff member employed in the office.
(4) What has been the total cost of travel for the Minister and Parliamentary Secretaries.
(5) What has been the total travel for all staff, by office.

Senator Carr—The Minister for Infrastructure and Transport has provided the following answer to the honourable senator’s question:
(1) No.
(2) The Minister’s office has been provided with 12 blackberries and 12 air cards. Expense information is provided for the billing cycle 1 September 2010 to 31 October 2010. The expense (GST exclusive) for these mobile devices broken up between each office is:
  Minister Anthony Albanese’s office - $4,303
  Parliamentary Secretary King’s expenses are shared with the Department of Health and Ageing, no expenses against the Department of Infrastructure and Transport have been recorded for Parliamentary Secretary King in relation to mobile devices for the reported period.
(3) The employment of Ministerial and Parliamentary Secretary staff in the Ministerial offices is the responsibility of the Department of Finance and Deregulation.
(4) and (5) The cost of official travel by Ministers, Parliamentary Secretaries and accompanying staff employed under the Members of Parliament (Staff) Act 1984 are paid by the Department of Finance and Deregulation. The information sought will be tabled by the Special Minister of State in the last sitting week of June 2011 in his six-monthly report on Parliamentarians Travel Paid by the Department of Finance and Deregulation.

**Social Inclusion**

**(Question No. 290)**

Senator Humphries asked the Minister representing the Minister for Social Inclusion, upon notice, on 29 November 2010:
Since 14 September 2010, for each Minister and any Parliamentary Secretaries within their portfolio:
(1) Do the Minister and Parliamentary Secretaries have access to a departmental credit card; if so, can a copy be provided of all bank statements.
(2) (a) How many mobile devices are provided to the Minister’s office; and (b) what is the total spend on mobile devices for each office to date.

(3) At what level is each staff member employed in the office.

(4) What has been the total cost of travel for the Minister and Parliamentary Secretaries.

(5) What has been the total travel for all staff, by office.

**Senator Arbib**—The Minister for Social Inclusion has provided the following answer to the honourable senator’s question:

I refer the honourable senator to the response given to question in writing number 291 which appeared in the Senate Hansard on 28 February 2011.

**Africa**

*(Question No. 326)*

**Senator Ludlam** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:

With reference to uranium mining in Africa by Australian companies:

(1) Have any discussions been held between the department and the Australia-Africa Mining Industry Group (AAMIG) in the past six months; if so, can an outline of the discussions be provided, including the issues discussed, and the attendees present.

(2) Is the department doing any exploratory or other work regarding the AAMIG suggestions to the current parliamentary inquiry by the Joint Standing Committee on Foreign Affairs, Defence and Trade that the ‘most direct and obvious manner in which Australian mining and service companies can facilitate the re-engagement with Africa is via a public-private partnership in delivering social development assistance that ensure the relatively limited available government aid funding is applied to maximum social, financial, political and strategic advantage’.

(3) Has the department or any related agency been requested for, or offered any, advice on this issue; if so, by whom and what was that advice.

(4) Who is the contact point in the department for social development assistance in Africa by mining and other companies, and wider African mining issues.

(5) Did departmental or agency personnel attended the mining Africa DownUnder Conference held in Perth from 1 September to 3 September 2010; if so, in what capacity did they attend.

(6) What meetings and briefings were attended or provided at this time with mining companies and or representatives of African nations.

(7) What, if any, initiatives is the department considering in relation to providing financial and wider capacity support to civil society and community organisations affected by or monitoring the activities of Australian companies active in the uranium sector in Africa.

(8) What review and monitoring mechanisms does the department use to ascertain that the economic, employment and social benefits claimed by Australian companies active in the African uranium sector help facilitate real community benefit and gender, environmental and social sustainability outcomes.

(9) Does the department maintain a public register of Australian companies active in the uranium sector in Africa, or any companies and consultants providing material or logistical support to such companies; if so, where is this register located and can a copy be provided; if not, why not.
Senator Conroy—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Yes meetings did occur but on each occasion they related to mining operations in Africa in General. They were not focussed on uranium mining.

The discussions focused on the Australian Government’s engagement with Africa, recent developments affecting foreign investors in Africa and canvassed possible collaboration between companies, NGOs and possibly the Australian Government on addressing development challenges in Africa.

