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SITTING DAYS—2012

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FORTY-THIRD PARLIAMENT
FIRST SESSION—FIFTH PERIOD

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

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

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

Printed by authority of the Senate
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(1) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

(2) Chosen by the Parliament of New South Wales to fill a casual vacancy to be filled (vice H. Coonan, resigned 22.8.11), pursuant to section 15 of the Constitution.

(3) Chosen by the Parliament of New South Wales to fill a casual vacancy to be filled (Hon M. Arbib, resigned 5.3.12), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Acting Secretary, Department of Parliamentary Services—R Grove
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<tr>
<td>Prime Minister</td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td>Minister for Social Inclusion</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on Mental Health Reform</td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td>Minister for the Public Service and Integrity</td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td>Minister Assisting the Prime Minister on the Centenary of ANZAC</td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td>Cabinet Secretary</td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
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<tr>
<td>Treasurer (Deputy Prime Minister)</td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td>Minister for Financial Services and Superannuation</td>
<td>The Hon Bill Shorten MP</td>
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<tr>
<td>Assistant Treasurer</td>
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<td>The Hon Bernie Ripoll MP</td>
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<tr>
<td>Minister for Tertiary Education, Skills, Science and Research (Leader of the Government in the Senate)</td>
<td>Senator the Hon Chris Evans</td>
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<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
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<td>The Hon Sharon Bird MP</td>
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<tr>
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<td>Senator the Hon Stephen Conroy</td>
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<td>Minister for Regional Australia, Regional Development and Local Government</td>
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<tr>
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<tr>
<td>Minister for Sport</td>
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<td>The Hon Julie Collins MP</td>
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<td>Senator the Hon Bob Carr</td>
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<td>Communities (Vice-President of the Executive Council)</td>
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<td>Senator the Hon Penny Wong</td>
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<td>Minister for Employment Participation</td>
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Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Bill 2011
Superannuation Guarantee (Administration) Amendment Bill 2011

Second Reading
Debate resumed on the motion:
That this bill be now read a second time.
to which the following amendment was moved:
At the end of the motion, add "but the Senate:

(a) notes that the Government has not complied with:
   (i) the order of the Senate made on 1 November 2011, ordering the production of information relating to the cost of all measures attached to the mining tax over the current forward estimates, and
   (ii) a number of other outstanding orders in relation to mining tax revenue estimates and related assumptions; and
   (b) declines to consider the bill further until:
      (i) the Government publicly releases all information it holds relating to:
         (A) the commodity price and production volume assumptions it has used in respect of its mining tax revenue estimates,
         (B) the updated estimates of the cost of all measures associated with the mining tax over the forward estimates,
         (C) the cost estimate of its commitment to credit all state and territory royalties against the resource rent tax liabilities, and
         (D) the cost estimate of the upfront tax deductions able to be claimed by mining projects subject to the Minerals Resource Rent Tax on the basis of the market valuation method, and
      (ii) the Senate has passed a resolution that the bills may be listed for debate

Senator LUDLAM (Western Australia) (10:01): I rise to speak on the mining tax bills with mixed feelings, and this comes partly from being a Western Australian senator. Dealing with the mining tax bills has exposed the degree to which Canberra views my state as little more than a lucrative and ever-expanding hole in the ground. I want to set one myth to rest at the outset: the idea that the support of the Greens for fair taxation of the mining industry means that we are somehow anti mining. Of course we are no such thing. A big wind turbine, perhaps for many people the symbol of the transition that we are here to drive, is 200 tonnes of steel; solar PV cells require rare earths and silicon; electric vehicles require
high-capacity lithium batteries; the high-speed rail system that we want to introduce to this country will run on steel rails—and it is very hard to do any of that without mining.

What I am opposed to is the idea that, because of its role in our economy, the mining industry should be entitled to throw its political weight around like some kind of cartel, dodge fair taxation and punch holes in environment protection and heritage laws built up painstakingly over many decades. Every time a public policy issue arises that affects mining interests, whether it be taxation, native title, carbon price legislation or industrial relations reform, sections of the industry shriek 'sovereign risk' and threaten to pack up and leave. That is not the whole industry, of course; just those with the more aggressive sense of entitlement, the Xstratas of the world. We saw that most recently with the contrived hysteria around the resource super profits tax.

Whenever I hear these threats to throw the toys out of the cot I think it would be interesting, just for once, for somebody to carry out the threat and leave, to help reduce pressure on interest rates, inflation, exchange rates, house prices and so on. But, of course, it is an empty threat. The ore bodies are here, the stable political and security environment is here, the rail and port infrastructure and permissive planning environment are here. It is just schoolyard bullying with a big budget and, on the rare occasion that someone calls it out, it always turns out to be vapour.

The main reason for my ambivalence on these bills comes from the simple fact that they would have been better had the government not caved in to the bruising campaign of intimidation and misinformation run by the Minerals Council on behalf of its membership, with the Liberal and National parties as their ever-compliant policy sock puppets. Before I deal with the mechanics of the bills it is important to remember what it is that we are talking about here. The coalition have approached this debate as though the minerals in question all belong to Clive Palmer as his birthright and that this tax is a criminal socialist misappropriation of wealth from its rightful owner. Senators from the Labor benches have of course made the point that Australia's mineral resources belong to all of us by way of being the property of the crown—that is, the crown of a much-loved hereditary monarch on the other side of the world.

In fact, these minerals are coming from country, from Aboriginal land, where in many cases the 200-year legacy of dispossession is still real and present. Here we are in Canberra, thousands of kilometres from the iron ore operations in the west Pilbara, discussing how to redistribute the largesse from a once-in-a-lifetime mining boom while those from whom we take these commodities live in conditions of degrading the poverty within sight of ever-expanding waste rock dumps.

We were told that the native title system would correct these historic injustices and position the traditional owners to benefit from extractive industries on their land. The record has been dismally. An ARC funded research project examined more than 40 native title agreements negotiated with mining companies since 1992 and discovered that in only a quarter of cases were land councils able to negotiate substantial revenues. And we know why: the act spells out that Aboriginal people who have gone through the arduous process of proving to a tribunal that they have somehow managed to maintain connection to country have the right to negotiate over projects, but they do not have the right to say no. They know that if negotiations break down the project will go ahead without any royalties being
payable. In that legal context there is no equality of arms, and that is how we set the system up. I congratulate my Western Australian colleague Senator Rachel Siewert for bringing forward legislation to address this and other serious flaws with the Native Title Act.

So, thus far, the mining tax debate has been able to progress as though the mining revenues in question were discovered on some accountant's spreadsheet in Melbourne or on a hard drive deep within the Treasury department. The distance between the major mining provinces and the vast majority of Australians has created, I think, a disconnect such that our current highly unusual circumstances are seen as normal, an economic perpetual motion machine that will keep the cash registers in Canberra ringing and deliver a razor-thin budget surplus just in time for a federal election, and maybe they even will. But the fact is this is a temporary phase—this is a moment highly dependent on successive five-year plans drafted by the Chinese Communist Party, dependent on ever-increasing and unregulated combustion of cheap fossil fuels and dependent on continued confidence in a global financial system that is profoundly out of balance. Fundamentally, all mining booms end the same way. Visit Goldsworthy in the Pilbara. It is now just a collection of empty quadrangles fading back into the spinifex a short distance from a mine void that was abandoned when the iron ore ran out. Goldsworthy was closing about the time when the much larger Mount Whaleback deposit was being opened up, literally a mountain of iron that BHP have been dismantling for four decades.

Read DRET's annual resource report and you will see that we have eight or nine decades more of iron ore mining at present rates of extraction. That little caveat—'at present rates of extraction'—heralds the Goldsworthy endgame. None of the proponents in the Pilbara or on the North-West Shelf or in the Bowen Basin or the Darling Downs or out at Olympic Dam have any intention of proceeding at present rates of extraction, and their shareholders would sack them if they did. The mining industry intends to double present rates of extraction across the board as soon as possible, halving the depletion horizon. Then the imperative from shareholders and creditors will be the next doubling—and then the next. The boom is coming to an end one way or another but we have been hypnotised by the laws of supply and demand and the powerful magic of the price signals to believe that it can last forever. Geology says otherwise, and geology will win.

That is the context in which we debate these tax bills today. What do you do with such windfall gains while they are here? In the midst of this turbocharged resources free-for-all, economic common sense is being fed into a primary crusher and bald-faced rent-seeking has been put up on a pedestal as though it were a proxy for the national interest. Asset stripping has been deliberately confused with wealth building. It is the liquidation of four billion years of geological inheritance in a few short generations rebranded as sustainable growth.

Treasury told the Economics Legislation Committee a fortnight or so ago that there are $450 billion in extractive industry investments in the pipeline in this current decade. That is a figure well in excess of the entire Commonwealth annual budget. It is a figure probably unprecedented in the history of the country. Governments at all levels are dismantling anything that might stand in the way of this headlong rush to strip the continent of its resources as rapidly as possible.

These are nonrenewable resources, sold off cheaply on long-term contracts, resources
that will be immeasurably more valuable as we move into an age of depletion. In the case of fossil resources, some of it will need to stay in the ground in perpetuity. But instead, state governments have become hooked on mining royalties despite the economic collateral damage that is now impossible to ignore. Why would we remove all obstructions from an industry that has demonstrably pushed the currency up by 30 per cent, structurally damaging the tourism, education and manufacturing sectors which collectively employ 10 times as many people? Why would we push the fast-forward button down harder when the RBA was citing the risk of the mining boom overheating our economy in their statements in the wake of every interest rate rise between May 2006 and March 2008?

The commodities boom has seen labour costs bid up so rapidly that other sectors can no longer retain workers, sectors including the Australian Navy that now cannot put submarines to sea for lack of marine engineers and other skilled workers. The boom has helped put unprecedented stress on Australia's already dysfunctional housing market, particularly damaging for people not on mining wages but nonetheless caught up in a property bubble. Why would we pour more fuel on fire? We know why. The Australian Institute's estimate of the profits to be raked out the mining industry over the next decade stands at about $600 billion, that is why; well over half a trillion dollars, not in turnover— in profit. Treasury's original model of taxing this unprecedented windfall was met with a beautifully calibrated $22 million advertising campaign, an incalculable return on investment that crashed the Resource Super Profits Tax, cost a sitting Prime Minister his job, and led to the watered-down model we are presented with today.

When we turn to the opposition, we find that they are led by a guy who just bobs up and down whenever Mitch Hooke tells him to. The sum total of their initiative is to let these profits be sucked out of the country as rapidly as possible. It is an industry policy that says: liquidate everything, as quickly as we can, no matter what the collateral cost to the environment, to communities on the frontline and the rest of the economy.

The Greens propose to return to a model more akin to the one that the former Treasury Secretary Ken Henry started with or, heaven forbid, a model closer to the Petroleum Resource Rent Tax, that was also met with high-pitched shrieking from the industry and its Liberal Party proxies when it was first introduced. If that tax has held the oil and gas industry back since it was introduced, I would be delighted to see some evidence.

The Greens propose to roll back the frankly idiotic get-out clause that gives the states a blank cheque to raise royalties, which will then be fully reimbursed by the Commonwealth. Premier Colin Barnett in Western Australia is quite right when he reminds Canberra that mining royalties are a state responsibility and accuses Canberra of bullying in threatening to withhold GST receipts by way of retaliation. I do not understand what the Australian Treasurer is doing. Maybe a government senator will jump up during the debate and let us know.

I believe that some of the benefits of this boom, properly taxed, should be banked in a sovereign wealth fund as a source of capital for the future when the well has run dry and as a hedge against rapid currency movements. The Norwegian model is frequently spoken of. The North Sea oilfields are now well down the back end of the depletion curve but smart policy-making there has left the country with one of the
largest sovereign funds in the world from which to sustain prosperity.

Colleagues, when we put this bill to a vote later tonight I will be voting for it, because the alternative is to vote for nothing. Unlike the friendless CPRS, this is an example of something being better than nothing. But as Senator Brown has indicated, this is a package that will require ongoing review and improvement to see if the reality bears any resemblance to the modelling. I want to know whether or not AMEC were right when they told the committee a couple of weeks ago that accountants for the big three miners have so completely wormholed this package as to cripple it. I do not often get up here and agree with AMEC, but credit where it is due, the big three miners sold out AMEC membership, the juniors and the mid-tier miners, and did a deal to benefit themselves at their established operations.

This is a story that still has some twists and turns in it yet. I find myself in the peculiar position of agreeing both with AMEC and Colin Barnett, our Premier, in the course of this contribution, which has created strange alliances and probably cost a few friendships as well. If we can at least agree that these resources are nonrenewable, and that we here in Canberra are placed in a position of enormous trust in their stewardship and liquidation, that at least will be a start. I foreshadow the second reading amendment that we will move later this afternoon in my name and Senator Brown's name in order to correct some of the flaws that were introduced into this bill when it was renegotiated by new Prime Minister Gillard and Treasurer Swan. I thank the Senate.

Senator FURNER (Queensland) (10:14): I also rise this morning to support the Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Bill 2011. In doing so, the Australian Labor Party has always believed in a fair go for all Australians. We have always stood for social justice and a sense of community. We are the party who believes everyone should have the same opportunities no matter their background and we believe in rewarding hard work.

Our party believes that, through the good times and through the tough times, the great mission of Australian Labor governments for more than 100 years has been to provide for and improve the lives of ordinary Australians, giving every Australian opportunities through education and training, ensuring fairness at work and supporting Australians through the different stages and transitions of their lives. This is exactly the premise of the minerals resource rent tax. We believe all Australians should be able to share in the wealth of the resources of this country, not just the mining magnates. Why shouldn't they? The resources of this country belong to the people.

Treasurer Wayne Swan says prices of iron ore and coal have skyrocketed. The Prime Minister says commodity price increases have led to Australia's term of trade being at the highest point in 140 years, 'Driving the biggest resources boom since the 1850s gold rush.' This is thanks to the economic reform in Asia with mining investment being stimulated by Asian demand.

Mining profits have risen over the past decade by 262 per cent. A lot of these profits go overseas, which is why it is time to implement a policy to assist our hardworking Australians. The current system of royalties is inefficient because they fail to take into account production costs. As a result, they collect the greatest share of their returns from non-renewable resources when profitability is low or negative and collect a smaller share with their returns when profitability is high. The Australian future tax system review identified that delay was the case from 2003-04 to 2008-09 when
mineral profits increased as a result of high commodity prices. The AFTS review noted that while governments can increase royalty rates in response to increases in profitability, this may discourage investment by creating uncertainty.

The MRRT rate will be 30 per cent minus a 25 per cent extraction allowance to recognise the use of specialist skills. It will apply to companies whose profits exceed $75 million, which means small miners will not be affected. Treasurer Swan states the bulk of this tax will be paid by the very large miners, make no mistake about that, and that is as it should be because they are the ones who are super profitable.

Let us remember the emphasis that this is a tax on profits. On 2 November, Minister Bill Shorten said

Unlike royalties, the MRRT recognises the massive investments that miners make. The tax does not apply to the value added by miners through processing. It applies only to profits attributable to the resources at the valuation point just after extraction. Under the MRRT, projects will be able to immediately write-off new investment and immediately deduct expenses. No MRRT will be payable until the project has made enough profit to pay for its upfront investments.

The Labor government does not believe that only a few should benefit from this resources boom. We believe everyone should be able to share in the wealth. Not only do we want to boost superannuation for our working Australians but we also want to lend a hand to small businesses and to invest in infrastructure for our generations to come. The Labor Party believes in nation building. We did it with our economic stimulus package and we are doing it again with the mining resource rent tax.

Through the Regional Infrastructure Fund we will be investing in roads, rail and ports to help with the transportation of export materials, increasing road safety by keeping large vehicles off local roads and improved transport efficiencies. The Regional Infrastructure Fund is worth $6 billion from 2011-11 to 2002-21, with $5.6 billion tied up with the MRRT.

The Department of Infrastructure and Transport states the objectives of the Regional Infrastructure Fund are to promote development and job creation in mining communities and in communities which support the mining sector, to provide a clear benefit to Australian economy development, to invest in Australia's resources of export capacity and to address potential capacity constraints arising from export production and resource projects.

My state of Queensland is a strong mining state and under stream 1 of the Regional Infrastructure Fund six projects of the eight with funding committed are in the Sunshine State. Gladstone port access road has an Australian government commitment of up to $15 million, Blacksoil interchange has up to $54 million, Townsville ring road has up to $160 million, Peak Downs highway has up to $120 million, upgrade of the intersection of the Bruce and Capricorn highways has up to $40 million and Mackay ring road study has $10 million. This is a great investment in Queensland, something we as a government should be proud of. Not only will these infrastructure upgrades support developing mining communities but they will also provide the infrastructure for freight transportation, improving safety and reducing congestion.

Queensland has been through tough times lately and Premier Anna Bligh is confident Queensland is back on track. At the state campaign launch recently, Premier Bligh told us that, despite everything, Queensland is 'outperforming the national economy of a nation that is recognised globally as having
done the best job for coming through the global financial crisis.'

That is something for Queensland to be proud of and these investments are only going to assist Queensland further. Building our nation is important but so is building up our hardworking Australian nest eggs. We believe in rewarding people for their hard work and this is one of the Labor values. Under the Whitlam government we introduced a universal healthcare system, Medibank, later renamed as Medicare. Under the Keating government we introduced superannuation guarantee amongst many other things, and we will be increasing the superannuation guarantee so that Australians have more in the kitty when they retire.

With the MRRT, the Labor government will increase the superannuation guarantee from its current nine per cent to 12 per cent. This will benefit 8.5 million Australians with an average worker at 18 receiving an extra 25 per cent or $205,000 in retirement savings. An Australian who is 30 will see an additional 24 per cent or $108,000 and a 40-year-old will see an extra 15 per cent or $56,000. This is an extraordinary increase and one our workers are entitled to. I speak with some experience when it comes to superannuation. I reflect on my time on the board of the Labor Union Cooperative Retirement Fund when I was a union official with the National Union of Workers. LUCRF, the acronym, was the first industry fund ever created fought for by workers in the wool and hide industries, a marvellous achievement as a superannuation fund that resulted in workers receiving benefits so that they can invest and provide for their later lives of retirement. Also, interestingly enough, I picked up this morning a release from the Australian Council of Trade Unions indicating that a new national poll shows that 75 per cent of Australians support the lifting of the superannuation guarantee from nine to 12 per cent. The president, Ged Kearney, indicated that eight million workers throughout Australia will be better off in retirement as a result of the proposed new laws, with some workers getting up to $143,000 more. Ms Kearney said:

The Labor Government is again showing great national leadership on superannuation and the protection of workers’ retirements. This is in stark contrast to Tony Abbott’s opposition to the resources tax package and his recent attack on industry superannuation which both show he is not interested in protecting workers and acting in the national interest.

It is amazing to see that 75 per cent of people in our country support this outcome as opposed to those opposite. I recall when I first started as a union official, going out to workplaces when the superannuation guarantee was at three per cent, encouraging workers to understand the importance of a guarantee to provide them with some sort of retirement income in their later years and how it was embraced by those people in the many workplaces I visited. Gradually, over time, this Labor government and past Labor governments have provided that assistance to workers by making sure that entitlement is available for them when they reach the age of retirement. It is an entitlement that no doubt those opposite opposed when it was first legislated.

We not only want to look after workers but also our hardworking small business owners. They are the backbone of our community. Businesses that have a turnover of less than $2 million will benefit from an instant asset tax write-off of $6,500 per item. There is no limit to how many items they can write off and this will make tax time much easier for small business owners. Small businesses will also be able to write off the first $5,000 spent on a motor vehicle and
enjoy a cut to the company tax rate. This cut to the company tax rate will apply to all businesses big or small. As you can see, the Labor government is committed to small businesses that provide important services to our community.

Those opposite would spruik that the minerals resource rent tax will discourage investment in the mining sector. Let me tell you that is not the case. In fact, in his second reading speech, Treasurer Wayne Swan said:

There is something like $430 billion in the pipeline with something like $82 billion in this year alone, which is up from $35 billion only two years ago.

We have also received endorsement of the MRRT in the OECD's 2010 economic survey of Australia. It states:

The proposed mineral resource rent tax on coal and iron ore operations along with the extension of the petroleum resource rent tax are justified on both equity and efficiency grounds. This resource rent tax is more efficient than the current royalty system as it raises taxation of finite and immobile resources. This will improve efficiency in the resource sector.

The House Standing Committee on Economics inquiry into the Mineral Resource Rent Tax Bills 2011 report concluded that the bill should be passed to introduce a fairer system. It stated:

Mineral resources are currently taxed through a combination of royalties and company tax. Royalties are an inefficient taxing arrangement. The Australia’s Future Tax System Review found that royalty regimes were the most distorting taxes in the Federation. Specifically, royalties are often set at rates low enough to operate in periods when commodity prices are low to average. This means that royalties fail to provide an adequate return when commodity prices are high as they are now and have been throughout much of the mining boom. In contrast to royalties, the MRRT takes into account the profitability of mining operations.

The higher the profits of the mining sector, the higher the return will be in the pockets of hard-working Australians, and that is the way that it should be. All of us own the natural resources of this country and all of us should benefit, not just the mining companies. That is fair, equitable, up to our Labor values and ensures that everyone benefits and is rewarded for their hard work. I commend these bills to the Senate.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (10:27) I rise also to make a contribution to the legislation before us today: the Minerals Resources Rent Tax Bill and associated bills. I stood in this place last week talking about the private health insurance bills and said, 'Wouldn't be great if, just once, this government could give us a decent piece of policy to debate?' We see a lot of commentary from the other side not only in this chamber but also in the other place about the supposed negativity of the coalition, the supposed negativity of the leader of the coalition. If the government gave us some decent policy, we would not have to say 'no'. It is as simple as that. It is 'no' for no's sake. It is 'no' because the policies this government continues to put before us and before the Australian people are so bad. The minerals resource rent tax is no different.

The shambolic process that we are seeing in the development of policy is gobsmacking. Again, the minerals resource rent tax has thrown us up that same shambles. This is a piece of legislation that is unfair, complex, divisive and fiscally irresponsible, and yet the government is putting this up, saying, 'Isn't this a wonderful piece of legislation,' and 'This will be great for Australia.' Quite simply, it will not. Interestingly, when we look at this shambolic process, again it throws up the nature of this government and its inability to properly go
through a process to give the Australian people decent policy and decent outcomes.

Let us have a look at how this turned up. There was the initial RSPT, which was announced without any consultation with anyone. The government put together what it thought was a great policy, the RSPT, and brought it forward. It absolutely got howled down by the entire industry, it seemed at the time, as well as by many others simply because the government had not even bothered to consult. It had not bothered to talk to the industry or to the people that the RSPT was going to impact to see if it was even going to work or to see if industry could even deal with the implications of that particular piece of legislation. What was extraordinary at the press club, which was very recently on 5 March, was the Treasurer talking about that. He was questioned about the process of the RSPT and the fact that the government had come under fire from all quarters. The Treasurer said:

And if we could have sat down in greater detail with the mining industry following our announcement and worked our way through those issues then we might have had a less bloody and bruising experience.

Again talking about the RSPT, he said:

But the real thing that meant that we could get it done was that when we sat down, we got for the first time from the companies, information that neither the Henry Inquiry nor the Treasury had, which was the real story about volumes and price. That is after the RSPT—that is talking about the new configuration—and the Treasurer is saying, 'This is the first time we have actually sat down with the industry.' When they were talking about the new form of legislation we were going to have post the RSPT: 'Oh yeah, first time we'd sat down with the industry.'

I wonder if it had actually ever occurred to the Treasurer initially to talk to industry about the initial policy. Clearly it had not, and yet we had as recently as last week the Treasurer saying, 'Oh yes, this was the first time we got to sit down with the companies.'

It is entirely his responsibility. It was entirely his bailiwick to talk about those impacts of the initial RSPT with industry in the first place. How stupid is that? Why would you not as a government take the opportunity to discuss the potential impacts of a significant piece of legislation with the industry it is going to affect? It is just extraordinary and yet another example of this government's inability to properly go through a process, to properly consider implications and to properly consider any unintended consequences from pieces of legislation. They are just doing it on the run and they are completely inept.

We have this situation with the Treasurer, who eventually thought it might be a really good idea to sit down with industry and see if they might like some kind of minerals tax part 2. But then, when he ended up sitting down with industry, how many companies did he talk to? Three. Three of the biggest miners—and that was it. Not inclusive, not talking to the whole range of hundreds of other companies this was going to affect. He did a deal with the big 3.

I do not know about you, Mr Deputy President, but to me that is not consultation. That is picking and choosing to try and get a piece of legislation through from this cobbled together Greens, Labor, Independent government—whatever it is that is actually running the country at the moment—and speaking to three of the big mining companies. I find it absolutely extraordinary for this Treasurer to initially have no consultation whatsoever and then: 'Let's see now. I have a few hundred, I don't know, 700 or 800 mining companies this is going to impact. I know—I'll talk to three! Three would be good. Three is a good number. I like the number three. That sounds like a
good idea. I will talk to three of them and see if I can get them to agree. This is completely unfair and illogical for the government—for the Treasurer—not to include consultation with the entire industry. It just goes to show that the government was merely trying to get a piece of legislation through the Parliament, not trying to develop legislation properly for the industry, and again shows just how inept this government is when it comes to developing policy.

The Henry tax review was supposed to be about root-and-branch reform to deliver a simpler, fairer tax system, but what we have actually got is something that is more complex and less fair. We have got something like another 287 pages of tax law and an unfair competitive advantage to big end of town. It simply does not make sense. Those on the other side go on about the green virtue of, 'We all own the minerals and it has got to be fair for everyone and we all deserve a share'—well, we get that through the royalty system.

The fact is there has to be recognition given to the companies who are investing in the industry in the first place. There has got to be recognition given to the productive capacity that those companies provide. You cannot simply say, 'Gee, all of those minerals are under the ground and we deserve all of them,' when we have got these companies who are doing the investment, who are taking the risk, who are at the coalface—pardon the pun—doing all of the work to extract the minerals. You simply cannot discount that. What they are doing in their contribution for this nation at the moment is nothing short of extraordinary. In a lot of ways they are actually holding up a very inept government, making the country look good. It is those men and women out of the ground in the mining industry, the agriculture industry and our small businesses right across the country who are holding this country together, who are providing the productive capacity for this nation in spite of the government, not because of the government we have in place at the moment. That is just wrong, and it is no surprise that so many people are coming up to me at the moment and saying: 'Will you please get this government out of office. We need a change of government. We have no confidence in this government.'

You can really see it. When I am out in regional communities and moving around, it is still very under the radar, but confidence has gone. Money has stopped moving. We have got small businesses running accounts out to 90 days, effectively working as banks because of the lack of confidence in the ability of this government to run the country, and that is a very sad state of affairs.

It is going to leave the budget worse off and, when we have got now a debt of around $232 billion, a piece of legislation that is going to leave the budget even worse off is absolutely extraordinary. Keep in mind, colleagues, as my very good colleague Senator Williams knows only too well, the ceiling is $250 billion.

We are getting very close to that $250 billion ceiling. Do you hear the government talk about that very often? No, you do not. You hear them talk about this legislation before us—the Minerals Resource Rent Tax—and how terrific it is. It is actually going to leave the budget worse off, and we have a situation—is it not extraordinary colleagues that when we came in we left the Labor government a surplus—where we now have a $232 billion debt and the four biggest deficits in a row that we have seen in this country in decades. The fact that it is going to leave the budget worse off is just extraordinary. Again, it is dividing the industry. It really is the big three and the rest. It has become David and three Goliaths, and
it is really dividing the nation and dividing the industry. How would all of those other companies have felt when the Treasurer, Wayne Swan, went in and talked to the big three but did not bother talking to any of them? What are they, chopped liver? They deserved as much consultation with the Treasurer as any of the big mining companies did. I think it is simply appalling.

What is extraordinary is that this legislation is just another example of shambolic policy when it comes to regional Australia. This government simply does not understand regional Australia or regional communities. Extraordinarily, this Labor government thinks metropolitan areas should be treated as regional. This is how incredibly inept the government is at delivering for regional communities—it is looking at metropolitan areas as regional. This mining tax is going to fund the Regional Infrastructure Fund. It is interesting that the biggest allocation from that fund so far is $480 million. This is hugely significant. Nearly half a billion dollars is going out from the Regional Infrastructure Fund, and where did that $480 million go? To roads around Perth Airport.

Senator Sterle: Great!

Senator NASH: I will take that interjection, Senator Sterle. I am sure you say 'great'.

Senator Sterle: Fantastic!

Senator NASH: Sure, it is fantastic, but I defy anybody in this chamber, anybody in the other place and anybody across the nation to define Perth Airport as regional. It so clearly is not. Yet this government says: 'Here we go, here is nearly half a billion dollars. We're going to whack this out to Perth Airport and we'll take it from the Regional Infrastructure Fund.' That is a classic example of this government not caring two hoots about regional Australia. If it did—and the proof is in the pudding here—it would have directed that $480 million to somewhere regional.

I know Senator Sterle is always telling me—and I agree with him—how absolutely fantastic Western Australia is, and I would think that Senator Sterle would hate to think that those of us over here on the east—'t'othe siders'—might even possibly ever refer to Perth as regional. You would be affronted, Senator Sterle. You would be astounded. You would be absolutely appalled that we t'othe siders would ever refer to Perth as regional. Yet your Labor government says Perth is regional, and has put on the table $480 million for somewhere that is clearly not regional. It just shows the absolute disconnect that this Labor government has when it comes to regional communities.

The Regional Australia Institute—again, more shambolic policy like the minerals resource rent tax—sounds regional, doesn't it? It sounds like it should have a fairly regional bent, to me. It has the word 'regional' in there. It has one office, and where is it located? Gosh, Canberra! Let us put the Regional Australia Institute in Canberra—what a fine idea! Did it never occur to anybody in the government that the place to locate the Regional Australia Institute might be in a region? Good lord, that would absolutely necessitate common sense, none of which we see from the other side of this chamber or from the other side of the chamber in the other place.

Last week we heard Senator Wong, Minister for Finance and Deregulation, saying in answer to a question: First, this government is the greatest supporter of regional Australia this nation has seen in a very long time. One tries not to laugh uproariously in this place but, at that particular moment in the
chamber, I did, and I think it was echoed right around every single regional community in this country. For this government to say that it is the greatest supporter of regional Australia is nothing short of hilarious because it is so obviously not. When it comes to things like mismanaging and delaying water reform, the whole Murray-Darling Basin debacle and the fact is that there has been no proper scrutiny of the social and economic impacts of withdrawing water out of those communities—it just has not been done. When it comes to water there is no information about where any of the environmental water is going to go, what the benefit is going to be and how it is going to get there. It is another shambles from this Labor government.

The best one, though, has to be the carbon tax. How can the minister, Senator Penny Wong, say 'this government is the greatest supporter of regional Australia this nation has seen in a very long time,' yet at the very same time be introducing a carbon tax which is going to hit regional Australia—as my very good colleague Senator McKenzie knows probably better than anyone—and regional communities harder than anywhere else? This government hasn't a clue, and we are seeing it again with this minerals resource rent tax. It is all related to the mining tax, thank you very much, Senator Sterle, because the minerals resource rent tax is yet another example of policy from this government that does not properly consider regional Australia. It is absolutely relevant. The trade minister talks about considering properly the impact of foreign ownership and foreign control, and says they are going to risk our free trade agreements. They are free trade agreements; they are not feel-free-to-buy-up-our-country agreements. The fact that the minister will not properly consider the long-term ramifications of this is yet another example of the shambolic policy that we see from this government when it comes to regional communities. The minerals resource rent tax is just another. When we look at that tax we see what it is going to do. As I said earlier, it is divisive and it is going to pit company against company.

The fact that the minister spoke to only three out of goodness knows how many companies it is actually going to affect is absolutely extraordinary. This lack of consultation is something that we see through legislation time and time again from this government. The minerals resource rent tax is no different at all. It is extraordinary. As I said earlier, it is going to make things worse. It is going to leave the budget worse off. The revenue is going to be highly volatile and downward trending.

Senator Sterle: How? How is it going to make it worse off?

Senator NASH: We will hear from the other side many a contribution about how wonderful it is going to be. Thank you,
Senator Sterle. You know, Senator Sterle, as much as I do. You will stand up and give this blah, blah, blah in a few minutes about how fantastic it all is. Yet at the end of the day when this is going to leave the Australian people worse off, when this is going to leave the economy worse off, how on earth can we on this side of the chamber support this legislation? We cannot. This is not saying no for no's sake. This is saying no because this is yet another appallingly bad piece of regional policy from a government that has such a disconnect and clearly does not understand the needs of regional communities.

Senator STERLE (Western Australia) (10:47): I have been really looking forward to making my contribution to this debate on the Minerals Resource Rent Tax Bill 2011. May I just say from the outset that, regardless of what some people who are listening may think, I do have the greatest respect for my colleague Senator Fiona Nash.

Senator Nash: Stop there! Stop!

Senator STERLE: Sorry, she put me off; she made me laugh. I will not stop there. I am going to keep going. I have no doubt about Senator Nash's commitment to regional Australia but, sadly, unfortunately, we have witnessed in this country in the last 18 months or so—while we have been having this debate about some form of tax concession or tax collection from the mining industry—a plethora of mistruths, lies and misleading figures. Anyone who wants to make some commentary on it who has no background on it has their little bit and their moment in the sun. But I would like to actually clear up a few things.

I suppose I am not allowed, but I would love to ask a question to those out there who may be listening or those in the gallery. The whole idea of this tax on our non-renewable resources is that it concerns only iron ore and coal. It does not affect any other commodity. I would like to get a feeling from the gallery. When you look at the massive amounts of iron ore and coal being dug up in this country that cannot be replaced, do you think it is unfair—through you, Mr Deputy President—that once a company hits $75 million in profit they will pay a tax? If they make $74,999,999.95, they will not pay the tax. I do not think for one minute that any decent, hardworking Australian would think that the Gillard government is being at all harsh on companies because they are taking our nonrenewable commodities. What they do with them range from fantastic things to who knows what else around the world. It is a $75 million profit tax.

So if you listened to Mr Abbott, Mr Hockey and Mr Robb—that is if they are on the same page on the same day, and that has not happened for months and months, and Senator Sinodinos must be cringing—you would think that we, as a government, are going out there to crucify employment. You would think that we are going out there, in their terminology which I have read in the paper over a number of months, to kill the golden goose. This is an absolute lie. Mr Acting Deputy President, the whole basis of the Liberals and the Nationals—

Senator Williams: He's the Deputy President; he's not acting.

Senator STERLE: Did I promote you? Sorry, Mr Deputy President.

Senator Williams: No, you demoted him.

Senator STERLE: I would vote for you if the time ever came. You would think that if they were speaking the truth we were going to kill investment. If I may, there are a lot of good things to say about the minerals resource mining tax, and I will flow on because Senator Nash has given me the
opportunity to talk about the Gateway WA project. That is what the airport upgrades are called. I have in front of me—and I am not tabling it, but I am speaking to it—a newsletter put out by Senator Eggleston with the member for Swan. It is Senator Eggleston's contribution to the negativity around the mining tax. I just want to quote some of Senator Eggleston's words. This lovely, glossy thing was floating around Western Australia the week before last, I believe. Senator Eggleston says:

Western Australia's fly-in-fly-out (FIFO) workers—
they are the miners that live everywhere else but fly into these remote mine sites—
will be hit hard, with job cuts expected to offset the tax.

How in the heck did Senator Eggleston come to the conclusion that if the employer makes $75 million in profit it will cost jobs? I do not know how that works. Senator Eggleston also goes on to say:

With global economic uncertainty at its peak this has already been seen, with BHP announcing 155 job cuts in January.

Well, dash! The mining tax is not even in yet and BHP are putting people off. What the heck does that have to do with the mining tax? And if it does come in it will not be until next year. So where did that come from? This is the sort of mistruth being spread around. Senator Eggleston, who will have the chance to defend himself, also goes on to say:

If passed, Australia's international competitiveness will be in turmoil, leaving less money in Australia for investment and our current investments will move overseas.

The iron ore is here. The coal is here. Am I to assume, through Senator Eggleston's wording, that somehow we are going to pull the iron ore and coal from Australia out of some other country, that we are going offshore? This is just ridiculous. I would also like to add that Australia is gifted. We are so lucky to be gifted with natural resources. I was a former truck driver who made my living, for 16 years, running into mining towns. I was the furniture removalist for miners and associated services moving in and out. With all the global turmoil we have seen, as soon as the price of aluminium or bauxite comes down mining companies will close their mines.

Let us have a look at the nickel project out of Ravensthorpe. A couple of years ago BHP, 'the great Australian'—that was tongue in cheek, Mr Deputy President—fired up a mine down in Ravensthorpe. Fifteen hundred people were employed. Fantastic. Local people in Ravensthorpe thought that they could make a decent living and a good business out of promoting the town of Ravensthorpe. As soon as that price of nickel went south, what did BHP do? What did the great Australian do? Shut it down. Fifteen hundred jobs gone. Did the opposition come out and go, 'Oh, dash, BHP; how dare you'? Of course, they did. That is the trouble when you are beholden to big miners. Fortunately we are not beholden to big miners.

I want to talk about one of the absolute positives about the mining tax, and there are a number of them. Prime Minister Gillard has committed to Western Australia no less than $480 million of mining tax into the Gateway WA project. The Gateway WA project is a complete upgrade of the roads surrounding the Perth Airport. With all fairness, Westralia Airports Corporation under the leadership of their CEO Bradley Geatches has contributed about $1 billion over 10 years for upgrades on the airport's land. The federal government and the state government will be contributing money to roads surrounding Perth Airport.
For those who do not know the Perth Airport, it is situated about six kilometres from the CBD. We are lucky in WA because we do not have a curfew. We are very lucky in WA because of successive governments, state and federal. Not only is WA the engine room of the economy but also our airport is absolutely paramount to the resources boom and to the work that is going on in regional WA. Our airport operates 24 hours a day. Fortunately, although some have suggested on that side that we should talk about curfew, that nonsense was put to bed very clearly.

Our airport handles some 2,000-plus flights a week. The majority of our flights out of Perth Airport are heading to regional centres—not for tourism, unfortunately, not for fishing expeditions, not for sporting events, but for servicing the mining industry. We have a number of commodities. We have just about every commodity you could imagine in WA and we have regular flights in and out. We have three terminals at Perth Airport. We have the domestic terminal, which Qantas operates out of. We have our FIFO terminal, which Virgin, Skywest and the regional airlines operate out of. You walk into that FIFO airport and it is just as busy as the Qantas domestic terminal. I have not met one Western Australian who has said to me, ‘Will you pass a message on to the Prime Minister about how dare she spend mining-tax money on upgrading roads in and around our airport? Around Perth Airport we have our major trucking hub. This is all in the one area. We also have our major retail hub, where Woolies and Coles have their distribution centres. We also have a major railhead. In Western Australia we rely very heavily on eastern states freight movement not only by road but also by rail.

We have a perfect storm, if you may, of activity around the airport. This is not to mention traffic in and out of the airport or travellers on and off that road network or B-doubles and pocket road trains around that area. If you have the misfortune of being on the Tonkin Highway trying to get through the set of traffic lights to get to the outer suburbs you will understand that the sooner the mining tax contributes to the building of the Gateway project, Senator Nash, it will be a wonderful event for WA. Even the Western Australian government cannot wait for that to happen. But they are not capable of funding that project on their own.

If you are going to start condemning projects that the mining tax will fund through the regional infrastructure fund, senators on the opposition side, at least do yourselves a favour: do your homework—through you, Mr Deputy President. Make your considerations based on fact, not just on the latest message from the 'no' campaign running out of your leader's office.

I also want to talk a bit more about the benefits of the mining tax for Western Australia. Mining is a significant contributor to our economy. There is absolutely no doubt about that. Senators on this side of the chamber recognise that, particularly senators who come from Western Australia and I have no doubt also senators from Queensland and those from other states. But it is rather infuriating when we are somehow bedevilled, belittled or abused because we dare to take on and upset these major miners. How bad it is for Rio Tinto, BHP and Xstrata and for the majority of employers in the mining industry, and we are going to put all these people out of work—if you listen to those on the other side of the chamber.

Mining contributes 1½ per cent of employment to our great nation. That is not to belittle the industry. It has been a fantastic industry, there is no doubt about that. We have 1½ per cent of Australian workers engaged in mining and yet we can have the likes of Ms Rinehart, Clive Palmer and
Andrew Forrest—and I must admit Andrew Forrest has been a bit quiet lately—coming out and calling us everything under the sun. They say we are going to kill off investment.

I have an interesting piece of information that should be shared with everyone here. Probably around early- or mid-year 2010 there was a full-page ad taken out in the West Australian newspaper. I do not know if it got to other newspapers because I was in the west that day. It was a message from Ms Gina Rinehart. Now, good luck to Ms Gina Rinehart. She has inherited some family fortune and she has gone off and run a business. That is all great, and let do her own thing. But she was calling on the federal government to introduce economic-free zones—this was the heading, 'economic-free zones'. And when I read a little bit further it went along—and I cannot give you word-for-word, Mr Deputy President, but I think you will get the gist—'Ms Rinehart was alluding to the fact that if we do not have economic-free zones in the wild West we will not be able to afford to build mines and we would not be able to afford to get these projects off the ground.'

Ms Rinehart can challenge me on any occasion; I will step 30 paces to the left and say the same thing out there. I am not hiding behind parliamentary privilege. Ms Rinehart had a massive concern about why she and other miners should have to pay—wait for it—Australian wages and conditions to get these mines off the ground. How unfair it was on her and her fellow miners to be dared to have to pay Australian wages and conditions! So she was calling for an economic-free zone so that these projects could be ring fenced and she could bring in foreign workers—and good luck to foreign workers, whose skills we need—at the expense of Australian workers. At the expense of Australian wages and Australian conditions!

I will stand to my last breath and I will never, ever, ever—while I am in this building or outside it—support a billionaire who wants to lower Australian wages and conditions or to exploit foreign workers, for that matter, so she can get her major project built. Do you know the insulting thing about this, Mr Deputy President? There was a follow-up article, and I cannot for the life of me remember how much further down the track it was. It may have been two weeks, I do not know. But she ran it again, and this time she had 30 of her mates—senior CEOs of companies—saying, 'We support Gina.'