Attendees on the Government side were Justin Hayhurst, Assistant Secretary, Africa Branch, DFAT; Jon Richardson, Director, East West and Regional Africa Section, DFAT; Ann Harrap, Australian High Commissioner, Pretoria; Billy Williams, Australian High Commissioner, Accra; John Courtney, Australian Ambassador, Harare; Geoffrey Tooth, Australian High Commissioner-designate, Nairobi; Greg Hull, Senior Trade Commissioner, Johannesburg, Austrade; James Hall, Director North, East and West Africa Section, AusAID; Roger Donnelly, Chief Economist and Jan Fuchter, Director, Structured Trade and Project Finance, Export Finance Insurance Corporation (EFIC).

The then Minister for Foreign Affairs and Trade, Stephen Smith, also attended the 2 September meeting.

The Director of the DFAT WA State office hosted a dinner on 12 November for AAMIG at which the Minister for Foreign Affairs, Kevin Rudd, and other departmental officers were present.

(2) DFAT and AusAID have discussed ways in which the Government might respond to the AAMIG proposals. Neither DFAT nor AusAID has a specific program of work in this area but endorses the approach set out in response to question 3 below.

AusAID’s mining-related assistance to Africa has focused on building the capacity of countries to sustainably manage their resources. This has been done through the provision of short-course Australia Awards, supporting a workshop on the sustainable use of mining revenues, and expanding countries’ access to technical assistance through partnerships with the IMF and the Extractive Industries Transparency Initiative.

(3) AAMIG has advocated cooperation between government and industry in delivering small-scale social development assistance in Africa in discussions with DFAT and AusAID. AusAID and DFAT have advised that they are prepared to host discussions with key stakeholders in the African mining sector to draw on the experience and expertise of NGOs, industry and Government to explore possible areas of cooperation, such as sharing best practice guidelines on community development.

(4) The Assistant Secretary, Africa Branch, DFAT and the Assistant Director-General, Africa & Middle East Branch, AusAID, have overall responsibility for issues relating to mining in Africa.

(5) Yes. Departmental and agency personnel attended as conference delegates and representatives of their respective agencies. The Secretary of DFAT gave the keynote address to the conference.

(6) A panel consisting of representatives of DFAT, AusAID, Austrade and Australia’s Heads of Mission in Ghana, South Africa and Zimbabwe and the High Commissioner-designate to Kenya, as named in answer to question 1 above, gave a presentation to the Conference on the Australian Government’s engagement with Africa. EFIC representatives delivered a separate presentation outlining EFIC’s services.

Government representatives had a wide range of individual meetings and discussions with Australian mining companies, African ministers and officials, and other delegates and participants in the conference.
The Secretary of the Department of Foreign Affairs and Trade hosted a dinner on 1 September for visiting African Mining Ministers and chief executives of Australian mining companies active in Africa.

(7) Neither DFAT nor AusAID is considering specific initiatives of this kind.
(8) The Australian Government does not undertake assessments of this kind.
(9) The department does not maintain a public register of Australian companies active in the uranium sector in Africa.

Anti-Counterfeiting Trade Agreement
(Question No. 327)

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:

With reference to Austrade and the Anti-Counterfeiting Trade Agreement (ACTA):

(1) In order for Australia to comply with the current draft of the ACTA, will any changes be required to any domestic intellectual property (IP) laws, regulations or delegations.
(2) Will the balance of rights between the public, third parties and IP rights holders in Australia remain the same; if not, can an outline be provided of any changes that are anticipated.
(3) What processes will be undertaken prior to ratification of the ACTA to determine whether its provisions would require any change to existing Australian law, or would impede planned reform of IP or copyright law.
(4) Would the department agree to a version of ACTA that required an expansion of the circumstances in which injunctive relief is likely to be ordered against an internet intermediary beyond that already available under Australia’s statutory or common law.

Senator Conroy—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Australian laws already fully comply with the finalised ACTA text, as published on the DFAT website on 6 December 2010.
(2) Because no changes would be made to Australian law if the Government decides that Australia should join ACTA, there would be no such change in intellectual property enforcement law arising from ACTA.
(3) Government agencies with responsibility for legislation relevant to ACTA commitments have already determined that no changes would be required to that legislation. Those same agencies have also determined that ACTA would not impede planned reforms to relevant Australian laws.
(4) Australian negotiators sought and obtained an ACTA which would require no changes to Australian law. There are no provisions in the ACTA text which would expand the circumstances in which injunctive relief is to be ordered against an internet intermediary beyond that which is already available under Australia’s statutory or common law.

Mining
(Question No. 331)

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:

With reference to Australian mining companies operating overseas:
(1) Does the department have any system in place for monitoring the behaviour of Australian companies overseas to ensure they are complying with international human rights standards and environmental standards.

(2) Is the department currently investigating whether there is a need for Australia to legislate extra-territorially in order to ensure that its mining companies operating overseas do so in line with Australian human rights and environmental standards rather than those of the host state.

(3) Is the department aware of a recent United States of America (US) law that passed through Congress which makes it compulsory for US registered companies sourcing from Congo to state the measures they have taken to exclude conflict minerals from their supply chains.

(4) Has legislation similar to that implemented in the US been considered by the department.

(5) Given that currently more than 300 Australian mining companies are operating in Africa and considering the ongoing atrocities committed in the Democratic Republic of Congo, for example, and including most recently the rape of approximately 200 women in a cluster of villages over a six day period from 30 July 2010 by a group of armed rebels (reported in Global Witness on 13 September 2010): does the department believe Australia could be taking a more active approach to ensure that our demand for minerals is not actively contributing to the brutal conflict.

Senator Conroy—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Australian companies are responsible for ensuring they abide by the laws of the jurisdiction in which they operate as well as Australian laws that apply extraterritorially. The Australian Government expects all Australian companies to comply with all applicable laws and obligations when operating abroad and to conduct their business according to best practice.

The Department actively advises companies of the existence of Australian extraterritorial offences, sanctions and international obligations and encourages companies to seek legal advice on the application of these rules and regulations.

Other than in limited specific circumstances, for example in relation to breaches of Australian laws implementing UN Security Council sanctions, the Department does not have a general investigatory or law enforcement role regarding possible criminal activity or breaches of laws by Australians operating and living overseas. Australian posts will familiarise themselves with key Australian businesses operating in their country of accreditation, but they have no general legal authority to supervise Australian business.

If Departmental officers receive information that suggests an Australian individual or company has engaged in serious criminal misconduct they are required to lodge a report. In 2007, the Department strengthened these reporting requirements and established a section in the Department’s legal division that has the responsibility for liaising with the Australian Federal Police in relation to such reports. Departmental officers receive specific training on this reporting requirement as part of their induction in Canberra and their pre-posting training.

The Australian Government also expects Australian companies to conduct their business overseas according to best practice, which includes preventing and rectifying environmental and social damage. By adhering to the OECD Guidelines for Multinational Enterprises (the OECD Guidelines), the Australian Government encourages Australian companies to adopt a set of non-binding principles to promote responsible business conduct. The Treasury hosts the Australian National Contact Point (ANCP) under the OECD Guidelines. It is responsible for promoting the OECD Guidelines to Australian business and investigates specific instances of alleged non-compliance with the OECD Guidelines by Australian companies. The ANCP publishes reports of its findings in relation to such specific instances.
The Australian government actively supports efforts and initiatives that encourage companies to operate in a socially responsible manner and advocates transparency. Australia’s dedication to such initiatives is demonstrated by, amongst other things, its advocacy of the OECD Guidelines and its support for the Extractive Industry Transparency Initiative (EITI) and the Kimberly Process (KP).

The KP Certification Scheme (Scheme) is a joint initiative of governments, industry and NGOs aimed at preventing the flow of conflict diamonds into the legitimate diamond trade. Australia, as a member of the KP process, has rigorously enforced KP certification requirements at its borders and has actively participated in the KP’s Working Group on Monitoring, which is the Scheme’s primary supervision and enforcement mechanism.

EITI is a joint government, industry and non-government organisation initiative that promotes transparency and the reconciliation of resources industry payments to governments. The initiative strengthens the capacity of developing countries to espouse good governance, reduce corruption and encourage sustainable development of their natural resource assets. Since 2007, Australia has provided $1.45 million to the World Bank-administered EITI Multi-Donor Trust Fund (MDTF), which supports implementation of the initiative in developing countries. Australia is also a member of the MDTF Management Committee and belongs to the Non-European supporting country constituency of the EITI board. The United States, Canada and Japan also belong to this constituency group.

The Department conducts regular outreach to Australian industry in all state and territory capitals on the theme of “trading with integrity”. This outreach highlights Australian laws with extraterritorial jurisdiction. The outreach also highlights international best practice in corporate social responsibility, including adherence to the OECD Guidelines.