Let us get back to the mining tax. Let us get back to the tax you may have to pay if you make $75 million profit. Every single one on that side of the chamber sings in unison in support of the rich miners. But what are they going to do? I will tell you what they are going to do. They are going to tax us to support the miners. They cannot wait, and you will see them. I will name them: Senator Cormann, the first one to pop up, running the Mr Forrest line, running the Ms Rinehart line and running the Mr Palmer line. They cannot wait. Do you know what, ladies and gentlemen? Here is the itch; here is the little sticky bit—this is the bit that they cannot smother over. A major donor—or the major donor—to the National Party is no other than one Clive Palmer. Mineralogy: poor Mr Palmer: 'I am going to go broke. This is killing off jobs, because if I get the $75 million profit I have to pay a tax.'

There they all are. You will hear them. You will hear them in question time. If you are unfortunate enough to still be here in question time, watch it pop up. Watch them pop up and talk about the jobs. They are running the Clive Palmer line. I am going to make this statement, and I will stand corrected. I reckon it is getting to the stage where he will be writing your questions for you! That is what he will be doing because
you all parrot it. You parrot the same thing all the time, and about poor Ms Rinehart!

There is another crack—have a listen to this one, Madam Acting Deputy President. Last week we knew there was an unfortunate situation. There is nothing worse when families get into a buddle. Trust me, I am half Italian! There is nothing worse, but we are good at it. All of a sudden, there is a very high profile—

Senator Boyce: You're just manipulated anyway!

Senator STERLE: You are from Queensland, Senator Boyce, so is Mr Palmer writing your speeches too?

All of a sudden we see that we have Senator—none other than—Barnaby Joyce, coming to the defence of Ms Rinehart, writing letters to her daughter—I do not know if he has ever met her—telling her virtually that it is a bit unfair and to back off. I do not know; Senator Joyce should table the letter and defend himself. What the hell is a Senator from Queensland doing interfering in a family dispute?

Then they all started. Then there was a Mr Shultz, I believe, so Ms Rinehart is calling in her favours. But that is what happens when you take donations from mining companies. You are beholden to them, and you are too scared to stand up and go, 'Hang on, it's a $75 million profit before you get taxed,' so I did start feeling sorry for you. But now I do not, because the old saying is that you reap what you sow. You lot are now saying, 'That's it,' and you are reaping it.

Going back to the mining tax, I challenge anyone on that side to get up and show us—show us, do not make stupid, glib statements through Mr Abbott and his office—and when you are on song as a team, which I do not think has happened since about 2007, tell us where these jobs are going to go. Tell us! Come here and tell me—challenge me out there, and challenge me in any Western Australian mining community about where these jobs are going to go and why they are going to go.

This comes from the party of 'profit is good'. And I support profit—let me tell you: I love profit. Do you know why I love profit, Madam Acting Deputy President? Because when companies make profit they employ people, and when people are employed they spend money, and they spend money with small businesses, they spend money in hospitality, they spend money in tourism and it is a wonderful thing. I wish they would spend more in the great state of Western Australia. I really do. But, come on, here is the challenge: drag me out there, get the media and pull me up. Bring a miner in here, challenge me, bash me and around the ears and tell me one mine that is going to put off workers because all of a sudden they have cracked a $75 million profit and they are paying a little bit of tax. Rio Tinto, BHP and Xstrata are the major employers in the mining industry—and I am not for one minute even alluding to belittling or downgrading the importance of the small miners—but, with the greatest of respect, what the heck is a small miner?

This is the trickiness of the Liberal Party. They use this terminology, 'the small miner'. They try to incorporate the small miner along the same lines as a small business person or a small family operation. Let me tell you, about small family operations. Coming from the trucking industry, no-one knows the pain that small businesses suffer more than me, because I was a small businessman too at one stage. But, do you know what?

Senator Boyce interjecting—

Senator STERLE: I worked it out for you, Senator Boyce, and for you Madam Acting Deputy President. Do you know how to make a small fortune out of transport?
You start with a large one. Let me tell you, I know that very well.

So just check the terminology. Stop standing up for the billionaires club and start standing up for Australian families, for Australian workers and for Australian small businesses. Start standing up for the real communities. I have to tell you, through you, Madam Acting Deputy President, to get off your backsides and get out into some of those north-west towns and have a look at the lack of infrastructure. The miners are very good at one thing: they are very good at taking up and digging out nonrenewable resources. There is no argument about that. But the days when the miner built the hall, the swimming pool, the football club and the netball club—guess what on that side—are long gone. They do not have to do it anymore. Talk to the shire councillors and see how they are suffering because they do not get the money coming in through ratepayers for the land. Thank you.

_I was rather hoping that after the fracas, the latest little effort of Ms Gillard and Mr Rudd, had settled down and we finally worked out who the Prime Minister was it would mean the government would get on with government. But it has not. The same song of mismanagement and envy just goes on and on. Today I have been reviewing the report done by the Senate Economics Committee on the minerals resource rent tax and two other reports that are going to come down today—one on the personally controlled e-health records and one on the MySuper legislation. With each of them, you do not have to read our dissenting reports to realise how poorly managed they are, what a mishmash there is with the lack of negotiation and 'Oops, we got that wrong; we'd better change that.' A litany of mistakes applies to every one of these reports. You can read the government report. The only thing that is missing at the end of every one of the government's reports—with this long litany of a lack of consultation, a lack of understanding, poor timing and poor leadership—is 'and so we need to fix it'. This government limps along trying to put band-aids on whenever they discover 'Oh goodness, we can't even try to pretend that we'll put that through!'

These bills relating to the minerals resource rent tax are a classic example of what this government do not know about business and will never know about business—and one hopes they will be out of government before they destroy any opportunities there are for business. Let us look, for example, at Senator Sterle's laughable comment that 'there aren't small miners'. Just because you have six zeros on the company balance sheet does not mean you are big; it means that you are in an industry that requires very deep and long-term investment to make a profit. And that is what the people in the mining industry in
Australia have done over centuries. We are very lucky in Australia. This government is extraordinarily lucky that the mining industry and the profits from the mining industry are currently masking their extraordinary ineptitude. It beggars belief that this government cannot even recognise that what they are doing is destroying their own golden goose. The only thing that will keep them in government is good profits from the mining industry—because they are just useless at anything else.

Let us look, for example, at the profit mark of $75 million. I first made these comments in relation to the BAS. We have this wonderful view that, if someone makes a $1 billion profit, we have to get in there and rip it from them. A $1 billion profit can be a huge profit or it can be quite a small profit. We should not be talking about the profit, we should be talking about the return on investment. If you have invested $1 billion and made $1 million you have not really done very well, it is not a large return on investment. To have set an actual figure of $75 million is the most bizarre, fiscally irresponsible and completely ignorant way to approach this legislation. Why $75 million? As Senator Sterle said, if is $74.9 million you are all right. It will not matter whether you have invested $150 million or $10 billion to make that $75 million, you will still pay the tax. How bizarre, how completely outside any reality, any assessment.

One of the biggest issues, of course, is that mining expenditure is the cost a miner incurs in bringing the taxable resources to the valuation point—and the government still has not quite worked out how they are going to deal with the market issues they have developed there. In my own state of Queensland we are very lucky to have a strong flow of royalties from the mining industry—not just coal but particularly in the coal area with the Surat and Bowen basins. Nine per cent of Queensland government revenue currently comes from state royalties. But this is the boom, this is as good as it gets with getting money out of the mining industry. Everyone assumes that it will steady and then, over the next 50 or 60 years, begin to taper. Queensland is getting its cut, particularly out of the coal industry and many other industries, and they get nine per cent in royalties. So, Senator Sterle, while we are looking at how well Labor governments perform, you might want to ask: is the Queensland government in surplus? No, they are not in surplus. Have they had a downgrade of their credit rating in the last three years?

Senator Williams: Yes, yes!

Senator BOYCE: Yes, they have. So here we have an example yet again of how well Labor governments can perform if they have got good—

Senator Sterle interjecting—

The ACTING DEPUTY PRESIDENT (Senator Pratt): Senator Sterle, come to order so that Senator Boyce may continue. Senator Boyce, you have the call.

Senator BOYCE: I am not quite sure what Senator Sterle is talking about. The coal seam gas industry will be a major contributor to Queensland's economy and has been a steady contributor to Queensland's economy for 50 years, Senator Sterle. Certainly there needs to be a balance, and thank goodness from next Saturday there will be an economically responsible government in Queensland under the premiership of Campbell Newman that will actually get the balance right between the development of coal seam gas and the protection of farm and food production areas. That may well be beyond the wit of Senator Sterle and his colleagues, but it is not beyond the wit of the LNP government that will be installed in Queensland next Saturday.
It is hard to think of a worse way to have gone about developing this legislation than the way this government has. We had the old super resource tax under former Prime Minister Rudd. A bizarre 287 pages of new tax law is what we have got out of this. As I said earlier, the introduction of the market valuation scheme to calculate applicable deductions gives the big three companies a significant tax shield that is not available to small- and mid-tier mining companies. There are small- and mid-tier mining companies. Every industry is relative. Certainly, if we are talking about milk bars, there are small milk bars and large milk bars, Senator Sterle, in the same way there are small mining companies and large mining companies. You would think that this government would be pleased that every one of those small mining companies is working assiduously to try to turn into a large mining company. That is what Australia's prosperity and the availability of jobs is based on. It is based on individuals who have worked furiously to go from being sole traders in many cases through to being national and multinational companies and there is nothing wrong with doing that. I must admit I was somewhat appalled by Senator Sterle's suggestion that apparently Ms Rinehart cannot have friends. The fact that both Senator Joyce and Mr Schultz have written to her children is on the public record.

**Senator Sterle interjecting—**

**Senator BOYCE:** It would have been better, you are dead right Senator Sterle, if all those family problems had stayed out of the spotlight and I think your contribution to keeping them out of the spotlight was hypocritical to say the very least. But what is the suggestion? Is it that Ms Rinehart cannot have friends? What is the suggestion? Is it that Mr Forrest and Mr Palmer cannot make the same attempts to—
The superannuation guarantee rate should remain at 9 per cent. The Panel has considered carefully submissions proposing an increase in the superannuation guarantee rate. Such an increase could be expected to lift the retirement incomes of most workers. However, the Panel considers the rate of compulsory saving to be adequate. The Age Pension and the 9 per cent superannuation guarantee (when mature) can be expected to provide the opportunity for people on low to average wages with an average working life of 35 years to have a substantial replacement of their income, well above that provided by the Age Pension.

This is the government's own review, the Henry review of taxation, which said 'Leave it at nine per cent; don't change it.' We could ask Senator Sterle perhaps what Machiavellian movement went on behind the scenes because, when you think about it, who wanted a 12 per cent superannuation rate? Gee, who was that? Was that the union movement that was pushing for that, especially funded by people outside the wages system. 'Let's go find someone rich and get some money out of them' so that we can increase the superannuation guarantee above the rate that that Henry tax review says it needs to be to give people adequate incomes.

The coalition supports a reduction in the company tax rate. We do not support the mishmash, piecemeal approach yet again that this government is taking. 'What does it matter? We've distorted so many markets now' is the Labor government's mantra. 'What does it matter if we distort a few more? Let's go for a tax cut for small business and just ignore everybody else for a bit longer.'

It beggars belief and causes me great distress that this government might be in power for another 12 months. It is really worrying what else they can damage or destroy in that time. As I have said, the mining industry—and Treasurer Swan loves looking at averages—is the only thing that is masking the serious problems in manufacturing, in retail, in services, in building in Australia.

Senator Sterle interjecting—

The ACTING DEPUTY PRESIDENT (Senator Pratt): Senator Boyce has the call. Senator Sterle, come to order.

Senator BOYCE: I am not sure which ideal little world Senator Sterle lives in, but most consumers when faced with a $50 Australian-made product and a $30 made-in-China product—Senator Sterle, do you know what happens? In most cases, they buy the made-in-China products. Senator Sterle. I think you need to go back to the bottom of this before you start worrying about where the wages come from. I know from personal experience that vast numbers of manufacturers are now importing some of their product. It was that or go out of business. Would that have been preferable in Senator Sterle's view? Because when he finds the consumers who are prepared to pay between 30 and 80 per cent more for a product so that they can buy an Australian-made product that will be fantastic. Vast numbers of products have to be imported because of the competition in the industry, and perhaps Senator Sterle should even look at the truck manufacturing business: Senator Sterle, how many of those are made here right now and used?

Senator Kim Carr: Quite a lot!

Senator BOYCE: Quite a lot, Yes, we must be over 15 per cent, are we, Senator Carr? It beggars belief that this government would continue in area after area to simply say, 'Wow, $75 million!' Irrespective of what that means as a return on investment, it does not matter. It does not matter if it is a one per cent return on investment or a 100 per cent return on
investment, but 'Wow, if it's $75 million, you must be rich. You must be a really rich company, so we'll go and rip some money off you. We'll continue to distort the market even more.' Never mind that mining companies already pay high rates of corporate tax and pay the royalties to the states. Never mind that there is a legal question over whether the federal government can even tax what is state property: the coal and iron ore profits.

The Gillard government mining tax is divisive, complex, unfair, fiscally irresponsible and distorting. It reduces our international competitiveness and was developed through a highly flawed and improper process. It will damage our economy. It will in the long term be the sort of retrograde and extraordinarily inept process that we have come to expect from this government.

Senator GALLACHER (South Australia) (11:27): I rise to speak in support of the mineral resources rent tax. This debate is bringing out the best and worst speeches of parliamentary debate—and perhaps the most entertaining as well after the contributions from Senator Sterle and Senator Boyce. I would like to address three main points in this debate: one is in relation to price competition and supply for iron ore and black coal; the sovereign risk, which has been alluded to at great length; and, finally, spreading the wealth.

One of the most valuable resources in the parliament is the Parliamentary Library, and I will pay tribute to their facts in relation to iron ore statistics. Australia and Brazil dominate the global iron ore export market. Quite obviously, China dominates the global import market. Iron ore exports have increased from 966 million tonnes in 2009 to 1,081 million tonnes in 2010—clearly, an increase of 12 per cent. Companies which we are mainly competing against—Brazil, India, South Africa, Canada, Russia and Kazakhstan—are all in the iron ore trade. Of total global exports, Australian and international companies in Australian exported 427 million tonnes, or about 40 per cent of the global market, followed closely by Brazil, with 311 million tonnes or about 29 per cent. Competition then fell away to India with 104 million tonnes or about 10 per cent of the global market and South Africa with 48 million tonnes or four per cent.

The average export price of iron ore in early 2005 was around US$30 per tonne. It steadily increased until the GFC and then, due to the severe scaling down of international trade associated with the GFC, the average price fell from mid-2008 until the middle of 2009, before increasing again in 2010. Since then they have increased substantially. By mid-2011 the average price peaked at US$145 a tonne before a slight decline. Australia has mostly exported in recent times, from 2009, at around US$60 a tonne, which was the higher priced end of the market. Brazil exported at around US$40 a tonne. In 2009 India's export prices were around US$60 a tonne.

In the first seven months of 2011 most of Australia's exports were priced between US$140 and US$160 a tonne. Our competition, Brazil, exported at US$130 a tonne, while India's export prices were US$120 to US$140 per tonne. Thus, prices have more than doubled in the past few years for iron ore, and that has been associated with much increased demand from China. The price differential, which much is made about, is generally based on the quality of the iron ore that is being produced in each country. So there we have the situation with respect to iron ore: there has been a steady increase in demand, at about 12 per cent or more per year; there has been a doubling of the price; and we are still at the top end of
the market, based on our price competitiveness and the quality of our product.

In relation to black coal, on the supply side of the global market, companies in Australia are mainly competing against companies in Indonesia, Russia, Colombia, South Africa and Kazakhstan. Of total exports of 1,090 million short tonnes in 2009, companies in Australia exported 289 million short tonnes or about 27 per cent, followed closely by Indonesia with about 24 per cent, Russia with 12 per cent, Colombia with about seven per cent and South Africa also with about seven per cent. So, once again, we are leading in the number of tonnes exported.

We compete with countries right across the globe—Indonesia, Russia, Colombia, South Africa, United States, China, Canada, Vietnam, Kazakhstan and others—but, importantly, we are right at the top in supplying our coal to the rest of the world. In the market for coal exports, our most important customer is Japan. Unfortunately and tragically, Japan has had an energy crisis resulting from the Fukushima disaster, but clearly that is not going to diminish their demand for energy, whether it be in the form of gas or coal. Eighteen per cent of our global exports go to Japan; followed by China, 15 per cent; South Korea, 11 per cent; and India, seven per cent. Clearly those markets are all emerging, growth, high-value economies. Their demand for resources is unlikely to be diminished. So we lead the tables both in iron ore and in coal.

World coal prices were volatile in the wake of the global uncertainty. However, with the increased demand of China, the average price of thermal coal in October 2011 was 14 per cent higher than a year earlier, reaching a record high of US$134 per tonne following eight consecutive weeks of increases. The expectation of a coal supply shortage and surging demand is expected to push prices up further. As the world's largest coal consumer, China consumed 2.28 billion tonnes of coal in the first nine months of 2011, a 10.3 per cent increase year on year. China became a net importer of coal in the first nine months of 2011, with net imports of 111 million tonnes. During the month of September 2011 the country imported 19.12 million tonnes, up 25 per cent year on year.

So the picture is becoming very clear. We are right at the top of world exporters in terms of quantity, we are achieving a competitive price, our product is of the highest order, our supply chains are able to meet the demand and, thus, we are in a boom cycle and the capacity to pay the minerals resource rent tax is evident from even a cursory glance at the underlying price pressures. I will say that again: clearly, if you look at the supply, the quality of the resources, the supply chain efficiency and the competitiveness amongst our peer group, we really are in a boom cycle and the capacity to pay the minerals resource rent tax is evident with only a cursory glance at the underlying price pressures.

Much has been made recently in this debate about sovereign risk. I find it absolutely appalling that those opposite could raise the issue of sovereign risk. There are countries out there striving to provide proper systems of law, justice and infrastructure and facing enormous social challenges with respect to improving the situation for their people. They should not be used as cannon fodder in a debate in the Australian parliament. If a West African nation is able to attract investment and get an iron ore field up or a coalmine going, we should be applauding that. We should not be coming into this place acting as if it were somehow detrimental.
Australia is fortunate, very fortunate, and our history will say that we are a safe investment destination. Our reputation is such that there are simply no grounds for making the argument that a resources rent tax will drive investment away from Australia. The quality of our resources, the efficiency of our supply chain, the efficiency of our workforce, the long-standing rule of law and the demonstrated history of returns on investment will simply not give any weight to that argument. For people to come in and use that sovereign risk argument is denigrating Australia, I think, and is not helpful to those countries that may be seeking to get their leg up, if you like, and get some investment in some of their mining and export opportunities.

So the facts are quite simple. Australia can and will continue to be an attractive destination for global miners to invest. The rule of law, as I have said, the certainty of supply, the efficiency of our workforce and the quality of our resources will continue to ensure that. And I would like to put on the record that, clearly, the facts lay out a case that the global miners are not doing it tough. They can choose, and they will, to determine where their investment goes but the quality of our resources, the size and availability of our resources, the continuity of supply and the added features of the rule of law and a demonstrated history of return on investment will continue to ensure Australia's future prosperity in respect of mineral extraction and export.

Spreading the wealth is another consideration. The history of mining in Australia shows that mining companies have always contributed to infrastructure improvements. In fact many of them have built towns, schools, sporting facilities and houses. They operated stores and all of those appropriate things from another age, if you like. With the wider take-up of fly-in fly-out arrangements, that is changing. I happen to believe that fly-in fly-out arrangements are mutually beneficial. Most Australians live near the coast or on the coast or in cities close to the coast and it is fair enough. If you work hard, you want to go home and enjoy all of the benefits of your labour and all of the things that make you happy in your lifestyle, so people fly in and fly out. They fly home to a nice place and they fly back into fairly severe accommodation with little or no recreational facilities, and given that most of them work 12-hour shifts, there is probably not a lot of time for any recreation anyway.

Conversely, the mining companies now have less demand on them for provisions of facilities on mine sites. There is less demand on them for the provision of stores, social clubs, football ovals and the things that I have seen in mine sites all round Australia from the previous generation. Why then is it not fair and reasonable to take some of the increased profits that these mining companies are making and spread them around a bit? They have a vastly reduced cost for infrastructure. The Minerals Resource Rent Tax will spread the wealth created by a resource owned by all Australians. There is the significant tax cut for small business, for almost 5,000,000 Australians working in 2.7 million small businesses. Small business will benefit from the instant tax write-offs, going from $1,000 up to $6½ thousand. The Minerals Resource Rent Tax will fund new roads, bridges and important infrastructure.

Most importantly, the MRRT will allow the superannuation guarantee to increase from nine to 12 per cent. Much has been made of the use of these funds but, just on this particular point, what better use than building a national pool of long-term savings owned by Australians and invested by Australians in the best interests of their
retirement outcomes? A national savings pool would stand at almost a trillion dollars now and with the addition coming from the nine to 12 per cent, it will increase perhaps threefold. What better use than to put in the long-term savings accounts of Australians significant amounts of money? It will be there for their retirement income but along the way, for the 30-year horizon that most people will be in the workforce, this national savings pool will grow to dominate the investment markets of Australia. It will provide funding for infrastructure and the myriad capital requirements in our great nation's future. I can think of no better use than increasing the nation's savings pool, because that is long-term capital. It is Australian capital and we will start funding our own ventures and will be less capital-reliant on the rest of the world. We may even be able to use some of that capital to help out our near neighbours and perhaps provide some capital for investment in mining in Indonesia or wherever it may be. But I can think of no better use than to build the long-term national savings of the nation. That is what superannuation has done. If the Mineral Resources Rent Tax is remembered for only one thing, that it increased the foundation stone of our national savings pool, it will be well worth it and generations of future Australians will long remember that.

Mining companies, boisterous individuals though they are with all of the frailties of human nature, have only one thing in common—self-interest. Their opposition to this tax is self-interested and it is their right to be self-interested. It is what makes great nations and great countries. But the government's self-interest in this is the national interest. Mining companies have had increased profits over the last 10 years of 262 per cent. I commend the legislation and in the national interest suggest that it is absolutely the right course to follow.

Senator McKENZIE (Victoria) (11:44): I rise today to speak on the Minerals Resource Rent Tax Bill 2011 and 10 related bills. As a Victorian, there may seem to be not much here that we would disagree with. Why not distribute all that wealth from Western Australia's and Queensland's mining boom to the south? It sounds logical and egalitarian, even if you do not buy into the whole bashing a millionaire rhetoric that the other side seems to specialise in since Treasurer Swan's The Monthly opening salvo. After all our—and I mean Victorians—GST revenue has been going to prop up other states for the past 10 years.

Our significant manufacturing sector is feeling the pinch of increased input costs and the low Australian dollar and, as other speakers have mentioned, the mining sector is doing incredibly well at the moment. The mining sector employs over 780,000 Australians. A significant number of workers from Victoria and the eastern seaboard either relocate or work in fly-in fly-out operations in other states. They spend their money at home in Victoria on their mortgages, school fees, groceries and cars. So Victoria receives a share of the mining boom through increased GST revenues generated by the increased wealth of the employment generated through the mining boom.

The typical way we have taxed mineral extraction in this country is through state-based royalties. The Leader of the Nationals, Warren Truss, articulated the social licence inherent in the existing mineral compact with state and federal governments. The concept of royalties tied to extraction, not profit, is befitting the current and past circumstances as this is a non-renewable resource and the people of Australia are entitled to receive a benefit. That is where I think we all do agree. We all do agree that these minerals are a non-renewable resource and that Australia, as a nation, needs to be assured that that is
being recognised, particularly where some sectors and states are doing better than others, as is the case at the moment. But it is not the first time that, as a nation, we have experienced a two-speed economy.

In fact, when we had our mining boom in my home state of Victoria in the mid-1800s, people travelled from all over the world to get a piece of the action. Not a dime of the revenue collected went to Western Australia, not a penny or a farthing or a shilling went to Queensland. Any revenue taken from the goldfields in Victoria was jealously guarded and helped to build the magnificent public infrastructure that exists today in our state. It is great to see another fellow Victorian, Senator Ryan, agreeing.

The gold rush offered a new opportunity for governments to raise revenue. New South Wales and Victoria introduced a gold licensing fee for the right to mine allotted sections. This was considered the most feasible option for collecting revenue because of its ease of administration. In Ballarat the licence fees were the trigger for a significant uprising of Victorian miners against the colonial authority, resulting in what we now know as the Eureka Stockade. It became quite symbolic for the labour movement because, back then, individuals did the mining. The primary reason for the uprising was the high level of licence fees, but other contributing reasons included the fact that the fees had no link to gold discoveries, miners rarely saw the benefit of public expenditure and the inequity of taxes compared with the light taxation of wealthy landholders.

Following the riots and rebellion at the Eureka Stockade, gold licence fees were replaced with a gold export tax. I make this point because I would hate to be seen in this conversation as a Luddite, somebody who harks back to the past and believes in state rights. I do believe in state rights passionately; however, I do also recognise that, as our nation changes and as the industry of mining changes from individuals mining their allotted plots to companies doing the mining, that we also need to examine different ways to ensure an appropriate contribution is made. As a state that is powered by brown coal, Victoria is concerned about the application of the tax to the brown coal industry and the capacity of the state to set appropriate royalties on the resource that the state owns. I have not heard anything in the debate thus far that assures me about the sovereignty of the states in this context.

There are many issues both philosophical and economic that I have an issue with on this legislation. Today I will touch on two. They are consultation with the states and wider issues with the process for getting to the end point of this legislation. Firstly, our Constitution clearly states that these resources belong not to Australians but to the states. This government is recommending taking over the states' right to charge royalties for the minerals. I realise that our Federation has changed in form and function over the last 100 years. However, it does not mean that any members of said Federation can ride roughshod over our Constitution and disrespectfully fail to consult and include each other in discussions and decisions that will materially affect each other.

I suggest that the senators proclaiming this tax as the boon for all Australians be a little more proactive at the local level and directly lobby their state governments for an increase of revenue extraction from their miners or on how that is spent. Let us take the Royalties for Regions program in Western Australia, a Nationals initiative which has delivered a financial windfall to the regions of WA. Those people in communities directly affected by the impact of said mining
projects receive recompense—a contribution towards infrastructure, education, environmental projects and service provision in recognition that those in regional Western Australia are directly affected, both positively and negatively, by the mineral boom. These finite non-renewable resources are not those of Australians. They are the property of Western Australia, just as the gold dug up in Ballarat, Bendigo and Erica in the 1800s was the property of Victorians. It makes sense. This is where the positive and negative impacts—social, economic and environmental—of the mining projects are felt and, by applying the tax at that point, a localised response seems most sensible. Similarly, when miners leave an area, it is the state government who will have to assist a community to get back onto its feet. Doesn't this make more sense?

The Labor Party and the Greens have been waxing lyrical about the need to share in the boom, about the miners paying their fair share and about all the wonderful projects that could be achieved if this tax existed. I listened incredulously as they listed schools, tourism project and roads. Senator Gallacher just now mentioned foreign investment in mining projects in Indonesia. Anyone would think that the governments had been asleep at the wheel for the past two decades. Each jurisdiction in this conversation needs to talk to the other. There needs to be consultation. It requires collaboration to ensure that all the people in this conversation get a valuable contribution from the mining industry and Ken Henry knew it.

The minerals resource rent tax stems from a government review of the Australian taxation system. The recommendations of that review by the former Secretary to the Treasury Ken Henry outline a shift from taxation based around individuals and businesses to one based around resources and land. It is clear that recommendations 45 through to 50, which deal with changing the arrangements relating to the taxation of resources, were made in the context of a whole-of-system change. Restructuring how we tax in this country needs a whole range of measures. Instead, this government, in its wisdom, under its former leader and now again under its current leader, took a small proportion of those recommendations, failed to consult and flipped and flopped. And now we are dealing with the legislation. I cannot wait to see the implementation given the government's past track record.

The second thing Ken Henry recognised was that this would be a negotiated agreement with the states. He had actually read the Constitution. Recommendation 48 states:

The Australian and State governments should negotiate an appropriate allocation of the revenues and risks from the resource rent tax. Not the three biggest players, not some watered-down kitchen cabinet but the states and the Commonwealth coming to a modern interpretation of revenue and risk when examining our finite mineral resources.

Unlike the previous speakers on the topic, particularly those from the other side, today I will not be critiquing miners, will not be criticising workers and their communities or the families left behind. I will not be criticising the skills that are developed by this industry or its contribution to our nation. I will not be critical of the people who work hard, who earn a living and who carry the risk. I will not be critical of those that employ them.

Another issue with this tax is the process by which it has arrived at this point. The Henry tax review recommended a resources rent tax. This recommendation was then developed further by Prime Minister Rudd and Treasurer Wayne Swan and included all miners. Following the first version...
announced by the Labor government in 2010—which ended up, as I said earlier, a selective pick from the review—the government, in the Senate Standing Committees on Economics report, said ‘the government decided not to pursue the RSPT’. That is all the mention they made of it. There was no mention of the fact that it was incredibly unpopular or that they were under pressure internally and externally; it was just that the government decided not to pursue it at that time. Essentially, in the face of mining and public pressure, they backed off. They backed off, sacked a PM and renegotiated the whole deal with the three big miners.

This tax has been cobbled together. It is a policy which is difficult to determine the parentage of. Was it Henry? Was it the then Prime Minister? Was it the current Prime Minister? Was it the Treasurer? Was it the Three Musketeers? Was it Bob the Builder? Who can say? I dare say that they have all had a little bit of an input there. One thing is clear: whoever the parents of this tax are, what we do know is that it will stunt the growth and development of the resource sector. It will make us less competitive internationally, especially as it may be increased by future governments from the present amount set. Senator Evans commented on that this morning on TV. It will tax the one sector of our economy which is powering ahead, the sector which is driving spending in other areas. The miners take with them when they go home to Perth or to other states their hard earned money for spending and investment.

This tax has been poorly designed. Juan-Carlos Fernández, a renowned architect, has a lovely quote that I think applies beautifully to the design of this tax. He said bad design is smoke while good design is a mirror. Why is this badly designed public policy? Seeing Senator Bushby is in the chamber, I will go to the coalition senators' dissenting report of the Senate Standing Committees on Economics inquiry into the tax as a reference point. I also note Senator Eggleston is in the chamber today. It reduces our international competitiveness. It raises constitutional issues. The dissenting report also mentioned the unfair competitive advantage to the three big multinational miners that were part of the behind-closed-doors conversation about the reconstruction of this tax. It is quite farcical—audacious even—that the conception and development of this tax was behind closed doors. This policy was developed to ensure that the tax would minimise potential impact on the three big companies while disadvantaging smaller companies—those which provide competition in the sector, the nimble innovators who, as Senator Boyce mentioned earlier, hope to one day become big miners. The government and the Greens are in the back pocket of the big miners. What a joke. To hear the rhetoric over the last day and a half on this is quite laughable.

Why develop policy in backroom deals? Why not hold consultations with all stakeholders? Why not develop public policy with the national interest in mind, not the Labor Party's political interest? Ask our irrigation communities, ask our manufacturing communities about the level of consultation by this government on the impact of this legislation on community. Let us get real: this legislation was a political fix from the start to get it out of the papers, off the table and out of people's minds. Rent taxes, particularly the petroleum resources tax, have played a significant role in the overall contribution to government revenue as they apply to profits. The formula used to calculate the tax payable under the legislation before us means that the take-home profit of the miners under the MRRT excludes such things as state royalties. We
have heard from other senators about New South Wales and WA, stating that they will be putting up their royalties and, hence, affecting the take-home pay of the federal government as a result, all because the federal government thinks the Constitution is a piece of paper not worth noting. The government did not include the states in its conversation and has now had to amend the terms of reference for the GST distribution review to include an examination of its own legislation’s impact on revenue.

Other issues raised in the coalition senators’ dissenting report were around the proposed linkages, such as superannuation and company tax. This goes directly to the concept of balancing the budget. The 2013-14 budget deficit, as result of this legislation—and I think the lack of consultation has played into the fact that this will occur—will be about $3.5 billion. For those of us in the chamber concerned about the National Disability Insurance Scheme, that $3.5 billion is about half of it saved right there in one fiscal year if we do not implement it—not money coming in but money saved if we do not implement this. As the costs of the linked measures rise, the input from the profit is essentially going to decline, setting up a future of fiscal challenges. This is the ‘little red tax that does not’: it huffs and it puffs and it tries its best, but it just does not deliver. It is hardly surprising.

What does surprise me, though, is that the champions of small business, and note that I am being sarcastic, the government and their Greens partners—and for a day and a half I have heard how great this will be for small business—are giving the tax cut to only 25 or 30 per cent of those working in small business, as the tax cut only applies to those entities when they are companies. Regarding the small business community such as that of my own family and, I am sure, many of us here and in the community, those with a company structure make up only 30 per cent. So please do not tell me that Labor ‘gets’ small business, because this shows that they do not. What a surprise: a quick political fix which, because it is not part of a holistic overhaul of the taxation system, ends in fiscal failure again for this government intent on getting it wrong, it seems, every time.

I have listened to the debate and am surprised by the commentary of those opposite. The underlying assumption at the current time seems to be around the language of ‘big’, ‘bad’, ‘rich’—insert sneer—‘dirty’—borrowed from the carbon tax debate—miners who can afford to pay more, so let’s make them. The Australian voter is being duped into believing that these companies and individuals do not already pay tax and do not already contribute.

I was really pleased to see Senator Gallacher commenting so wonderfully about the contributions that miners have made to our communities over time in this country. I love that we are not entitled to make a profit! Whilst there are issues with FIFO, let’s deal with those rather than assuming this will be the fix for it. I have digressed.

The government’s commentary is insulting. It is belittling, it is mediocre and it is benign. If taken up, this rhetoric moves beyond the pages of *The Monthly* and this chamber and will risk turning Australia into a very beige version of the 1970s Eastern Europe. This government and its Green cronies, through poorly thought out policy, poor consultation and poorly applied and rushed through legislation, do not further the national interest as they intend; rather, through a smoky haze of political uncertainty, they seek to architect social change right under our very watch. Of course Australians need to ensure there is a contribution from the extraction of our
minerals. I just do not think this is the way to go about it.

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (12:04): I rise today to also speak on the Minerals Resource Rent Tax Bill 2011 and associated bills. It is a suite of bills that are deeply flawed and can only be described as quintessentially Labor. I say that for a number of reasons. First, like so many pieces of legislation we see before us in this chamber, these bills have been poorly drafted with little consultation, particularly across the industry to be impacted by the new tax. It is widely acknowledged that the MRRT was developed through a highly flawed process, completely lacking transparency.

In true Labor style, the details of the MRRT were nutted out behind closed doors, with Prime Minister Gillard only inviting a select few multinationals to join in the consultation process. None of the small or mid-tier mining companies that contribute so much to the Australian economy were even invited to the drawing board. It was only the top three. This invitation was issued by the Prime Minister and the Treasurer only after the Australian mining industry was forced to launch a public campaign against the government, born out of sheer desperation as their pleas to Labor for a thorough consultation process fell on deaf ears. The exclusion of companies like Fortescue Metals, Atlas Iron et cetera from the consultation process not only demonstrates the sheer trademark arrogance of this Gillard Labor government but also has divided the mining industry as the small and mid-tier companies are aggrieved, and rightly so, that their competitors were exclusively invited to devise the tax. It was not just the small and mid-tier companies that were excluded from the consultation process; Treasury and departmental officials were not invited to those closed-door meetings either. Consequently, Labor has devised a truly unjust tax which gives the larger established mining companies a huge competitive advantage over Australia’s smaller and developing mining companies.

Also, these bills are quintessentially Labor because, so typical of this government, the bills aim to impose a great big new tax on the Australian economy. Just like the carbon tax, the mining tax is another deeply flawed assault on the Australian economy by the Labor government. Labor claims that a rent tax is a more equitable way of distributing the wealth derived from Australia’s minerals resources than the current royalty system. However, a cynic may be forgiven for thinking that perhaps the main issue that the Gillard Labor government has with the current mineral royalty system is the fact that it is paid to the states and not to the government. Despite using the royalty system as the philosophy behind this great big new tax on the mining industry, the mining tax does not actually get rid of it—it just imposes yet another layer of tax on the mining industry—one that goes against the recommendation of the Henry review, which Labor itself commissioned.

The Henry review recommended that the MRRT be a replacement tax and that the federal government should negotiate the details of it with state and territory governments, particularly in relation to the federal-state financial issues arising from any change to taxation policy. But, just to prove to us all how meaningless stakeholder consultation is to this government, Labor failed to discuss the MRRT with the states and instead presented them with a package they had no option but to agree to or reject. This new government imposed double whammy of MRRT and royalties will be extremely prohibitive for start-up miners looking to fund new ventures. This is because the MRRT taxes projects on the
basis of their rates of return, so high-risk projects which by their very nature need to have high rates of return will be taxed more heavily than larger, more stable projects which require a lower rate of return in order to be viable. This creates, without a doubt, a disincentive to invest.

There are other options for potential investors looking to put money into mining investments, and Australia is not the only place that has minerals that are accessible on a viable basis. They just have to look at the many countries in Africa, in Asia and, certainly, in South America for alternatives. When an investor is considering where to put their money the rate of return is a highly valid consideration, and in Australia, if this MRRT is passed, the rate of return available to investors will effectively be capped.

At the inquiry into the MRRT bills the committee heard from Atlas Iron. The Executive Chairman of Atlas Iron, Mr David Flanagan, said at the inquiry that it was the aim of Atlas to be the BHP of tomorrow, and then some. Atlas Iron is a successful Australian mining company which is most certainly punching above its weight but which, at this point in time, could by no means be considered large enough to be compared against the likes of BHP and Rio Tinto. Atlas Iron operates in and around Port Hedland, currently producing around six million tonnes of iron ore per year and employing 500 people within Australia. Under the promised MRRT it will be extremely difficult for the Atlas Irons of today to become the BHPs of tomorrow.

I asked Mr Flanagan how much the company had spent in Australia since starting up in 2004. Mr Flanagan estimated that Atlas Iron had spent $800 million in Australia on job creation, wages, superannuation, infrastructure, paying local suppliers and paying Indigenous royalties. Eight hundred million dollars in eight years is a significant contribution to the Australian economy, and this is just one example of how much one small mining company is capable of creating. It is not an $800 million that I would like to have seen spent in Africa, South America or Asia.

I went on to ask Mr Flanagan whether, if the MRRT had been in place when they were looking to start up back in 2004, the tax would have been a disincentive to making an investment of that size in the company. Mr Flanagan stated quite clearly on the record that, had the MRRT been in place at the time, it would have been a prohibitive factor to starting up Atlas Iron. He then explained to the committee, by referring to Andrew Forrest's comments, that even a company like Fortescue Metals Group would have been unable to get up off the ground under the MRRT. What he was saying was that, if the MRRT had been in place, Fortescue Metals, which is now one of the major mining companies in Australia, would not have got up off the ground. I think that is a huge statement to have made.

He then went on to say that if a company like Fortescue had not paved the way for smaller operations—in other words, if it had not got up off the ground and then put in place infrastructure and other facilities—in his opinion Atlas Iron would not have been able to raise the necessary funding for it to get up off the ground. So Fortescue, in a sense, was a catalyst for attracting the funding that made it possible for Atlas and other companies to get up and running. So, if the MRRT had been in place, there goes the $800 million, plus the investments that are likely to be made by Atlas and all those other companies in the future. Presumably, looking forward, the same impact would occur for future companies looking to get up off the ground.
Atlas Iron is no doubt a great Australian success story, and it has done fantastic things since 2004, but the Executive Chairman is adamant that under the tax structure of the MRRT which Labor is proposing, and which we are debating in this place today, the company would not be here employing hundreds of Australians and injecting millions of dollars into the economy. The higher effective marginal tax rate the MRRT will impose on new, high-risk ventures will place significant limitations on Australia's potential. It must, therefore, be extremely difficult for executives in the mining industry who have worked so tirelessly to get high-risk projects off the ground for the benefit of this country and to create jobs for workers and revenue streams for the government to then hear the fruits of their labours referred to by the Gillard Labor government and the unions as windfall gains that must be punished with a higher tax.

As we all know, this Labor government likes to tax success. Treasurer Wayne Swan, through his comments in an article published in the Monthly earlier this month, has left us in no doubt about what he thinks about the stalwarts of Australia's mining industry. Treasurer Swan's comments that successful Australians like Gina Rinehart, Clive Palmer and Andrew Forrest are threats to Australia's democracy are unbelievably ignorant and demonstrate the Treasurer's economic ignorance. Mr Swan went on to try to justify his despicable statements by saying that politicians have to choose 'between standing up for workers and kneeling down at the feet of the Gina Rineharts and the Clive Palmers'. Mr Swan clearly does not realise that without the Gina Rineharts, the Clive Palmers and the Andrew Forrests of this country there would be significantly fewer workers for him to stand up for and far less government revenue for this government to waste.

Mr Swan's vitriolic personal attacks on three of Australia's highest achievers have only served to demonstrate that this government lacks any sort of economic credibility whatsoever. Economically speaking, Mr Swan should know better. As Fortescue Metals pointed out in its retaliation to the Treasurer's attack, years of investment and losses generally precede any taxable income, and for every high-profile successful mining venture there are hundreds—maybe even thousands—that did not make it. It is a high-risk industry. On the contrary, the victims of the Treasurer's crude and obtuse public stoush epitomise the very heart of what it is to be Australian: to work hard, start from scratch and make a go of the opportunities our great country can offer to those who are willing to take the risk and to make the investment and personal sacrifice that is necessary to successfully grow a company—what Mark Latham once described as the 'ladder of opportunity'. Mr Swan's comments proved that the MRRT is a tax on the fundamental Australian belief in a fair go.

Another dubious claim of this Labor government is that the MRRT will alleviate the pressures of Dutch disease on Australia's economy. That is right: in one fell swoop and with one great big tax, they plan to magically alleviate a complex economic problem. The mining tax is not the panacea for the effects of Dutch disease on the Australian economy. Whilst there is no denying that Australia is currently experiencing a two- or even multispeed economy, it defies belief that, instead of identifying and implementing reform for the weaker areas of the economy, Labor would prefer to address Dutch disease by stifling our strongest industry instead. Typical of Labor: bring everyone down to the lowest common denominator rather than build up the worst performers.
Of course the unions have publicly backed this theory. The ACTU in its submission to the Senate Economics Legislation Committee stated that the new system of resource taxation is needed on macroeconomic grounds as the tax and its revenue can be used to ameliorate the negative effects of the mining boom on other industries and deliver a more balanced economy overall. The CFMEU echoed similar sentiments. Amongst claiming it is causing fatigue, family breakdown and alcohol and drug problems in its submission to the economics committee, the CFMEU also claims that the resource boom is causing Dutch disease and that the only way to resolve it is to implement Labor's great big new tax on the resource sector. In fact, both unions claimed in their submissions that the MRRT does not go far enough and that they would have preferred the resource super profits tax just to really drive the final nail in the mining industry's coffin.