(2) No.
(3) Yes.
(4) No.
(5) The Australian Government expects Australian companies operating in any sector in any country to abide by the laws of that nation and Australian laws with extraterritorial application. These extraterritorial laws include laws criminalising the participation in the commission of war crimes, crimes against humanity and armed attacks against foreign governments or a civilian population. Australia fully implements United Nations Security Council (UNSC) sanctions in response to the conflict in the Democratic Republic of Congo. In addition to prohibiting the supply of military-related goods and services, the sanctions also prohibit any dealings with persons identified by the UNSC as contributing to the conflict. Australia’s UN sanction enforcement laws apply to any person in Australia, as well as to any Australian individual or company overseas. The Department’s annual outreach activities referred to in the response to question (1) includes information relating to these laws.

While ultimately it is host governments that are responsible for developing and enforcing appropriate safeguards to ensure the safety of their citizens and to prevent conflict, Australia’s aid program assists with building stronger governance structures. Australia is committed to working at all levels of society with its partner countries to support improvements in government capability, responsiveness to citizen needs and accountability.

Uranium
(Email No. 332)

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:
With reference to the proposed Australian ratification of the Howard – Putin uranium sales treaty with Russia:

(1) What, if any, outstanding issues remain to be addressed by the department or by the Australian Safeguards and Non-Proliferation Office (ASNO) in response to the Joint Standing Committee on Treaties report 94, dated September 2008 (the report), and specifically Recommendation 1 which stated ‘that the Australian Government not proceed with ratification of the Agreement [Agreement with the Russian Federation on cooperation in the use of nuclear energy for peaceful purposes]’ and provided a range of strong conditions on doing so, including that the ‘IAEA [International Atomic Energy Agency] inspections are implemented for all Russian facilities that will handle Australian Obligated Nuclear Materials’.

(2) What costs, including reports and travel, has the department and ASNO incurred in looking to address this report and the range of conditions stated in Recommendation 1(a) to (h).

(3) Is it still the case that the IAEA has not conducted any nuclear safeguards inspections in Russia since 2001.

(4) (a) What steps are involved in potential ratification of this proposed treaty in Russia and in Australia; and (b) where are those procedures up to in both countries.

(5) What projected level of uranium trade between Australia and Russia in tonnage per annum does the department and ASNO estimate may result over time from ratification of this treaty.

(6) Given that Russia is a large exporter of uranium, including for nuclear fuel use to the United States of America, and given the potential for nuclear disarmament and further down blending of military stock piles and retired warheads, when, if ever, does the department and ASNO project Russia may become a net importer of uranium.

Senator Conroy—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:


(2) ASNO addressed the recommendations of the JSCOT report within its normal budget and as part of its standard liaison and representational program with bilateral partners. No specific travel was undertaken to address JSCOT’s recommendations.

(3) No. The IAEA conducted an inspection of the newly established Low Enriched Uranium Reserve at the International Uranium Enrichment Centre at Angarsk, Russia in December 2010.

(4) The Australia-Russia nuclear cooperation agreement entered into force on 11 November 2010.

(5) The potential amount of uranium that may be exported to Russia is entirely a commercial matter between Australian uranium producers and Russian customers.

(6) Estimating accurately when Russia might become a net importer of uranium is not possible because it requires numerous assumptions and consideration of various uncertainties, including Russia’s future policy on the import and export of uranium and uranium products and its production from domestic uranium resources.

Dalai Lama

(Question No. 333)

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:

With reference to the visit to Australia by His Holiness the Dalai Lama which is scheduled for some time around the middle of 2011:
(1) Will the Minister meet with His Holiness the Dalai Lama when he is in Australia.
(2) Will the Prime Minister meet with His Holiness the Dalai Lama when he is in Australia.

Senator Conroy—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) At this early stage, it is not possible to confirm the Minister’s availability, or whether he will be in Australia at the relevant time.
(2) At this early stage, it is not possible to confirm the Prime Minister’s availability, or whether she will be in Australia at the relevant time.

Vietnam
(Question No. 336)

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:

With reference to Vietnamese religious prisoners:

(1) Does the department currently have a human rights dialogue with Vietnam.
(2) Are issues of human rights discussed with other Association of Southeast Asian Nations (ASEAN) member countries at ASEAN meetings.
(3) Is the Department aware of the case of Puih H’bat, an Indigenous Christian Montagnard woman and mother of four, who was arrested by Vietnamese security police for having Christian prayer services in her home on 11 April 2008 and has not been heard from since.
(4) Is the Department aware that Puih H’bat is one of hundreds of religious prisoners held by Vietnamese authorities with their whereabouts unknown.
(5) Will the department make it a matter of priority to inquire with the Vietnamese Government as to the whereabouts of Puih H’bat and other Vietnamese religious prisoners.