Interestingly, though, just last week the Australian Financial Review ran an article referring to a paper in relation to the MRRT written by University of Melbourne economist Professor Max Corden. Professor Corden is considered the father of the Dutch disease theory. He claimed that for the MRRT to curb the resources-driven high dollar enough to stop it hurting non-resource sectors, taxation on mining would have to occur at a level that significantly reduced not just after-profit tax but total output of the industry. But by doing this, Professor Corden is quoted as saying in the Australian Financial Review that the government would indeed be killing the golden goose. Professor Corden is further quoted in the article as saying that Labor should in fact rely less on its mining tax and more on big budget surpluses if it wants to spread Australia's resource riches and reduce the impact of Dutch disease on the economy.

But, as all of us on this side of the chamber know, Labor does not have a particularly stellar record when it comes to big budget surpluses. In fact, Labor's predicted budget surpluses change from one day to the next. So far this financial year, we have been told by Labor that they would achieve not a surplus but a $12 billion deficit. Then it was a $32 billion deficit, and now that figure has been revised to a $37 billion deficit—and this is all in one year. Labor are not in a position to rely on big budget surpluses, because they are incapable of delivering them. Further examination of this year's so-called budget reveals that it is nothing more than creative accounting. Shuffling money, taking spending forward or back and removing items from the budget is not delivering a surplus. It is merely this Labor government confirming how truly inept they are at managing the budget and delivering their promises. So, although Professor Corden's advice makes economic sense, it is not achievable under a Gillard Labor government.

However, what this Labor government lacks in delivering surpluses, it does make up for in imposing high taxes. They have an impeccable record for high taxing. Labor has announced 20 new or increased taxes since 2007. It is Labor's default solution for every problem, and it does not matter what it is. Be it alcohol, motor vehicles, private health insurance, carbon or, in this case, mining, nothing is safe from this government's desperate clamouring to get the budget back to what they can spin as a respectable position before the next election, after years of their waste and mismanagement.

The economics committee also heard throughout the inquiry process from a number of mining companies concerned that the MRRT will significantly reduce Australia's competitiveness for international investment. Witnesses to the inquiry said that
their companies had made strategic decisions, based on the impact the MRRT will have, to deliberately invest in places like Brazil and Africa instead of Australia. It absolutely defies belief that Labor has allowed Australia to fall behind regions such as Africa in terms of investment competitiveness. I am simply astounded that in the 21st century Australia is seen in some investment circles as a bigger sovereign risk than some African or South American nations. Other witnesses to the inquiry, such as Megan Anwyl, Executive Director of the Magnetite Network, told the committee how the magnetite industry is concerned about the impact the MRRT will have on unfinanced projects in a relatively new and emerging industry. The fact is that Labor's great big taxes are destroying Australia's reputation as a safe and reliable place to invest.

There is also the issue of the huge compliance costs and administrative burden this tax will place on the mining industry, especially for sectors such as onshore oil and the gas sector that may not have a large liability but will still be forced to comply with the requirements of the tax. The MRRT, like just about everything that this government tries to implement, such as the failed Green Loans scheme, the failed cash for clunkers scheme, the failed solar rebate scheme, the failed pink batts scheme and the failed computers in schools program, to name a few—and I could go on—is set to be yet another calamitous Labor policy failure.

Incredulously, despite getting a significant proportion of the mining industry off side, despite spending millions of dollars on advertising, despite falling polls and significant infighting among the Labor Party, the MRRT will not actually improve the government's budget position. In fact, it will significantly widen Australia's structural budget deficit over time. This is because the cost of Labor's related commitments is significantly higher than the expected revenue raised from the MRRT. Their own figures show that the mining tax will raise about $4 billion less over the forward estimates than is required. For example, Treasury modelling shows that the proposed increase in compulsory super alone will cost more every year, once fully implemented, than the MRRT will raise. This will only get worse over time as the cost of all related measures continue to increase and as the MRRT revenue decreases as the current resources boom dissipates, as it surely will. Only the Gillard Labor government would be foolish enough to use a highly volatile and downward trending revenue stream to fund a number of costly commitments and tax cuts. And let's face it: a tax cut is not a tax cut if it is funded from a great big new tax designed to annihilate the strongest performing sector of the economy. This has been revealed just from the Treasury modelling that we have been allowed to see, because let us not forget that the government has refused to release the entire Treasury modelling undertaken for the MRRT and the assumptions that underpin it.

They are still to release the underlying mining tax revenue assumptions on commodity prices and production volume. And why have they not released them? It is because those assumptions, just like the way the MRRT was designed, is a big secret. By their own admission it is because they based it on information provided to them in their secret talks with the top three and therefore the details of one of the biggest taxes ever imposed on this country is commercial-confidence.

The Queensland and Western Australian state governments manage to publish this information in their budget papers so that their royalty revenue estimates may be subject to public scrutiny, but it would seem the Gillard Labor government is a law unto
itself. Transparency has never been their strong point and they avoid public scrutiny at all costs, because Labor do not care about how they are perceived by the public. They are too busy trying to appease the faceless men instead. These include not just the New South Wales Right but also, in this case, the Greens. The Greens are increasingly looking to demonise the mining industry and have been very keen to jump on the back of this MRRT. The only hesitation they have shown is that they do not think it goes far enough. In the end though, they will be voting for it.

When the Henry tax review was commissioned the Labor government promised Australians a simpler and fairer system of taxation. The Henry tax review recommendations on resource taxation reform were supposed to make resource taxation arrangements simpler, more equitable across the whole of industry and have been very keen to jump on the back of this MRRT. The only hesitation they have shown is that they do not think it goes far enough. In the end though, they will be voting for it.

It has essentially been hatched in secret, with very little and certainly insufficient consultation with many of those who will be acutely affected by its imposition. It essentially rewards vested interests of those who have been inside the Labor government's consultation tent. In that sense it is not a lot different from some other proposals before this parliament and the South Australian parliament by the state Labor government.

The proposals being put before this parliament by this Labor government are bad and are hatched out of a bad process as a result of an outcome hatched in secret. I refer by way of example to the dirty deal done between this Labor government and the Greens in the lower house, the bill to effectively abolish the Australian building and construction industry—in particular, the amendments agreed to by this government to ensure that no investigations can be conducted and no action can be taken by the policing authority where a perpetrator to a wrong does a deal to settle the matter with another perpetrator of that wrong or victim of that wrong.

In terms of dirty deals hatched and leading to bad policy in South Australia, I refer to the proposal put by Premier Jay Weatherill to the South Australian parliament that there be
some so-called freeing up of shop trading hours—which admittedly has been a very vexed issue in South Australia—the price for which is tampering with public holidays legislation and hooking into the federal workplace relations system. It is a bad deal, it is not what it says it is and it is being hatched in secret, arguably by those who do not represent people who are most acutely affected by it, as has been the minerals resource rent tax.

The coalition report into the mining resources rent tax more than adequately lays out many of the reasons we think this tax is bad policy. Reasons include the tax’s poor design and the fact that it is discriminatory to miners; it reduces Australia’s international competitiveness, where otherwise we are an attractive investment destination; and it gives an unfair advantage to the three big multinationals, who seem happy with the proposition—mainly because they are multinational, multicommodity and multiproject companies. As recorded in the coalition senators’ dissenting report, it also makes the federal budget hostage to outcomes of decisions by state and territory governments about their royalty issues and it raises serious constitutional issues.

But perhaps most concerning for the future of this parliament, for so long as it continues in its current permutation, is the politics of envy and class warfare that seems to be constantly referred to by members of the government in a very poor attempt to justify the mining tax. It is, it would appear, a tax based on class warfare and the politics of envy that are alive not only in the Australian parliament but in the pages of the Monthly whenever Treasurer Swan puts his poisoned pen to work. Some of Australia’s most successful and most prominent businesspeople, that is, people seen as tall poppies, have been maligned by members of this government in the process of discussion about or comment upon—I would not even call it debate—the proposed tax. Senator Doug Cameron, one of my good colleagues opposite, seems to be fascinated habitually with the likes of Gina Rinehart, Twiggy Forrest and Clive Palmer. It does not seem to matter much to Senator Cameron whether he is making accusations against them in relation to their incomes, their companies or their private health insurance. The fact that they are successful and have a high profile seems to be sufficient for Senator Cameron and many of his colleagues to attack them on things they would like to take from them.

It is bad economics as well as bad policy to single out a particular sector for the imposition of a tax. It is also bad policy to promote the politics of envy in discriminating between business interests within the one sector—and I will say more about that later. Australian mining companies already pay double taxation through company taxes and government royalties. Of course, with the minerals resource rent tax they will now be hit with triple taxation.

In the South Australian economy we have some success stories, but it is also a very vulnerable time for South Australians. South Australians deserve to know what their representatives on the other side are doing for the South Australian economy and for South Australian jobs, when Labor members of parliament like the member for Adelaide, Kate Ellis, and Senators Wong, Farrell, McEwen and Gallacher are supporting the mining tax and, of course, the job-destroying carbon tax. I will refer to a few statistics about what is happening in South Australia. Australian Bureau of Statistics figures show that our economy had the worst economic growth in Australia for both the December 2011 quarter and the calendar year 2011. Growth figures in SA for the September 2011 quarter showed a negative growth of
0.3 per cent and a negative growth of 0.3 per cent again in the December 2011 quarter. Our exports have declined in two consecutive quarters—by 0.7 per cent in the September quarter and by 0.4 per cent in the December quarter. Now the South Australian economy will be hit by both the carbon tax and the mining tax. As far as small businesses are concerned, as the so-called Fair Work rubber hits the road, this is happening at a time when they are realising, as are many small businesses across the country, the price imposts of and inflexibilities imposed upon their businesses by the so-called Fair Work legislation. South Australians are right to ask: what good is it having South Australian MPs like the member for Adelaide, Kate Ellis, and Senators Wong, Farrell, McEwen and Gallacher supposedly representing their interests?

On the subject of jobs in South Australia, Senator Wong responded to a question during question time about modelling that showed that the carbon tax would cost 1,500 jobs in South Australia, yet, somewhat miraculously, the South Australian Minister for Employment, Mr Kenyon, denied knowledge of the modelling. What did Minister Wong say when she was asked about it? She said, 'Oh, well, it's simply part of the fear campaign about the carbon tax.' So if South Australian unemployment goes up that is just a fear campaign. If 1,500 jobs are to disappear, that is 75 per cent of the total new jobs the Olympic Dam expansion is expected to create in South Australia. So on the one hand you give and on the other hand you take away—all but 25 per cent. Mining is supposed to be South Australia's future. That is what we are told and that is what we would like to believe. Premier Weatherill has been pretty bullish about the mining future in South Australia. In February, he told the Australian:

We are in the early stages of this exploration boom that is transforming to a mining boom. It won't just fall into our lap and we'll have to take positive steps.

Wham!—carbon tax; wham!—mining tax. Of course, he did not say those last two things; that was me.

Premier Weatherill should talk to his federal colleagues about the carbon tax and the mining tax if he thinks we should be taking positive steps, because those as sure as hell are not positive steps. They are as sure as hell not considered positive steps for, by example, OneSteel in Whyalla. We have a curious inconsistency and unacceptable inequity when, for example, we compare the situation at Olympic Dam with OneSteel and other mining companies in South Australia. Because the mining tax will only apply to iron ore and coal, not affected by the imposition of the mining tax in SA will be BHP Billiton at Olympic Dam, with copper, uranium and gold, or OZ Minerals' Prominent Hill gold and copper mine.

There is some good news amongst all of this for mining in South Australia, where the expansion of the Olympic Dam will take four years to get to the ore body, so there will obviously be the creation of jobs in the quest in the meanwhile. It will use 110 350-tonne trucks 24/7 and the mine is projected to last for some 80 years. That is pretty good news. Olympic Dam is the world's fourth largest copper resource, has the largest known deposit of uranium and has rich deposits of silver and gold. By 2050, the size of the open pit for the redevelopment is likely to be more than four kilometres long, about 3½ kilometres wide and one kilometre deep—yet BHP Billiton will not pay this minerals resource rent tax for Olympic Dam. You have got to be feeling good about that if you are a competitor of BHP Billiton and you have to pay the mining tax.
Arguably South Australia is the birthplace of Australian iron ore and the steel industry. Clearly it plays an important role as an iron ore and steel producer, and it wants to continue to play an important role as an iron ore and steel producer. Had the government bothered to ask the 4,000 people directly employed at OneSteel in Whyalla and the thousands of others whose job in the community relies on OneSteel what they think about the minerals resources rent tax, I am sure they would not be getting the positive that Jay Weatherill says South Australia's mining industry needs. In 2011 OneSteel commented in its annual report:

OneSteel is a miner and seller of iron ore and also uses iron ore internally for steel production. If the proposed MRRT is introduced, it will have an adverse effect upon the financial performance of OneSteel.

In addition to all of that, as if the impact on jobs and on the economy and mining in particular in South Australia were not enough, there is the red tape that will be created for business, particularly smaller companies. This is at a time when the government says it will set about reducing red tape and create a commissioner for small business at the end of 2012—a commissioner which Ken Phillips, on behalf of COSBOA, quite correctly says will be a toothless tiger unless it is given power to compel the government, when doing business with small business, to step up to the plate and act like a model commercial player. At the moment the government is simply saying, as it often does, that it will create a small business commissioner and that will be enough for small business and shows that they are standing up for small business. At the same time, they are whamming small business with a carbon tax, the mining tax and the red tape that goes with it. Companies will now have to run separate accounting systems—one for their annual returns and one for their calculations of the mining tax. So that is more red tape for companies that are supposed to be leading the South Australian economy, among others, out of the economic wilderness.

Business SA, one of the state's employer organisations, in their submission to the inquiry said:

The design of the MRRT is flawed. There will soon be two different types of mining tax regimes in place. Indeed, while companies subject to the MRRT receive a refund from the Commonwealth Government on the State mining royalties that they also pay, the administrative and compliance costs of two different mining tax regimes are far higher than they should be.

Red tape, and negotiated in secret. The chairman of OneSteel, Peter Smedley, quoted in the Advertiser in 2011, said of the mining tax 'there was not sufficient certainty around outcomes to provide guidance on its financial impact'. Why was there not sufficient certainty? Because he was out of the loop, as were many of his colleagues—as was everybody other than the big three. The mining tax was negotiated exclusively and in secret with the three big miners, and the public was presented with the outcome in the shape of the minerals resource rent tax heads of agreement, which of course was signed by the MDs of BHP Billiton, Rio Tinto and Xstrata. So a Labor government comes up with a bad tax, a bad policy, as a result of a bad process. The minerals resource rent tax is nothing other than a tax on success, and the Australian parliament should reject it.

Senator COLBECK (Tasmania) (12:41): I rise to make a contribution to the debate on yet another piece of bad tax legislation proposed by this government. It follows on from a number of others. As has been said by a number of people on this side of the chamber, there is a cumulative range of taxes that are having an impact on the Australian economy. We hear a lot about how we deal
with and manage the two-speed Australian economy. But it seems to me that, instead of encouraging the part of the economy that is doing well and keeping it rolling, the Labor government want to tax it and slow it down to bring it back to the level of the rest of the economy. Rather than trying to lift the part of the Australian economy that is doing it tough, the government's strategy is to tax the part of the economy that is doing well and bring it back down to the rest of the field. That is completely the inverse of what they ought to be doing.

The process that we have been through to get to this particular point just demonstrates the government's lack of capacity to actually manage proper policy implementation. I have said on a number of other occasions that the government talk about evidence based policy, yet here is another demonstration of a completely ridiculous process. The government say that this tax was brought in because it was a recommendation of the Henry tax review. Of course, the Henry tax review said that, if we went down this track, it would be a replacement tax for other taxes that are currently in the system—in other words, a replacement tax for existing state royalties. But are the government doing that? Of course they are not. They are taking a piece of an approach and applying it badly—they are not conforming to the actual recommendations in the Henry tax review document—on top of everything that currently exists. And then they are saying it is only fair that these people who are making these big profits should pay their fair share of tax, the obvious implication being that they are not paying any tax as it is. Of course, if you are earning profits as a company at all, you are paying tax, you are making a contribution to the Commonwealth coffers. There has been plenty of discussion over recent years of the additional revenues flowing into federal government coffers from the profits of mining companies. What this government wants to do is to take that a bit further. It wants to get extra money out of these companies.

The government did not tell anyone about what they were going to do. They did not talk to the state governments whom they were overlaying with this new tax. They did not have any conversations about it with the state governments. They did not tell the mining companies about it. They just came out and made an announcement: 'We're going to share the profits. We're going to make sure the whole country gets the benefit of this mining tax.' They did not talk to the states; they did not talk to the mining companies. After the justifiable outcry by the mining industry, we ended up losing a Prime Minister over this process. The new Prime Minister came in and said, 'We will sort this out. We will make sure that we get a good result, and that we properly consult.' So what does the new Prime Minister do? She takes three mining companies, the three largest mining companies, into a room and negotiates a deal with them.

The revenues in the initial proposal of the mining tax have been vastly reduced in the revised version. So when the government accuses the opposition of wanting to give money back to the mining companies, the government, through the concessions it made in the negotiations following the initial incarnation of this bad tax, has given away billions of dollars more than the opposition might be considering by opposing this tax. The one who has made the greatest concession to the mining industry as part of this process is Prime Minister Gillard, not the opposition, by a factor of billions of dollars. The concessions that the government has made make what the opposition is proposing pale into insignificance. It has been a completely and utterly terrible
process. Why could you then blame the smaller mining companies for complaining?

There has been a debate in the chamber this morning that I have heard about scale. Let us talk about the mega companies, the big three global mining companies, who were invited into that room. Why wouldn't the other mining companies—those who are the next level down; the Australian based mining companies—legitimately complain about the process? Why wouldn't they say: 'This is not fair. We have not been given a fair go in negotiating this process.' Why wouldn't they legitimately say that? It is quite reasonable that they say that.

Let us look at some of the specifics—a company mining magnetite, for example. Magnetite has very little value when it comes out of the ground. The government says that the mining tax is not going to hold back any mines; it is not going to stop anything. But, in the context of magnetite, the tax has the very real capacity to do that. Magnetite is a mineral that is mined in my home state of Tasmania, and the company that is mining that mineral has turned around a mine which was effectively at the end of its life. The company made a significant change to the profitability of that mine and it is now actually making a significant amount of money. The profits from that mine are going to develop other projects in Western Australia. This tax puts that investment in doubt because magnetite has very little value when it is taken out of the ground. It is only when it is processed and either pelletised or made into a powder for export that it has value. It then potentially attracts the mining tax. The company is saying, 'This raises real questions for us.' The actual processing of the material is quite energy intensive. Not only does the company get hit with the mining tax; they also have to deal with the carbon tax because their energy costs are going to go up by potentially 10 per cent for power and nine per cent, we are told from the government's modelling, for gas, and they utilise both of those commodities. So they are potentially impacted by this tax. This is one classic example of where this tax will have a negative impact on the mining industry and where it will potentially stop investment.

The government tells us that this tax is about making sure that the country gets a fair share of the wealth from the mining boom; that the wealth is spread. But they then neglect to say that we already have a process in place to ensure that that occurs. I had a bit of a look through the latest report, the 2012 update, from the Commonwealth Grants Commission on GST revenue sharing relativities. I know that my colleagues from Western Australia are a little grumpy about the fact that the percentage of revenue that they receive from the GST is receding. I get that. As a senator from Tasmania, my state gets the highest return for dollar that is paid. And I do acknowledge the comments of Western Australian Premier Barnett in relation to where Tasmania sits with mining, and to an extent I have to say that I agree with him. Some people in Tasmania are really grumpy about the statements that he has made but there is some legitimacy to them. We in Tasmania have to make up our minds as to whether or not we are going to play our role in the economic wealth of the country or whether we are going to become the country's national park. I think we should be making a reasonable contribution to the economics of the country. We have the capacity to do that, unless people who would like to turn us into a national park get their way. I do not support that process. I think we ought to be making a contribution.

The executive summary of the Commonwealth Grants Commission 2012 report on GST revenue relativities talks about the fact that Western Australia is
receiving less revenue because its cost of providing services is subsidised to a large extent by its capacity to raise revenue. Western Australia has a much higher capacity to raise revenue because of its mining royalties. So we come back to the topic which has been raised a number of times in this debate and, unfortunately, largely ignored by the government members: that mining royalties are a state entitlement. It is the way that the Constitution was set up. Mining royalties go to the states and, in the allocation of other revenues through the Commonwealth Grants Commission process and through the GST revenues, that is taken into account. There is a calculation of the cost of delivering services in a state and then there is an equalisation of the amount of money that a state can actually raise itself and of what additional funding it might need from the Commonwealth to make sure that it can reasonably provide those services to its citizens. This is done so that no state is unfairly disadvantaged. It is one of the things that was set up as part of the process of looking after people across the country so that they all had reasonable access to similar services—a very fine principle. Western Australia has some service delivery costs that are much higher than, for example, Tasmania's because it is such a large state and because there are such large distances to consider. Some services cost more to provide than they do in Tasmania. For some services it is completely inverse. In the circumstance of equalisation, when you look at the executive summary, it says:

Western Australia is the State experiencing the most significant structural change to its fiscal capacity. We have assessed that it needs, in 2012-13, to spend some $724 more per person to deliver the average level of services, and invest some $126 more per person to accommodate its faster population growth.

So there are issues that Western Australia has to deal with obviously—

However these demands are more than offset by the fact that it can raise $1 859 more per capita from its own revenue sources, mainly mining royalties. In net terms it needs far less than the average GST (and the other States far more) if all States are to have the same capacity to deliver services and acquire infrastructure.

That is not me. That is not the opposition; this is the Commonwealth Grants Commission that applies a formula negotiated between all of the states and the Commonwealth to fairly distribute the revenues that the states and Commonwealth have so that there is a fair distribution at a reasonable price for delivery of services. It goes on to say:

The magnitude and speed of the change in Western Australia's fiscal situation is demonstrated by the fact that over the past five years it has collected an additional $4.5 billion in its own revenues or $1 469 per person. In other States the increase is $473 per person. This has contributed to Western Australia's GST per person falling by $505 over the same period.

The point is that because of Western Australia's mineral wealth—and we all are more than happy that that is the circumstance that Western Australia is in. The reality is that the myth that the government tries to put that we are trying to spread the wealth of mining boom because it is not already happening—that is the obvious implication from the government's words—is already happening through the grants commission process and the systems that are already in place to deal with it. I think that is an important point to make as part of this debate. The government tries to perpetuate the myth that the rest of the country is missing out. It certainly is not; the contribution is already being made and it is happening through the processes that we already have in place.
I want to make a couple of comments in response to some words put on the record by Senator Milne the other day. I was somewhat surprised during her presentation to get an indication of how bad she thought this tax was. She put a number of complaints about this tax on the table, not the least of which was that it was not broad enough. The Greens are obviously going to attempt to modify this tax to broaden its reach, and I suppose that is their right as a political party represented in the chamber. But it comes back to: if this tax is so bad, why are they actually supporting it in the first place?

The answer to that is demonstrated in some publicity that was recently received by Greens groups who are going to use every possible method to delay, frustrate, obstruct, take legal challenge to coal projects in Australia. The real reason is that they just do not like mining. So, even if it is a bad tax in their eyes, they will support it because anything that puts a financial obstacle in the way of the mining industry is a good thing as far as the Greens are concerned. Whether that is good for the rest of the country is another question but, as far as the Greens are concerned, that is a good thing.

They do not support the mining industry, and it will be very interesting to see what the broader response to the threats to the coal industry are when that process starts. As a senator from Tasmania, it brings me back to the comments I made earlier about Tasmania effectively becoming Australia’s national park. The tactics that the Greens will use on the coal industry are exactly the same tactics that the Greens have used against any reasonably sized projects in Tasmania for the last 20 or 30 years. The Meander Dam comes to mind. The site was first prepared for the construction of that dam in the early 1980s. It did not occur. When it really got momentum in the early 2000s, the process started. We found a plant: an epacris. It only exists in this river. It will be devastated by this dam being built.

Two years later, the inconvenient discovery was that it was not an epacris. It would not be devastated by the dam but it had delayed the dam for two years with millions of dollars of increased costs. By the time that process of delay tactic, of appeal, of legal action, had occurred, the dam was effectively uneconomic. It was only due to the actions of the state and the federal governments at the end of the day who were prepared to put up the money to see the project occur that it happened. The exact same process will occur to mining projects and you are actually seeing a very similar process occurring around coal seam gas: you demonise, you make it so that nothing the industry says is trusted in the public arena, and then you use every single process that you can to delay the project. And if you can delay it long enough there is a real chance that it will become economically unviable. That has happened in Tasmania to the forest industry and to a number of other industries. We are looking at the prospective listing of regions of Tasmania at the moment under the National Heritage Trust. People might think that makes sense, that it is a reasonable thing to do to protect our natural heritage. But the Greens spokesman in Tasmania has said it gives ‘that little extra layer of protection’ to that area from the mining industry. But what is that code for? It means it is another piece of red tape; it is another process ‘through which we can appeal against a proposed development’. And what is happening? Surprise, surprise—business is walking away. Just last week we had a company say, ‘We will no longer invest in this project in that region because of the prospect of its listing by the federal government.’ So they use all of these layers of red tape, or should I say green tape, to stand in the way of a project, delay its commencement, delay its
implementation, so that they can make it un-economic. That is what is coming to the coal industry, and if it wants to get a good example of how those things have worked it need look no further than Tasmania.

This is a bad piece of legislation. It is founded on very bad foundations. It comes out of the Henry tax review and was misrepresented out of that process. It has not had the genuine, effective and honest negotiation with the industry that it is supposed to be applied to. It has not and does not do what the government pretends that it is going to do, because that is already happening anyway, and there are a whole range of other claims that the government makes in relation to this bill which should not be supported.

Senator BIRMINGHAM (South Australia) (13:01): It is a pleasure to follow Senator Colbeck who, as always, has provided a very wise and thoughtful contribution. Certainly on this Minerals Resource Rent Tax Bill 2011 and associated bills, his contribution and analysis are spot on. I thought it would be useful in this debate today to go back to the genesis of it all, to go back to where we started talking about mining taxes, a minerals resource rent tax and tax reform in the mining space. It has been easy in the tumultuous times that have followed to forget the reality, that this all started as a result of what was meant to be a root-and-branch overhaul of Australia's tax system.

When Mr Swan became Treasurer he promised to look at everything to do with the tax system from top to bottom—lock, stock and barrel. He said that in doing so he wanted to achieve a simpler tax system, a fairer tax system, a more efficient tax system. He wanted to ensure that, in the end, Australia had a tax system that was as good as you could possibly get. He tasked the then Secretary of the Treasury, with the resources of Treasury to back him up, to undertake this root-and-branch review of the tax system. Ken Henry did that, looked at it from top to bottom, and produced a sweeping report. When his report was released, Ken Henry had 138 different recommendations for reform of Australia's tax system. What did Mr Swan do in response to that? Did he say, 'That is an outstanding body of work, we will systematically work through them, we have concerns about a handful of them but otherwise we will plough on'? Or did he say, 'It's terribly challenging and we're going to take the time to sit down with all the various parties, including the states and territories and perhaps even the opposition parties as well as business and industry and all other stakeholder groups, and work through all the recommendations in a sensible way'? No. The government released a response to the Henry review and said that of the 138 recommendations it would adopt essentially 2½ of them—it would adopt two, and one in part, and within that was the proposal to reform mining tax.

What was Dr Henry's recommendation to reform mining tax? It was recommendation 45 in the Henry review and you can find it in the summary of recommendations on page 89 of his document. The recommendation was:

The current resource charging arrangements imposed on non-renewable resources by the Australian and State governments should be replaced by a uniform resource rent tax imposed and administered by the Australian government...

There is one word I would like everybody in the chamber and everybody who thinks about this debate to focus on in that recommendation, and that is the word 'replaced'. Ken Henry's recommendation was very clear. It was that the existing framework of state and territory taxes should be replaced by a uniform minerals resource rent tax.
Oftentimes during this debate I have heard those opposite in this chamber and Mr Swan and Ms Gillard and her predecessor, Mr Rudd, all claim that industry wanted this type of tax reform, that industry wanted to see something that taxed mining activities based on profits rather than just on what it dug out of the ground. But industry did not want to get lumbered with both—and that is what the proposal before us does; it lumbers industry with both. Dr Henry went through the arguments in great detail. People can argue one way or the other as to whether his approach, that we should have this replacement, was valid. He highlighted on page of 226 of his report:

In Australia, governments allow private businesses to exploit non-renewable resources and in return collect a charge for resource production, predominantly through taxation arrangements. The form of tax varies across jurisdictions.

That is a statement of fact that is of course at the heart of much of the argument; that we do all recognise in this debate the resources we are talking about are nonrenewable. You can only dig them out of the ground once, and I hear that line said many, many times.

So there is a good reason why taxpayers should expect some return, some support, from the use and extraction of these resources. Traditionally, rightly—and I suspect my colleague Senator Johnston will touch on this—this has been clearly the domain of the states, that the resources are seen to be vested in the states, that that is the constitutional approach that has been taken and therefore, of course, the tax is applied at the states and has been applied through the application of tax in the form of royalties. Mr Henry went on in his report to refer to 'output based royalties', which is what we are talking about here, and he highlighted the impact of applying output based royalties in good times and bad times for the mining industry. He said:

Output-based royalties collect a greater share of the returns to non-renewable resources when profitability is low or negative and collect a smaller share of returns when profitability is high.

Again, it is a fairly simple fact. When you are taxing the sheer volume that is dug out of the ground, you get a situation where, if there is a lot being dug out but profitability is low, there is still a lot of tax paid. If profitability is high, there is actually no more tax being paid for that lot or little, because it is based on volume. This was at the heart of his argument as to why we needed to have this type of change. He argued:

Under output-based royalties, firms are likely to invest and produce less than they otherwise would. The calculation of such royalties does not take production costs into account. This leads to less exploration, lower industry output and earlier closure of projects.

These are the arguments that Mr Henry made for why we should have a significant change in mining tax arrangements.

But remember what that significant change was: it was to replace the regime of output based royalties that exist in all the states of the Commonwealth with a different regime. This legislation does no such thing. It leaves that output based regime totally in place, and instead applies a whole new regime. Is this what Mr Henry recommended? Certainly not. On page 238 of his report, he made it crystal clear when he said:

Existing resource projects should be subject to the new resource rent tax ... Leaving existing projects outside of the new regime would increase administration costs by requiring multiple schemes operating in parallel.

That is exactly the outcome we are getting. We are going to have to use Mr Henry's own words, 'multiple schemes operating in
parallel' as a result of this tax and this legislation going through.

So we will have miners and businesses across the country who have put their own capital on the line, who have made the investments to extract these resources, who are taking a gamble in doing so but in doing so, hopefully, where they are successful, employing Australians and generating wealth for their local communities and generating valuable export dollars for the people of Australia and, indeed, for our trade balance. We have those businesses and those companies taking that gamble, but they face the reality that under Labor's proposal they will have to operate under multiple taxation schemes. So effectively, they get none of the benefits talked about in Mr Henry’s paper, whether they are right or wrong. They get none of those benefits from having this new tax in place, because they are still having to pay all the old tax royalties based, output based instruments. They are still getting the downside of everything they were doing and they are just getting a new layer put on top of them.

How did it all go so wrong? How is it that the Ken Henry review went so far off the track? Of course it went so far off the track because of the hopeless handling of this matter in particular by Mr Swan. The Treasurer was just unable, unwilling and incapable of sitting down, once given the Henry review, with the states and the companies and negotiating a sensible outcome to start with, negotiating exactly what Henry had recommended: the replacement of existing regimes with a new regime.

We know from the recent leadership spat within the Labor Party that of course he was incapable of doing this, because Mr Rudd blew the whistle on him. Mr Rudd made it clear that the Treasurer had not just mishandled this, but also misled Mr Rudd as Prime Minister in terms of what was being undertaken. Mr Rudd apparently said—we have seen the media reports of this now as the government aired their dirty linen—that his old friend's handling of the issue caused the mining industry to accuse the government of a complete breach of faith over the original 40 per cent resource super profits tax. The Treasurer reportedly assured Mr Rudd that mining companies and the Western Australian government were onside and that this assurance was based partially on the understanding that the RSPT announcement in early May 2010 would not come with budget estimates of the amount revenue it would generate thereby allowing further consultation and discussion.

However, in the end what did Mr Swan do? He released the proposal with those budget numbers, which Mr Rudd claimed was viewed as a complete breach of faith by the states and the industry. So rather than going down the process of setting in train an opportunity for further consultation and discussion, what these comments that Mr Rudd exposed was that in reality Mr Swan had never bothered to undertake any consultation or discussion in the first place.

Indeed, the Western Australian Premier, Colin Barnett, described the moment when he learned about the arrangements for the new tax. He said:

I remember it quite clearly, we were sitting in a COAG meeting ... Kevin Rudd came in and announced that the commonwealth was going to introduce a resource super-profits tax.

He announced it, there was a bit of a stunned silence— as one imagines there might be— and I said that Western Australia would not support that, we would never support that and his [Mr Rudd's] jaw just about hit the table, he looked across in absolute dismay and said, 'I
thought you had agreed to it'. I said, 'No, prime minister, I haven't and I never would'.

Now Wayne Swan had not done his homework, and maybe he had let the then prime minister believe that the states had agreed.

Mr Rudd claims that Mr Swan left him with the impression that the states had agreed. Mr Barnett appears to back up Mr Rudd's version of events that it came as a complete surprise when Mr Barnett said, 'There is no way we are agreeing, there is no way we have and there is no way we ever will.' So Mr Swan just led Mr Rudd down the garden path on this resource superprofits tax and, in doing so, led him into an almighty trap that ultimately saw the demise of Mr Rudd's prime ministership. This has been a botched arrangement from day one.

As it has progressed, we have seen further distortions to the proposal that further undermine any logic whatsoever in what is being undertaken. To ensure that companies did not end up in a spiral of ever-increasing taxation where they would be worse off, the government said that, if there were increases to royalties before this legislation was passed, those increases would be refunded to the states. So we are going to have an arrangement where, firstly, mining companies around the states will pay the level of royalties they always have to the states; secondly, mining companies in the states of New South Wales and Western Australia will pay an increased level of royalties beyond what they were paying before this proposal was announced; thirdly, they will then pay the new mining tax, the so-called minerals resource rent tax; and, fourthly, the Commonwealth will then refund the mining companies for the second component of the increases in the royalty tax paid in addition to the longstanding royalties taxes in New South Wales and Western Australia.

Is anybody confused? I suspect they are, because what we are creating here is an absolute administrative and bureaucratic nightmare. Of the funds received by the Commonwealth from this mining tax, over the forward estimates some $944 million—nearly $1 billion—will be paid back to New South Wales. They saw an opportunity where, if the companies were going to be paying this tax, the states might as well secure a bit more of it for themselves. More than $2 billion of it will be repaid to Western Australia for the same reason. It is up to the states, of course. Historically, the states have made these decisions and they make a valid decision to say, 'We think our taxpayers deserve a better return on these extracted resources,' but in the back of their minds they are no doubt also thinking not only do their taxpayers deserve a better return but, if the Commonwealth is going to tax them anyway, they might as well make sure that they get the money and have some control over it. Frankly, I can appreciate their sentiment because I certainly trust the judgment of the O'Farrell and Barnett governments to manage these billions of extra dollars better than I trust the Gillard government to do so. If there is one silver lining when this thing goes through, it is that at least $3 billion over the forward estimates of the billions raised will go to governments that might have some concept of what to do with the money in a sensible way rather than have it used and wasted by this Labor government opposite us.

Has the root and branch reform of the tax system of Ken Henry delivered a simpler arrangement? Has it delivered something simpler for the mining industry? No. What we will get when this legislation passes is another 287 pages of tax law to add to the already voluminous amounts of tax law that exist in Australia today—not one jot of simplification but instead a whole new layer
of tax layered upon existing taxes at the state level, hundreds of pages of new tax law, a complex arrangement of the Commonwealth refunding the states for certain taxation arrangements and businesses facing the spiral of having to pay more tax in more places.

Equally, the Henry review recommended that there should be a lower tax burden for smaller mining ventures to help start-ups grow and prosper and to keep the mining ventures in their declining phase alive for longer. Instead, it will be smaller and mid-tier mining ventures that will pay a higher effective tax rate under this legislation because of the deal done. When the Treasurer finally did sit down and try to negotiate something about the mining tax, he did a deal with just the big three miners rather than something that recognised what was necessary for all of the industry.

The mining industry is critically important to Australia. It is the one industry that saved this country going into recession during the global financial crisis. It is an industry that is providing a bounty of wealth. Yes, Australians should share in it, but Australians are sharing in it already. There have been vast increases to the royalty payments by mining companies to state governments. There have been huge gains in the number of Australians employed. People are benefiting from it. It is a tragedy that this botched implementation of tax reform will now see this industry not only pay more but also deal with a gigantic increased bureaucratic burden, the exact opposite of what was promised. That is the core reason the government should go back to the drawing board, start again and come back with a proposal that makes sense rather than this one. (Time expired)

Senator JOHNSTON (Western Australia) (13:22): I commence my address on the Mineral Resources Rent Tax Bill and related bills by reciting section 114 of the Australian Constitution, which says:

A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

The Commonwealth shall not impose any tax on property of any kind belonging to a state. Many High Court cases have dealt with this. There is a dichotomy between a broad and a narrow interpretation. In taking this tax as close as it does to the mine gate and taxing the minerals in a saleable form, it ties this tax to the resource.

I remind the Senate that minerals are contained within Crown land in Australia—that is, Crown land in right of each of the Australian states. That is why there is a very distinct different set of mining legislation and administrations throughout Australia, each controlled by the individual state mining ministers. Accordingly, each of the states exercises its proprietary entitlement over such mineralisation through the imposition of royalties. In Western Australia, the royalty upon iron ore is at a rate of 7.5 per cent ad valorem.

State mining royalties are one of the principal sources of revenue for each of our Australian states. Mining royalty payments to the Western Australian state government reached some $4.8 billion in 2010-11. Next year, it is predicted they will reach $5.8 million. This is based on the 2010-11 total value of WA mineral production of $101 billion, which represents 95 per cent of Western Australia's total merchandise exports and 41 per cent of Australia's total merchandise exports. No other state or state economy is as dependent upon mining as is Western Australia. Indeed, 65 per cent of this
mining resource rent tax revenue comes from my home state of Western Australia.

I have been extremely surprised in listening to this debate that almost every Labor senator has come into this place and, in dealing with this important legislation, has said that the minerals in the ground belong to all Australians. Not only does such a statement disclose an alarming degree of gross ignorance of the specific tenor and terms of the Australian Constitution and, indeed, their own state constitutions—and I am not surprised about that—but they fail to acknowledge one of the principal constitutional tenants which brings them to hold a seat in this chamber: our Federation and its legal and historical foundation. Let us just pause to be in no doubt about one thing: the government senators in this place have no concern whatsoever about trampling upon the very basis for their presence in this place. They are trampling upon the Australian Constitution and its federal structure. Minerals in Australia belong to and are the property of the states. As such, Western Australia has to provide roads, airstrips, communications, hospitals, schools and services to one-quarter of the area of our country in support of mining industries in the Pilbara, the Kimberley, the Murchison, the north-eastern goldfields and the goldfields.

The other myth that has been brought to this chamber by ALP senators, put as politely as I can—some might call it a barefaced lie—is that the Australian mining industry does not pay its way in tax. Currently, the total tax take from miners in the last four years averages 41 per cent, with the estimated tax payable by miners in 2010-11 at $23.4 billion. The minerals resource rent tax will lift Australian mining tax rates above that of competing countries comprising exploration and development and act as a massive disincentive to investment in this very important economic sector in our economy. It should be noted that mining pays a 41 per cent effective tax rate compared to agriculture, fishing and forestry taxation at 29.06 per cent, manufacturing at 30.25 per cent, construction at 28.62 per cent and retail trade at 31.24 per cent. Across the board, mining is already paying a clear 10 per cent more tax to government than any other sector of our economy.

This government believes that it can impose a significant new tax on a capital intensive industry with no consequence to production. Mining investment in 2010 made up 40 per cent of total private investment within the Australian economy. At 41 per cent, Australia will be the highest taxed mining industry against our principal competitors. In the USA they pay 40 per cent, in Brazil they pay 38 per cent, in South Africa they pay 33 per cent and in Canada they pay 23 per cent. All of them are celebrating this tax. All of them are ripping the corks out of their champagne and saying that this is going to be a real kick in the guts for the Australian mining industry.

It all began from a budgetary perspective that saw us with a deficit of $57 billion in 2009-10 and a $41 billion deficit in 2010-11. What is this year's deficit going to be? My bet is it will be about $45 billion. It is an absolute scandal that the mining industry, which has done amazing things in outback Australia, has been the target of this government seeking a bailout for its economic incompetence.

The original Henry plan was to simplify the current royalty system across six regimes. The Henry taxation review concurred with the prevailing economic view that a simplification and a reduction in taxes on corporate income would not only attract investment but encourage innovation and entrepreneurial conduct. In turn, national income would be increased as larger and
more productive capital stock was developed and would improve the productivity of businesses and employees. The government has taken the Henry tax review and advice and has headed in precisely the opposite direction while telling us all that a one per cent reduction in the corporate tax rate is a modern-day miracle. A one per cent reduction in the corporate tax rate is a modern-day miracle from this government while knocking over a 30 per cent hike, over and above 41 per cent tax paid to government, to the mining industry. The government, quite obviously, as has been said to me by Western Australian ministers, does not understand the industry and how it is administered by the states. Their ignorance was exposed during the process when the Western Australian government increased royalties for lump iron ore from 5.5 per cent to 7.5 per cent. This caused a $2 billion hit to the revenue to be raised in this tax.

I need not say much more about what Queensland will do and what New South Wales has already promised to do. Even Tasmania is saying it will increase the royalties. The Henry proposal sought to alleviate this problem by refunding the royalty to the states. Having been painted into a corner by principally Western Australia, the Treasurer, in his really pathetic ignorance, then threatened the states with a reduction in their GST revenue to punish them for increasing those royalties. Again, his stupidity does not account for the fact that all states are likely to hike their royalties. Of course, the Commonwealth has to return all GST revenue to the states. If they all put up their royalties, who is going to get punished? None of them will be punished, because the Treasurer does not understand the system and he does not understand royalties.

Turning to the way this tax works practically, it is complex in the extreme, sailing, as it does, in completely uncharted waters. The most crucial thing to remember and consider, in addition to the matters I have set out on a constitutional basis and the fact that it is not reform in any shape or form, is that it is not going to raise any revenue. It will not be revenue positive. Why do I say that? Because the resource super profits tax has been completely watered down and the whole tax is premised on the day-to-day, month-to-month price of minerals. Currently, minerals prices are coming back at a thousand miles an hour. They fluctuate. Anybody from Western Australia knows minerals fluctuate wildly in price. This is a measurement taken on the saleable value, as close as possible, to the mine gate. You only need a few percentage points in price reductions and this tax is out the window. It is completely phoney. It is clear that the reconfiguration of this mining resource rent tax has substantially more limited scope than its predecessor, the resource super profits tax. The mining resource rent tax, levied on current valuations of assets in contrast to the historical written-down values, removes a substantially lucrative element of retrospectivity which applied to the previous tax in its previous form. When considered in light of the fact that it only applies to iron ore and coal now and that it has been reduced from 40 per cent to 30 per cent, then, taking account of the 25 per cent extraction allowance, the irresistible inference and conclusion is that it will not raise anything near what the government is saying.

If it were going to be revenue positive, you would think the government would be able to present the figures. If it were such a great tax and the formulas were irresistibly in
favour of a positive revenue outcome for the Commonwealth, the government would be busting a gut to get the documents on the table for all of us to see and analyse. They will not show us the modelling. They will not show us the predictions of what this tax will generate in the out years. Why? Because they know it is not revenue positive and it is completely hostage to mineral prices.

With respect to iron ore, there is the removal of state royalties with the tax to be levied as close as possible to the point of extraction in its first saleable form—a calculation before the inclusion of royalties and yet including processing. This requires a quantum calculation that substantially reduces the available revenue in this tax. Treasury says that the mining resource rent tax will take only $1.5 billion less than the resource super profits tax. There is nobody in the industry or in economics who thinks that is a credible statement. The government has argued that this new tax would provide miners with increased assurance that the future tax regime will be more stable. Indeed, Senator Wong has said that the mining resource rent tax would ‘strengthen the Australian economy, increase productivity and increase mining output’. You have got to be kidding. Treasury even have the audacity to insult people's intelligence by claiming its modelling showed that the resource super profits tax, as it was then, would lead to an incredible 5.5 per cent increase in the resource sector's output. You have got to be kidding. Labor has, as always, a wonderful history of explaining how black is really white when it comes to taxation, rivalled only by the spin and the untruths of Labor's economic ministers.

I pause to deal with something that happened in Western Australia some two weeks ago. Under the headline ‘WA should pay ES bills: Greens’—ES being eastern states—the West Australian newspaper of 9 March said that Greens MHR Adam Bandt had said that more revenue had to be raised from the mining states to fund stimulus packages for South-East Australia. You have got to be kidding. The article went on to say: Mr Bandt's plan would be on top of the Commonwealth Grants Commission's recommendation to take $600 million of WA GST payments in the coming financial year. What I really want to know is whether Senator Siewert—who I note is now in the chamber—and Senator Ludlam support this. I want to hear Senator Siewert stand up and say that she supports Adam Bandt's requirement that, over and above the $600 million coming off the bottom line for Western Australia this year, the resources tax be increased and that the money be redistributed to Victoria and Tasmania. Western Australia's share of GST is somewhere below 70c in the dollar. This crazy plan will take it to 55c in the dollar. I want to hear the two Western Australian Greens justify that. I want them to come in here and tell us that it is what they want to do to Western Australia. More importantly, I want to hear the Labor senators from Western Australia come in here and tell us that it is what they want to do, because that is what this tax does.

Turning to the mining industry, in 2008-09 it had an eight per cent share of GDP compared with finance and insurance, which had 12 per cent, and manufacturing, which had 10 per cent. Services in the Australian economy accounted for more than 60 per cent of GDP. As of May 2010, 179,000 people were directly employed in the mining industry in comparison to some 74,000 10 years ago. More than 60 per cent of these jobs are to be found in Western Australia and in Queensland. They are good jobs with high pay rates for skilled workers—something we would want in this country, surely. The mining workforce consists of drillers,
miners, shot firers, metal fitters and machinists, engineers, truck drivers, metallurgists, plant operators, chemists, geologists, geophysicists, accountants and project managers to name a few. Nearly two-thirds of the workforce have completed education beyond high school.

The process of this tax has been staggering. The states were not even consulted. Only the three largest mining companies were consulted, with some 340 other producers left out in the cold. This is a competitive industry—iron ore and coal have to be marketed—and the government took advice from only the three biggest players. It is offensive, it is unfair, it is absolutely outrageously poor governance and it derogates and corrupts the process. Let us talk about an emerging industry in Australia—the magnetite industry. We have millions of tonnes of low-grade iron ore: around 30 per cent compared with haematite's 65 to 75 per cent. This industry requires capital. We will never get it going with a bottom line that is grossly and adversely affected by this tax.

I pause, as I run out of time, to say that Atlas Iron is a great Western Australian company. It has grown from a zero value 10 years ago to more than $3 billion today. It produces about six million tonnes currently and will produce about 46 million tonnes by 2017. With a workforce of 440 and more than 29,000 mum-and-dad shareholders it is, in my view, a great story of hard work, innovation and victorious commercial struggle. I admire this company, its founders and its vision—all of us on this side of the chamber do. We admire these commercial people who got off their butts and risked their capital. The shareholders and investors put $400 million into this business, and they got their first dividend last year, with 3c a share, or $26 million across those 29,000 shareholders. It is a great Western Australian story.

But what has happened to this company? It has been pilloried by every Labor senator who has come in here. It has been attacked as if it is a bludger. It pays $155 million in tax every year, starting from zero, and Labor senators come in here and pillory these people. I know who the parasites in this country really are, and they are not Atlas Iron. Atlas Iron are a paragon of virtue. They are a great example of what could be and what might be with innovation and imagination. I take my hat off to them. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (13:42): I rise to speak on the Minerals Resource Rent Tax Bill and the related bills. The coalition has consistently said that it will oppose the Australian Labor Party's mining tax and all the legislation associated with it. It is yet another of the Alp's taxes on success. Previous speakers have made it very clear that miners already pay company tax and state royalties, but now they will be slugged by Julia Gillard and Wayne Swan as part of—

The ACTING DEPUTY PRESIDENT (Senator Crossin): Senator, I remind you about the correct use of titles for people from the other chamber.

Senator FIERRAVANTI-WELLS: Thank you, Madam Acting Deputy President. I withdraw that; they will be slugged by Prime Minister Gillard and Treasurer Swan and their Greens-ALP alliance partners.

Mining investment in Australia, as a percentage of global investment, is already falling, and this will make it much worse. Labor's claim that it will provide tax cuts is just another con based simply on a tax increase. The only genuine tax cut—and one would have thought that they would have
worked this one out by now—is one funded through expenditure restraint. The coalition demonstrated at the last federal election that it can deliver tax cuts based on modest expenditure cuts, and that the ALP is really all about waste. Labor is now borrowing $100 million a day, and by the time it has run this country into the ground it will be up to the coalition to pick up the pieces.

The Gillard government's mining tax is divisive, complex, unfair, fiscally irresponsible and distorting. It will reduce our international competitiveness and was developed through a highly flawed and improper process. I come, in particular, to one aspect of it, and that is the constitutional validity of this legislation. Ken Henry has confirmed that the federal government never sought advice on the constitutional validity of this legislation. There are serious question marks over whether this tax, as a tax on the resource at the point of extraction, is in fact a tax on state property, as prohibited by the Constitution. Let us recall the last time that the Australian Labor Party told us that about the constitutional validity of legislation. Remember the Malaysian solution, the Malaysian solution that was supposedly a watertight case? We saw what the High Court did in relation to it. It threw it out. So this government does not have a very good track record in terms of its assertions about the constitutional validity of its policies and of its legislation. The migration legislation was one example and now, in the health area, the tobacco legislation will be litigated before the High Court. As various other speakers have said, already a number of mining ventures and the state government in Western Australia have flagged High Court action if this legislation should pass the parliament. There is also a valid question about the discrimination between states, which is also prohibited in the Constitution.

This legislation has a number of other flaws. As I said, it is a bad tax that came out of a deeply flawed process. The initial resources super tax was announced without consultation with anyone—no consultation with industry and no consultation with state and territory governments, despite serious implications for their own source revenue.

Let me take the Senate back to the Henry tax review recommendation that a national profit based resource rent tax replace state and territory royalties and that the Australian government should negotiate the federal-state financial relations implications of such a move. Of course, this government did not have the gumption or the fortitude to engage with the states and to do the hard yards on genuine tax reform. So we came up with various workarounds, making the system more complex and messy. Of course this is not the first time that this government has undertaken changes which it did not consult anyone about. In the area of health and ageing I have traversed on many various occasions this government's record in relation to lack of consultation. It simply undertakes a particular course of action to cut something. We have seen it again recently with the solar panel rebate system. The government just cuts without any consultation. Most recently, in my own area of mental health, without any consultation with the medical profession, without any consultation with allied health professionals, this government simply cut sessions that were available to mentally ill Australians without any consultation, with no
consideration whatsoever, as to the effect that it would have on their health or on their treatment. If one is going to undertake major change, whether it be in health or any other area, it is vitally important that there be proper consultation. But this government has not been about consultation. And, yes, Senator Johnston did mention they did have some consultation, but they limited it to the three top miners without consulting with the rest of the industry, where it was going to have a vital impact.

The Henry tax review was supposed to be about root-and-branch reform to deliver a simpler, fairer tax system. Instead, this government's mining tax is much more complex and less fair than was originally intended. The Henry tax review also recommended a lower tax burden for smaller mining ventures, to help start-ups grow and prosper and to keep mining ventures in their decline phase alive longer. Instead, smaller and mid-tier mining ventures will pay a higher effective tax rate under the Gillard government's legislation than the big three, who were given exclusive access to negotiations with the government. The Gillard government's mining tax will also reduce our international competitiveness in attracting further investment. The Gillard mining tax package will leave the budget worse off. In particular, over the medium to long term it will worsen the current structural deficit.

So what is all this about? This is about the tired old policies of old Labor, and we have seen it bared in recent times with the class warfare and the billionaire bashing. I will take the opportunity in this debate to raise the fact that I could not help noticing that those opposite in the Australian Labor Party have reduced their side of this chamber to basically a used car yard, with all of its idiosyncrasies. Through the recent episode with the class warfare and the billionaire bashing, we are witnessing what can only be described as a reinvigorated hard sell of tired old banger policies peddled by the usual dodgy salespeople you see lined up there in the front row of every dubious used car yard ready to swoop on the unsuspecting customer. We all know the Australian Labor Party's policies are designed to reduce all to the lowest common denominator. Quite frankly, it is enough to make George Orwell roll over in his grave. We are all equal but, of course, some are more equal than others. What a disgrace! What a tired and flawed philosophy the ALP is following with its policy of winding clocks back yet again by dodgy salespeople through the introduction of bigger bureaucracies, bigger taxes, bigger spending et cetera.

I cannot help but notice that there are plenty of old retreads fitted in the car yard as well. As I said, when all else fails, they will return to their old class warfare strategy—the billionaire bashing. Forget about hope, reward and opportunity, and what it means to Australians who want to get ahead. They might go out and bash the billionaires but ultimately their policies every day, increasingly, are hurting more and more ordinary Australians. But, returning to the old retreads that are now fitted into the used car yard: the targeting of the private schools funding, targeting the successful tall poppies in society—these are their tired old policies. The targeting of the health rebate, which has seen another disgraceful broken promise by the Gillard Labor government, the reintroduction of the issue and a whole range of other retreaded old policies—there are dodgy brakes everywhere in the car yard and they just cannot stop. They cannot stop spending other people's money.

The Australian Labor Party loves red ink. They know little about economic management; they are the economic mismanagers because of their vigorous
pursuit of sovereign debt at every opportunity. Whenever and wherever the Australian Labor Party has been in power for any length of time, it has left a trail of red ink for us to fix. Senator Conroy! Senator Conroy is going to leave us the biggest trail of red ink—$50 billion worth—and you smile. Anyone can spend money but it takes discipline and planning to spend within one's means. People are expected to manage their finances and to live within their means. The Australian people expect their governments to live within their means. But given its record to date, near and far, the concept of balanced budgets, surpluses and savings, such as the Future Fund, are alien concepts to the Australian Labor Party and, more particularly, the incompetent Treasurer, Mr Swan.

The Australian Labor Party hides the tired old socialist policies of wealth distribution to screen its incompetence at managing other people's money. Results are the measure of successful policies, not words and spin. With respect to foreign policy, all of the excellent work done by foreign ministers like Alexander Downer over the years has been undone by the incompetent bullying tactics of Mr Smith, Mr Rudd and now Senator Bob Carr, leading with his chin, mouth in top gear and brain in neutral—evident in his dealings with PNG.

We have a lot of work to do employing sophisticated diplomacy around the world to clean up the mess after this lot. You have to admit, it is a tired looking old car yard over there. One does not have to lift the bonnet to locate the source of the problem because the rust, the bald tyres, the dodgy brakes and clocks wound back are evident everywhere and in many cases, I suspect, are terminal. As I and other senators on this side have said, bring on a federal election so that some of these jalopies can be either scrapped or retired to the junk yard.

Senator Conroy: Don't talk about yourself like that, you old jalopy.

Senator FIERRAVANTI-WELLS: Senator Conroy, at the end of this process it will not be me who will be so described, it will be you. Just remember the epitaph on your political grave after we have to pay back that $50 billion that you are squandering with your silly NBN process that you dreamt up on the back of a coaster in some aeroplane at the back of Woop Woop.

Honourable senators interjecting—

Senator FIERRAVANTI-WELLS: Yes, absolutely. I return, if I may, to the issue of the mining tax. As I said, the coalition will be opposing this legislation and all the legislation associated with it. If there is anything to do with success, anything to do with Australians getting ahead, this government will tax them. The government is not interested in Australian families working hard to get ahead for themselves and for their children. The government is only interested in taxing Australians. As I have said, Australian mining companies pay company tax and state royalties but now they will be slugged by yet another impost. The failure to consult properly has now resulted in a piece of legislation that is so complex that it will be so difficult to navigate, not just for the big companies but also for smaller companies.

On constitutional validity, what are the issues about discrimination between states? Has this government got legal advice about this legislation? They are prepared to ridicule people like Clive Palmer who has indicated that—

Senator Brandis: He's a great man.

Senator FIERRAVANTI-WELLS: Thank you, Senator Brandis, just because it is his right to challenge—of course he has a vested interest—this legislation. Those
opposite denigrate his right as an Australian to challenge this absolutely atrocious piece of legislation.

Debate interrupted.

**QUESTIONS WITHOUT NOTICE**

**Cape York**

**Senator BOSWELL** (Queensland) (14:00): My question is to Senator Conroy, the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities. I refer to the government's decision to dump its conditional approval of the $4 billion South of Embley bauxite project on Cape York following a formal complaint by the Wilderness Society. The Wilderness Society, in an attempt to stop the project, first raised grave concerns regarding the local bare-rumped sheathail bat. This was followed up by concerns regarding a new species of freshwater crab. Finally, they were successful with incorrect claims of increased shipping in the Great Barrier Reef. Will the government continue to surrender to the Wilderness Society's vexatious complaints and jeopardise economic investment and Aboriginal jobs on Cape York, and unionist jobs in Gladstone, that rely on bauxite to operate?

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:01): I thank Senator Boswell for his question. The Gillard government is committed to protecting matters of national environmental significance on Cape York Peninsula under national environmental law. The assessment process under the Environment Protection and Biodiversity Conservation Act 1999 is rigorous, and there are a number of points at which the public are invited to comment.

The South of Embley project is being assessed under national environmental law. On 15 March, Minister Burke revoked the original referral decision and substituted it with one that takes the Great Barrier Reef Marine Park World Heritage and National Heritage into account. To address the new controlling provisions, the proponent must prepare a new draft environmental impact statement, which will be available for public comment. On 17 November 2011, Minister Burke received a valid request under section 78A of the EPBC Act to reconsider the original controlled action referral decision on the basis of new and substantial information about shipping activities through the Great Barrier Reef. Information about shipping activities was not provided by the proponent at the time of the original controlled action referral decision.

In making his decision, Minister Burke considered advice from the Department of Sustainability, Environment, Water, Population and Communities, the Great Barrier Reef Marine Park Authority, Rio Tinto and public comments received during the invitation-to-comment period. The Great Barrier Reef is—as every senator in this chamber would agree—one of our most significant environmental assets and it has been recognised as being among the world's healthiest coral reefs and ecosystems and best managed marine areas. The government makes no apologies—(Time expired)

**Senator BOSWELL** (Queensland) (14:03): Mr President, I ask a supplementary question. Was it a coincidence that the same day Minister Burke announced that he would expand the EIS to include shipping for the project the Greens announced they would preference the Queensland Labor Party in the crucial seat of Ashgrove? Prior to the decision to dump the EIS did the department discuss with the management of Rio Tinto
the increased shipping claims made by the Wilderness Society?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:04): The government makes no apologies for ensuring that we continue our commitment to sustainable development that ensures the outstanding universal values of the Great Barrier Reef. Senator Boswell asked about new species. The government is aware of reports that surveying work undertaken by the proponents may have detected a new species of freshwater crab and a new species of shrimp previously unrecorded in this area—Opposition senators interjecting—Senator CONROY: No, it is just the remnants of the white-shoe brigade coming back to life. It is not a new species; it is an old species of the white-shoe brigade.

Mr President, if studies indicate that there are new species, these would not be matters listed under national environmental law. The environmental protection of these matters is the responsibility of the state. The government is also aware of requests—

(Time expired)

Senator BOSWELL (Queensland) (14:05): Mr President, I ask a further supplementary question. Has the government in its capitulation to the Wilderness Society assessed the economic impact of this decision on Indigenous Queenslanders employed in Rio Tinto's Weipa operation and the flow-on impact to the two Gladstone refineries that depend on Weipa for bauxite, and the unionists that will lose their jobs?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:05): I am afraid I cannot take seriously a question from those opposite that tries to pretend that they are remotely interested in working Australians. Absolutely not. It is impossible to take seriously the National Party, the white-shoe brigade, the party that is a wholly owned subsidiary of Mr Clive Palmer—

Honourable senators interjecting—

The PRESIDENT: Senator Brandis, I will give you the call when there is silence on both sides. Senator Brandis.

Senator Brandis: Mr President, I rise on a point of order. Senator Conroy is up to his old tricks again. You have ruled repeatedly that abusing the opposition or opposition parties is not an answer to a question about policy. He was asked one question. He was asked whether consideration was given to two particular matters: the effect on Indigenous peoples and the effect on Gladstone refineries. He has not addressed either.

The PRESIDENT: There is no point of order. The minister has been going 18 seconds. I am listening closely to the minister's answer. He has 42 seconds remaining in which to address the question.

Senator CONROY: Thank you, Mr President. It is no surprise to see Senator Brandis being so precious about the mention of Clive Palmer.

The PRESIDENT: Senator Conroy, just come to your answer.

Senator CONROY: Senator Boswell asked specifically about the impact on working families in Gladstone. Well, Senator Boswell would not know one if he fell over it. Let us be very clear: he knows the way through the front door of Clive Palmer's jet, so he knows the way there and so does
Senator Brandis and so does Senator Bernardi—

The PRESIDENT: Senator Conroy, come to the question.

Senator CONROY: and a few of the others.

The PRESIDENT: Senator Conroy, come to the question!

Senator CONROY: They know where that is. But they would not know a working family if they fell over it.

Senator Heffernan: Mr President, on a point of order: Senator Conroy, with a trade union background, should withdraw his inference that people like myself are not interested in working Australians. I am a working Australian. Farmers are working Australians.

The PRESIDENT: That is not a point of order. It is a debating point.

Senator Brandis: Mr President, I rise on a point of order. It is that it is obvious to everyone in the chamber that Senator Conroy flagrantly for most of the course of his answer defied your ruling. If your authority in the chair is to be supported by this chamber, you must insist on imposing your rulings upon him.

The PRESIDENT: There is no point of order.

Environment

Senator WATERS (Queensland) (14:09): My question is to the minister representing the environment minister, Senator Conroy, regarding protection for Queensland’s wild rivers under an LNP state government. Many Indigenous Queensland communities fully support the wild rivers laws, including traditional owners from the Wenlock River in the cape and all of the—

Honourable senators interjecting—

The PRESIDENT: Order! Wait a minute, Senator Waters. Resume your seat and when there is silence we will proceed. I need to hear the question. If anyone wishes to debate it the time is post question time.

Senator WATERS: As I was saying, it was including traditional owners from the Wenlock River in the cape and all of the traditional owners of the Cooper Creek and Georgina and Diamantina rivers in western Queensland. A representative of all of those Indigenous communities of those western rivers has recently written to Campbell Newman stating:

The rapid spread of mining, particularly coal seam gas, threatens these rivers ... It is only the protection under the Wild Rivers Act that gives us hope that permanent damage will be prevented.

We have written to you many times to inform you that we want the protection of our rivers under the Wild Rivers Act but you have ignored us.

Given the LNP’s refusal to listen to Indigenous communities who support wild rivers, what will the federal government do to listen to the wishes of many traditional owners throughout the state who want their rivers protected?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:11): I thank the senator for her question. I am advised that the Minister for Sustainability, Environment, Water, Population, and Communities has not received an application to emergency list wild rivers in Queensland under the Environment Protection and Biodiversity Conservation Act. The EPBC Act provides for the environment minister to include a place in the National Heritage List, under emergency listing provision sections 324JK and 324JL, if the minister believes that the
place has or may have one or more national heritage values, that any of those values is under threat of a significant adverse impact and that the threat is both likely and imminent. As all of these conditions must be met, repealing of the Wild Rivers Act and/or a lifting of a wild rivers declaration would not necessarily itself be a sufficient justification for the minister to include a place in the National Heritage List under the emergency provisions of the EPBC Act. Senator, if there is any other information that your question was soliciting that I have not covered there, I am happy to take that on notice and see if there is anything that the minister would like to add.

Senator WATERS (Queensland) (14:12): Mr President, I ask a supplementary question. I thank the minister for his answer. Given the threat to wild rivers from an LNP state government, will the federal government do anything to protect those rivers—from the ravages of big mines, coal seam gas and dams—given that the state ALP government wants to double coal and gas exports in the next decade?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:13): There are some concerns about the election of an LNP government in Queensland, Senator. Having Clive Palmer actually running the state is not something I would take lightly either—

The PRESIDENT: Senator Conroy, come to the question.

Senator CONROY: that I would take lightly either—

The PRESIDENT: Senator Conroy, come to the question!

Senator CONROY: and I think you do well to raise those issues in this chamber, Senator. But I am not sure there is much else I can add and I will take the rest of the question on notice.

Senator WATERS (Queensland) (14:13): Mr President, I ask a further supplementary question. Wild rivers meet at least five of the nine criteria for listing as national heritage under our federal environmental laws because of their natural and Indigenous heritage values, so the environment minister clearly has the power to protect them. My question is not about emergency listing, which has different criteria. Will he now commit to protect those rivers if the LNP rips up our wild rivers laws?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:14): As I said, I am not sure I have anything to add to my previous answer, and I know you have now asked a different question. I am happy to take that on notice and see what the minister would like to add.

Vocational Education and Training

Senator MOORE (Queensland) (14:14): I am the third Queensland senator in a row, something must be happening! My question is to the Minister for Tertiary Education, Skills, Science and Research, Senator Evans. Can the minister—

Opposition senators interjecting—

Senator MOORE: I am sure Senator Evans knows that the question is to him. Can the minister advise the Senate how the government's announced—

Opposition senators interjecting—

The PRESIDENT: Senator Moore, just ask the question. Ignore the interjections and continue.
Senator MOORE: I will wait till there is silence.

The PRESIDENT: Senator Moore, continue.

Senator MOORE: As I have already announced, the question is to Senator Evans. Can the minister advise the Senate how the government's announced reforms to our vocational education and training system are necessary to meet the economic challenges faced by Australia?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:15): I thank Senator Moore for the question. In this current economic environment Australia has an urgent need to lift skill levels and workforce participation. This will allow individual Australians the opportunity to participate in our economy and provide employers the skills they need to compete in a global economy. We know that the skills of our workforce are an important driver of productivity, so our future success depends on our skills. Skills Australia modelling shows that in the five years to 2015, Australia will need an additional 2.1 million workers with vocational education and training qualifications—that is, people in the workforce and people coming into the workforce.

But we need more people trained to a higher level, and today the Prime Minister outlined the government's proposal to take to the states at the COAG meeting in April to try and work with them to address the shortfall of skills in our economy. We put on the table $1.75 billion in extra funding over and above our normal commitment to try and get a national partnership that helps meet that skills shortfall and drive up the level of skills in our economy—drive up the skills that our people need to take up the high skilled work that is becoming more prevalent in the economy. We know that unskilled jobs are disappearing. If people do not have high skills they will not be able to access the jobs that are emerging in the economy. So we focus on an entitlement for everyone being able to train to certificate III level, which is a major driver of people's access to work. The Commonwealth will be supporting income-contingent loans—HECS style loans—to allow people to study at higher diploma and associate diploma levels. This is about driving skills in the economy and giving young Australians the opportunity to maximise their potential.

Senator MOORE (Queensland) (14:17): Mr President, I ask a supplementary question. Can the minister update the Senate on the key measures the government will pursue at COAG to provide all Australians with access to training and skills, and therefore a real opportunity to participate in economic prosperity?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:18): As I said earlier, we are focused on income-contingent loans and the entitlement for all Australians to get a certificate III or higher qualification to try and drive up the skill level and meet the growing skill needs in the economy. But it is also about ensuring social equity. What we do know is that people who do not have higher skills earn less, are less likely to be in the workforce and have less life opportunities. What we know is that unskilled jobs are disappearing from the economy. People who do not have skills will be hard pressed to keep connected to employment and hard pressed to benefit from the economic growth that Australia is seeing. It is very much a question of social equity, as well as good economic sense, that we upskill Australians so that they can
participate in the jobs of the future, because they are going to be increasingly high skilled jobs.

Senator MOORE (Queensland) (14:19): Mr President, I ask a further supplementary question. Can the minister also advise how these skill reforms contribute to the government's broader reform agenda?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:19): In a sense, this can be viewed as the third tranche of education reforms. This government did an awful lot in the last few years to drive reform of schooling through the My School website, through NAPLAN and through a national curriculum. We have also invested heavily in our universities to drive reform in universities and open them up to more students where, as a result, we have seen record increases in participation—150,000 more people at university studying, getting high graduate skills to allow them to go into the workforce as graduates. This is the third leg of those reforms. Making sure that our vocational education and training sector is also reformed produces quality outcomes for people and ensures that we have the trades and other technical skills in the economy. We value those skills, just like we value a university education, and this is about making sure that we have the best possible vocational education—(Time expired)

Carbon Pricing

Senator BIRMINGHAM (South Australia) (14:20): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to ongoing reports about the dramatic drop in European carbon prices to around AS9, forecasts indicating the European ETS is likely to keep trading at lows for years to come, and about today's report from Bloomberg regarding a likely sustained slump in the value of certificates under the UN Clean Development Mechanism to as low as AS5. I ask the minister, are there any circumstances at all in which the government will reconsider the fixed $23 starting price of Labor's carbon tax, the operation of the three-year fixed price period or the application of the $15 floor price for a subsequent three-year period?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:21): The government has very carefully designed the clean energy future package to ensure that we preserve the competitiveness of Australian industry whilst we also ensure we give the right incentives for investment in the clean energy jobs of tomorrow. Those opposite might recall that one large component of the Jobs and Competitiveness package in relation to the emissions intensive and trade exposed sector was actually the design that was originally negotiated by Mr Turnbull which, for a period of time, they supported. It is the case that a very substantial amount of assistance is being provided through the Jobs and Competitive package, which reflects the importance of supporting the competitiveness of Australian industry. I would also make the point that today we saw not only the Bloomberg report to which the senator referred but the release of the Climate Institute study which laid out the risks to the economy of not pricing carbon and the risks of falling further behind. That report found that Australia is among more than 100 nations which have climate policies targeting pollution limits and clean energy. I also note that report indicated the expectation that Britain would have a carbon price of $24 to $34 a tonne; Sweden $130 a tonne; Switzerland $30 to $60 a tonne; Norway $53 a tonne and Ireland $24 to 37 a tonne. As I said, the government is very
much of the view that you need to preserve the competitiveness of Australia's industry, at the same time giving incentive for investment in the clean energy jobs of tomorrow. That is what the package we have negotiated, which has been passed by this chamber, does. I have no doubt those opposite us will continue a fear campaign. That is their only answer when it comes to climate change. The government is very clear about why this is important long term. (Time expired)

Senator BIRMINGHAM (South Australia) (14:23): Mr President, I ask a supplementary question. I refer the minister to the statement on page 89 of the Treasury modelling of the carbon tax:

From the start of the flexible price period to 2050, Australian carbon prices will rise by an average 5 per cent per year plus inflation, reflecting growth in the foreign currency carbon price ... Does the minister accept that the government got the global carbon price wrong when setting the $23 fixed carbon tax for this year and the forecast wrong on the assumptions of where global prices will go in future?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:24): I would make a couple of points. Firstly, the fundamental propositions of the Treasury modelling that the opposition quibble with are simply this: we can grow our economy, our incomes and increase the number of jobs in this country with a carbon price. No fear campaign from those opposite can avoid the reality of that proposition. I would also make the point that the Bloomberg report to which the senator referred, in the same newspaper article talking about that report, also predicted the price in the largest carbon market, the European Union, to be reaching around $40 by 2020. There is a range of propositions out there about where the carbon price might go, just as there is a range of propositions about what might happen to equity markets and a range of propositions— (Time expired)

Senator BIRMINGHAM (South Australia) (14:25): Mr President, I ask a further supplementary question. Would the minister explain how Australia having a carbon tax many multiples of those globally applied—to use the minister's own words—preserves the competitiveness of Australian industry? How can the minister continue to turn a blind eye to the impact of incorrect assumptions about global carbon pricing when these errors will have a real impact on the competitiveness of Australian industry, jobs, cost of living and the Australian budget?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:25): Firstly, the opposition continue to ignore the substantial number of free permits which the government is providing to highly carbon exposed industries, for the very reasons I have outlined—they continue to ignore that. The second point I made is this: if those opposite care about the effect on the economy, why are they supporting a policy to achieve the same outcome which will cost Australian families more—$1,300 more in extra tax to be paid by Australian households? That is what they support. Why do they want to support a policy which will impose a greater cost on Australians and a greater cost on the Australian economy? That is the reality and that is the question they never want to answer. Mr Turnbull has made clear time and time again what is wrong with the opposition's policy. It does not work, it is too expensive, but most of all it hits working families with extra tax.

Dalai Lama

Senator HANSON-YOUNG (South Australia) (14:27): My question is to the Minister for Foreign Affairs, Minister Carr. I refer the minister to his hurtful and tactless
comments regarding the Dalai Lama and human rights in Tibet, comments which do not bear repeating here, comments which the minister has since removed from his blog, admitting that they may have been be better expressed. Now that he is the foreign minister, will the minister commit to meeting His Holiness the Dalai Lama when the opportunity next arises?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:27): I am very happy to have the opportunity to announce an initiative I concluded on Saturday night with our ambassador in Beijing. As a result of our consultation, I can announce that our ambassador will be seeking today to travel to Tibet to see for herself the grievances which have given rise to the self-immolations. Moreover—

Honourable senators interjecting—

Senator BOB CARR: I would have thought you would have been struck by the directness of the information conveyed in this answer. Moreover, I can convey that that request for a visit by our ambassador is being made today, possibly while we debate this matter in the Senate. Secondly, I can reveal to the Senate that the deputy head of mission, who today is visiting Sichuan Province, is making today a request to the Sichuan Foreign Affairs Office to inspect Tibetan establishments in that province, again to investigate the grievances that have given rise to these extreme and distressing forms of protest. Moreover, I can reveal to the Senate that our ambassador in Beijing is making an application today to have permission granted for a delegation of our Joint Standing Committee on Foreign Affairs, Defence and Trade to go to Tibet to investigate these things themselves. I am very grateful for the question because it has given me an opportunity to share these recent initiatives with the house.

Senator Ronaldson: Why don't you answer the question?

Senator BOB CARR: Why not an answer to the question about the blog? That blog—(Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! When there is silence, Senator Hanson-Young, you will get the call. You are entitled to be heard in silence, from both sides.

Senator HANSON-YOUNG (South Australia) (14:30): Mr President, I ask a supplementary question. I thank the minister for his information, although I bring to the chamber's attention that he did not answer the question about meeting the Dalai Lama. I would like to know, Mr President, knowing that there have been 30 Tibetan monks, nuns and ordinary citizens, such as mothers, farmers and teenagers, who have self-immolated in protest since 2009—17 this year alone—does the foreign minister agree with his counterparts in Beijing that these people are nothing but criminals and have bad reputations in society?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:30): I am astonished by that question. As if anyone in this Senate would hold that view. We deplore the circumstances that would force people to give rise to this extreme, to this tragic, form of protest. The Dalai Lama, with whom I have met twice, is a significant religious leader for Tibetan Buddhists. Any suggestion, however, of independence for Tibet conflicts with the position taken by every Australian government since December 1972 when Australia recognised China's sovereignty over Tibet with the establishment of diplomatic relations. In statements—
Senator Bob Brown: Mr President, I rise on a point of order. The question from Senator Hanson-Young, repeated in the supplementary question, was: will the foreign minister take the opportunity next available to meet with His Holiness the Dalai Lama?

The President: That is only part of the question. The minister is answering the question. The minister now has 19 seconds remaining.

Senator BOB CARR: Having met His Holiness the Dalai Lama on two occasions, I will make a decision about future meetings when I consider them timely, appropriate and relevant. But let me make the point that when supporters of the Dalai Lama imply that Tibet's borders be stretched to take in parts of other provinces—(Time expired)

Senator HANSON-YOUNG (South Australia) (14:32): Mr President, I ask a further supplementary question. The minister has previously likened calls for freedom in Tibet to Western Australian secessionism. Given the constitutional and democratic rights enjoyed by Western Australians, how does the minister explain his comparison with ongoing oppression in Tibet and China, including high military presence, arbitrary arrests and detention, media blackouts and a lack of democratic right?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:33): The Australian government has recognised that Tibet is part of the People's Republic of China. That has been recognised by every Australian government. When supporters of the Dalai Lama imply that the borders of Tibet be stretched to include parts of the provinces of Yunnan and Sichuan, they make it far more difficult for any Chinese government to do the sorts of things we want when it comes to response to human rights. That is provocative policymaking in the extreme. We hold concerns for human rights in Tibet and in other parts of China. Promoting improvements in human rights in China is an Australian goal. It is a high priority for the government. I have, of course, as all senators have, been nothing less than appalled by the self-immolations. I have a list here of the occasions on which our embassy has raised the matter with the Chinese.

Government Policy

Senator BILYK (Tasmania) (14:34): My question is to the Minister for Finance and Deregulation, Senator Wong. Can the minister outline to the Senate why this government places a high priority on ensuring all policies are properly costed and that all spending commitments are fully funded? Has the Minister seen any announcements—

Opposition senators interjecting—

Senator BILYK: I have not finished yet, Mr President.

The President: Order! I don't need your intervention. Senator Bilyk, continue.

Senator BILYK: Has the minister seen any announcements relating to alternative approaches?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:34): I thank the senator for her question. This government understands that you have to cost policies and you have to fund them. That is what we have certainly done in our budget. That is what we have done in the mid-year review.

Opposition senators interjecting—

Senator WONG: I know they do not want to hear this.

The President: Order! On my left, when there is silence we will proceed.
Senator WONG: I somehow do not think Senator Sinodinos was laughing then. But, anyway, we will come to that point. We have laid out our plans in our budget. We found $100 billion worth of savings over a number of budgets, and we have laid out our plans, including what we will cut in order to fund things.

Senator Cormann interjecting—

Senator WONG: But of course the alternative approach—and I am surprised that Senator Cormann is interjecting, because it is embarrassing as a member of the economic team on the other side—is to do what the opposition is doing, which is to try and hide your $70 billion black hole, not tell anybody what your budget position is, not tell anybody what you are going to cut, not tell anybody how you are going to fund anything and certainly not do any proper costings. So what we have seen is Mr Robb and Mr Hockey trying to hide from the Australian people the true position of what the budget would look like under Tony Abbott. And, because they are refusing to tell anybody, we thought we would give them a helping hand. So I released yesterday what the 2012-13 budget would look like under Tony Abbott: a $9 billion deficit.

Honourable senators interjecting—

The PRESIDENT: If you wish to debate this amongst yourselves, you are just taking up question time.

Senator BILYK (Tasmania) (14:39): Mr President, I ask a supplementary question. Can the minister outline to the Senate the approach the government is taking to return the budget to surplus and how this contrasts with alternative approaches?

Honourable senators interjecting—

The PRESIDENT: This is chewing up valuable time in question time. This is disorderly and you know it.

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:40): The government are determined to return the budget to surplus and we will lay out our plans, we will lay out our policies—how we are funding them, how we have costed them—in the budget, just as we did in the—

Senator Cormann interjecting—

Senator WONG: If I may say, Senator Cormann is demonstrating his glass jaw to everyone far and wide. What a glass jaw over there. But anyway, we will return to
this. The government have made clear it is our position, our determination, to return the budget to surplus and what we will do is put this—

Honourable senators interjecting—

Senator WONG: But on the other side we have weeks of infighting, complete confusion and contradictory statements being made by their economic team. As Senator Sinodinos reminded us all this morning, there has been some untidiness from the coalition on returning the budget to surplus. He calls it untidy—well, a $9 billion deficit in 2012-13 is pretty untidy. (Time expired)

Senator BILYK (Tasmania) (14:42): Mr President, I ask a further supplementary question. Can the minister outline why it is important for governments to have clear fiscal strategies and why it is important to ensure that all proposed policies, including revenue policies, are fully costed and fully funded?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:42): As Senator Sinodinos also knows, a clear fiscal strategy is essential for good government. The alternative is a series of unfunded, unaffordable, undeliverable promises. We have seen the opposition conceding that they have to find $70 billion worth of cuts, but they do not want to tell the Australian people what they are. They do not want to do their costings. They give their costings to a catering company. A catering company is going to do their costings, and who can forget the election costings done by an accounting firm that was subsequently found to have breached professional standards. This is the standard of the coalition's budget numbers. What we know is it is more than untidy. It is $70 billion worth of cuts, the equivalent of every Medicare payment for four years. That is what they have to find; that is what they are hiding. (Time expired)

Economy

Senator PAYNE (New South Wales) (14:43): My question is to the Minister representing the Prime Minister, Senator Evans. Given the government's self-proclaimed commitment to deregulation and improving productivity, can the minister guarantee that the 12 crucial COAG seamless national economy reforms that are currently at risk of not being completed on time will, in fact, be completed by December this year, as promised?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:44): I thank Senator Payne for her question. She raises the very important issue of the deregulation agenda of COAG. I will have to take part of the question on notice in the sense of getting an update on the progress of each of the 12 key reforms, but it is worth noting that the Prime Minister, with senior business representatives, made the commitment a couple of weeks ago to really drive these agendas, because I think it is the case that some of these reforms have become bogged down. I know that in my area there is the question about licensing and standardisation of licences across Australia, and I think we have seen a real inertia from many of the states in responding to what is an important economic reform.

The deregulation agenda of COAG is an important one. The Senate would be aware that there is a COAG meeting on 13 or 14 April. No doubt these issues will again be on the agenda. I will attempt to get Senator Payne an update on the progress of each of the reforms. But I think it is very clear that the Prime Minister has recommitted to driving that agenda and to try and harness
business to make the case and to work with the Commonwealth and the states to drive this reform. It is too easy for these reforms to get bogged down in the Public Service negotiations between the Commonwealth and the states. We have made good progress, but there is more that needs to be done. This government is absolutely committed to driving those reforms for the benefit of the Australian economy and the Australian people.

Senator PAYNE (New South Wales) (14:46): Mr President, I ask a supplementary question. I thank the minister for his undertaking to provide further information. Can the minister explain to the Senate why the government has waited until important reforms such as the energy market reforms and a national trades-licensing system are in such serious danger of not being delivered on time before engaging with the business community to help progress the reforms?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:48): I think Senator Payne misrepresents the position. As she is well aware, the last COAG Reform Council progress report indicated that good progress had been made on 15 of the 27 deregulation reforms. In fact, they were complete. She rightly raises the other 12 as being outstanding, but they, as I said, are subject to ongoing work and they will continue to be driven by this government. As I said also, the COAG meeting in April will obviously continue that work. I am not sure, as I said, of the detail of the status report, if you like, on those 12 reforms, but they are continuing to be driven. We have made good progress and we expect to make further good progress on each of these reforms.

Senator PAYNE (New South Wales) (14:47): Mr President, I ask a further supplementary question. I thank the minister for that response. I note that the COAG Reform Council said:

We're urging COAG to take swift action on these 12 crucial reforms because time is running out … How are Australians able to view the government's announcement of a business advisory panel to COAG as anything other than an admission that it has failed to make any meaningful progress on these reforms?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:48): I think that this was very much a response to the concerns we had about driving some of these changes. I think many of the states and some of the departments within those state governments had not been focused on the concerns of industry, and part of the drive in the announcement that the Prime Minister made was to get the ministers and their departments focused on these things, not have some of the bureaucratic turf wars that were occurring further down the system. I think the introduction of a stronger business voice in this process is very important, because I know that, in the debate about national occupational health and safety laws, we had governments like the Victorian government being deliberately recalcitrant, not listening to industry, despite the fact that they had very strong industry support. Those reforms have been held up by a couple of Liberal states refusing to participate, despite the very strong industry demand that we get national laws. (Time expired)

His Holiness Pope Shenouda III

Egypt: Coptic Christians

Senator STEPHENS (New South Wales) (14:49): Mr President, on your birthday, my question is to the Minister for Foreign Affairs, Senator Bob Carr. Can the minister update the Senate on the government's
response to the death of His Holiness Pope Shenouda III, the Patriarch of the Coptic Orthodox Church in Egypt?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:49): Australia joins the people of Egypt and the Coptic Church in mourning the death of his Holiness Pope Shenouda III. His Holiness served in religious life for 60 years and led the Coptic Church in Egypt for four decades. I was honoured to have met him twice as Premier and once as opposition leader. He has been described as the 117th patriarch of Alexandria in a continuous line of succession since the Apostle Mark founded Christianity in Egypt. He was a respected religious and spiritual leader, recognised—and this is important in today's world—for his commitment to religious tolerance and coexistence. This morning I spoke to His Excellency Mr Omar Metwally, Egypt's ambassador in Australia, to convey my condolences. I will speak with Bishop Suriel and Bishop Daniel, of Melbourne and Sydney respectively.