Senator Conroy—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Yes.
(2) Yes, the Australian Government discusses a range of issues including relevant human rights matters at ASEAN meetings, particularly the progress of the ASEAN Inter-Governmental Commission on Human Rights (AIHCR), to which Australia has announced it will provide assistance in 2011.
(3) Yes.
(4) The Australian Government shares the Senator’s concerns about the arrest and conviction of religious prisoners in Vietnam, including Puih H’bat.
(5) The Australian Embassy in Hanoi made representations to the Vietnamese Ministry of Foreign Affairs on the detention of a number of religious activists on 10 December 2010 and to the Ministry of Public Security on 17 December 2010. The case of Puih H’bat was raised during these representations. The Australian Government will continue to raise human rights concerns including individual cases with the Vietnamese Government at appropriate opportunities.

Infrastructure Australia
(Question No. 359)

Senator Ludlam asked the Minister representing the Minister for Infrastructure and Transport, upon notice, on 13 December 2010:
With reference to Infrastructure Australia and its June 2010 report to the Council of Australian Governments, Getting the fundamentals right for Australia’s infrastructure priorities (the report):

(1) Has Infrastructure Australia commenced its monitoring of the effectiveness of the renewable energy certificate scheme (the scheme) in encouraging investment for renewable energy generation as set out on p. 29 of the report; if so, can an update be provided by Infrastructure Australia on any pertinent information the monitoring has revealed, including whether the scheme is effectively working to generate private sector investment.

(2) Has Infrastructure Australia commenced its monitoring of the changes to the regulatory arrangements for transmission investment to connect up renewable energy to the grid, as set out on p. 29 of the report; if so, can an update be provided by Infrastructure Australia on any information the monitoring has revealed, including whether the new transmission regulations are effectively working to generate private sector investment.

(3) How did the responsibility arise to monitor these changes, for example, was it self imposed or referred by the Minister.

(4) Will the Minister or Infrastructure Australia consider undertaking an examination of where the potential renewable energy resources are in Australia and creating renewable energy development zones to plan connection with existing electricity grids.

_Senator Carr_—The Minister for Infrastructure and Transport has provided the following answer to the honourable senator’s question:

(1) Infrastructure Australia is continuing to monitor the progress of the proposed changes to the renewable energy certificate scheme and the market’s response. Current status of the proposed changes is as follows:

The Government announced in February 2010 that as from 1 January 2011, the renewable energy target scheme would provide for two categories of renewable energy certificates – for small-scale and large-scale generation. Legislation to give effect to this was passed by the Commonwealth Parliament on 24 June 2010.

The Australia Energy Market Operator reported in May 2010 that 72 wind farms with a capacity of 9,655MW across the National Energy Market had been publicly announced and that 9 of those were in advanced stages of delivery.

Infrastructure Australia understands that the proposed changes to the scheme are generally viewed positively by the renewable energy generation market.

(2) Infrastructure Australia is continuing to monitor progress with the proposed changes to the Australian Energy Rules that would give effect to the Scale Efficient Network Extension (SENE) proposal. Current status of that rule change is as follows:

On 19 August 2010, the Australian Energy Market Commission published a notice to extend the publication date of the draft Rule determination to 17 February 2011 and the publication date of the final Rule determination to 12 May 2011. The Commission considered that the proposed Rule raises issues of sufficient complexity and difficulty such that an extension of time is necessary. The extension also reflects the Commission’s decision to undertake an additional consultation step for this Rule change by publishing an Options Paper. The Options Paper sought comments on five options for the rule change.

The Australian Energy Market Commission is currently drafting a rule determination.

Infrastructure Australia understands that the proposed rule change is generally viewed positively by the renewable energy generation market.
(3) Infrastructure Australia has responsibility under the Infrastructure Australia Act to identify any impediments to investment in nationally significant infrastructure and identify strategies to remove any impediments identified.

(4) Infrastructure Australia is not proposing to duplicate the role of the Australian Energy Market Operator in identifying the most promising potential renewable energy resources for development and connection to the grid. The 2010 Electricity Statement of Opportunities and the 2010 National Transmission Development Plan outline the most promising regions for development of renewable energy generation and the potential implications for the transmission grid.