The death of Pope Shenouda comes at a difficult time for the Coptic community in Egypt. On 6 March, as foreign minister designate, I asked Australia's ambassador in Cairo, Dr Ralph King, to convey Australian concerns about growing sectarian violence in Egypt. The ambassador has met senior Coptic Church members and visited a number of Coptic churches to demonstrate Australia's strong support for religious freedom and the rule of law. One of these, the fourth century Church of Sts Sergius and Bacchus, is one of the oldest churches in Egypt. Ambassador King also visited the Hanging Church and the Cathedral of St Mark, the seat of His Holiness Pope Shenouda III.

Senator STEPHENS (New South Wales) (14:51): Mr President, I ask a supplementary question. I thank the minister for his response. Can the minister advise if the government has taken any other action recently in relation to the growing sectarian violence in Egypt?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:51): The Australian government has repeatedly underlined to Egyptian authorities in Canberra and Cairo that religious differences must be respected and all efforts made to stem sectarian violence. Most recently, we made these representations during bilateral senior officials' talks in Cairo in February 2012.

The government have also taken multilateral action. We have a proud tradition of defending human rights and promoting religious tolerance through the United Nations. In November last year Australia's ambassador in Geneva raised the situation of Coptic Christians with the UN High Commissioner for Human Rights. Earlier this month Australia emphasised the inalienable right of freedom of religion or belief during dialogue with the UN special rapporteur.

Senator STEPHENS (New South Wales) (14:52): Mr President, I ask a supplementary question. Can the minister advise the Senate on the Egyptian government's response to the situation of the Coptic Christian community?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:52): No-one is under any illusion about the scale of the challenges facing Egypt at this time. Recent violence, including the suppression of protests in Maspeso in October 2011 and attacks in Amiriya in January, have resulted in a tragic loss of life and injuries to hundreds of Egyptians. It is critical that religious freedoms are protected and that Egypt's transition is just and inclusive. Australia stands firm in our support for the Egyptian people as they make
the historic transition to democracy. Egypt in fact has a history of religious tolerance and inclusiveness. The Australian government welcomes commitments by the Egyptian government to maintain that proud and time honoured tradition. We look to the Egyptian government to act on these commitments and to ensure equal treatment and protection under the law for all Egyptians.

Asylum Seekers

Senator CASH (Western Australia) (14:53): My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Lundy. I refer to the fact that yesterday, 18 March, was the first anniversary of when the government lost control of the North West Point Immigration Detention Centre on Christmas Island. Minister Bowen stated at the time that general character considerations would be taken into account to deny visas for the perpetrators of these riots. Can the minister confirm that none of these perpetrators has been denied visas by Minister Bowen under the general character test?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:54): It is no surprise that Senator Cash will seize the opportunity, even when there is no story running, to ask a question about immigration. As usual, the characteristic of the question puts in place a very punitive flavour over those who are spending time in detention centres—and I know that Senator Cash's concern is far from the welfare of those who are in detention. What we have is a situation in many of the detention centres that is challenging when there are large numbers of people being detained. But I would like to assure the Senate that every effort is made to ensure that they come through that detention process as quickly as possible. With the health, identity and security checks that we put in place, what we know is that systematically we are moving people into community detention, through bridging visas, and other things to make sure that those—

Senator Cash: Mr President, I rise on a point of order in relation to relevance. My question actually concerned comments made by Minister Bowen at the time of these riots in relation to the legislation, which specifically provides that the minister is able to deny a visa to particular people under a general character test. I would merely like to know whether the minister has or has not denied visas to any of the perpetrators of the Christmas Island riots under this section of the legislation.

The PRESIDENT: I draw the minister's attention to the question. There are 58 seconds remaining in which to address the question.

Senator LUNDY: I am sure you canvassed this at some length at Senate estimates, though I am very happy to come back to you with the details about the specifics. I suspect that you already have the answer and I am very happy to furnish Senator Cash with the detail in consultation with Minister Bowen.

Senator CASH (Western Australia) (14:56): Mr President, I ask a supplementary question. I refer to Dr Allan Hawke's testimony to the detention inquiry that 'the primary motive for detainees rioting on Christmas Island was because their asylum seeker claims had been rejected'. I refer also to the fact that, since the Christmas Island riots, the number of protection visas granted to detainees has almost tripled and the acceptance rate of refugee claims has almost doubled. Isn't it true, minister, that the rioters got exactly what they wanted from your government?
Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:57): Senator Cash sinks to the bottom of the barrel in the way she asks questions with the punitive characteristics she automatically applies to people in detention. Senator Cash well knows that the processes gone through after those riots were in accordance with policy and the statement that Minister Bowen made at the time. I have undertaken to get back to her on the detail, but I cannot let her question go by without reflecting on the way in which she asks the question characterising every single detainee as having done something criminal. That is not the case. Where people have done the wrong thing, they pay a price for that, and we have been very firm about that. So to come in here and somehow associate your very specific question—which we will respond to—with the fact that the number of people in detention are receiving refuge—(Time expired)

Senator CASH (Western Australia) (14:58): Mr President, I ask a further supplementary question. I refer to the 89 rejected Sri Lankan asylum seekers who were the first to be transported off Christmas Island to Villawood. At the time, the Minister for Immigration said 'they are not refugees and they ought to leave the country' and the Prime Minister said 'they are currently being processed for return back home'. Can the minister confirm that, two years later, only four have returned home and the rest are still in Australia, including 50 who have been granted permanent visas? Isn't this just another example of how Labor's failed border protection policy is 'once you get here you never have to leave'?

Honourable senators interjecting—

The PRESIDENT: Order on both sides! Senator Lundy.

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:59): Of course, if the coalition were to agree with Labor's approach and support the proposed Malaysian arrangement, we would not be in the situation we are in with the rising numbers. That is, it is worth making the point—it is not in relation to your question but let me answer the question again—

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

The PRESIDENT: Order! I am going to draw Senator Lundy's attention to the question—there is no need for a point of order, Senator Brandis. Senator Lundy, there has been a question asked; you need to address the question that has been asked, not one that you might choose to answer.

Senator LUNDY: Thank you, Mr President. I take your admonishment, but it was important background to my response to Senator Cash. Senator Cash, I have said I will take the specifics of your question on notice to make sure we get the accurate details to you. I believe this is an area which you have thoroughly canvassed at some length at Senate estimates. If you are still waiting for the department's answer, I am sure it will be forthcoming very soon and we will undertake to provide you with the detail.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Cape York

Senator BOSWELL (Queensland) (15:01): I move

That the Senate take note of the answer given by the Minister representing the Minister for Sustainability, Environment, Water, Population...
and Communities (Senator Conroy) to a question without notice asked by Senator Boswell today relating to Cape York.

It has been a great victory for the Wilderness Society, which made a one-page submission to the minister, Tony Burke, and was able to stop a planned $4 billion bauxite project going ahead. What a wonderful victory for stupidity and what a great loss for common sense when a one-page submission can halt a $4 billion project.

We cannot say the Wilderness Society did not keep trying. First they found the bat—a bare-rumped sheathtail bat was found in the region. The Wilderness Society can always find something. When the bat did not work to stop the bauxite project, they found a crab. When the crab did not work, they found shipping. They said, ‘There will be more ships going through the Barrier Reef.’ Aha, that was the trick! That was the thing that stopped it. Do not worry about how the refineries are going to work without bauxite in Gladstone. New bauxite refineries are being developed in Gladstone and unionists who the Labor Party purport to represent have got jobs, but there is no bauxite because it cannot come down on the ships. Do not worry about the loss of Aboriginal jobs, because when it comes to a black vote or a green vote the Labor Party will always bow their knee to the Greens. What has happened to the party who said they represent the underdog, the underprivileged and the Aboriginals? They do not represent anyone except the Greens.

It is passing strange, and I raised it in question time today: would you believe that the very day the minister announced that the South of Embley project was halted there was an announcement from the Greens that their Queensland election preferences would go to Labor candidate Kate Jones in the electorate of Ashgrove! Who was the person who passed the wild rivers legislation? Kate Jones. One thing about the Greens is that they do not forget their friends. They do not worry about the Aboriginals and they do not worry about the workers, but they do not forget their friends. We learnt on the very day of the announcement to halt the project that Kate Jones would get Greens’ preferences.

It is a pretty sad state of affairs when Rio Tinto can go to enormous trouble, conduct all sorts of environmental reports and spend billions to get this project up and running and the Wilderness Society can put in a half-page submission—it was not actually a full page—and the whole project is run on the rocks. This is mickey mouse stuff. Who is going to invest in this country when someone puts in a half-page protest and a $4 billion project is stopped? Who is actually going to put any money into this place? You would not invest Confederate money in Australia if you were an investor at the moment. You would not take a punt on this mob because you would never know where your money was going to end up.

Rio Tinto have said that most of the bauxite will be going up through the Gulf of Carpentaria and to the north and not travelling through the Barrier Reef. They say that to maintain their bauxite refineries in Gladstone another 70 ships will have to come in. That is going to happen whether or not the South of Embley project goes ahead. They anticipate that another 30 ships will be going through the Barrier Reef. It is not as though the bauxite ships are running up on the reef every now and again or every year or every 10 years. Bauxite ships have been going up and down the reef for 40 years and none of them have ever run on the reef.

What a limp-wristed excuse to stop a $4 billion project, a project that was going to create huge numbers of jobs for Aboriginal people. Do not worry about them, Mr Labor
Party; consign them to passive welfare for the rest of their lives. That is what is what you do. (Time expired)

Senator MOORE (Queensland) (15:06): I rise to speak to the motion moved by Senator Boswell to take note of answers in question time today. We heard the answer from the minister during question time. This is a standard process which I would have thought that people in this chamber would understand. If there is a complaint about the environmental impact of any project—it does not matter which one—it is a requirement that the minister refer it for further investigation. We have had this debate on both sides of this chamber. I can remember questions across the chamber when senators from this side invoked the Environment Protection and Biodiversity Conservation Act to ensure that any questions about the impact of any project would go through agreed standard practice to look at the environmental impact of development.

In this case, I think that there would be no doubt in this chamber that the protection of the waterways of the Great Barrier Reef and the cape is the most important thing that we have.

In terms of the Great Barrier Reef, we have heard passionate speeches over many years about the need to protect this treasure. Anyone who has visited the area would understand just how important, how extraordinarily beautiful this area is, and there must be absolute surety that no matter what the project, no matter who the sponsors of the projects are, there will be no impact on or danger to those waterways.

In hearing Senator Boswell speak, he argues for in many cases the very action that the minister took. We need to understand that it must be ensured that the shipping as a the result of any development up there poses no danger to the reef, the waters and the environmental protection in that area.

We know that there have been occasions in the past when there have been quite delicate issues where that wonderful environmental area could well have been damaged as a result of the development processes. None of us want that to happen, and a valid issue has been raised. Whether it was one page or not, the issue must be whether it was a valid concern. The minister has agreed that it was a valid concern. He agreed that the previous application from the proponent did not take into account the shipping dangers that were there and, part of the job of the minister is to make sure that all people in the country can feel safe that the legislation will be independent and look at the issues before us.

I will not even make much more than a comment about Senator Boswell's inference that there was some linkage to the Queensland state election. These things happen over years. It happens when there is an application by anyone drawing attention to a threat.

Several years ago in this place we had a degree of discussion about an application that was put through in very short terms about the protection of a parrot with respect to wind farms in Victoria. Immediately, the then minister took into account the environmental protection agencies and went back to have a full review of that claim. We asked questions about whether it was appropriate and whether it was going through due process. The answer from the minister, as is the answer today from the minister, was that the job of the minister is to ensure that the community has faith in the environmental protection legislation. In this case, when you have any question about the protection of environment, there must be an independent review. The minister has done
that. They have reassessed the time frame for when this particular proposal will be assessed.

There has to be agreement that people, if they are going to respect the legislation, have to accept that it does not matter who puts the complaint or the question in but, when it is done, they will have the certainty that the minister of day, regardless of flavour of politics, will implement the appropriate legislation. This is what has occurred. The timing has been assessed. Rio Tinto knows the process. They have been well versed in the way the EPBC Act operates. They know how it works. It is now going through the process that has been put in place. There will be an investigation to see whether the extra shipping will cause any danger. There will be an assessment made which will be fed back into the process.

It is not unusual; it is standard process. I cannot control the date of the state election. The minister cannot control the date of the state election. We have a formal response to a real issue, and we are now invoking the legislation which has been agreed in this chamber. The only process we have is the EPBC Act, and we are using it. (Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (15:11): As those of us who live in Queensland know, the thing about the Australian Labor Party is you cannot believe a word they say. Notwithstanding the superficially plausible account of these events that came from Senator Claire Moore, let me remind those listening to this broadcast of the facts. The facts are these: there was a major development proposed by Rio Tinto of a $4 billion bauxite project on Cape York called the Embley project, which was objected to by the Wilderness Society and the Australian Greens. It would have created jobs for thousands of Indigenous people, but the Greens did not want it because the Greens did not want it because the Greens want to deindustrialise Queensland just as they have deindustrialised Tasmania. So they promoted a series of fatuous, flimsy, insubstantial objections to the Embley bauxite project.

First of all they discovered a species called the bare-rumped sheathtail bat and they said, 'This project, which will give jobs to thousands upon thousands of Aboriginal Australians, has to be stopped out of deference to the bare-rumped sheathtail bat,' and that was found to be insubstantial. Then they discovered a new species of freshwater crab—with no doubt an even more exotic, perhaps comic, name—that nobody had ever heard of. And, finally, they came up with the expedient 'increased shipping in the Barrier Reef'—shipping that has been passing through the Barrier Reef for decades, indeed since the 19th century—that will damage the Barrier Reef. And at last, the minister who had to exercise the discretion under the EPBC Act, Mr Tony Burke, a minister in the federal government, announced that an environmental impact study would be expanded to include the Embley project, and the project would have to be put into mothballs. The Greens got their way. The Wilderness Society got its way and, as we have learned from the Senator Boswell, the application was a one-page application. How absurd that a major development bringing jobs to thousands of people in Queensland, in particular Indigenous people, could be stopped on such a specious, vexatious ground. But it is worse than that because, as everybody who lives in Queensland knows but Labor politicians are too ashamed to admit, the Queensland Labor government is corrupt. One of its ministers, Mr Gordon Nuttall, lies in a Queensland prison today because he was corrupt. And lo and behold, on the very day that the suspension of the
Embley project was announced as a result of the vexatious claims of the Wilderness Society and the Greens, do you know what was also announced? That the Greens would be giving their preferences to the Labor Party in the Queensland state election. And not just preferencing the Labor Party; they would be preferencing the Labor Party in the key seat of Ashgrove, the seat where Mr Campbell Newman, the extremely successful former lord mayor of Brisbane, is the Liberal National Party candidate—the seat that is the focus of all attention at this state election.

So join the dots, Mr Deputy President. I am sure the listeners will. The Greens demand an absurd outcome as a result of a series of flimsy and insubstantial applications; eventually Mr Tony Burke gives the Greens what they want; and, lo and behold, on the very day of that announcement the Labor Party secures Greens preferences for itself in the critical seat of Ashgrove. I do not have to draw the conclusion because anyone listening to this broadcast can draw it themselves. That is what Queensland Labor is like. (Time expired)

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (15:16): I would like to take note of the comments that Senator Brandis and Senator Boswell made on essentially the preposterous proposition—

Senator Brandis: Keep a straight face while you say that!

Senator FARRELL: You can laugh, Senator Brandis, but this is an absolutely—

The DEPUTY PRESIDENT: On a point of order, Senator Brandis?

Senator Brandis: Mr Deputy President, I just want those listening to this broadcast to know that Senator Farrell is not saying this with a straight face. He is as amused by the irony of his own remarks as everybody else in the chamber.

The DEPUTY PRESIDENT: There is no point of order, Senator Brandis. Before I call you again, Senator Farrell, would you address your remarks to the chair, and you are speaking on the motion taking note of the answers by ministers, not opposition senators.

Senator FARRELL: Thank you, Deputy President. If I was smiling, as I am sure I was, it was because I was laughing at the comments of Senator Brandis and Senator Boswell, in particular the proposition that somehow the decision of Minister Burke in relation to this particular project is in any way casting doubt on the support that this government has given to the mining industry in this country. This is but one of very many mining projects that the federal government has supported in the past and has continued to support today, including, in my own state, the Olympic Dam project, which the government gave approval for and the only decision it is now waiting upon is a decision by BHP as to when they will proceed with that great project. In terms of jobs and development in this country, that is going to be one of many magnificent projects which this government has supported and will continue to support into the future. So I reject any suggestion that there is in any way a reflection on what this government is seeking to do in terms of the mining industry.

I would also like to pick up on some of the points that have been made in relation to the price on carbon. One of the suggestions that has been made in the last 24 hours is that the price that this government has set for carbon is going to be too high. The $23 price—

Senator Brandis: Mr Deputy Speaker, on a point of order: I am a little reluctant to interrupt Senator Farrell but perhaps he is

CHAMBER
under a misunderstanding. The motion is to take note of the answer of Senator Conroy to the question asked of him by Senator Boswell; it is not a motion to take note of other answers given to other questions today. Even applying the broad test of relevance, I think the bare-rumped sheathtail bat is something of a stretch too far for the European carbon price to be relevant.

The DEPUTY PRESIDENT: Senator Brandis, I listened very carefully and Senator Boswell did say that the motion was to take note of the answers of Senator Conroy and other ministers, so Senator Farrell is relevant. Senator Farrell, you have the call.

Senator FARRELL: Thank you for that clarification, Mr Deputy President. That is a point I would have made myself but I am still laughing at Senator Brandis's earlier comments about our attitude to that bauxite mine in Queensland. I think it is worth making a point about the decision of the federal government to impose a $23 tax on carbon and the suggestion that that is too high. I want to point out some of the figures that other countries, including countries that are part of the G20, have imposed in pricing carbon.

In the case of Britain, my understanding is that they will have a carbon price of between $24 and $30 per tonne. Obviously that is higher than we are proposing in Australia. In Scandinavia, Sweden is proposing a price of $130 per tonne. In Switzerland, also a modern industrial country, they are proposing a price of between $30 and $60 a tonne. Ireland of course, one of those countries that is not doing particularly well in the current economic environment, is proposing a figure of $24 a tonne and moving to $37 a tonne. So any suggestion, I think, that the figure that the Australian government has selected for the price on carbon of $23 is out of the ballpark, is quite incorrect. (Time expired)

Senator IAN MACDONALD (Queensland) (15:22): Anyone from Queensland who might be listening to this broadcast this afternoon will know that it is uncontested that the Wild Rivers legislation in Queensland who might be listening to this broadcast this afternoon will know that it is uncontested that the Wild Rivers legislation in Queensland eventuated in West End, a suburb of Brisbane, in a West End coffee shop over a cup of latte between officials of the Australian Labor Party and the Greens political party before the state election a couple of years ago. That is fact. That is uncontested by anyone. Even the Labor Party in Queensland accept that as fact.

As Senator Boswell said today in question time, this ridiculous decision on the Embley mine in Cape York, a mine that would provide jobs for hundreds of Queenslanders, many of them Indigenous Queenslanders, was stopped. It was inquired into by the federal minister, who is a Labor Party politician, the very day that the Greens political party in Queensland announced that it was giving preferences to the Australian Labor Party and the Greens political party before the state election a couple of years ago. That is fact. That is uncontested by anyone. Even the Labor Party in Queensland accept that as fact.

Fortuitously of course, many Greens supporters do not follow their how-to-vote cards. Many of the candidates—for example, two of the candidates in the state election in Queensland in the Townsville region for the Greens political party—will not be directing preferences to the Labor Party. They at least are principled when it comes to that. The Greens political party and the Labor Party in Queensland have done this deal and the price
for the deal was to stop the Embley mine in Queensland.

I just put this to the senators: if the Greens had their way, there would be no mining in Queensland. They have actually stopped forestry in Queensland. It used to be a very substantial job-creating industry in Queensland. They have practically stopped fishing in Queensland. With their support for the carbon tax, what little manufacturing industry there was in Queensland is now rapidly going overseas. With what they are doing with the sea freight and the cabotage on the seafront industries, they will close down the cement industry in Gladstone and encourage it to go overseas. You will be able to bring ships full of cement cheaper from Asia into Queensland and you will be able to send cement from Gladstone up to Townsville in Queensland. The Greens and the Labor Party support all of these actions. So in the end, what jobs will there ever be in Queensland in the future? Everything will be locked up.

You look back in history and you see that if a political party, like the Communist Party of old, wanted to create strife and foment in any particular country around the world, what did they do? They created a huge pool of the unemployed so that there was rioting and insurrection on the streets. Now perhaps it is taking a step too far to say that this is the goal of the Greens political party in Queensland, but one must wonder where people in Queensland are going to work. Where are they going to earn money? Where are they going to gain employment if every single aspect of operations in Queensland is shut down?

The Greens do not want dams in Queensland. Dams of course create wealth on irrigated farms, but the Greens do not want that either. And the Labor Party, because they are now controlled by the Greens political party, simply roll over and go along with them. Mr Deputy President Parry, truthfully I fear that should this Greens-Labor Party coalition in Canberra continue any longer, Australia will be in dire straits. We know already in Queensland that the Queensland government, despite having some of the greatest means of wealth and jobs creation in the Federation, is now struggling with a debt burden of over $90 billion. We have lost our triple-A credit rating, and this is because the Australian Labor Party, led by Anna Bligh, and the Greens political party in Queensland who support them with preference deals—as happened in exchange for the Embley mine project—continue to drive Queensland economy down and create unemployment. Senator Boswell's question today was right on the mark. (Time expired)

Question agreed to.

CONDOLENCES

Whitlam, Mrs Margaret Elaine, AO

Senator FAULKNER (New South Wales) (15:28): I move:

That the Senate expresses its deep regret at the death, on 17 March 2012, of Margaret Elaine Whitlam AO, wife of former Prime Minister, the Honourable Edward Gough Whitlam, AC, QC, places on record its appreciation of her long and meritorious public service, and tenders its profound sympathy to her family in their bereavement.

Mr President, I thank my colleagues for asking me to move this motion of condolence on their behalf. It is an honour to do so but an honour that I had hoped would never come my way. I knew Margaret well. I admired her very much and, despite her great age, it seems somehow impossible that she has not after all outlived us all to go on offering her wise and sometimes pointed advice to a new generation. Australia has lost one of its finest citizens. The Labor Party has
lost one of its greatest and certainly its most gracious champion. Those of us who knew Margaret have lost a dear friend and her husband, Gough, and children, Tony, Nick, Stephen and Catherine, have lost a fiercely loyal and devoted wife and mother.

Margaret Whitlam was one half of one of the most extraordinary and certainly the most enduring personal and political partnerships in Australian history. This April would have marked Gough and Margaret's 70th wedding anniversary. She was always by Gough's side; she was never in his shadow. Margaret accomplished an extraordinary balancing act as a private citizen in a very public role, and she did so with such good humour and graciousness that she earned an enduring place in the hearts of the nation.

Born just after the end of World War I in Bondi, New South Wales, Margaret Elaine Dovey was the daughter of Mary and Wilfred Robert 'Bill' Dovey, then a young returned serviceman and law student, later a New South Wales Supreme Court Judge. Both her parents encouraged and supported Margaret in every endeavour she undertook and she grew to be a woman who was always willing to have a go at any new experience. Later in life this would include writing a newspaper column, hosting a television show, acting as a tour guide and travelling alone across America by Greyhound bus, staying at the YMCA. As a young woman, she threw herself wholeheartedly into musical and theatrical performance and athletics. She was, she later said, a bit of a show-off.

It says a great deal about Margaret Whitlam's extraordinary life and exceptional contribution to Australia that representing her country as a champion athlete has become just a footnote to her subsequent achievements. The picture of the 18-year-old Margaret Dovey in her swimming costume and long braids sitting on the edge of the pool ready to swim for Australia in the 1938 Empire Games has become a familiar and iconic image. Less well known is the fact that for weeks before the Empire Games she had been suffering from a throat infection—this is in pre-penicillin days—a condition that simply had to be endured while it ran its course, and she competed against doctor's advice. Later, Margaret would say that nothing short of being strapped to a bed would have kept her from the starting blocks. Feeling so ill, she worried she would sink to the bottom of the pool mid-race. She finished last, but she turned up, she had not quit and she had given it her all.

Perhaps that is why she was so well loved throughout her life by those who knew her and then by so many Australians who had never met her but who felt they knew her from her writing and her speeches. She was unmistakably someone who exemplified the idea of having a go and, having set herself to have a go, was not about to have any truck with half-measures. What Margaret Whitlam did, she did with her whole heart, with courage, with enthusiasm, without complaint and without hesitation, from setting her cap at the most gorgeous thing she had seen in her life—the young Edward Gough Whitlam—to her work as a social worker with the Family Welfare Bureau as a young wartime bride, to postwar wife and mother, and then to political engagement.

It annoyed Margaret—and would continue to annoy her throughout her life—when people assumed her political views and commitment were a reflection of those of her husband. Her maternal grandfather, after all, had been a preselected Labor candidate and Margaret had cast her first vote for Jessie Street. She recounted later at her first official function as the wife of the newly minted member for Werriwa—the Coronation Dinner in 1953—a Liberal sitting opposite
her asked, 'God, Margaret, what's a nice girl like you doing in the Labor Party?' She retorted, 'I belong to the party that cares about people.' She said time and time again that her views were her own: 'I say what I think when I want. I am not a mouthpiece for my husband or for the ALP and it is very frustrating for me when people assume that I am.' No one who knew Margaret Whitlam could have any doubt that, had the times and expectations of women's lives been different, she herself would have risen to great heights in a career of her choice. Indeed, when Gough's high-stakes gambit of crash through or crash in seeking the leadership of the federal parliamentary Labor Party in 1966 looked like it might end in his expulsion from the Labor Party, his plan was to resign from parliament so that Margaret could seek preselection as Labor candidate for Werriwa. He said to me, beaming with obvious pride when recounting the story, 'She would have won, too.' Gough's victory at the federal executive meant we never saw Margaret Whitlam MP, but her commitment and contribution to the causes she believed in and the party she had chosen was no less for being pursued outside the parliament.

Perhaps only those of us in politics can really appreciate the impact that years of preselection bids, election campaigns, parliamentary sittings, endless branch meetings and fundraisers and electorate function after function can have on a family. Perhaps only those of us in politics can appreciate just what six years on the back bench or seven years in the shadow cabinet or 25 years in parliament really meant to Gough and Margaret, both the sacrifices and the rewards. Perhaps only those of us in the party can appreciate that in Labor, where reform should be a cause, not a career choice, a unified agenda is as essential around the kitchen table as it is on the conference floor.

As well as running the Whitlam household largely single-handedly during Gough's absences on parliamentary and later shadow ministerial and leadership duties—a burden many political spouses shoulder and one that all of us who hold elected office are aware of—Margaret was wholeheartedly involved in the local community. She took part in the endless slog of campaigning and, in Gough's words, looked after the branches—always making sure to take her knitting in case proceedings turned tedious. She took classes in public speaking and in committee procedure. She was a delegate to, then president of, the Werriwa Federal Electorate Council of the Australian Labor Party and a delegate to the Labor Women's Conference. As was the expectation then, she was always ready to host the booth workers and election campaigners in the Whitlam home on election night. It is little wonder that after the 1972 election, when Margaret found herself in the Lodge without children to chase or meals to cook or a paid job, she put up with sitting on her thumbs and doing nothing, as she called it, for a week and no longer.

As a young woman, Margaret had been tremendously impressed by Elsie Curtin's austerity hints in the newspapers. How refreshing, she thought, to have a Prime Minister's wife who speaks out. And speak out Margaret Whitlam did. As a young married couple in Sydney's southern suburbs, the Whitlams had embodied the difficulties and opportunities of making a life for a young family at a time when wartime rationing and postwar optimism coexisted. As a prime ministerial couple in the Lodge, they came again to stand for a particular moment in Australian history, a time of social change and cultural freedom. No less than her husband, Margaret Whitlam was a public representation of a fresh, new, modern Australia. She had clear views and no fear of expressing them—views which still, 40 years
later, are far from conservative. As Margaret said: 'It is absurd just because you are a politician's wife to sit around like a dummy saying nothing or echoing him. You might as well give up living.'

Speaking to the press soon after the 1972 election, she spoke frankly in favour of equal pay for women, the need for the decriminalisation of abortion, the legalisation of marijuana and her belief that marriage was not necessary unless the couple involved intended to have children. She described herself as a fellow traveller rather than an active feminist because, she said, she was too lazy to march, but she was throughout her time in the Lodge a consistent and strong advocate for women's rights. While she was careful to always point out that her views were her own and that she did not try and intrude on the policy-making of Australia's elected representatives, she did admit that from time to time she gave her husband a good thump if he got out of line. She said: That is the privilege of a wife of my vintage.

Keeping Gough in line was in fact a lifelong project for Margaret. Many of us have had the experience of having a speech by Gough Whitlam enhanced by the accompaniment of Margaret Whitlam's gentle heckling from the front row—in later years, augmented by the thump of her walking-stick on the floor if she felt he was going on for too long.

Very soon after Labor's election win in 1972, Margaret was offered a column in Woman's Day to write every week about her experiences as the Prime Minister's wife. Having rejected a job offer from Frank Packer on leaving school because he would not put her on the police rounds—'Our girls only do social rounds,' he told her—Margaret leapt at the chance to write for Woman's Day. It was her opportunity to share the extraordinary experiences of her life with people who would never have the chance to know of them firsthand. She wrote about the day-to-day realities of life in the Lodge and about the day-to-day absurdities of life in the political spotlight. When she travelled overseas with Gough, she took her readers with her through her columns—to China, to Tokyo, to Rome; even to dinner with the Queen in Windsor Castle. Some felt it was improper of the Prime Minister's wife to demystify not only her own life but the life of the Queen of England, but Margaret was unmoved by criticism. She responded: I came to represent all the ungainly people, the too-tall ones, the too-fat ones and the housebound as I'd been, who'd never go to China or Buckingham Palace and went through me.

In 1975, she was a member of the Advisory Committee for International Women's Year, a position she was at first reluctant to accept because she felt it had been offered only due to her position and because she worried that the other women involved would think that she was insufficiently militant. She soon became a respected and integral part of the committee, not as the Prime Minister's wife but as Margaret Whitlam, a woman of great good sense, great good humour and absolutely no pretension.

Margaret weathered the political storms of the Whitlam government with great equanimity, refusing to be swayed from what she thought was right. Nor was she meek in the face of media hostility. I must say, Margaret was never in her life meek in the face of anything, as the Australian press found out. When considering them to have misrepresented a comment she made on the subject of inflation, she used a public speech to declare that the press is 'an ass', 'vultures', 'praying mantises', 'uninvited guests' and 'intruders'.

Many of the tributes published over the past few days have mentioned Margaret's response to the dismissal, saying that, instead of accepting the note withdrawing his
commission, Gough, 'silly old man', 'should have torn it up'. Malcolm Fraser was lucky it was Mr, not Mrs, Whitlam meeting with the Governor General. John Kerr was luckier. The unreported rest of that sentence goes: 'and then slapped his'—that is, Kerr's—'face and told him to pull himself together.'

During that tumultuous election campaign, the two years of opposition that followed and then Whitlam's final election campaign in 1977, Margaret was an absolute tower of strength for Gough but also for many others in the ALP. Although she had as much, and more, reason to be as devastated by the events as anyone, feeling sorry for herself was never Margaret's style. Margaret's glass was never half empty; it was always half full, preferably with red wine!

After Gough's parliamentary career ended, for Margaret life as a truly private citizen, rather than in the unelected public role of a politician's wife, brought her more time to devote to her love of the arts in all its forms—music, drama, dance, painting and sculpture—and travel. She was a regular at concerts by the Sydney Symphony Orchestra and visiting orchestras such as the Berlin Philharmonic. She described hearing the Berlin Philharmonic as a 'transcendental experience'. She was an enthusiast for Opera Australia and had fine aesthetic judgment. She spoke often about the importance of exposing young people to high culture, which could ignite creativity in them. When Margaret lived in Paris during Gough's term as ambassador to UNESCO, she devoted much time to the Louvre and many other major museums and the Gothic cathedrals.

She was particularly excited by Italian Renaissance painting. For more than a decade Margaret was a director of ISP—International Study Programs. With Gough, she led 16 tours to Spain and Portugal, Greece and Turkey, South America, Russia, Italy, Germany, Indonesia and Britain. Both Gough and Margaret also visited scores of World Heritage sites and were strong advocates for their preservation. Among her many roles, Margaret served as a director of the Sydney Dance Company, as President of the Australian Capital Territory Council of Social Service, as chair of the Opera Conference and as UNESCO Goodwill Ambassador for International Literacy Year.

Gough and Margaret both possessed a wonderful sense of humour, albeit at times mysterious to those not in on the joke. Barry Jones reminds me that in 2004 Gough and Margaret attended a production in Sydney of August Strindberg's play The Dance of Death, starring Sir Ian McKellen as Edgar and Frances de la Tour as his tormented wife, Alice. Some weeks later, as Chairman of the Port Arthur Historic Site, Barry arranged for them to visit and to be driven around in the site's people mover. Gough sat in the front with the driver and Barry sat behind with Margaret. Without looking behind, Gough boomed, 'Is Alice on board?' 'I'm here, Edgar,' she responded in a voice of doom. Their shared political commitments and cultural interests—except for Margaret's love of The Bill—continued to provide a rich and full life for both.

Although their private jokes could be impenetrable to outsiders, their devotion to each other was evident to all. As the infirmities of age encroached, they would each compete to be of service to the other—'I'll do that.' 'No, let me get it.' 'No, let me do that for you.'—much to the exasperation of friends and family because, as one observed, 'Neither of them is hugely mobile!' Even as health troubles curtailed and then ended Margaret's travels she continued to give generously, unstintingly of her time, particularly to the Australian Labor Party. She was not just an inspiration but also a constant encouragement to generations of ALP members and supporters.
I remember her coming to a speech I gave last year. The venue required her to walk quite a long way, which was extremely arduous for her. When I thanked her for the effort she expended to get there she waved it away, saying simply, 'I wanted to be here.' When others might have become discouraged or disillusioned, or simply felt that they had given enough of themselves, their time and their energy, Margaret, like Gough, remained indefatigable, irrepressible and unflagging. She gave much and, as always, she never expected anything in return. Margaret was always appreciative and grateful for any kindness or courtesy she or, as she often referred to Gough, 'the old boy', received. I do not think she ever for a moment in her life felt that she was due anything, either for her position or for her efforts.

In 2007 the Australian Labor Party recognised her contribution with national life membership. It was the second national life membership ever issued. The first had been given mere seconds before to the man beside her; her companion through everything, Edward Gough Whitlam. It was as impossible then as it is unbearable now to imagine them apart.

While we are all in mourning for Margaret, for the passionate, irreverent, generous woman who touched the lives of everyone who knew her and of very many who did not, we know our sorrow is only a shadow of the grief felt by those closest to her. Our deepest sympathies go out to Gough, whom I spoke to just a few minutes ago, and to Margaret and Gough's children, Tony, Nick, Stephen and Catherine. Nothing we can say here will ease the burden of their loss, but I hope they can find some comfort in knowing how deeply loved and widely admired Margaret was. She was quite simply a wonderful human being and a great, great Australian.

**Honourable senators:** Hear, hear!

**Senator PAYNE** (New South Wales) (15:58): I rise on behalf of the coalition to support the motion moved by Senator Faulkner and to offer my own and the coalition's condolences to the entire Whitlam firmly, and to the many friends of Margaret Whitlam, following the death of Margaret Whitlam AO last weekend. I acknowledge the eloquence and heartfelt words of Senator Faulkner in the stories and recollections that he gave to the chamber today. I think the intimacy that was revealed in Senator Faulkner's words, and the importance that we all know Margaret Whitlam had not only in Senator Faulkner's life but also in the lives of many of those opposite, is very much felt by us here this afternoon. I sincerely acknowledge those remarks.

She was a woman passionate in her pursuit of social causes and in her advocacy for those less fortunate, for those interested in education and for those with an engagement in the arts. I saw Margaret Whitlam over the decades as a prominent Australian woman. In making these observations this afternoon on behalf of the coalition I acknowledge her first in that capacity and then in her capacity as the wife of our Prime Minister and the many travels that they took and the things that they saw, were, as I understand it, devoured by her devoted readers.
She was a passionate advocate of the rights of all women and of Australian women in particular. I know, as Senator Faulkner acknowledged, her service on the International Women's Year advisory committee marked a very important step in her participation in those particular matters at a more public level in Australian society. As an active member of the Labor Women's Conference, I am sure that she became a mentor to many of those engaged in the Australian Labor Party. I suspect that I do not even need to ask, because I would not be able to count them if I tried.

Her accompanying of the Prime Minister on his extensive travels—those first trips to places that she had not visited before, like China and Japan, India and North America and Europe—were the stuff of folklore, through her writing of them in her column on many occasions. Her hosting of official events at the Lodge was highly admired by those who attended.

I think Senator Faulkner did not acknowledge her participation as a panellist in the then popular television program Beauty and the Beast for some years leading up to the 1972 election, when her husband became Prime Minister. Beauty and the Beast saw, I suspect, more than its fair share of political participants of one colour or another, but that was another of her many firsts.

As I said, the insights that she gave to readers really opened up the character of the leading family of Australia over many years. It was her pursuit of social causes and it was her advocacy of education and the arts which very much marked her participation in those areas of the Australian community. It was not until I actually began to read the list this morning that I realised quite how prolific that contribution had been—and not from someone who had nothing else to do, by the way. The Sydney Dance Company; the Sydney Teachers College; the Sydney College of Advanced Education; the Law Foundation of New South Wales, as Senator Faulkner acknowledged; the ACT Council of Social Service; the National Opera Conference; Opera Australia itself; Musica Viva; the International Women's Year; the International Literacy Year; the College of Seniors; the Microsurgery Research Council; and, finally, the Australia-Ireland Council—all of those organisations and many unnamed benefited from her contribution. Unsurprisingly, in 1983 Margaret Whitlam received the Order of Australia for her tireless work in the community.

As Senator Faulkner has also mentioned, I—and I am sure many others in the chamber and other Australians—will never forget those evocative photographs of her in her Empire Games swimming costume, ready to compete for Australia. The pictures at Bondi in particular say so much about women in Australian sport, as well as all of her other contributions.

I know that she engaged with the community in Western Sydney, most particularly through the federal seat of Werriwa, in a way that probably had not been done before and will remain most firmly held in the minds of many of those who met her over those years.

All of the obituaries written in the last few days, all of the contributions in the Australian media, note her sense of humour. I suspect that you cannot live with Gough Whitlam for 70 years without having a fairly well developed sense of humour. I make that observation as a distant observer, but I suspect it stood her in very good stead. In the way of Sydney events, now and then once I entered the political sphere I would see her and Mr Whitlam at a number of events. It is not often I am the short girl in the room, but
on those occasions beside Mrs Whitlam I most often was.

Some years ago for some time I participated actively in the Australian Republican Movement—much to the concern of many on this side of the chamber, I know, but they seem on most days to have gotten over it. I remember vividly—and I cannot recall whether or not Senator Faulkner was there—a group photograph being taken of the Australian Republican Movement on the steps of the Opera House. It must have been more than 10 years ago now. Both Margaret and Mr Whitlam were in attendance to commemorate with this photograph. It may have even been for the year 2000. We were all to be in serried ranks up the stairs of the Australian Opera House. Given that it was only about 10 or so years ago, age was already having its impact on their capacity to stand for a long time, particularly to stand on those extremely narrow Opera House stairs. So Mrs Whitlam turned around to see who she could find and she said: 'Senator, you're tall. You'll do. Come here.' So, under instruction, I moved up the few rows of stairs and stood between them as an anchor so that they did not fall down the stairs. Heaven only knows what would have happened if one of them had tilted just slightly one way or the other. But it is a very pleasant memory for me, and I always was glad that she was able to put aside political proclivities to allow me to be their anchor on that particular day.

To Mr Whitlam, to their children, Tony, Nick, Stephen and Catherine, on behalf of the coalition we extend our deepest condolences. It is an honour for me this afternoon to have the opportunity to acknowledge the life of Mrs Margaret Whitlam, AO on behalf of the coalition.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (16:06): I also wish to endorse the condolences of this whole chamber to Gough Whitlam, his four children and the extended family and friends of Margaret Whitlam from the Senate. I did but meet Margaret Whitlam a couple of times in my life, and they were both pleasant. I recognised a formidable, intelligent but engaging character. My experience was the same as that of Senator Payne’s: she was very friendly and a person who was able to engage without the restriction of a political label, as you sometimes run into. Following on from Senator Faulkner’s very fitting eulogy to this woman, Margaret Whitlam, who he has aptly described as a great Australian, and the comments about the time Gough was the representative on UNESCO for the Australian people and consequently the work done by Margaret Elaine Whitlam and Gough Whitlam for World Heritage sites, it needs to be acknowledged to you that in the wake of the destruction of Lake Pedder it was Gough Whitlam’s government which saw to it that Australia was an early signatory to the World Heritage Convention—which has since led to the proclamation of such wonderful attributes in this country as the Great Barrier Reef, Kakadu, Ningaloo, the Opera House and, in Tasmania, the very salient Franklin River and the south-west wilderness area. I can only but acknowledge the role of both the Whitlams in the saving of this very special place on the face of the planet, as far as we Tasmanian environmentalists are concerned.

I cannot do anything that would add to that wonderful eulogy from Senator Faulkner. Near the end he described Margaret Whitlam as a passionate, irreverent and generous Australian. I think that sums her up. I might add to that the words of Germaine Greer, whose writing—not least, The Female Eunuch—influenced Margaret Whitlam and through her the Whitlam
government. This is one of the great modernising governments in Australian history. Germaine Greer described Margaret Whitlam as: 'an oasis of light, peace and common sense.' That indeed she was. A great Australian. Our condolences to Gough and the Whitlam family. Australia has lost a sterling citizen.

The PRESIDENT: I ask that honourable senators present stand in silence as a mark of respect to the deceased.

Honourable senators having stood in their places—

The PRESIDENT: I thank honourable senators.

PETITIONS

The Clerk: Petitions have been lodged for presentation as follows:

Global Greens

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

The petition of the undersigned Australian people shows and acknowledges:

That the Australian Greens are under the allegiance of the Global Greens and recognize them as a foreign power.

The Prime Minister's pre-election condition "there would be no Carbon Tax under the Government I lead" begot her many votes though unfairly gained, due to her back flip, thereby permitting the 'Carbon Tax legislation' by default.

That the Australian Greens allegiance, obedience or adherence to that of a foreign power, the Global Greens, has permitted such a foreign power be it by accident or that of design, to unconstitutionally hijack our Parliament, our Constitution and to a degree the Sovereignty of our nation due to their allegiances established through contracts and agreements between the aforementioned parties.

We the undersigned do respectfully ask the Senate to acknowledge and bear witness to this petition and to debate the above in light of "The Australian Constitution Part IV Section 44 & 45" and in consideration of such refuse the Carbon Tax, clean energy legislation.

by Senator Nash (from 25 citizens).

Petitions received.

NOTICES

Presentation

Senator Bushby to move:

That the following bill be introduced: A Bill for an Act to provide for equity in relation to the provision of certain dental services, and for related purposes. Health Insurance (Dental Services) Bill 2012.

Senator Bilyk to move:

That the Joint Select Committee on Cyber Safety be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 9 May 2012, from 4.15 pm.

Senator Furner to move:

That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Thursday, 22 March 2012, from 10.30 am, to take evidence for the committee's inquiry into Australia's trade and investment relationship with Japan and the Republic of Korea.

Senator Singh to move:

That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 9 May 2012, from 10.30 am.

Senators Pratt and Rhiannon to move:

That the Senate—

(a) recognises that 24 March 2012 is World Tuberculosis Day, in observance of a preventable and treatable disease that still claims the lives of up to 1.5 million people every year, mostly in developing countries and that:

(i) one third of the world's population is currently infected with tubercle bacillus,

(ii) the World Health Organization (WHO) estimates that the largest number of new tuberculosis cases in 2008 occurred in the southeast Asian region, accounting for 35 per cent of incident cases globally, and
(iii) the number of new cases of tuberculosis each year is still increasing in Africa, the Eastern Mediterranean and southeast Asia;

(b) acknowledges that tuberculosis is responsible for 1 in 4 AIDS-related deaths, making it the leading killer of people living with HIV and that:

(i) less than 7 per cent of people living with HIV are screened for tuberculosis,

(ii) people living with both HIV and tuberculosis infection are much more likely to develop tuberculosis, and

(iii) WHO estimates that by scaling up services and providing integrated HIV and tuberculosis care, it is possible to save the lives of up to 1 million people living with HIV by 2015,

(c) notes that:

(i) more than two-thirds of international financing for tuberculosis services is currently provided by the Global Fund to Fight AIDS, Tuberculosis and Malaria,

(ii) the Global Fund is a key international body providing critical basic services to support many developing countries in the fight against tuberculosis,

(iii) Australia is a strong supporter of the Global Fund; and

(d) encourages Australia to continue to work bilaterally and with other international donors to address tuberculosis, including through the Global Fund.

Senator Milne to move:

That the Senate—

(a) notes—

(i) that there is uncertainty about the level of leakage, flaring and venting of methane during coal seam gas prospecting, extraction, transport and processing, and

(ii) an accurate measurement of these 'fugitive' emissions is necessary to assess the claims of the coal seam gas industry that electricity production fuelled by coal seam gas is substantially less emission intensive than electricity production fuelled by coal; and

(b) orders that there be laid on the table, by 22 March 2012, the study by George Wilkenfeld and Associates Pty Ltd titled *Updated scope 3 emissions factors for natural gas consumed in Australia, based on NGERS data*, redacting where necessary any aspects of the study that are commercially sensitive.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (16:11): At the request of the chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Sterle, I move:

That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a private meeting otherwise that in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 20 March 2012 from 1 pm.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

General business notice of motion no. 438 standing in the name of Senator Siewert for 20 March 2012, relating to the North West Slope Trawl Fishery, postponed till 9 May 2012.

General business notice of motion no. 442 standing in the name of Senator Siewert for 20 March 2012, proposing the introduction of the Fisheries Management Amendment (North West Slope Fishery Partial Closure) Bill 2011, postponed till 9 May 2012.

General business notice of motion no. 706 standing in the name of Senator Fierravanti-Wells for today, proposing an order for the production of documents by the Leader of the Government in the Senate, postponed till 20 March 2012.
COMMITTEES
Gambling Reform Committee
Meeting
Senator McEWEN (South Australia—Government Whip in the Senate) (16:12): At the request of Senator Crossin, I move:
That the Joint Select Committee on Gambling Reform be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 20 March 2012, from 4 pm, followed by an in camera hearing.
Question agreed to.

Foreign Affairs, Defence and Trade Legislation Committee
Meeting
Senator McEWEN (South Australia—Government Whip in the Senate) (16:12): At the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Stephens, I move:
That the Foreign Affairs, Defence and Trade Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 21 March 2012, from 5.30 pm, to take evidence for the committee’s inquiry into the provisions of the Defence Trade Controls Bill 2011.
Question agreed to.

Community Affairs References Committee
Report
Senator SIEWERT (Western Australia—Australian Greens Whip) (16:12): I move:
That the time for the presentation of the report of the Community Affairs References Committee on health services and medical professionals in rural areas be extended to 27 June 2012.
Question agreed to.

DOCUMENTS
Serco Training Manuals
Order for the Production of Documents
Senator HANSON-YOUNG (South Australia) (16:13): I move:
That there be laid on the table, no later than 22 March 2012, by the Minister representing the Minister for Immigration and Citizenship (Senator Lundy), the following documents:
(a) Serco Induction Training Course Student Manual 2011;
(b) Serco Induction Training Course Teaching Materials 2011;
(c) Serco Staff Refresher Training Manual 2011;
(d) Serco Induction Training Course Student Manual 2012;
(e) Serco Induction Training Course Teaching Materials 2012; and
(f) Serco Staff Refresher Training Manual 2012.

The DEPUTY PRESIDENT: The question is that notice of motion No. 708, standing in the name of Senator Hanson-Young, be agreed to.
The Senate divided. [16:18]
(The Deputy President—Senator Parry)
Ayes .....................10
Noes .....................33
Majority ..................23

AYES
Brown, RJ
Hanson-Young, SC
Madigan, JJ
Rhiannon, L
Waters, LJ

NOES
Bernardi, C
Birmingham, SJ
Brown, CL
Cash, MC
Collins, JMA
Crossin, P

Bilyk, CL
Bishop, TM
Bushby, DC (teller)
Colbeck, R
Cormann, M
Edwards, S
Motions

Mackell, Mr Austin

Senator RHIANNON (New South Wales) (16:20): I seek leave to amend general business notice of motion No. 709 standing in my name for today in the terms circulated in the chamber.

Leave granted.

Senator RHIANNON: I move the motion as amended:

That the Senate—

(a) notes that:

(i) Australian journalist, Austin Mackell, his translator Ailya Alwi, post-graduate student Derek Ludovici and taxi driver Zakaria Ahmad were arrested in Mahalla al-Kubra, Egypt, on 11 February 2012, where he was due to interview labour organiser Kamal Elfayoumi,

(ii) while Mr Mackell has been released he is still under investigation for allegedly instigating vandalism, causing unrest and providing funds to demonstrators,

(iii) the Australian Embassy in Cairo is pressing Egyptian authorities to ascertain the legal status of Mr Mackell, including travel limitations while the investigation continues, and

(iv) a free and independent media will play a critical role in the development of a democratic Egypt; and

(b) calls on the Minister for Foreign Affairs, Senator Bob Carr, to urge the Egyptian authorities to diligently pursue their investigations in a timely manner and to ensure that fair and due process is accorded Mr Mackell in any legal proceedings, should charges be laid, and that all travel restrictions are lifted.

Question agreed to.


The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator RHIANNON: Austin Mackell is a young Australian freelance journalist who moved to Egypt in February last year. His writings have been featured in respected media outlets across the world, including the Guardian, Al-Akhbar, Crikey and newmatilda.

On 11 February, when Mr Mackell sought to interview Kamal el-Fayoumi, a well-known trade unionist and labour activist, he and his party were attacked by a small group. Mr Mackell and his colleagues were instructed by a police officer to come to a police station for their own protection. Over the next 56 hours they were held in custody. They were all repeatedly interrogated. During this time they were allowed minimal communication with the outside world. Some Egyptian activists—such as Shahira Abouelleil, Kareem el-Behairy and Omar Kamel—followed the detainees, tweeted their location to the outside world and brought in lawyers to help them. The four detainees are being investigated for crimes involving inciting people to vandalise public property and government buildings. Specifically it is alleged that they promised children money if they threw rocks.

The crimes for which Mr Mackell is being investigated are similar in kind to charges against others who have reported about human and civil rights abuses. Since their release they have faced various threats and
harassment. Mr Mackell is concerned that personal information that has been taken from his computer will be copied, possibly compromising his work as a journalist and placing his sources at risk. Mr Mackell has reported suppression of protesters by the Supreme Council of the Armed Forces, which currently rules Egypt. Mr Mackell is an Australian citizen who urgently needs our help.

COMMITTEES

Education, Employment and Workplace Relations Legislation Committee

Reference

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (16:23): At the request of Senator Abetz, I move:


The Senate divided. [16:28]

(A The President—Senator Hogg)

Ayes........................................31
Noes........................................38
Majority.........................7

AYES

Abetz, E
Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Fisher, M
Humphries, G
Joyce, B
Macdonald, ID
McKenzie, B
Parry, S
Ronaldson, M
Scullion, NG

Back, CJ
Birmingham, SJ
Boyce, SK
Bushby, DC (teller)
Colbeck, R
Edwards, S
Fawcett, DJ
Heffernan, W
Johnston, D
Kroger, H
Mason, B
Nash, F
Payne, MA
Ryan, SM
Sinodinos, A

AYES

Bishop, TM
Brown, RJ
Carr, KJ
Collins, JMA
Crossin, P
Farrell, D
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Urquhart, AE
Wong, P

NOES

Browm, TM
Cameron, DN
Carr, RJ
Conroy, SM
Di Natale, R
Faulkner, J
Gallacher, AM
Hogg, JJ
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ
Wright, PL

PAIRS

Adams, J
Bilyk, CL
Fierravanti-Wells, C
Evans, C
Fifield, MP
Feeney, D

Question negatived.

MOTIONS

Western Australia Export Fishing Licences

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:31): I move:

That the Senate—

(a) notes that:

(i) there are less than 12,500 Australian sea lions left in Australian waters and that the 2,000 left in Western Australian waters are extremely vulnerable,

(ii) one of the greatest threats to the survival of Australian sea lions is gillnets,

(iii) the Western Australian Department of Fisheries has failed to meet the government's conditions to put an observer program in place on
boats within its gillnet fisheries to establish how many sea lions and dolphins are killed each year,

(iv) without observers, the number of Australian sea lions and dolphins dying in gillnets is likely to be grossly under reported, given that the example from the South Australian shark gillnet fishery demonstrated that few deaths were reported until observer-based studies identified up to 374 sea lions and 56 dolphins were dying every 18 months,

(v) the South Australian shark gillnet fishery now has compulsory video or observer coverage on every vessel, as well as new rules to protect Australian sea lions, and

(vi) the Western Australian Department of Fisheries is currently re-applying to the Department of Sustainability, Environment, Water, Population and Communities for export approval for Western Australia's Temperate Demersal Gillnet and Demersal Longline Fisheries;

(b) is concerned that, before any re-approval of export licensing, the Western Australian Department of Fisheries should identify its impact on sea lions and safeguard vulnerable and protected marine life from the fishery's impacts; and

(c) calls on the government to refuse the grant of the export licence for this fishery until an observer program is put in place and designated buffer zones are created around sea lion breeding colonies.

The PRESIDENT: The question is that the motion be agreed to.

The Senate divided. [16:32]

(The President—Senator Hogg)

Ayes..................9
Noes..................42
Majority ..............33

AYES

Abetz, E
Bernardi, C
Birmingham, SJ
Brown, CL
Carr, KJ
Cash, MC
Collins, JMA
Crossin, P
Faulkner, J
Fisher, M
Gallacher, AM
Humphries, G
Lundy, KA
Marshall, GM
McKenzie, B
Moore, CM
Parry, S
Pratt, LC
Sherry, NJ
Stephens, U
Thistlethwaite, M

NOES

Back, CJ
Bilyk, CL
Bishop, TM
Bushby, DC
Carr, RJ
Colbeck, R
Cormann, M
Edwards, S
Fawcett, DJ
Furner, ML
Hogg, JJ
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
McLucas, J
Nash, F
Payne, MA
Ryan, SM
Singh, LM
Sterle, G
Urquhart, AE

Question negatived.

MINISTERIAL STATEMENTS

Death in the Workplace

International Women's Day

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (16:35): I table two ministerial statements relating to:

• Death in the workplace; and

• International Women's Day 2012.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:36): —by leave, I move:

That the Senate take note of the document relating to death in the workplace.

Workplace safety is an issue that unites us in this place, as it ought. With all human activity, be it a day-to-day tasks of travelling, on recreational pursuits and in our daily work, we face issues of risk and issues of safety.
One of the underpinnings of our Judeo-Christian society is the ethic and the belief that every human life is valuable and that we owe a duty of care to each other. So we have laws to help protect us from ourselves and each other. Workplace safety is built on the same ethic and principles. Employers need to be careful. Workers need to be careful. We all need to be careful to minimise harm. That is something that I am sure all of us can agree upon.

Regrettably, in recent times the issue of workplace safety has become a political football in relation to certain matters and, without reflecting on a vote of the Senate that has just occurred, the very issue of the so-called safe rates bill being referred to a Senate committee for detailed consideration and to see whether payment of higher rates might result in safer roads is not to be explored. Certain senators, especially in the Green-Labor alliance, have made up their minds that the same things should be steamrolled through without proper analysis.

These days, regrettably, we are getting a number of issues dressed up as safety issues when they are in fact a demand for extra power for a trade union where it is a manipulation of the genuine community concern about workplace safety for the purposes of gaining industrial power by other people, especially trade union bosses. We will be seeing that again in relation to the textile, clothing and footwear legislation and we saw it with the harmonised occupational health and safety legislation, which saw preference given to certain courses on workplace safety on the basis that it was skewed in favour of those that actually provided the education as opposed to the outcomes. So we had courses which had been recognised by the Commonwealth Public Service and Commonwealth agencies as providing excellent outcomes being struck out and not able to continue because they did not fit a certain paradigm—a paradigm which was specifically designed and manipulated to ensure the trade union funded courses would be the favoured approach.

Regrettably, the list goes on. We have had criticism of the Australian Building and Construction Commission because it did not place enough emphasis on the issue of safety. What people forget is that at the time of introducing the Australian Building and Construction Commission we also established the Office of the Safety Commissioner, whose responsibility was the pursuit of safety in relation to building and construction sites.

What we have seen time and time again is the emotional issue of workplace safety, and of course it is an emotional issue and of course we should be doing everything to protect workers from avoidable injury and avoidable deaths. We should be doing everything we can but we are now witnessing an exploitation of that genuine motivation, of that genuine concern, to try to build trade union empires for certain union bosses.

I know that in this space in the chamber my colleague Senator Cash would like to comment on the other ministerial statement. I will not delay the Senate for too long in relation to this matter other than to make the point that workplace safety is a vital issue and to acknowledge that in the past trade unions have played an important role in appropriately advocating for the safety of their members in workplaces, and a lot of legislation that is in place today is as a result of the good work of members of trade unions.

We are now starting to traverse into areas where the issue of safety is being used to leverage other industrial outcomes, and I would repeat the safe rates assertion—which is not backed up by evidence—that
somehow, if you pay truck drivers more, they will all of a sudden become safer. In fact in relation to deaths on the roads with truck drivers, the situation is that overwhelmingly the majority—and I forget the exact statistic—of deaths that involve trucks are not as a result of the truck driver or the truck but of the other vehicle involved. It is good to highlight to the community the number of deaths on our roads that involve trucks—that is fair enough—but we also need to deal with the statistics in an honest and proper manner and ascertain where the fault lies. If we are concerned about the carnage on our roads involving trucks and we look at the statistics, we inform and advise ourselves that the difficulty is not so much with the truck drivers and the trucks but usually it is the other vehicle and the other driver that is in fact at fault. The coalition welcomes discussion on workplace safety. The coalition does have a very proud record in pursuing workplace safety. But we as a coalition are also cognisant of the fact that there has been some manipulation of this emotional and very serious issue for the purposes of enhancing the power of certain trade union bosses. And we as a coalition believe that we need to have a sensible balance in all these debates.

Senator MARSHALL (Victoria) (16:44): I too rise to take note of the ministerial statement on workplace safety but primarily to respond to some of the comments that Senator Abetz has just made. I acknowledge that from his point of view he was very generous in acknowledging the fantastic work that trade unions have done over many decades to improve the health and safety of their members. That is one of the fundamental things that underpins trade unionism. Most of those benefits have only been achieved through the active involvement of workers, acting collectively through their trade unions to make those significant gains. Those gains ought to be held onto and they ought to be treated with enormous respect, because it is absolutely essential that every worker in this country has the opportunity to go home from work every day. They have a right to go home from work every day, not to be injured or killed at work.

Senator Abetz raises the issue because he sees a 'Red' under every bed or a trade union boss, as he calls them, lurking around every corner. He talked about occupational health and safety training and a particular case which he has raised at estimates time and time again as if it is some conspiracy of the trade union movement. I want to just set the record straight here. The Occupational Health and Safety Commission have determined that the appropriate delivery mode for occupational health and safety training is face-to-face training. That is a decision they came to. Even though people may have delivered it by other means in the past, it has been determined not by the trade unions and not by the government but by the Occupational Health and Safety Commission that face-to-face training, where people can engage with the trainer and workshop a whole range of issues, is the most appropriate and effective way to deliver occupational health and safety training. That is a decision that they have come to. Senator Abetz disagrees with that, and that is fine. He is allowed to disagree with that, and he disagrees with it regularly in the estimates process. But he should not dress that up as a conspiracy theory or say that trade unions hiding around every corner are responsible for somehow grabbing power as a result of decisions that were made, quite rightly in my view, by the Occupational Health and Safety Commission.

The other thing that Senator Abetz alluded to was using health and safety for actual industrial benefit. Again, I reject that and I
know the government rejects it too. He talked about pending safe rates legislation. Let me read into Hansard the foreword to the committee report. The committee chair, the member for Hinkler Paul Neville, who last time I looked does not sit on the government side in the other chamber, said this:

Some times these vehicles are driven and maintained by people who have worked long hours, often through the night, and have had inadequate rest breaks. The longer they have worked, the more they have worked at night and the less they have rested, the greater the risk of fatigue. The more fatigue, the greater the risk of an accident occurring.

In the absence of measures to mitigate this risk, a lethal continuum is created. We frequently hear of accidents and incidents on roads, on railways, at sea and in the air where human fatigue is cited as a contributing factor.

The consequences of such accidents can be catastrophic and enduring. Individuals and families can be traumatised, communities scarred, environments damaged and businesses destroyed.

He has also said that there had been:

... a series of inquiries going back 10 or 11 years now, one of which I chaired, where we felt that the limits had already at that time being pushed to the point where drivers were not receiving fair reward ... Just to say that you do not think there has been any evidence and that there has been a small decrease in the number of heavy vehicle road fatalities—I do not think that establishes anything.

Mr Neville is exactly right. When drivers are not rested properly they are on the roads driving huge vehicles that weigh massive amounts, that cannot brake on a sixpence and that do not manoeuvre well. They are driving things that can kill people and themselves.

We want people on the roads who are rested properly, who have the proper rest breaks and who are not forced into a position where they have to cut corners to make ends meet. Those issues then go to the way people are rewarded. To say that that undermines the ability of people with the motivation to make our roads safe is a misrepresentation of what the legislation is about. I know we are not debating that legislation here but I thought Senator Abetz's comments should not go unchallenged.

These things have at their core the health and safety of the workforce. So I will conclude with the point I made earlier: every worker in this country has an absolute right to go home from work. They have an absolute right to go home safely. They have an absolute right to go home healthy. They have an absolute right to be able to go home, to be alive and not to be killed at work.

Question agreed to.

International Women's Day

Senator CASH (Western Australia) (16:51): by leave—I move:

That the Senate take note of the document.

I am pleased to respond to the ministerial statement made by the Minister for the Status of Women reflecting on some of the themes and actions around International Women's Day 2012. International Women's Day is an opportunity for us to reflect on the amazing achievements that have been made for women and by women. Whilst we have much to celebrate in Australia in terms of female empowerment, there is still a way to go and much of that is attitudinal and cultural change. In Australia, women are still fighting to close the gender pay gap which, despite the government's continued rhetoric that it is taking steps to address this, is currently at a 30-year high. Women retire with 40 per cent less superannuation than men; one in three will still experience domestic violence; and one in five, sexual violence. Australian debates in relation to female empowerment have centred, quite rightly, around issues including the number of women on corporate boards, statutory paid
parental leave and costly child care. Whilst none of these issues are trivial, the circumstances and the battles for women in the developing world including our Pacific neighbours are far greater and far graver and the choices those women must make far different from those made by us here in Australia.

While Australian women were granted the right to vote in 1902, Kuwaiti women were fighting for this right up until 2005. Up to 100,000,000 women are missing in the world at any time. In India, a bride is burned approximately once every two hours. In the United Arab Emirates, husbands have a state-sanctioned right to beat their wives in order to discipline them provided that the beating is not so severe as to damage her bones or deform her body. In Afghanistan women cannot walk alone on the streets without being harassed and, in January this year, 15-year-old Afghani child-bride Saha Gul, was in a critical condition after being rescued by police from her husband and his family who had mutilated and tortured her after she refused prostitution to earn extra income.

Closer to home, UN women reported last year that countries in the Asia-Pacific region record some of the most horrendous statistics of violence against women in the world. For example, in Papua New Guinea, 44 per cent of women have experienced sexual violence in relationships, 55 per cent of women had been forced into sex against their will, and 58 per cent of women have experienced physical and emotional abuse in relationships.

The coalition holds the view that as people living in a free and democratic society, we have a fundamental obligation to speak out and protect the human rights of women both here in Australia and overseas. I am proud to say that the coalition has a strong record when it comes to female empowerment. When the coalition gains government at the next election, we will introduce a comprehensive paid parental leave scheme. The coalition scheme will provide real time and real money to working women offering eligible women 26 weeks at their replacement wage of up to $75,000 per annum.

The coalition celebrates successful women and their economic empowerment and recognises that paid parental leave is a work entitlement rather than a welfare benefit. Employees are entitled to sick, carers, annual, bereavement and public holiday leave at their actual salary amount, and paid parental leave should be no different. Australia is the only country with a Paid Parental Leave scheme entirely based on a minimum wage. According to the Productivity Commission's report on paid parental leave, there are at least 37 nations around the world that introduced a paid parental leave scheme prior to the launch of Labor's minimum wage scheme, and of those schemes, 35 were based on full- or part-replacement wage.

The coalition's Paid Parental Leave scheme reflects world's best practice and ensures that Australia does not have a competitive disadvantage. Unlike the Labor government scheme, the coalition PPL scheme includes superannuation, which is an important step in addressing the chronic disparity between male and female retirement incomes. Labor's failure to include superannuation in their PPL scheme is a sign that they are disingenuous when it comes to addressing the chronic disparity between male and female retirement incomes and will further entrench the financial disadvantage of women who choose to have children. If the government were truly committed to pursuing gender equality, they would match the coalition's commitment to
mandatory superannuation contributions as a component of their Paid Parental Leave scheme. With the average life expectancy of women being higher than men, it is important that women are not penalised with lower retirement savings for having children.

Under the Howard government, the coalition recognised that when you live in a globalised community, introducing policies at a local and national level that empower women is only the beginning. As a developed country, we have an obligation to take steps to advance gender equality and, in turn, empower women in the developing world, and the 2006 Australian government white paper on overseas aid recognised this. The achievements of the Howard government and the policies of a future Abbott government are testament to the commitment of the Liberal Party more broadly when it comes to recognising, protecting and enhancing the position of, and opportunities for, Australian women.

I am proud to be part of a political party that understands that women in developing countries especially need strong leaders to agitate for the economic empowerment of women. That is why the opposition announced on International Women's Day that a future coalition government will provide a guaranteed minimum of 1,000 places for women at risk and their dependants within Australia's annual humanitarian intake. We will ensure that Australia's refugee and humanitarian resettlement program provides places to those we can help most and to those who are in most need. Women at risk and their dependants waiting in camps and in other desperate places offshore are among the most vulnerable of all who seek a better life in Australia. They have neither the means nor the opportunity to escape their circumstances. This group will be given a very high priority by a future coalition government in Australia's refugee and humanitarian Settlement Services Program.

In closing, may I strongly support the words of Ms. Michelle Bachelet, Executive Director of UN Women, when she stated: Unleashing women's economic potential will make economic growth and recovery faster and more equitable. Economic empowerment makes other rights possible for women.

Question agreed to.

DOCUMENTS

Special Broadcasting Service

Tabling

The ACTING DEPUTY PRESIDENT (Senator Furner) (16:58): I present a response to a Senate resolution from the Minister for Broadband, Communications and the Digital Economy, Senator Conroy, to a resolution of the Senate of 23 November 2011 concerning the Special Broadcasting Service.

Senator LUeDLAM (Western Australia) (16:58): I seek leave to take note of the answer from Senator Conroy concerning the Special Broadcasting Service.

Leave granted.

Senator LUeDLAM: I move:

That the Senate take note of the document.

I will be very brief. This is a response to a motion that I put up, which I am pleased to say was passed unanimously by all in the Senate last November, relating to SBS. It happened, Senator Marshall, because SBS is a much-loved institution, and I think there is cross-party support—and I will not say bipartisan support, because there are many more than two parties present in this parliament—for the role of SBS. The SBS has a proud history as Australia's second national broadcaster.

The resolution noted that in Australia there are twice as many people speaking
languages other than English than there were 30 years ago when the broadcaster was formed. The motion called on the government to consider whether the resources allocated to SBS are sufficient to allow it to fulfil its mandate and take full advantage of the education, employment and creative opportunities provided by digital multichannelling and the National Broadband Network.

I was pleased to get a motion up that goes directly to the government's budget considerations in the run-up to this budget with an acknowledgement that perhaps it is time that SBS gets a look-in. Regrettably—and I think it would be a surprise to most Australians—we are starving the broadcaster to death. The decision many years ago to allow SBS to broadcast commercials was criticised at the time. It has degraded viewer experience and now it is coming back to bite the station. Due to the advent of digital commercial multichannels, stations are bidding up the price of content and bidding down the cost of advertising. So the station is really suffering. Its forecast advertising revenue growth has stagnated and is predicted to decline quite steeply as competition with a much larger range of large commercial broadcasters starts to bite.

Ironically enough, the arrival of the commercial multichannels was smoothed with surprisingly generous public subsidy to the tune of a quarter of a billion dollars in waived licence fees for two years. The Greens believe—and we were very pleased to have the support of the chamber—that it is essential in the next funding triennium to reverse the tide of commercialisation before declining advertising revenues and rising viewer discontent force a crisis on the broadcaster. I may be verballing us collectively in the chamber because the motion did not go directly to those words, but the sentiment was that SBS has earned and deserves our support as the nation's second public broadcaster. There is nothing like it anywhere in the world. I was really pleased to be at an event last week where producers and creative people from SBS were brought together to sing the praises of the broadcaster and pitch to us the importance of its remaining on air.

In addition, to thrive in an increasingly crowded and converging media market, SBS requires an injection of funds and above and beyond that sufficient to end in-program advertising. It is time we really gave this station the resources that it deserves to help phase out the influence of commercial advertising, which has become a liability for the station, and provide it with a substantial injection of funds so it can do what it has been doing with a great deal of affection from the Australian people for 30 years. I thank the chamber again for support for this motion in November. I thank the minister for this comment and I look forward to budget night.

Question agreed to.

Australian Year of the Farmer
Tabling

The ACTING DEPUTY PRESIDENT (Senator Furner) (17:02): I present a response to a Senate resolution from the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig, to a resolution of the Senate of 9 February 2012 concerning Australian Year of the Farmer 2012.

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (17:02): by leave—I move:

That the Senate take note of the document.

I rise to take note of this response primarily because it shows, again, the government saying one thing and doing another and its lack of truthfulness in conveying what is happening to the Australian people. This was
a response to a motion from Senator Siewert on the Australian Year of the Farmer. Only last week my colleagues Senator Back and Senator McKenzie and I gave notice of motion quite similar to that of Senator Siewert's but with much more detail.

What is extraordinary is that the government opposed the motion that we on this side of the chamber put forward. Just to refresh the memory of the Senate, the motion talked about the Australian Year of the Farmer, recognising the career opportunities available in the agricultural industry, the response we are going to need to the global food task, and declining participation rates and declining graduates in the agricultural sector. It called on the government to resource the promotion of careers in agriculture through the primary and secondary school system, incentivise universities to offer agricultural science courses and encourage industry in the development of agribusiness, educational and training resource material. The government opposed that motion. Given the similarities to the motion from Senator Siewert and the response today, it is important to again note for the chamber that the government opposed that very sensible and straightforward motion.

In the response that the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig, has provided to the chamber is this statement:

The government continues to demonstrate its commitment to the long-term productivity, competitiveness and sustainability of Australia's agricultural industries.

Rubbish! That is just completely wrong. I will explain why. Firstly, this government is giving the agricultural sector a carbon tax which is going to hit our agricultural sector harder than just about anywhere else. Our farmers, as my good colleague Senator Edwards would know—we have discussed this at length—are at the bottom of the food chain. They have nowhere to pass on the fuel costs, transport costs, fertiliser costs and electricity costs. So for this government in this response to talk about its long-term commitment to agricultural industries is simply ridiculous.

We can also look at the live export debacle. Senator Ludwig absolutely single-handedly annihilated an industry. You only had to be part of the Senate committee that travelled around looking at that live export issue to know the negative impact that the decision to ban the trade had on our agricultural sector, on those families and those businesses that Senator Back knows better than probably anybody else in this chamber. How on earth that can be any kind of commitment to Australia's agricultural industries just beggars belief.

We also see things like the lack of scrutiny of foreign ownership. This government is completely unable to accept that there has to be some scrutiny of the current practices when it comes to foreign ownership and foreign control. We ask the government to recognise that there is a need to at least scrutinise the current arrangements and see if there is a need to change them. I certainly believe there is a need to do that. But we get absolutely no response from the government. It thinks everything is fine and terrific—let all the foreign investment keep rolling in; let all the foreign ownership keep happening—without looking at where we want to be with the 20- and 30- and 40-year plan for the agricultural sector in this country. That is simply wrong and demonstrates that there is no commitment long term. That is what this response says and it is incorrect. That is why it is important to point out to the chamber and the Australian people that in this response, yet again, we are seeing the government saying one thing and doing something entirely different. What sort of commitment to the
long-term productivity, competitiveness and sustainability of Australia's agricultural industries can this government have when we saw the minister, Senator Ludwig, in Japan at the end of last year, trying to revive the free trade agreement? Addressing the Japanese Diet, he said:

Let me be perfectly clear about this—while Australia strives for a commercially significant outcome on agriculture, we do not wish to see the destruction of Japanese agriculture as a result.

Nor would we ever do so.

Australia is not so large an agricultural producer that it will threaten the livelihood of Japanese producers by dramatically increasing exports.

Australia's scope to increase production is limited by our geography and climate. The minister said, by dint of that contribution, that as farmers, as agricultural producers, we are at maximum productive capacity. All of the farmers and all of the agricultural producers I know strive to increase their productivity constantly, and they do it extremely well; yet here we have a minister who on one hand tells us he is committed to the long-term agricultural sector and on the other hand tells the Japanese Diet, 'Oh no, we are at our maximum productivity and are not going to be any threat to you.' It is absolutely appalling that this minister should have such little regard for our agricultural producers that he thinks we are at maximum productive capacity, because he is wrong.

The government cut research and development assistance to organisations like the CSIRO by around $80 million. They are cutting the very things that are actually going to help our farmers be productive. It is simply ridiculous. The government axed Land and Water Australia. They tried to cut R&D through the Productivity Commission process. We have here today, in a response from the minister, 'the government continues to demonstrate its commitment to the long-term productivity, competitiveness and sustainability of Australia's agricultural industries'. What absolute rubbish! I have only just touched the surface. Time precludes me from adding the long list of other areas where we see the government completely disconnected from the agricultural sector and walking away from the needs of our agricultural sector and regional communities. This response today is rubbish.

You cannot believe a thing this government says. It says it has a commitment. It has no commitment at all. If it had the commitment to the agricultural industries that it says it does, it would not be giving us a carbon tax, it would not have given us the live export debacle, we would be having some scrutiny of foreign ownership, it would be listening to farmers when it comes to the importation of apples from New Zealand—and the list goes on. This is a very interesting response, to say the least. For this government to say that it is committed in the long term to Australia's agricultural industries is simply ridiculous.

Question agreed to.

BILLs

Telecommunications Universal Service Management Agency Bill 2011

Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011

Explanatory Memorandum

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (17:10): I table two supplementary explanatory memoranda relating to the government amendments to be moved to the Telecommunications Universal Service Management Agency Bill 2011 and the Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011.
Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011 [2012]

Explanatory Memorandum

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (17:10): I table a supplementary explanatory memorandum and a revised supplementary explanatory memorandum relating to the government amendments to be moved to the Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011.

COMMITTEES

Privileges Committee

Report

Senator JOHNSTON (Western Australia) (17:11): I present the 150th report of the Senate Standing Committee of Privileges on the following matter: whether there was any improper influence in relation to political donations made by Mr Graeme Wood and questions without notice asked by Senator Bob Brown and Senator Milne. I also table a volume of documents.

Ordered that the report be printed.

Senator JOHNSTON: by leave—I move:

That:

(a) the Senate endorse the findings at paragraphs 1.56 and 1.59 of this report and the conclusion, at paragraph 1.60, that no question of contempt arises in regard to the matter referred; and

(b) the Procedure Committee review the processes for raising and referring matters of privilege, as set out in paragraphs 2.23 and 2.24. This matter was referred to the committee by the Senate on 24 November 2011, having been raised by Senator Kroger as a matter of privilege. This is the first occasion on which the committee has considered the serious allegation as to whether a person has sought to improperly influence a senator by the offer of a benefit and, similar, the first time it has considered the equally serious allegation as to whether a senator has sought or received a benefit as part of an improper arrangement as set out in privilege resolution 6, part 3.

The central allegation underlying the reference was that Senator Bob Brown entered into an arrangement for the Australian Greens to receive political donations by reason of which he and other senators agreed to limit their independence in the discharge of their duties as senators. The committee does not consider that there is any direct evidence to support the contention set out in the terms of the reference. Such questions as arose from the material provided by Senator Kroger in raising the matter are answered by the accounts provided to the committee by Senator Brown, Senator Milne and Mr Wood.

The committee finds no evidence of a causal connection between the donation from Mr Wood and the conduct raised in Senator Kroger's letter. Accordingly, the committee does not dispute Senator Brown's account of the discussions with Mr Wood and his assurance that they neither discussed nor entered into any agreement by which the independence of Senator Brown, Senator Milne or other Australian Green senators was compromised. Similarly, the committee does not dispute Senator Milne's account of her actions. For his part, Mr Wood also rejects any suggestion of impropriety. Again, the committee has before it no cogent evidence which would cause it to dispute Mr Wood's account. Having found that the evidence does not support the contentions in the terms of reference, the committee has concluded that no question of contempt arises with respect to the matter referred.

The committee also comments on a number of procedural matters which arose in
relation to the matter. In particular, the committee comments on the respective roles of the President and the Senate in dealing with matters of privilege. There was a level of criticism and commentary about the President's determination that the matter have precedence as a matter of privilege. The committee considers that much of this criticism arises from a misunderstanding of the role of the President. The President's determination that a matter have precedence is often mischaracterised as endorsing the reference of the matter raised, assessing the merits of the matter or determining that a prima facie case exists. It is none of these things. It is, rather, an assessment that, according to limited specified criteria, the matter should take priority in the Senate's business. In essence, the President's determination goes to the character of the matter and not to its merits. How the Senate then deals with such matters is appropriately a question for the Senate.

The President, in determining precedence, is bound to have regard only to the criteria in Privilege Resolution 4. The Senate, in deciding whether to refer the matter to the Privileges Committee, is not so constrained. The Senate may take other matters into account, including matters going to the merits of the case. The committee considers that steps could be taken to better explain the role of the President, the limitations inherent in the criteria the President is required to consider and the questions that are quite properly left to the determination of the Senate.

The committee also recommends that the Procedure Committee consider whether the standing orders should be amended to ensure that, wherever possible, the Senate will have the opportunity to debate matters of privilege prior to deciding whether they should be referred. That opportunity is blunted somewhat by the Senate's current routine of business.

Senator Bob Brown wrote to the committee about notification of the statement the President made on the matter on 24 November 2012. Although it is not provided for in the standing orders, the committee considers that in the future it would be appropriate, where the President makes a statement in relation to a matter of privilege which names or appears to involve senators, for the President to inform those senators that such a statement will be made. Under the standing order, senators may not refer to a matter of privilege in the Senate while it is being considered by the President. Although, again, it is not provided for in the standing orders, the committee also considers that such matters should not be referred to outside the Senate during that time.

The committee also makes some observations about judicial review of the contempt jurisdiction of the Senate and about the participation of a committee member in this inquiry. I will not go into those matters today, other than to note that the decision of Senator Brandis to not participate in the committee's inquiry is another example of senators appropriately exercising their discretion in these matters.

Finally, the committee considered the question of the reimbursement of legal costs. Under Privilege Resolution 2(11) the committee is empowered to recommend to the President reimbursement of costs of legal representation to witnesses before the committee. However, this does not give rise to a general presumption that legal costs incurred will be reimbursed. When this resolution was considered by the Senate in 1988, it was made clear that it was being introduced on the principle of legal aid only in relation to need. The President must be satisfied that a person would suffer
substantial hardship due to liability to pay the costs of representation. The committee has always observed the need to apply this criterion strictly.

The report notes the relevant principles. While the committee does not have before it an application for costs, the committee does not consider that the hardship criterion has been met. The main effect of the motion I have moved is for the Senate to endorse the committee's findings and its conclusion that no question of contempt arises with regard to the matter referred. I commend the motion to the Senate.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (17:18): I should point out at the outset that Senator Milne and I, who were the subjects of this adventure by Senator Kroger and Senator Abetz which foundered under the scrutiny of the committee, do not have the advantage—which other members in this chamber have, including the chair of the committee—of having the committee's findings. Nevertheless, I will do what I can to respond to this process, which is one of the lowest points in Senate procedure that I have experienced in the 16 years of being in this chamber. I say that not because I and Senator Milne were the subjects of this ambush through the Senate by Senator Kroger and Senator Abetz which foundered under the scrutiny of the committee, do not have the advantage—which other members in this chamber have, including the chair of the committee—of having the committee's findings. Nevertheless, I will do what I can to respond to this process, which is one of the lowest points in Senate procedure that I have experienced in the 16 years of being in this chamber. I say that not because I and Senator Milne were the subjects of this ambush through the Senate by Senator Kroger and Senator Abetz, using Senator Kroger—which neither of whom are with us in the chamber—to prosecute a quarrel but because it should not have been allowed past the President. I have spoken on that matter before.

The committee has found that it does not consider there is any direct evidence to support the accusations as true. It could make no other finding. Nor is there—and the committee might have, in decency, added this in its report—any indirect evidence to consider, which might have ameliorated the wrong done in this process to Senator Milne and I and, indeed, by inference to other senators.

The submission to this committee from our legal representatives, Mr Roland Browne—who is our solicitor in Hobart—Mr Ron Merkel QC and Frances Gordon of counsel, in Melbourne, made it abundantly clear that the Kroger-Abetz letter, which went to the President and set in train this process, should never have got past the President and that a 24-hour consideration by the President was manifestly wanting. Nevertheless, the letter is, amongst other things, highly selective and inaccurate. It gives rise to no bona fide or reasonably arguable allegation. Further, there was no allegation of contempt disclosed—no allegation whatsoever in the Kroger-Abetz letter that disclosed contempt. The letter was manifestly deficient. These are all matters that the President ought to have picked up on, and there was no proper basis for any allegation of an offence by Senator Bob Brown, Senator Milne or any of the other Greens senators.

In the six minutes left to me I say that this process has defamed a good, proper and decent businessman and citizen of this country, Mr Graeme Wood. It is a tawdry, unbecoming process which got past the President and went to the committee and it has now been found wanting. The committee had 'no cogent evidence' of a contempt—no evidence whatsoever—but it went past this inadequate President to the committee with the consequent result of national publicity. What is more, it did so without warning to Senator Milne or me, the subjects of what have now been found to be totally incorrect accusations. The process put in train by the President through whichever other senators knew about it had representatives of the Murdoch press, namely the Australian, in the gallery. We have asked the committee to make findings on that matter, but there are
none in this report today. There should be. I know the committee has said this should not happen again but it should not have happened on 24 November last year and it warrants an inquiry and a report back to the Senate.

In the matter of expenses, the chair of the committee, Senator Ronaldson, has just read that there has been no claim for expenses and that there is no evidence that there is a need for those expenses to be paid. That is not true. Several letters from our legal representatives to the committee have requested that in fairness, following a process set off by Senator Abetz and Senator Kroger, the legal expenses incurred in defending ourselves from these accusations—now found by the committee to be wrong—should be reimbursed to Senator Milne and me. I can tell you those expenses are in the order of $50,000, an amount which is warranted not least when you look at the expenditure of more than $1 million during the period of the Howard government on the defence of ministers following accusations from the public. This is far more than that: it is an accusation from fellow senators found to be wrong and it needs to be put right by those expenses being paid. We will pursue the matter of the expenses, reminding the Senate and the chair of the committee, who sits here and looks at me now—

Senator Fisher interjecting—

Senator BOB BROWN: And there is laughter from coalition members opposite. The reality is that the claims by Senator Abetz and Senator Kroger—and indeed Senator Brandis, who after two months was forced to recuse himself from this committee—had brought with them a potential for six months in jail or a huge fine. It is justice that, having found that the accusers had no basis for this process whatsoever and the accused having every right to seek appropriate legal defence, those costs should be paid. That is part of the reasonable process of law in this country and I remind the chair as I have done before that it is appealable to the courts.

The difference between now and 1987 is that the Senate has passed the Parliamentary Privileges Act into law. It is a legal instrument. It is not just up to a committee to dismiss a fair reimbursement of legal costs as it may wish to—it is a matter of proper legal practice brought into law by this Senate when it passed that act in 1987. I never wanted to get into this process, nor did Senator Milne and nor did Mr Wood, but we have been subject to the most appalling calumny through this Senate, and reprinted in the media across this country via the Australian newspaper, on a totally unwarranted and wrong basis. Is it to be that Senator Abetz or Senator Kroger simply shrug their shoulders and try again? I say not. In particular I bring to the Senate's notice the recommendations from our legal representatives that this process should not happen again and that those recommendations should be adopted in full by the Senate. (Time expired)

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (17:29): I find it extraordinary, sitting here, given the constant abuse of the President that we have regrettably witnessed for a number of weeks, if not months now, to hear an explanation by the chair of the Senate Standing Committee of Privileges clarifying the role of the President in this matter, to have Senator Bob Brown sit here listening to that explanation of how the President's role has been misinterpreted and yet to have Senator Brown once again seek to undermine the position of the President and to undermine and abuse the individual who holds that office. I have to say that I find this contemptible. It is a reflection of Senator
Brown's contempt for this whole process and contempt for the democracy of this place. Having said that, we have just heard the report, and Senator Brown himself has just sought to revisit the maligning of the President and the role of the committee and those that have sought to refer this matter to the Privileges Committee. May I add that it is not the first time that a matter has been referred to the Privileges Committee, and you would think it was by the way in which you have carried on, which only demonstrates, Senator Brown, that you have one huge glass jaw. Notwithstanding that, I would like to consider the report that has been brought down by Senator Johnston and seek leave to continue my remarks.

Senator Bob Brown: Mr Acting Deputy President Back, I rise on a point of order. Could you tell the chamber whether Senator Milne will be able to follow if that leave is given?

The ACTING DEPUTY PRESIDENT (Senator Back): Senator Milne will be given leave to speak.

Senator McLucas: Mr Acting Deputy President, on the point of order, could I seek some advice about what that will mean to the end of the debate?

The ACTING DEPUTY PRESIDENT: Certainly. What that will mean is that the debate will not be concluded but the debate will be adjourned for another time. If leave is not granted then the debate will continue now. Is leave granted for Senator Kroger to continue her remarks?

Leave not granted.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (17:32): I rise to respond to the Privileges Committee report. I note that in that report the committee states that it:

... does not have such evidence before it in this case. While the allegations made in Senator Kroger’s letter are serious ones, the committee does not consider that the material submitted to support those allegations amounts to more than circumstantial evidence. The committee considers that any questions which do arise as a result of that material are answered by the responses of the three people named in the terms of reference.

It goes on to say:

Where Senator Kroger’s letter raises a question around the perceptions arising from Senator Brown personally discussing these matters, it merely invites the inference that Senator Brown entered into an improper arrangement, rather than providing evidence.

It goes on to say:

The committee considers that the evidence before it does not establish—

Senator Ronaldson: Mr Acting Deputy President, I raise a point of order. I ask for clarification, please. Does this effectively close the debate in 4½ minutes time?

The ACTING DEPUTY PRESIDENT: It does not close the debate in 4½ minutes time. It will simply continue the debate later in the week.

Senator MILNE: It goes on to say that the evidence before it does not establish a causal connection between the donation made by Mr Wood and the conduct in the Senate about which Senator Kroger complains. I am, frankly, astounded, after what Senator Kroger and Senator Abetz have done to Senator Brown and me, that she should stand here in the Senate this afternoon and describe Senator Brown as having a glass jaw. From 24 November Senator Brown and I were defamed by Senator Kroger, who has failed to provide any evidence whatsoever for the claims that she made, and that defamation has gone on now for four months across Australia—against two senators based on no evidence whatsoever. Then she stands up here and cannot bring herself to say: 'I accept the report. There is no evidence for the
allegations that I made.' That is what she should have stood here this afternoon and said. Indeed, there was no evidence for the fact that she was actually mouthing Senator Abetz's July statement. That is the fact here.

We have a situation where there was a vexatious effort made in November, which is effectively a SLAPP suit, over the summer, to make sure that as much negative publicity could be generated as possible, with no evidence provided whatsoever. What is more, as our legal counsel provided in the submission to the Privileges Committee, it is inexcusable and inexplicable to understand why the President made certain recommendations with regard to this matter but not with regard to other similar matters that were brought before the Senate. That goes to this particular question in relation to the President's conduct, as has been outlined by my colleague Senator Brown.

In terms of the Kroger letter, as the legal advice says, it refers to a whole lot of matters that occurred outside the Senate. It goes on to make serious points about the inadequacy of Senator Kroger's allegations to the point where they ought not to have been considered in the first place because they were so vague. Under section 4 of the act, improper interference had to be actually proven, and there is nothing in the Senator Kroger assertion that would go any way to actually establishing that case. So what we have here is a number of deliberate changes. When people look at the documents that have been attached to this, they will see that Senator Kroger fails to make the point that the Wood donation occurred before the 2010 election and that the sale of the woodchip mill was not known about, could not have been thought about, prior to the time later in 2011 when that occurred. That link is not there, and the fact that those dates were conflated to try and make it look as if these all occurred in a very short period of time is just one of the massive dishonesties in this. When you look at the chronology that is presented, several things are left out and distorted in order to make what is, as the committee found, a merely circumstantial case. It is disgraceful that this was referred to the Privileges Committee. It is disgraceful that it took four months over the summer. The committee did not even bother answering the correspondence that we wrote to them.

We were the ones who were being subjected to defamation and yet the committee decided to go on holidays and not respond to any of the correspondence until the summer holidays were over. I am appalled that Senator Kroger finds this amusing, that she is not prepared to apologise for defaming fellow senators on the basis of no evidence whatsoever. It means that this whole process needs to be looked at seriously because what we have seen is absolute cowardice. We have seen vexatious complaint and malicious intent from people who ought to know better.

The ACTING DEPUTY PRESIDENT: Senator Marshall, you have sought leave to continue your remarks. Leave is granted. The time is now concluded for debate on this subject today.

Electoral Matters Committee Report


Leave granted.

Senator CAROL BROWN: I move:

That the Senate take note of the report.
The ACTING DEPUTY PRESIDENT:
There is no time to debate. You can seek to incorporate your speech into Hansard, should you so desire.

Senator CAROL BROWN: I seek leave to incorporate my speech into Hansard.

Leave granted.

The speech read as follows—

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

ADVISORY REPORT ON THE ELECTORAL AND REFERENDUM AMENDMENT (PROTECTING ELECTOR PARTICIPATION) BILL 2012

SENATOR CAROL BROWN
MEMBER
CANBERRA 19 March 2012

Mr President, Australian Electoral Commission (AEC) figures indicate that there are 1.5 million eligible Australians not on the Commonwealth electoral roll. These are people who have failed to enrol, or did not update their address details and have consequently been removed from the roll. Under the current arrangements if they do not submit a form to the AEC, they will not be able to vote at the next federal election.

The Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012 (the Bill) will provide the AEC with additional tools to improve roll completeness. The AEC will be able to directly enrol eligible people who are not currently enrolled, based on data received from trusted third party sources.

Direct enrolment will provide a service to eligible electors and allow the AEC greater flexibility in its administration of the roll. Direct enrolment is not a panacea to declining enrolment rates, but together with other AEC activities for roll stimulation—such as targeted mail-outs, fieldwork and education programs—it will help enhance roll completeness and accuracy.

Increasing the number of eligible Australians on the roll will not compromise roll integrity.

The AEC recognises that not all data sources are suitable for direct enrolment. The third party sources that the AEC will use have been tried and tested in the existing CRU and objection processes. If we trust this data to disenfranchise Australians by removing them from the roll, then surely the AEC should also have the flexibility to use this data to enfranchise eligible electors.

The AEC will also perform further checks on the data to verify the identity, eligibility and address details before any action is taken to directly enrol someone.

In 2009-10, nearly 350 000 eligible electors were objected from the roll. Many thousands of people attended polling places at the last two federal elections and had to cast provisional rather than ordinary votes when their names could not be found on the roll. Prior to the 2007 federal election, the AEC had the discretion to reinstate around 50 per cent of these people to the roll and admit their votes to further scrutiny. However, the removal of this discretion combined with the evidence of identity requirements also in effect at these elections, meant that fewer than 20 per cent of those provisional votes could be saved.

At the 2010 federal election, around 280 000 votes were rejected because these electors were incorrectly enrolled or not enrolled. Allowing the AEC the flexibility to reinstate these electors and to admit their provisional votes to scrutiny could have saved many of these wasted votes.

The proof of identity requirements was removed by the Electoral and Referendum Amendment (Provisional Voting) Act 2011. Now, this Bill seeks to remove the other unnecessary restriction that has led to the significant increase in rejected votes.

The proof of identity requirements was removed by the Electoral and Referendum Amendment (Provisional Voting) Act 2011. Now, this Bill seeks to remove the other unnecessary restriction that has led to the significant increase in rejected votes.

Schedule 2 of the Bill provides for the reinstatement of some electors who were objected off the roll and for their provisional votes to be fully, or partially, admitted to the count. The Bill seeks to reinstate the safety net—which was in place prior to the 2007 federal election—for those electors who have clearly demonstrated their intention to vote by attending a polling place and casting a provisional vote.

The Bill, in combination with the Maintaining Address Bill, aims to balance the effects of the objection process on the roll and enable the data collection systems, which are deemed strong
enough to object an elector, to be used to assist eligible electors to meet their electoral obligations.

On behalf of the committee I thank the organisations and individuals who assisted the committee during the inquiry through submissions or participating at the roundtable discussion in Canberra. I also thank my colleagues on the committee for their work and contribution to this report, and the secretariat for their work on this inquiry.

I commend the report to the Senate.

Senator Carol Brown
Member
Joint Standing Committee on Electoral Matters
19 March 2012

Senator Ryan: I understand that if time has expired we do not put the motion to take note of the report. It would then fall to a debate on a later day. Is that correct?

The ACTING DEPUTY PRESIDENT: That is correct.

Foreign Affairs, Defence and Trade Joint Committee

Report

Senator FURNER (Queensland) (17:40): On behalf of the Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade I present the report of the defence subcommittee visit to Middle East area of operations from 14 to 18 May 2011.

Senator FURNER: by leave—I move:
That the Senate take note of the report.

Given the time of the day, as previously arranged by the coalition Whip, I seek leave to incorporate my speech on that report into Hansard.

Leave not granted.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (17:41): I seek leave to make a couple of remarks.

The ACTING DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator KROGER: It is usual practice that we do not provide leave to incorporate speeches in relation to these matters, and if people wish to speak to the reports that they take note to continue their remarks.

Senator FURNER (Queensland) (17:41): I seek leave to continue my remarks.

Leave granted.

DOCUMENTS
Tabling

The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red. Statements of compliance and letters of advice are tabled in accordance with continuing orders on departmental and agency files and contracts.

Details of the documents also appear at the end of today’s Hansard.

COMMITTEES

Privileges Committee
Membership

The ACTING DEPUTY PRESIDENT: I have received a letter from a party leader seeking variations to membership of a committee.

Senator WONG (South Australia—Minister for Finance and Deregulation) (17:42): I move:

That Senator Johnston be discharged from and Senator Humphries be appointed to the Standing Committee of Privileges.

Question agreed to.

Education, Employment and Workplace Relations References Committee

Reference

Senator FISHER (South Australia) (17:43): I move:

That the revised implementation guidelines for the national code of practice for the construction
industry in the context of the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012 be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report by 10 May 2012.

The coalition seeks to refer the revised code and guidelines for the National Code of Practice for the Construction Industry to the Employment and Workplace Relations References Committee for a number of reasons. Those reasons include the fact that Minister Shorten released the so-called revised guidelines to the code with very little, if any, explanation in some several days following the introduction to the Senate of the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012, which is essentially this government's bill, to gut the Australian Building and Construction Commission. Minister Shorten released the revised guidelines, with very little explanation, in the days following the introduction of the bill to the Senate. On the face of it, the revised guidelines would themselves appear to be a pale shadow of earlier guidelines. In addition to that, this would appear to be being done in the context of a bill to neuter the Australian Building and Construction Commission. And it would appear to be being proposed to be done in the context of a bill which was amended at the eleventh hour in the House of Representatives before coming to the Senate by, essentially—a deal done between this government and the Greens so that if a perpetrator to a wrong under the building industry legislation agrees with another perpetrator to a wrong, or a victim to that wrong, to somehow settle the wrong, then the watchdog, with the lesser tooth it may have, is no longer able to either investigate or prosecute in respect of that wrong, something which the coalition thinks is simply wrong, wrong, wrong.

So there are at least three examples of why the revised code and guidelines deserve to be referred to the Senate Employment and Workplace Relations References Committee for inquiry, even more so because all of this happens at a time when the construction industry is not alone in much of industry in this country's economy in facing particularly challenging times. It ought to be sobering to this government to hear a report of comments from the likes of Daniel Grollo, now head of Grocon, one of our major construction companies. They turn over something like $800 million a year and build in Brisbane, Adelaide, Sydney and Melbourne. Daniel Grollo has essentially moved on from being concerned about strikes of labour to what he calls strikes of capital. He put it in the context of: if pay increases in the industry fail to generate sufficient productivity gains but instead reinforce inefficiencies in the sector then foreign investors will simply take their capital elsewhere—in short, there will be a strike of capital. He says that Grocon currently has workers being paid about 60 bucks an hour, in round terms, but that will go up to about 80 bucks an hour over the next three years under enterprise agreements with the union at the moment. That compares with one of their competitors—if you use what he calls a comparative set of rates—in Texas of some $20 an hour.

So we hear that in this country Grocon is currently paying its workers 60 bucks an hour, and over the next three years 80 bucks an hour, compared with competitors in Texas of some 20 bucks an hour. Give us a break. Mr Grollo says, 'The only way you can bridge that gap is with productivity.' So the construction industry has a massive productivity challenge as an industry if we do not produce some productivity gains over the next three years. With a combination of our currency and our labour rates we will be
so disproportionately out of whack with other centres around the world that our industry will basically have a strike of capital, yet this government seems to have the confidence that, through Minister Shorten, they can whack out a revised set of guidelines that further weaken the protections offered to business, industry and participants in this industry. The context for the code and guidelines in the construction industry is that they are essentially the Bible by which contractors who get gigs on federally funded construction sites will operate. So, unless a contractor is prepared to agree to these guidelines and their accompanying code of practice, you do not get a federally funded gig. So good were the guidelines and code introduced by the Howard government at the time that it also established the Building and Construction Commission, the industry writ large welcomed the guidelines and the code of practice. This government saw fit to weaken the guidelines and code in 2009, soon after being elected to government, and now Minister Shorten wants to have his go. Now the Labor government wants to have another go in the context of a bill to strip the ABCC of any effective powers, overlaid with an amendment that says that if a dirty deal is done then all bets are off in terms of prosecuting an alleged breach of the law or investigating an alleged breach of the law, in any event.

It is hard to work out yet again what the government is thinking with this industry, other than they simply do not understand what happens on building sites, they somehow believe what the unions tell them, or they do not care. They either do not know or they do not care. Let us look at some of the changes in the revised guidelines. The foreword from the good minister starts to give you a flavour. He says:

The Australian Government is committed to ensuring that all participants in the building and construction industry comply with Australia’s workplace relations laws.

Really? That is, unless they reach an agreement that they have not broken the law. He goes on to say:

The Government has no tolerance for conduct which breaks the law...

Really? Unless you reach a dirty agreement with one of the other perpetrators or the victim that the breach of the law does not matter. He goes on:

Organisations that breach their legal obligations face preclusion from future tendering opportunities for Australian Government funded work.

That of course begs the question of whether, if you manage to fall foul of the guidelines, you can reach a deal to neuter an alleged falling foul of the guidelines so that you can still keep your federally funded construction job. That is yet another reason why this committee deserves to inquire into these guidelines—not only to work out exactly what the changed wording means, not only to somehow reassure ourselves that this is not yet another government attempt to do the CFMEU’s bidding and weaken their protections in the construction industry, but to say that, if you should somehow manage to be so silly as to fall foul of these weakened guidelines, you can reach a deal where no-one can touch you in any event.

The minister's foreword says the continuation of the guideline signifies the Australian government’s commitment to ensuring the industry remains strong and prosperous for the benefit of all participants. Well, on the face of it, it looks like he has written in lemon juice—apply the iron afterwards—that by ‘all participants’ he really means unions and, more particularly, their officials.
Going to the fine print of the guidelines themselves, probably the most concerning weakening of the guidelines centres around project agreements, unregistered agreements and sham contract provisions. Starting with the interesting inclusion in the guidelines of a new object which simply says the purpose of code and guidelines is ‘to promote fair, cooperative and productive workplace relations’. It sounds nice, but what that means is in the lap of this government to explain. That is one of the things the Senate should be able to ask officials about in an inquiry by the references committee to reassure themselves that union officials and also opportunistic contractors who are doing the wrong thing do not somehow in their conduct fit the bill of promoting ‘fair, cooperative and productive workplace relations’. We deserve reassurance that the main beneficiaries of these changes will not be unions and their sometimes thuggish officials.

Section 3.9 of the guidelines is new. It tries to suggest that, where both Commonwealth guidelines and state guidelines for state funded construction work apply, the Commonwealth guidelines will prevail to the extent of there being any inconsistency. That might be all well and good if the Commonwealth guidelines were a law—you know, section 109 of the Constitution. I do not know if the minister is trying to invoke The Castle—‘it's the vibe’—but it does not seem to make sense when the guidelines are simply an administrative instrument. They do not have the force of law, so it is a bit difficult to tell how this new provision can stand up constitutionally. Indeed, the Victorian Minister for Finance, Robert Clark, has queried whether it does stack up. He has indicated that the Victorian government will proceed with its own set of guidelines and has suggested that it could be entirely possible for a contractor to comply with both the Commonwealth guidelines and also the state guidelines over the top, even if the state guidelines impose higher standards.

Of course, it could happen the other way. A state might argue that if a contractor chose to comply with the Commonwealth guidelines, on a jointly funded project, in a way that arguably displaced the state guidelines then there is a proper question as to whether that contractor should be excluded from state work. So there are more questions than answers, and this Senate deserves the right to inquire into the meaning of those provisions, apart from anything else.

New section 4.2 of the guidelines deals with tender evaluation criteria and introduces new terminology of compliance with the Fair Work Principles, a nice set of six or so principles introduced by the Labor government with the Fair Work Act. But reference to those principles in terms of the tender evaluation criteria is new territory for the guidelines, which previously and simply provided that the code and guidelines were to be applied consistent with Commonwealth procurement guidelines. So now they are also to be applied in a manner consistent with the Fair Work Principles—whatever that is supposed to mean.

Section 4.22 of the earlier guidelines used to stop agencies from entering into contracts with contractors who had a judicial decision against them on, for example, not paying employee entitlements. The new provisions are expanded to stop contracts from being reached between the federal government and a contractor who has an adverse court or tribunal decision against them for breach of workplace relations, OHS or workers comp laws and is not complying with the order. If we are going to be so extensive about our stipulation of those who fall foul, then it begs the question of why the guidelines are not going to preclude a contractor who has
breached in the past—prior to amendment by the Labor government—the Building and Construction Industry Improvement Act, especially if he has done so on more than one occasion. We deserve some explanation about the intentions behind, the reasons for and the effect of those provisions.

Section 4.3, on project agreements, is the most concerning change to the guidelines because the issue with project agreements in this industry is that they are the backbone of pattern bargaining and they enable the transfer of one set of costly arrangements from one project to another. So to have the new provisions interestingly say ‘there shall be no flow-on of the provisions of project agreements’ suggests that the writer of this document assumes that the reader does not get that the whole intent and effect of the provisions on project agreements is exactly that—to facilitate flow-on.

The previous guidelines prevented the use of project agreements unless fired strict criteria were met. But now the project agreements will be allowed so long as they are supposedly approved under the Fair Work Act or under state law. So there go the very strict provisions and the restrictions essentially on project agreements. There is only one way that costs are going to go with the removal of those restrictions, and that is up. In addition, union control, especially over subcontractors, will only intensify.

Previously, written unregistered agreements were restricted on the basis that if there are things to do with workplace relations or the employment of people then they should be the subject of registered agreements, and the previous code and guidelines essentially say that. But now the revised guidelines expressly list a whole lot of things that can be subject to a written but unregistered side agreement—something which greatly concerns the industry. Essentially, it allows the farming out of workplace conditions beyond the so-called Fair Work Act. For example, written unregistered agreements can be reached about:

- community, welfare or charitable activities;
- initiatives to promote the employment of women, indigenous, mature age or other groups of workers disadvantaged in the labour market;

Okay, but that is about the workplace, so why should it not be in a registered agreement if it is to be in an agreement? There is also:

- workers’ health and wellbeing initiatives (such as health checks, suicide prevention, screening for dust diseases, drug and alcohol awareness and treatment);
- waste-reduction, carbon pollution reduction and recycling initiatives;

Oh, please!

- programs to reduce bullying, sexual harassment or workplace discrimination;

And then we have the kitchen sink of what will be able to be allowed in unregistered but written workplace agreements or side agreements:

- initiatives to encourage fair, cooperative and productive workplace relations across the industry;

Well, in the words of Richard Calver, a very experienced operative from Master Builders Australia, that is a loophole the size of Texas.

And then we have in clause 6.1.5 new language regarding sham contracting. It says:

The FW Act and the Independent Contractors Act 2006 protect genuine employees from ‘sham’ contracting arrangements which are sometimes used by employers to avoid paying employee entitlements (e.g. annual leave).

The last time I was home the law expressly stated that sham contracting is about disguising the real working relationship, not about whether or not there might be a
consequence as to non-payment of workers' entitlements. This guideline attempts to re-characterise and redefine sham contracting. It is obviously just part of the hot 'gospelling' of sham contracting—which is, arguably, highly stated in terms of its prevalence in the industry. But, as I said, we are clearly supposed to be obsessed about limiting and stopping sham contracting.

Then we go to clause 6.5, right of entry. You could not find a shorter provision in these guidelines—four lines—and it has to be one of the most abused conditions in this industry. *(Time expired)*

NOTICES
Presentation

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (18:03): Mr Acting Deputy President, I seek leave to give notice of a motion.

The ACTING DEPUTY PRESIDENT (Senator Back): Could you explain the nature of it before I request whether leave is granted, Senator Bob Brown?

Senator BOB BROWN: Yes. It is a notice of motion for consideration on Thursday by the Senate.

The ACTING DEPUTY PRESIDENT: And the subject matter?

Senator BOB BROWN: The subject matter is related to the findings of the Committee of Privileges.

The ACTING DEPUTY PRESIDENT: Is leave granted?

Senator Cormann: No.

The ACTING DEPUTY PRESIDENT: Leave is not granted.

Senator BOB BROWN: I seek leave on another matter.

The ACTING DEPUTY PRESIDENT: Could you explain that matter, Senator Bob Brown?

Senator BOB BROWN: I note that leave was not granted by the coalition. I seek leave to circulate an amendment to the bills before the Senate before 6.15 pm.

Senator CORMANN (Western Australia) (18:04): The coalition is not aware of the various matters that Senator Bob Brown is giving notices of motion about. In those circumstances, we are not in a position to make a decision to grant leave.

Leave not granted.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Cormann. We are in the middle of a debate on the motion moved by Senator Fisher. I will call on Senator Marshall.

COMMITTEES
Education, Employment and Workplace Relations References Committee Reference

Debate resumed.

Senator MARSHALL (Victoria) (18:04): Well, what a rambling nonsensical contribution from Senator Fisher! The nightmare of the hokey-pokey continues with us. If Senator Fisher had danced out that contribution it would have made more sense—because it was just terrible. When Senator Fisher gets up and wants to defame and slander people across the board as 'the sometimes thuggish union officials', she ought to look to her own behaviour, because she is the last person in this chamber who should accuse anyone else of being 'sometimes thuggish'. I suppose that really highlights her contribution on this matter in its totality.

The government does not support this motion. It is simply another cynical attempt to try to delay the workings of this government. Senator Fisher rambled around the world, talking about bills, about
agreements written in lemon juice, and about how people do not understand the building industry. If Senator Fisher actually ever went on a building construction site I would be very, very surprised. Maybe she should. It might actually be a good lesson for her.

Senator Fisher talked about how this government whacks out revised guidelines and then she compared the guidelines to the Bible. It was just a completely nonsensical contribution. I know people may have been completely lost listening to Senator Fisher, so let us be clear. Senator Fisher is asking the Senate to refer some administrative guidelines to a committee for inquiry. The guidelines have been changed many, many times and have never been referred to the committee. Is she really suggesting that every time the government changes something by regulation, by guidelines or by any other manner that is not legislation that it should be referred to a committee?

I think she would probably like that but if she is going to be consistent, why wasn't it done when the Howard government changed the guidelines? This is certainly not the first time the guidelines have changed. The original guidelines were issued in February 1998 and revised in December 2003. Who was in power in 2003? The Howard government. Do I recall—I was in the Senate at that time—Senator Fisher, who probably was not in the Senate, or any of her colleagues on the coalition saying, These guidelines have been revised. Let's refer them off to a Senate committee? No, we did not because it is the normal process and procedure for these guidelines to be issued by the minister and then they come into effect.

The guidelines were further revised in 2005. I think from memory it was still the Howard government in power and, again, I was here. I did not hear anyone in the coalition suggesting that that revision of the guidelines ought to go to a Senate committee for inquiry. They have been adjusted a number of times since: in 2009 and now in 2012. When they were revised in 2009, again, I did not hear—this was under a Labor government—the coalition at the time calling for these matters to be referred to a Senate committee. The fact is: this is the normal process and one set up by the legislation.

Who initiated this legislation? It was the Howard government. What we are doing is using the Howard government's legislation to administer their act the same way they did, the same way we did and the same way we are doing now. It is a ridiculous proposition for Senator Fisher to suggest anything other than the normal processes that are in place in this place.

It was really about giving Senator Fisher a platform to try and talk about the building construction industry as if she knows anything about it. She, like Senator Abetz, sees a red under every bed, a trade union official lurking around every corner. They have no interest in fact, no interest in reality, and she dared us to accept that one of the new objectives of a fair, cooperative and productive workplace was a bad thing—that is what she is putting to this Senate. We do not think it is a bad thing; we think it is a great thing. That is what we want to see happen. We know when there are good relationships in workplaces they lead to good outcomes for employers, good outcomes for employees and good outcomes for the economy because productivity increases.

We completely reject this. The guidelines have simply been revised and simplified to reflect the obligations set out in the government's Fair Work Act. The guidelines: … support the creation of quality jobs and the growth of the sector by ensuring Government procurement is consistent with these instruments and easier for business.
The Guidelines also clarify the responsibilities of employers in the sector, including in relation to sham contracting and the engagement of non citizens/non residents.

Employers found to have engaged in the practice of sham contracting will be considered to have committed a fundamental breach of the guidelines. Furthermore, employers must ensure that those engaged in the performance of construction work are lawfully entitled to work under Australian law.

I do not know why Senator Fisher has a problem with any of those things. The guidelines are not a document that can be compared with the Bible—I am holding them up now; they are 18 pages long. Senator Fisher should have gone to the trouble of having read them instead of talking about the bill, talking about enterprise bargaining and anything but the concerns that we may have.

Let me just assure the Senate—and I will not keep the Senate any longer on this—this is normal procedure. It happened under the Howard government. It has happened previously under a Labor government. It will continue to happen. It happens under the legislation that was legislated by the Howard government. There is no conspiracy theory. There is not a red hiding under every bed. There is not a union official lurking around every corner. This is a natural development of bringing the guidelines in line with the obligations of the Fair Work Act, ensuring that the government procurement guidelines are incorporated into these guidelines and that we do all that we can to rid the industry of sham contracting. The government for very logical and practical reasons rejects the referral to the committee.

Senator BACK (Western Australia) (18:12): I rise to support the motion before the Senate that this matter be referred to the education, employment, workplace relations references committee for its examination and report back to the Senate.

The amendments and the guidelines maintain a ban on most unregistered written agreement for builders bidding for government funded construction projects. The difficulty is that there are then a number of unregistered written agreements, and it is those that ought be the subject of scrutiny by the relevant references committee. Perhaps it might not be as necessary and my colleagues and I might not be as concerned had we not had to deal in recent times with the quarter-to-midnight change and introduction of an amendment to the building construction regulation process after the Senate Education, Employment and Workplace Relations Legislation Committee had actually concluded its hearings into matters pertaining to regulation. There is firstly the question of the timing of an amendment in the House of Representatives, following the conclusion of the hearings of the Senate committee, which the government and Greens members of that committee must have known would be presented in the House of Representatives. The fact of that inordinate activity taking place is one thing. Even more serious, as we know, Madam Acting Deputy President Fisher, was the actual text and content of that 11th hour 59th minute amendment. The effect of the amendment, which has been discussed in this place, is to allow two parties—be they both guilty of activities that would otherwise cause the attention of the regulator or one party and a victim—to come to a side deal involving perhaps the payment of money or maybe just bullying on its own which would then preclude the regulator from investigating that particular anomaly. It is against that background and in the light and spirit of that perversion that I say that these particular amendments do need to be the
subject of scrutiny by the references committee.

I go back to guidelines of July 2009 and refer to the tendering section 4.2.4 of those guidelines introducing new tenderer evaluation criteria. There are some familiar words to those we are seeing here this evening. I refer to: preference given to tenderers which demonstrate commitment to adding and retaining trainees and apprentices—something we would all applaud; increasing women's involvement in the industry—well and truly accepted as we heard from the comments of my colleague Senator Cash on International Women's Year; and promoting the engagement of Indigenous Australians in industry. But I come to these words in section 4.2.4 from the 2009 guidelines: 'However, value for money will still be the core principle underpinning decisions on government procurement.' I repeat: value for money will still be the core principle.

It is useful to reflect on the National Code of Practice for the Construction Industry which is a set of principles describing good practice in respect of workplace relations—something we would all applaud and work hard for—occupational health and safety, procurement and—these final words are relevant, given the time interval from when this document was written—security of payment in the construction industry. The code and guidelines cover the responsibility of Australian government agencies as clients, project managers, contractors, subcontractors, consultants, related entities, industrial associations and employers. It is in that context that I believe this matter needs to be referred to the references committee.

As usual and regretfully, as has been the track record of this government which we see in so many other areas, there has been a lack of consultation with affected stakeholders. For example, where has been the consultation with state governments, who will be so intimately involved and subject to these amendments? Where has been the consultation with employer groups? The previous speaker, in moving this motion, spoke of the references from the managing director of Grocon, an Australian owned and managed building construction company, expressing his concerns about elements such as these.

I come back to the unregistered written agreements or side agreements or, dare I say, sweetheart agreements out to the side, and I ask: what is the range that will encompass these particular sweetheart agreements? How wide is it? Who participates? What are the topics? Who has there been consultation with? Where are the possible loopholes? Have industrial lawyers from either side of the equation, employers or employees, had an opportunity to examine this and what is their advice? These are the very matters to which we could go in examining this, should it go to the references committee. They go to the very heart of what this Senate expects of its standing committees. I ask, and this question has certainly not been answered as yet: who oversights these unregistered written agreements? It is almost an oxymoron: unregistered written agreements.

The industry has a right to be concerned about the proposed amendments. As I said earlier, one need only look at the anomaly which occurred here in this place in the last two or three weeks when we saw the further emasculation of the would-be building industry regulator as a result of those amendments which will now allow illegal practices to take place under the umbrella of this legislation. We know how dangerous that precedent is. We know what the Law Council of Australia has said.

I go back to the national code of practice and the set of principles I read out,
describing the last one, after 'procurement', as 'security of payment' in the construction industry. And I look at the instance they are facing now in New South Wales with Reed Constructions, a company in severe financial difficulty. I understand that company was allocated some $383 million under the $16.2 billion memorial halls, or Building the Education Revolution, scheme to deliver buildings to 411 schools in southern New South Wales. Where, I ask, has the code of practice been to the fore in a circumstance where it appears, contrary to the objectives of the code in which security of payment is a principle and a pillar, that not only will subcontractors in many instances not be paid but employees and workers will not be paid?

We have seen too many instances since Labor came into government of their inability to be able to subscribe to and hold to that National Code of Practice for the Construction Industry. One need only reflect back on the pink batts in which there was a total and utter failure to be able to adhere to the sets of principles associated with tendering for government contracts. I think of the Building the Education Revolution, or the memorial halls project itself, in which after the coalition pushed for some form of independent evaluation, which was subsequently undertaken by Mr Brad Orgill and his team. Even he concluded that several billion dollars had been wasted. One has no confidence in the capacity of this government to be able to oversee, to bring to account, to audit and to satisfy the taxpayers of Australia that the national codes of practice in fact have been adhered to. It was only by the grace of God that the 'cash for clunkers' never got underway after the 2010 election. We could of course talk about the Green Loans Scheme, about the funding of the car industry for the eco-cars—and I could go on.

I endorse the recommendation by the mover of this motion that this particular matter be referred to the Senate Education, Employment and Workplace Relations References Committee so that these matters can be fully examined and fully understood. I do not disagree with Senator Marshall in some of his comments about the history of the introduction of the original legislation and its guidelines. But there are many unanswered questions before this place at the moment and those are the questions that will only be resolved when we can actually take them to a references committee, have a series of public hearings, put out the terms of reference and allow the affected stakeholders of all persuasions—be they employers, the unions, the state and territory governments—that are going to be the subject of this legislation to examine them. Bearing in mind that under the terms of the amended guidelines federal government legislation will override that of state governments, I believe that it is only appropriate that we do refer this matter to the references committee for a full investigation and for a report back to the Senate.

**Senator McKENZIE** (Victoria) (18:24): I to rise to support the motion from Senator Fisher to refer the changes to the Australian government implementation guidelines for the National Code of Practice for the Construction Industry, May 2012, to the Senate Education, Employment and Workplace Relations References Committee. These guidelines have been changed in parallel almost with the bill passed through the Senate just recently, which go to permitting unregistered agreements. Previous speakers have outlined, obviously, many of the issues with the guidelines especially in the context of the legislation that went through the Senate recently.

My own state, the great state of Victoria, has expressed concern that the guidelines are
being developed without consultation, particularly with regard to the guidelines being able to override the state's own guidelines around these issues in the context of jointly-funded projects. I refer to the finance minister, Robert Clark's comments made recently when Mr Shorten, 'snuck out the new Commonwealth guidelines which substantially weaken previous Commonwealth guidelines with minimal explanation'. Mr Clark went on to say that, however, on an initial reading, there was no reason why most, if not all of the Victorian guidelines, could not operate in conjunction with the Commonwealth's weakened guidelines—in other words, why tenderers could not comply with both Commonwealth and Victorian guidelines.

Why are we surprised by this government? Why are we at all surprised with this government wanting to ride roughshod over the states? I can only think of the legislation that we are debating currently in the Senate, the Minerals Resource Rent Tax, the classic example. Senator Marshall talks about the Labor Party only wanting good outcomes for employees and employers to increase productivity. Senator Marshall, it is not actually working and there are numerous issues around productivity in our nation currently and this probably will not actually assist it. I am buoyed by the fact that value for money is one of the criteria, a change from the lived experience of the budget currently under this government. We can look at the BER, the Green Loans Scheme, indeed, even water buybacks by the Murray-Darling Basin Authority, where this government spent millions buying water that did not really exist.

I have heard somewhere that the best disinfectant is sunlight. I cannot quite remember who said that but I am sure that it was someone close to us all. Why not have a look at it? Let us refer this legislation to the Senate committee for closer examination of its impact. What do we have to be concerned about? Let the senators who have a particular area of interest in this issue get to the bottom of the guidelines and have a good look at them. I seek leave to continue my remarks at a later date.

Senator XENOPHON (South Australia) (18:28): Can I indicate—in less than a minute or so—that I will be supporting this motion, for these reasons. I believe the amendments moved by the government in the other place were significant and that those amendments ought to be the subject of scrutiny by the committee. Not to do so would, I think, be abdicating due process in relation to this. I do not think we need a long inquiry, but I think it would be important to look at that to build on the work of the legislation committee and the thorough way that it examined this legislation. So in the circumstances I support the motion, but that does not mean that I support the coalition's position in relation to this bill. But I do support appropriate processes being followed.

The ACTING DEPUTY PRESIDENT (Senator Fisher): For clarification, given that Senator Xenophon rose after Senator McKenzie, I am advised that your contribution, Senator Xenophon, effectively negates Senator McKenzie's seeking leave to continue her remarks.

The PRESIDENT: The question is that the motion moved by Senator Fisher be agreed to.

The Senate divided. [18:34] (The President—Senator Hogg)

Ayes .................. 30
Noes .................... 33
Majority............... 3

AYES

Abetz, E
Back, CJ
Bernardi, C
Birmingham, SJ
On behalf of the Chair of the Community Affairs Legislation Committee, Senator Moore, I present the reports on the provisions of the Social Security and Other Legislation Amendment (Income Support and Other Measures) Bill 2012 and the Personally Controlled Electronic Health Records Bill 2011 and a related bill, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the reports be printed.

**Corporations and Financial Services Committee Report**

Senator BOYCE (Queensland) (19:31): I present the report of the Joint Committee on Corporations and Financial Services on the provisions of the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012, including the Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2011, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**Senator BOYCE:** by leave—I move:

That the Senate take note of the report.

On yet another occasion we have a dissenting report from the coalition based on the complete mismanagement of the legislative program and of policy development by this government. This is about the third report that I have been involved in today where the government's own majority report on the bill has comment after comment suggesting that the bill should not be passed in its present form. It is easy to see many of these comments. The government says that, in terms of the liability offences under the bill, it is apparent that the offence at 29WA is incomplete. But where is the recommendation to fix that? There is not
one. Many of these requirements suggest a staggered approach to the introduction of the legislation. The comment in the government's majority report was:

Evidence before the committee is highly critical of this staggered approach of introducing the MySuper reforms.

It quotes at length from the Financial Services Council, saying:

Further, subsequent tranches to this legislation may give rise to additional issues with this very bill.

That was one of the two bills. The government first asked for comments on one bill, introduced a second bill and then gave people 10 days to comment on the second bill. There is a third bill which, as all the witnesses pointed out, might yet affect the first bill.

The way this has been conducted is I was going to say a dog's breakfast but it is more a bitzer's breakfast. If you look at the fact that the Minister for Financial Services and Superannuation, Mr Shorten, has recently agreed that the FoFA legislation will be 'voluntary' for the first 12 months, this is some cack-handed way of the government attempting to not accept the view of the opposition, the view of any intelligent practitioner in the field, that there is no point in introducing vast numbers of different types of legislation that affect the investment, the superannuation and the financial advice industry at different times in different ways, especially when they do not know what the effects will be. The report goes on:

In the evidence put by the government members of this committee alone it was evident that the introduction of the MySuper scheme in tranches has resulted in bills that are not self-contained.

It was put to the committee that matters contained in one bill cannot be evaluated on the basis of the provisions in that bill alone.

Rather, understanding one concept requires reference to all tranches of the MySuper legislation and this includes the topic of intrafunded advice, which of course was an area where we received a lot of submissions. Once again, you have legislation that does not set out definitions. It sets out to confuse and leave it for the regulations, which this government has yet to even consult on, before the financial services industry, the superannuation industry, will have any certainty in what is happening.

The committee view—and by that I mean the majority government members of the committee in their report, is:

The introduction of the MySuper legislation in numerous tranches in effect asks parliament to pass a segment of an overall policy scheme in reliance on statements by the executive on the final form of the scheme. It is also of concern to the committee that measures in tranches yet to be introduced and apparently still under development …

This is the government members who think apparently they are still under development. The introduction of those tranches and the measures in those tranches will affect the measures in the two bills that are subject to the parliamentary inquiry and are yet to come before this chamber, although they have gone through the House of Representatives. The government report goes on to say that, while the approach taken may not be best practice, it is the most practical. I am sorry for the government members; that is their vague attempt to try and say the way the government has done this is acceptable. It is not acceptable. It has been a typical mishmash of mistaken attempts at implementation. We are currently debating the mineral resources rent tax. There was a further report released today on personally controlled e-health records with the same words from the government's committee. The only thing that is missing from the lines
put in this report by the majority of members is the suggestion that they go away and think about this again. And that is certainly what we as a coalition will be suggesting. We have some amendments to suggest. To go ahead with this bill while we are still waiting for the Productivity Commission's report is wrongheaded. It is wrongheadedness based in ignorance, unfortunately, of how the real world operates.

Before I conclude my remarks, I would like to thank the outgoing chair of the Parliamentary Joint Committee on Corporations and Financial Services, Mr Bernie Ripoll, for his good-humoured and intelligent chairing of the committee. I would also like to congratulate Ms Deborah O' Neill on being elected to the position of chair of the committee.

Senator THISTLETHWAITE (New South Wales) (19:39): The Parliamentary Joint Committee on Corporations and Financial Services report into the Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2011 and the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012 gives rise to an important element of the government's Stronger Super reform package and is part of the second tranche of major reforms to this country's financial services guidelines and system.

These reforms come about as a result of a comprehensive review that was undertaken by Jeremy Cooper in 2010 into Australia's superannuation system. That review looked at a number of aspects of the administration, efficiency and investment outlook for superannuation in this country. A number of important conclusions of the Cooper review have been taken up by the government and become part of a process of reform to strengthen our superannuation system moving forward. It is not only an important investment and savings vehicle for this country but also important for the futures of millions of working Australians.

One of the striking conclusions and findings of the Cooper review was the fact that, despite compulsory employee superannuation in this country, in many cases there are very low levels of financial literacy when it comes to individual members' superannuation investments. We all know there is a level of disengagement in the wider community regarding superannuation and in particular the individual aspects of a member's portfolio and the services that are available to members of superannuation funds such as insurance.

The committee also found that, for those who do not avail themselves to the choice of superannuation funds and who are not engaged with their own superannuation and retirement incomes and the associated services, there is an inadequate level of protection. Many members of superannuation funds are paying for services that they do not need or that they do not request. In some cases they were paying for services they did not even receive. Given we have such a large and growing pool of investment funds in superannuation—$1.3 trillion and growing—and having created an industry which flourishes on the back of compulsory savings that are mandated by legislation, this government believes it is fair that this industry, which benefits so much from the compulsory saving system in Australia, contributes to higher retirement savings through greater efficiency, lower fees and better information for members of superannuation funds.

This suite of legislation that is the subject of this report will add to the efficiency of the system and in particular to the provision of
relevant information for members into the future. The aim of the MySuper legislation was to provide a basic, low-cost default superannuation scheme for those members identified in the Cooper review as disengaged and not availing themselves of the services that are available in respect of their savings. The characteristics of a MySuper product will be a single diversified investment strategy; equal access to options, benefits and facilities for all members; amounts attributed to members in a way that does not stream gains or losses only to some members of the MySuper product; no differences in the extent of fee subsidisation for employees of certain employers if fee subsidisation is allowed by employers; and no limits on the sources or kinds of contributions made by or on behalf of members.

An important aspect of this tranche of legislation is the changes that intend to be legislated with regards to the obligations of trustees and their fiduciary duties to members. Again, these reforms came as a result of the Cooper review. They found the investments of those members in default superannuation funds who were disengaged were particularly vulnerable moving forward. Coopers recommended a greater level of governance and integrity in terms of trustee obligations for those who are in default fund situations. The additional obligations that will be introduced in respect of trustees that offer MySuper products are reflected in the legislation and in this report are to promote the financial interests of MySuper members, to access on an annual basis whether the fund has sufficient assets and members to enable it to continue to promote the financial interest of MySuper members, and to include in the investment strategy for the MySuper product an update on an annual basis of the target investment return and the level of risk for the product.

That involves an assessment of the scale of investment in the fund moving forward.

The committee did in its deliberations highlight some concerns with the bills. They relate to a number of issues. Two particular issues were the tailoring of investment options for people and funds that fit within the MySuper stream. The legislation has a definition of a large employer to which tailoring can apply, which is one with more than 500 members. There was some confusion about how that particular obligation would work, and the committee has recommended that the legislation be clarified so that the large employer requirement of 500 or more members needs to be satisfied upon the authorisation of the MySuper product and at the end of each annual reporting period. Related to that is a further recommendation to allow APRA to grant a grace period of up to six months for large employers whose fund members have fallen below the 500-member threshold as part of annual checks. The committee has certainly heard the concerns of the industry in respect of that.

There are a number of comments in the report on trustee obligations. In respect of the scale test and the concerns that have been put to the committee by witnesses and in the opposition senators’ report, I draw the attention of the Senate to the comments of Treasury when they appeared before the committee, where they said in evidence that there are some small funds that are not performing well and, in some of those cases, scale may be one of the reasons they are not performing well. This new obligation on trustees will require them to ask the question of whether the issue resulting in underperformance of the fund is scale. We think that that is a sensible approach for people who, in the words of the Cooper review, have a particular vulnerability with
respect to their investment and retirement savings.

The bills have the support of the Australian Chamber of Commerce and Industry, the Financial Services Council, the Industry Super Network, all of the superannuation industry funds and a number of players in the industry. They are part of a suite of reforms that will improve financial accountability, integrity and delivery of financial services, particularly for people who are members of default funds moving forward. In that respect, they are reforms that the government is proud of. They are reforms that this Senate should and will support, and I commend the report to the Senate.

Senator CORMANN (Western Australia) (19:48): I want to make a couple of comments on behalf of the coalition in relation to the Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2011 and Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012 inquiry by the Parliamentary Joint Committee on Corporations and Financial Services. Let me say upfront that, yes, we share the concerns of government members and senators with aspects of this legislation, but we go a little bit further. We support some of the recommendations for amendments that were made by government members and senators of the committee but we think that they do not quite go far enough.

Let me say at the outset that coalition members and senators agree that the default superannuation industry, like the superannuation industry overall, needs reform to enhance competition, transparency and comparability in the system. We recognise and acknowledge, of course, that the objective of the regulatory framework ought to be that the system will maximise retirement savings for Australians with superannuation and, in particular, matters before the Senate hearing in relation to default superannuation. Only the most efficient, the most transparent and the most competitive superannuation system will lead to a circumstance where returns and retirement savings for all Australians with superannuation will be maximised.

Having said that, it is the coalition’s view that the current anticompetitive closed-shop arrangements in relation to default superannuation under modern awards must stop with MySuper. The government must use the introduction of MySuper to lock in the important benefits of competition for Australians in default superannuation funds now. The government should not use the current Productivity Commission review, which it finally got around to asking for, as an excuse to do nothing for another year. The current closed-shop anticompetitive arrangements for the selection of default superannuation funds through Fair Work Australia, set up by the Labor Party, are a national disgrace. The current process is not transparent, not competitive, inappropriately favours union dominated industry super funds and should be fixed as soon as possible.

Bill Shorten has been far too slow as minister to act, and it is Australians and default super paying the price for that. Not only did Labor have to be shamed into making a commitment to sort out this situation, which they created themselves, of closed-shop anticompetitive arrangements through a secretive and discredited process through Fair Work Australia, but Bill Shorten also took more than 18 months to start fixing it by the Productivity Commission review to get this process underway. The minister has been more focused on protecting the vested interested interests of his friends in the union.
movement for as long as he possibly could get away with it than on standing up for the public interest and the interest of Australians in default super.

Coalition members of the Parliamentary Joint Committee on Corporations and Financial Services recommend that any authorised MySuper product should be able to compete freely in the default fund market. Any authorised MySuper product by definition has to comply with the consumer protection requirements enshrined in law by the government. As such, there is no need for an additional, secretive and discredited process to further determine through Fair Work Australia which MySuper products should be included as default funds under various modern awards and which products, for some reason or another, should not be. Only with genuine competition in an efficient and transparent default superannuation market will fund returns and retirement savings for Australians in default super be maximised.

Those are just some of the conclusions that were reached by coalition members of the parliamentary joint committee which inquired into those two bills. The coalition also made a series of other well-considered recommendations to improve the MySuper bills, going beyond the recommendations of government members and senators. These include clarifying the definition of a large employer to be any employer with 500 or more employees and removing the need for individual registration for each tailored MySuper plan. We think that just imposes additional unnecessary red tape and costs. Once a provider has been licensed and registered to provide MySuper products then a reporting and auditing arrangement in relation to any specific tailored MySuper plans at a workplace level would be a more appropriate, more cost-efficient and less administratively burdensome way to go.

We also believe the government should remove the confusing and unnecessary scale test. The government clearly things that trustees of super funds have to be bullied into a position where they recognise that biggest is necessarily best. Biggest in super can be better, because there can be benefits of scale, but biggest is not necessarily better. To impose a very vague and very unclear additional obligation on trustees is not an appropriate way to deal with this particular issue.

We call on APRA to release standards and forms required for the MySuper registration process at least 12 months prior to commencement of the implementation of these provisions. We also call for the provision of a comprehensive definition of intrafund advice in both MySuper and FOFA legislation to ensure such advice is general only and that any personal advice provided through a super fund is paid for by the person accessing the advice, with transparency of fees and without forcing fund members to pay for the personal advice of others which they have not accessed. That is entirely consistent with the requirements the government says it is pursuing through FOFA; but, for some reason, for advice provided by industry super funds to their own members the government seems to believe that hidden fees are appropriate and that it is appropriate to force super fund members to pay for the personal advice of other members even though those members may not have access to that advice. We in the coalition do not think that is appropriate. We think there ought to be a very specific and very narrow definition of what intrafund advice constitutes—narrow in the sense that it should be limited to general advice.

The latest version of the MySuper proposal is an improvement on where the government started. The government started with a highly rigid, one size fits all default
MySuper proposal which would have led to great disadvantage for many Australians. In fact, research by Chant West proved that many Australians would have been forced to pay higher fees and that a small drop in fund returns as a result of lower risk profiles, even for those superannuants who paid lower fees, would very quickly wipe out any benefit.

The government still has some way to go, and as an absolute minimum must address the current highly inappropriate, closed job, anticompetitive arrangements for default superannuation as soon as possible. If the government continues to delay actions to fix the highly inappropriate situation it has created it will prove once again that this government is more interested in looking after the best interests of its friends in the union movement rather than focusing on the public interest.

Minister Shorten is the most conflicted Minister for Financial Services and Superannuation in the history of the Commonwealth. He is the minister for unions and the minister for union super funds, and all of the actions that he is taking and all of the actions he is not taking on superannuation are driven by his vested interest in relation to his involvement with union dominated industry super funds. With those few words, I seek leave to continue my remarks.

**BILLS**

**Minerals Resource Rent Tax Bill 2011**

**Minerals Resource Rent Tax (Consequential Amendments and Transitional Provisions) Bill 2011**

**Minerals Resource Rent Tax (Imposition—General) Bill 2011**

**Minerals Resource Rent Tax (Imposition—Excise) Bill 2011**

**Petroleum Resource Rent Tax Assessment Amendment Bill 2011**

**Petroleum Resource Rent Tax (Imposition—General) Bill 2011**

**Petroleum Resource Rent Tax (Imposition—Customs) Bill 2011**

**Petroleum Resource Rent Tax (Imposition—Excise) Bill 2011**

**Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Bill 2011**

**Superannuation Guarantee (Administration) Amendment Bill 2011**

**Second Reading**

Debate resumed on the motion:

That this bill be now read a second time.

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (19:58): I rise to make a contribution to the debate on the Minerals Resource Rent Tax Bill 2011 and related bills. Usually in this place we look at most legislation and we pass a standard rule over it—is this going to strengthen and grow industry, create jobs, increase our reputation as a country with low sovereign risk and perhaps tax Australians equitably and then invest back in things that improve our nation's society or our economy? Those are the principal elements of motivation in these matters. Sadly, I have to say that I am not sure that is the case with this particular piece of legislation, so let us have a look at what has actually motivated this tax.

We have to look no further than the history of the government's handling of the economy. It inherited $40 billion and managed to convert that fairly swiftly into
$130 billion in debt. This government managed to take a perfectly good economy and scrap it. It has had a pretty good turnaround—a $170 billion turnaround in the economy’s fortunes.

Senator Edwards: In a heartbeat.

Senator SCULLION: In a heartbeat. The government has increased spending to record levels—that is one thing I must commend this government on. It has done a fantastic job of spending money hand over fist. In fact, it provides the money so swiftly it seems like some things are done in too much haste. Spending money is such an activity that we have forgotten the actual outcome we are trying to provide.

Senator Polley interjecting—

Senator SCULLION: I know there was a little murmuring from the other side that perhaps that was just a little bit of spin from Nasty Nige, but I promise you it was not. I will just give you some examples of the waste and mismanagement in terms of blow-outs. For those on the other side of the chamber, a blow-out generally refers—and the budget is coming up soon, so we should all be very much aware of this—to what you say will be in the budget and what actually happens. There was a border protection blow-out of $1.75 million. For Building the Education Revolution there was a $1.7 billion blow-out, and $8 billion was wasted. I know that the education sector would have loved to have that $8 billion actually spent on their sector. There was $2.4 billion wasted on the pink batts, with $900 cheques going to dead people and people overseas. It was a complete charade. Laptops in schools had a $1.4 billion blow-out. They did not even deliver half the program. Solar homes had an $850 million blow-out. Just as well they cancelled the program. That was a big saving grace. At least we did not blow out any more money. Green Loans had $300 million wasted and broadband had $50 billion wasted. We are a bit worried about that. There is no business plan. I do not know where that is going to end up.

It is this Labor government's completely incompetent management of the economy that is their motive. They need to get back to spending again, so they have to fill up the coffers. So they say: 'I know what we'll do. We'll just go and get a new tax, because that will stick it in the bucket again and we can carry on spending.'

The question also has to be asked: will this measure work? Quite clearly they believe it will. I have to remind those on the other side that from none of my reading—and it is not extensive in history—can I recall a country that has actually taxed itself out of prosperity or taxed itself out of a black hole. There certainly have not been any countries that have particularly built their wealth by adding another tax. It is just another one of 19 new or increased taxes over their period of time. So to those people on the other side bleating about a touch-up: this is what happens when you blow it. You must be responsible for your own incompetence and your own mistakes.

Senator Polley: That is exactly right.

Senator SCULLION: Again there is the bleating from the other side: ‘Exactly right.’ This government thinks that this new tax will in fact be $11.1 billion. That is $11.1 billion of more Australian tax dollars to spend. Sadly for Australians, the spending associated with this tax is actually going to top $14 billion. You then take into account what these states and territories are going do. The agreement on the MRRT is that the raising of the royalties is an offset from the companies that are being taxed. That, again, is a major hit on the bottom line of this tax. So the tax is, in effect, going to create a $6.3 billion black hole. Even if your motivation is
perverted, even if your motivation is sour, you would think that at least they would get that right. But instead of actually creating a fund of money to get us out of the perilous circumstances that this government has got us in, we are actually going to end up in a black hole. So the tax, in effect, is not going to assist the government's budget bottom line.

So what is this tax really going to achieve? I have been reading with some concern some of the reports internationally. The MRRT is clearly seen as an investment risk in Europe. Of course there is sovereign risk. We are very proud to be a country who is recognised internationally as safe. Safety is an important thing. There is security here. We are not at war. We do not have civil actions. It is a pretty good place to invest. Also, there is some consistency here. You would not expect Australia to suddenly run out and tax an industry. With regard to the live cattle trade, as a consequence of this government's abhorrent behaviour Indonesians now see Australia as a sovereign risk. Again, with the MRRT they see this nation as a sovereign risk. Again, with the carbon tax coming into play at the end of this financial year, those people who saw Australia as an investment opportunity of some credibility and security have been proved wrong.

This is a tax that is going to make it very hard for small miners to get their projects off the ground. Iron ore is something that we never associated with the Northern Territory, my own Territory. But it seems there are a number of prospects. We all love having a two-speed economy, particularly if you are in the first speed. You like the fast-speed economy. But it is often difficult to get entry into the economy. A number of young people are saying, 'I'd love to work in the mining industry. It's a terrific ask, but it's difficult to get in.' But the emerging sectors are much more likely to employ people in the exploration stages and the development stages than at any other time. Whilst not a lot of people might see the Northern Territory as a major resource for iron ore, we have out at Hodgson Downs 168.1 million tonnes at 44 per cent; 310 million tonnes at Roper Bar, with an aggregate of some 30 million tonnes at 58.3 per cent—incredible levels; Mount Peaks has 139 million tonnes. It is a place where people have invested and are looking to invest.

There has been some discussion like: 'Look, these are miners, Nige. You've got to understand. They make a lot of money. You've just got to be able to tax them.' The argument that happens around some of the pubs at the moment is, 'Well, aren't they already being taxed?' They say, 'No, no, they hardly pay any company tax, according to the government.' We know that is patently untrue. They pay royalties—they pay those to the states. They pay a company tax to the federal government and now they are going to pay a mining tax. In 2010-11 the mining sector paid $23.4 billion in company tax. They are now going to be asked to pay, with the carbon tax coming in after 1 July, an additional $4 billion. Of course, the MRRT at the end is hardly noticeable. It is an extra $3 billion burden—as if the first two were not a knife in the neck.

The notion the government put forward, that we are between 17 and 21 per cent tax and they can pay a lot more, has been completely swept aside by Deloitte Access Economics. When we look very carefully at the total tax—that is, royalties and company tax—the stable average between 2007 and 2010, so there are no spikes in there, is 41.5 per cent. It is not all the rubbish we hear about 21 per cent. It is 41.5 per cent tax. They say: 'No, no, that's obviously not enough. We're going to have to slug you a little bit more.'
Because people get a little confused around company tax, I will give you a couple of comparisons with some of the other sectors. In agriculture they pay $309 in company tax. In retail, a big sector, they pay $2 billion in company tax. The retail sector makes a huge contribution to all of us as taxpayers and we need to acknowledge that. The future of those in manufacturing is under a bit of a cloud now with this carbon tax coming in but currently they pay a $4.3 billion contribution. But the mining industry eclipses that. It pays $13.4 billion worth of company tax every year.

So there certainly seems to have been a fair bit of politics and spin and certainly we understand that the Labor Party is all about politics and spin and not about policy and delivery. We on this side cannot wait to get a crack at ensuring Australia is characterised by a government that delivers policy and outcomes, not politics and spin. Now that we understand the facts of the matter, the federal government claimed that the mining sector pays between 13 and 17 per cent corporate tax.

They have not only been contradicted by the information I have provided to you but also by official data from the Australian Taxation Office. Analysis of the Australian Taxation Office statistics 2007-08 shows that the average corporate tax rate by the mining sector is 27.81 per cent. When mining company royalty payments are added, the effective tax rate in the mining sector increases to 41.3 per cent. It has gone up slightly since then. The Labor Party has relied on a graduate research paper from South Carolina. Instead of relying on that because it suited the process at the time, you could have at least obtained—free-of-charge from your very own taxation office—accurate data.

The other thing that concerns many of us in the opposition and many Australians is: what is the real story, the modelling? We get, 'Look, some of the modelling's been done,' and 'Don't you trust Treasury?' and blah, blah. We want to know the real story. We are going to be voting on this later today. Just release the modelling. Release all the modelling. That has not been done.

When you have modelling you have to look at assumptions that the modellings are based on. Everybody understands that. It would have been very important to have a look at those assumptions—things like commodity price assumptions or production volume assumptions—but apparently it is all too hard for this government. They say, 'You can't expect us to come up with that.' Queensland and Western Australia publish those numbers every year and they are just a couple of gobbly little states. We are the Commonwealth. We are the power. We have all these resources of government.

I am quite sure that those perfectly good public servants who quite clearly have been instructed to say nothing would love to come out with the numbers, would love to come out with those assumptions and would love to come out with the complete modelling but, sadly, this government just simply has not allowed them to. It has not allowed the Australian public to benefit from those numbers and make its mind up for itself. Most of the people I speak to have said they are very distressed that they cannot have some more clarity around this. I hope they understand that it is simply because the government does not want to reveal the real story.

The other motive behind this is to pay it back. We have established that it is not going to make any money from our bottom line. It is going to cost more to create than it actually makes. But Australians need to
remember that the total net revenue over three years is going to be borrowed by this government in three months. The notion that this is suddenly the great repairer—something that will stop this nasty budget, this embarrassing budgetary situation we have got ourselves into—is a complete furphy.

The story is that this will fund superannuation across the board. We stand up and say, 'We don't think this MRRT is a particularly good thing,' and those on the other side say, 'What about your employees? What about all those people who are going to get an increase in the super benefits? It's going to fund those things.' What a pack of garbage. This is about self-interest. This will only fund the Commonwealth's obligations to fund its public servants as part of a raise between nine and 12 per cent. How duplicatious does it have to get that you would try to persuade the Australian people that this is somehow trying to help out?

If that is not bad enough, they start bagging on about the fact that everyone is going to get a one per cent tax cut at a company rate and they are going to accelerate it for small business. As usual, with this mob, you have to read the fine print. The fine print is: 70 per cent of small businesses are not eligible. Terribly sorry. The fine print says you have to be incorporated. I am really not sure why they in government are not being fair dinkum, upfront and completely honest with us, because this is a significant change.

I do not know what the government are going to do next but this is an enormous tax. We are having two big taxes. The way they are going—the way they are spending—I cannot see the need for another tax any time soon; it is simply a notion over the horizon. It is tax time: we have had 19. There are bound to be more because they are not going to change their behaviour about how they spend, any time soon.

We wonder about the motivation of the Minerals Resource Rent Tax Bill 2011. It is certainly not motivated by our national interest. Probably that is not entirely correct; they are probably motivated by saying, 'We now need to save Australia from the Labor Party, so we now need to find more money to save Australia from the Labor Party.' Of course, it is the same affliction. It is like the leaders: 'I know! This is a disaster; we'll change leaders.' Look, mate, you are still driving a Volvo. You have fundamental problems with the motor vehicle. Changing leaders and mucking about with the edges is not going to change a thing. The only time that this country has to look forward to is the time when you are removed from the treasury bench. The refilling of Labor's coffers, of course, will not work because the planned $11.1 billion income is turning into a $6.3 billion black hole.

The fact is that this stabs at the heart of our sovereign integrity. Who would know what damage that would do, because it has never really been done before? Everybody trusts Australia. It is a secure place. It is a good place to do business, with fair dinkum, honest people. Now, suddenly, we will not know what the damage is because it is only recently that we have thrust a dagger in the heart of our own integrity with issues like the live cattle trade and indeed the two monster taxes that are coming up.

It places a risk on small prospectors, those who need the most help, those who are most vulnerable. They are putting out prospectuses and they say, 'In this prospectus, this is what's happening; it's all exciting,' and all those things. People say, 'I'd love to invest in that company.' And people do not invest for philanthropic reasons; people invest because they want to make
money. They say, 'Yes, but perhaps I can invest somewhere else where it's safer and we're not going to have this enormous tax.'

This is a dreadful tax that is motivated by all the wrong reasons. It is not going to provide the bucket of funds that they believe it will provide. It is going to destroy our sovereign risk assessment. It is going to put at risk small prospectors. It is going to put at risk people who have made a huge investment. And it will do very little else. So this dreadful tax, on any assessment, fails the national interest test and should not be supported, not by this side. But there is a chance for those on the other side not to support it either. In just a few short moments: I know the Greens are bringing amendments to this place that say, 'This extremely bad industry-damaging tax is not hurting enough industries and it's not creating enough funds.' I understand—without verbalising you, Senator Brown—that they are not hypothecated funds, so they will still be subject to the idiocy of those opposite. I will not be supporting this legislation and I commend all others to ignore it as I will.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (20:18): There goes Senator Scullion with his proportion of the $70 billion black hole which the opposition has created and which would translate into a stripping of funding for dental health care, health in general, education and a whole range of public interests if the coalition were to assume government in the future. The Greens' position on the mining tax, far from that which has just been traduced by the previous speaker, is consistent with that of the Henry tax review and the Treasury advice over some years—that is, the recommended superprofits tax on mining ought to have been adopted by the government. It should certainly, when the government faltered, have been adopted by the Abbott opposition. But, in the failure of both the old parties to get a reasoned, Treasury backed return on the mineral wealth of this country, which flows so rapidly to overseas pockets, it has been left to the Greens in the form of the member for Melbourne, Adam Bandt, in the House and the nine Greens senators here in this chamber to take up the cause of the public interest.

The notable people for failing to act here are the mining party, the National Party, which tugs its forelock all the time to the mining corporations against the interests of rural and regional Australia and is doing so here again tonight. But let me briefly outline—

Senator Nash: Mr Acting Deputy President, I raise a point of order. I ask that you ask Senator Brown to withdraw the previous statement. It was clearly a falsification and the senator was referring to circumstances that are indeed untrue.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): Which statement in particular are you referring to, Senator Nash?

Senator Nash: The statements referring to the connection with the mining industry.

The ACTING DEPUTY PRESIDENT: Senator Feeney, do you have a contribution to make here?

Senator Feeney: I would only say that I think it is within the parameters of this debate, a reasonable political comment.

The ACTING DEPUTY PRESIDENT: I think it was within the normal debating processes here. There is no point of order.

Senator BOB BROWN: Yes, absolutely no point of order; you are absolutely right. Senator Nash's memory is so short that she cannot remember the confession by her leader, Senator Joyce, in here that he had
been nobbled overnight by Mitch Hooke, the
doyen of the Minerals Council of Australia.
He changed his mind on a previous matter to
do with rural interests and the investigation
of coal seam gas or coal mining in the Namoi
Valley overnight, at the Minerals Council's
request, and defeated a motion by the Greens
in here to go to the aid of those very people.
Right under the thumb of the minerals
industry council are the National Party, once
the representatives of the rural interests in
this country, who are now so ably
represented by the Greens instead. The
Greens would restore the mining tax to very
close to that recommended in the Henry
report. But we believe that, at an absolute
minimum, goldminers, who are garnering
windfall profits from an unanticipated near-
record price for gold, and uranium miners
should be brought under the MRRT along
with the coal and iron ore miners. That
would bring, over the coming decades,
hundreds of millions of dollars, if not
billions of dollars, from these largely foreign
owned corporations digging up the once-only
resources of gold and uranium—and you can
add rare earths to that—in this country so
that Australians can have proper funding of
their needs in the future. That is undeniably
what countries such as Norway and Saudi
Arabia are doing. But it is not the case here,
simply because the Labor Party and, to a
greater degree, the coalition are suborned—
they are totally influenced, against the public
interest—by the power of the big mining
corporations.

We do not believe the federal government
can provide a blank cheque whereby, when
state governments raise royalties, the federal
government refunds the companies. We have
an amendment on this, and the coalition,
which includes the 'National Mining Party',
ought to be supporting this. Where royalties
are raised by the states, that is a matter for
the state; the Commonwealth ought not to
intervene in any way. But the proposal in this
legislation—and I think we will find that the
Liberal and National parties will support it—
is that the Australian taxpayer, rather than
have their money go to the $5 billion a year
that the Gonski report found needs to go into
education, will effectively have that money
taken from them by the big parties voting
later tonight in this place. Instead that money
will be given back to Xstrata, BHP, Rio
Tinto and the other big mining corporations
as a reward for the increase in royalties by
the states. And then, in some fashion which
is yet to be properly delineated, the
Treasurer, Mr Swan; the Prime Minister, Ms
Gillard; and cabinet believe they can get that
money back from the states.

We have the National Party and the
Liberal Party saying they are going to
endorse a Labor mechanism in this place to
have this money taken out of revenue which
would otherwise flow from the
Commonwealth to the states. Isn't that
extraordinary! The so-called defenders of
states' rights in this issue are not in the
National Party, they are not in the Liberal
Party and they are certainly not in the Labor
Party; they are here on the crossbench in the
form of the Greens. The Greens do not
believe that the states' taxation ar
rangements should effectively be overwritten in this
fashion by this legislation.

The nervous giggle from the coalition
members opposite shows exactly how they
feel about the failure of their time honoured
support of the states in what they are doing
here tonight. And it is not a small matter.
The Greens are proposing that future
increases in mining royalties by the states are
a matter for them and that there should be no
reimbursement to the mining corporations.
There is no sanity or logic in what the
National Party and the Liberals are doing in
supporting the Labor Party in that
arrangement. It will ultimately see a stoush
with the states, and one could predict that it may very well end up in the High Court. And what happens if the states prevail? It will mean a further cut in the manner of the Labor Party cuts—supported by the National Party and Liberal Party—to the provision of services to the people of Australia as the states raise their taxes and at the same time the Commonwealth reimburses those taxes to the big corporations. Who wins in this arrangement no matter which way you go? It is the big mining corporations, which have got these old parties will within their keep.

The Greens do not believe the big banks and the mining companies need their tax cut from 30c in the dollar to 29c and instead propose that more benefits be considered for small businesses. We are not going to be dealing with this tax reduction now. But we know it is part of the package, because the Greens got that out of the government last week, and it will be dealt with in the budget session. Let me tell the chamber, as I have said outside this place, that the Greens party room has determined that we will not support a further win for the big mining corporations and a big windfall for the big banks, with their record profits and their massive payouts to the CEOs, at the expense of the Australian taxpayer. That is what it is. However, when it comes to small business—which is being hit hard by the mining boom, the high Australian dollar and high interest rates—we do see the need for some relief.

I note that there has been a lot of howling about this matter—that is, having a two-tiered tax system—not just on the opposition benches but even from the government. In its own proposals before the chamber tonight, the government has a two-tiered system in play for the coming year. When the matter is dealt with in May, the tax deduction will apply as of 1 July for small business, but for big business it will not apply until a year later. Many other countries, such as France, have a two-tiered system. Indeed, in the United States the corporate tax rate is somewhere close to 40c in the dollar, but for small business it is more like 20c in the dollar. We hear that sort of nonsense coming from opinion leader in today's Sydney Morning Herald. Phillip Coorey never spoke to me about this matter—but then why would he? He would not write a column that is fair to the Greens if his life depended on it. Early in his piece he said:

About a year ago, Bob Brown gave up the Greens' bargaining position by declaring that although the renegotiated mining tax was a stinker, it was better than what the Coalition would do—nothing—and therefore should be passed.

Readers of the Sydney Morning Herald may be interested to know that no, I did not do that a year ago. I made it clear in the run-up to the last election. I made it very clear to the Australian people when I was interviewed by Fran Kelly on ABC radio and, in a subsequent interview, in the run-up to that election campaign or, if he was, his memory has failed because he has a blackout when it comes to properly reporting on the Greens. A little bit further and he says:

Fair enough, but by imposing a cut-off of $2 million or $5 million—

the Greens are proposing that the government look at lifting the definition of 'small business' to an annual take of $5 million—

... they will create an unworkable, two-tiered corporate tax system open to rorting.

Mr Coorey should have a look at what goes on in the rest of the world. Why does he not comment on the fact that Labor is, through these proposals, bringing in a two-tiered system over the next year? If it is not unworkable and open to rorting under Labor
then why is it unworkable for the Greens? I believe this opinion piece is simply a matter of what in good old-fashioned parlance is called 'biased political reporting'. At the end of his piece Phillip Coorey says:

This constant complaining about the mining tax while being in a position of power to exert influence has hung a lantern over where the Greens sit at the moment. They have chosen protest instead of action.

As I said, this partisan reporter nowhere says how he would engineer what he predicts would be the outcome of the Greens taking a different position—and that would be the failure of Labor's mining tax to the great advantage of the Abbott opposition. What I suggest to Phillip Coorey is that, first, he has a look at the journalist code of ethics which says that you should give a balanced view—it is not news, I know; it is an opinion piece, but he is a news writer—and, second, maybe speak to the people involved rather than making quite incorrect opinion pieces like that.

The Greens believe much of the windfall gains from the mining boom should be available after the resources are exhausted, as a means of sharing the benefits with future generations. Recently, I saw a piece by the Leader of the Opposition, Mr Tony Abbott, who well understands the term 'intergenerational equity', a term that goes back decades. But his coalition is not going to support this Greens move for a substantial proportion of the proceeds of this tax to go into a sovereign wealth fund; nor will the Labor Party support it. One of the reasons is that this tax is so wanting. I might add, in reference to funding and the $70 billion black hole, that rather than fund the $5 billion recommended injection into our education system which is going to help of the whole of the economy in the future, the proposal by the honourable Leader of the Opposition and the people opposite is to rip $2.8 billion out of education. That is part of the $70 billion black hole.

I am indebted, tonight, for the assistance given to me by Mr John Hawkins, an economist giving good advice to the Greens. When it comes to trying to understand why we should not have a sovereign wealth fund in this country you hear complete silence from both sides. Mr Hawkins effectively came up with the figure for the coalition's black hole as $70 billion last year. I said: 'John, that can't be true. Please have a look because I can't go out to the public and say that.' The very same week the shadow Treasurer, Mr Hockey, had to agree that from the coalition's own papers they did have a $70 billion black hole. I had to, effectively, apologise to our very easygoing but superbly skilled economic adviser and say, 'You were right all the time.'

The Greens believe the increase in the compulsory superannuation guarantee from nine per cent to 12 per cent should be accompanied by reform of the superannuation tax concessions to make them more equitable, such as by replacing the flat 15 per cent tax on superannuation contributions with their being taxed at the individual's marginal rate less a fixed amount such as 15 percentage points. We are keen to see that the superannuation system is made more equitable in the country of a fair go, so that it does not continue to be weighted in favour of the superwealthy against the interests of the rest of the community.

I have put forward a proposal for an amendment, both in the form of a request to the House and as a direct amendment to go before the Senate, on the matter of extending the tax to gold and to uranium. I note that the Clerk has issued a statement to the chamber saying that that is not in order. Let me point the chamber to Odgers' Australian Senate Practice, page 283, which says:
If a bill does not impose taxation, the Senate may amend it, and if a bill does impose taxation the Senate may seek amendments by way of requests.

We are dealing with two bills here. One is the Minerals Resource Rent Tax Bill and the other is the Minerals Resource Rent Tax (Imposition—General) Bill 2011. It is our position that if the Minerals Resource Rent Tax Bill imposes taxation then we can amend it by way of a request as per the Clerk’s statement. Alternatively if the Minerals Resource Rent Tax Bill is not a bill imposing taxation, as argued by Clerk, then we can argue that the amendments can be moved as amendments. The MRRT Bill identifies the minerals the tax applies to but is not a bill imposing taxation. The tax is imposed by the Minerals Resource Rent Tax (Imposition—General) Bill 2011 and two other imposition bills, the Minerals Resource Rent Tax (Imposition—Excise) bill and the Minerals Resource Rent Tax (Imposition—Customs) bills. Therefore identifying three other minerals for the tax to apply to cannot be an imposition of a tax if the original naming of iron ore and coal is not an imposition of a tax. Moreover, the imposition bills do not mention iron ore and coal.

What I want to say here is that the Clerk is there to give us—Senator Ludlam in this case—fair and accurate advice and an alternative when the intent is clear. She has not done that. Instead she, in a Clerk strike in this Senate, refused to allow the promulgation of the wish of senators to have these motions adequately serviced before this Senate, and I object. That is not the proper servicing of senators in this place. When we make a request, sure, that comes with advice, but if there are alternatives then that advice should be fairly given to the senators involved. I might add that she ought to have a look at Senate procedures page 6465 in 1999 where the chairman said this: ‘There are three government requests to a bill—GST. The first appears to impose a tax where it was not imposed before and so falls within the first paragraph of section 53 of the Constitution.’ That one will be treated as a request. We sought for it to be treated as a request in this exact same case and were told that it could not be done. I seek better advice in the future.

**Senator RONALDSON** (Victoria)(20:38): What a remarkable 20 minutes. I find it quite extraordinary—and Senator Brown will slink out of here now—that a leader of a political party can come into this place and actually—

**Senator Bob Brown**: Madam Acting Deputy President, on a point of order: you can see that I am not slinking anywhere. I think that the senator ought to be careful about misrepresenting what is happening in this Senate.

**The ACTING DEPUTY PRESIDENT** (Senator Stephens): Thank you. There is no point of order.

**Senator RONALDSON**: I am sure if there was a rock about you would find some way of slipping under it. I have heard some remarkable contributions. You come in here, Senator Brown—through you, Madam Acting Deputy President—and accuse the Clerk of being biased. Did you ring the Clerk before you came in and say, ‘I’m going to accuse you of being biased tonight?’ Did you have the intestinal fortitude to do that, Senator Brown? No, you did not. You are a gutless piece of work. You are attacking the person that we have put in here to protect ourselves and you have not even—

**Senator Milne**: Madam Acting Deputy President, on a point of order: the standing orders require that remarks be made through the chair and that there are not reflections of the kind that Senator Ronaldson is making on other senators. I would ask that you draw
to Senator Ronaldson's attention a requirement to speak through the chair and not to adversely reflect on other senators.

**The ACTING DEPUTY PRESIDENT:** Senator Ronaldson, please make your remarks through the chair, and we are debating this bill. Try and contain your remarks to the bill.

**Senator RONALDSON:** I think I had referred my remarks through you but I will continue to do so and perhaps repeat what I said through you, Madam Acting Deputy President. What a despicable performance we have seen from Senator Brown tonight who has called the Clerk of the Senate biased. That is what Senator Brown has done tonight. I would have thought—

**Senator Bushby interjecting—**

**Senator RONALDSON:** It should be referred to the President; you are right, Senator Bushby. In fact, I will ask you to refer that to the President, Madam Acting Deputy President. But I will go on. It is remarkable to me that Senator Brown did not even have the guts to give the Clerk notice that he would be making these outrageous comments tonight. I think the comments themselves are despicable. Now he has slunk out. The fact that he has not even given the Clerk the opportunity to be here and hear those comments, I think, is lower than low. He has gone and he will not return, and I cannot believe that the deputy leader of the Greens as the 'Precious Pupp' of Australian politics. He is the walking glass jaw. When everything else fails, he will attack someone else. What a gutless wonder he is. I hope Mr President, when he has a look at this, will see this as totally—

**Senator Milne:** Madam Acting Deputy President, on a point of order: I refer you to standing order 193, infringement of order, when a senator is persistently guilty of disorderly conduct, uses objectionable words and refuses to withdraw such words. I would ask him to withdraw his words relating to Senator Brown. They are unparliamentary, and I seek that he withdraw them.

**The ACTING DEPUTY PRESIDENT:** Senator Ronaldson, I ask you to be circumspect about using terms such as 'gutless wonder' and to refrain from repeating those forms of abuse.

**Senator RONALDSON:** I will take that admonishment, Madam Acting Deputy President. I want to refer to some of Senator Brown's other comments tonight. You could
never have heard a better case for Senator Brown to vote against this legislation than the speech he just gave. The reason he has put up his amendments is the reason he should vote against this bill if the amendments do not get up. We know the amendments are unconstitutional, so his amendments will not get up. If Senator Brown was serious about this, if that 20 minutes was not just a rave and a rant that was quite meaningless, he would vote against this bill on the basis of his royalty comments alone. If the uncertainty that Senator Brown is talking about and the impacts of that certainty are left—using his words—to continue, then he will vote against the bill, surely, on the back of that. I do not know who this economics expert is that Senator Brown was referring to. The gentleman may well be—

Senator Bushby: A staffer.

Senator RONALDSON: Okay. I would be very surprised whether anyone who knew anything about economics in this country would be likely to sign up to double taxation. Effectively, that is what will happen to the corporate sector if Senator Brown gets his way—there will be double taxation. There will be royalties and there will not be any offsetting of that as part of this agreement, so there will be double taxation in relation to what is happening to these companies.

Senator Bushby: They want that.

Senator RONALDSON: Of course they want double taxation. It is a word that has not been used a lot in the last two or three years but tonight's speech was a classic case of why the Australian Greens are called 'watermelons': because they are green on the outside and pink on the inside. It was a most remarkable speech that we heard tonight. I will not take up the invitation of my very good friend on the other side to take that matter further.

Before I go back to the debate on this matter, I just want to remind Senator Brown, who referred to costings and economic responsibility, of what has happened under the Australian Labor Party. The last four budgets have delivered deficits of $167 billion. In one financial year the presumed deficit, on my understanding, went from $12 billion to $23 billion and then was revised out to $37 billion, all in one year—and Senator Brown had the gall to talk about the coalition's economic credentials. I am pleased that my colleague Senator Wong was in the chamber tonight because the document that was referred to by Senator Brown was a document prepared by the Australian Labor Party. If you have a look at the little red book, the new little red book, you will see that there is not one reference to Treasury having looked at these figures—not one reference at all. This is the Labor Party's little red book where they have allegedly made up deficit figures on behalf of the coalition. We just do not fall for that at all. We also know, and Senator Brown should be aware, that if indeed there is a surplus in May, and you cannot imagine there will not be a surplus announced, it will be a complete and utter manufactured surplus. I heard the other day from a university, not in my home state, that money that has been allocated has been brought forward into this year when sods have not been turned and it is doubtful whether there have even been contracts signed. We know it is going to be shonky, we know it will be a trick surplus and we know that in 2013-14 it will be back to business as usual for the Australian Labor Party.

I want to look at some of this money shuffling and spending forward or back out of 2012-13. In fact, Labor is boasting about spending, to the tune of $100 billion, that is
either unfunded or hidden off budget. It is a real $100 billion black hole. Leading examples include the hiding of the bulk of the NBN Co. spending from ditches to cable by treating $27 billion as equity injections to the NBN Co. Equity injections! This is just a manufactured surplus. Labor’s Clean Energy Finance Corporation costing $2 billion over five years has been taken off budget. Labor is spending $1 billion each year for its Energy Security Fund, except in 2012-13 when spending will be less than $1 million. Since 2009 the Labor Party has been promising more than $30 billion for purchasing submarines, but not one cent has yet been put into the forward estimates. And we know that if the current European carbon price persists we could face a huge revenue loss of between $3 billion and $5 billion a year. So we do not need a lecture from Senator Brown about our economic credentials. He should be directing that to the Australian Labor Party. They are indeed the ones who have failed abysmally in appropriate economic management of this country.

Senator Carol Brown: Your lot can’t even count!

Senator RONALDSON: Deary me! I love Senator Brown to death, I do. But clearly, Senator Brown, someone on your side cannot count either because how can you go from a deficit of $12 billion to $23 billion to $37 billion in one year alone? I hope you do not take that little red book of yours down to Tasmania and wave that around.

Senator Carol Brown interjecting—
Senator Polley interjecting—

The ACTING DEPUTY PRESIDENT (Senator Stephens): Order, Senators! Calling across the chamber is disorderly.

Senator Carol Brown: We only hope that you have the same success as Senator Abetz and go backwards!

The ACTING DEPUTY PRESIDENT: Senator Carol Brown!

Senator RONALDSON: I want some of what Senator Brown had! Clearly my barbecue lunch was not sufficient to get me as fired up as that, so I'll go back and have another sausage at the whips’ barbecue when we leave here. I do want to talk about this ridiculous mining tax. Fundamentally, I think that what was wrong with this legislation from day one was the lack of consultation. Only three companies in Australia have been consulted in relation to this matter—BHP, Rio and Xstrata. They of course are the big beneficiaries of this tax. But what about those smaller miners and those start-ups and those prospectors? Ultimately, they are going to be the ones who will pay a higher effective tax rate as a result of this. Rio, BHP and Xstrata—and I am sure that my super fund will have shares in those companies—are good Australian companies, but this country was not built on the back of two or three big miners. This country was built on the back of people going out and having a go in the middle of nowhere, digging and digging, and you see those remarkable success stories throughout this country's history. It was not done by the big miners. This country has always encouraged small miners, and all we are doing with this bill is discouraging them by making them have a higher effective tax rate than we are the large players.

I cannot believe that not only has there not been any consultation with everyone else bar those three companies, but there has actually also been no consultation with the states or territories all the way through with this matter. There has been no consultation at all. This fundamentally changes the way we tax
a sector in this country that has never been
taxed like this before. No other sector has
been taxed like this and I think that it is
highly unlikely that any other sector in the
future we will ever get taxed like this. The
states are an absolute pivotal partner in
mining in this country, as everyone in this
chamber knows, and they have not been
involved in discussions whatsoever. My
understanding is that the Henry
recommendations had been for a national
resource rent tax to replace state and territory
royalties, and some of my colleagues will let
me know whether indeed that was what
Henry first started out with. But that is
certainly nowhere near where it finished.
There has still been no consultation at all.

Out of interest, I thought I would read
these figures to the chamber. When you look
at state and territory governments and the
implications of the mining tax for them, the
resource royalties represent: 20 per cent of
Western Australian state government
revenue, nine per cent
of Queensland's state
government revenue, and six per cent of
New South Wales state government revenue.
They are quite remarkable revenue figures,
and here we have a piece of legislation
which will potentially dramatically impact
on them—and there has been no consultation. It absolutely beggars belief.

It reminds me a bit of the carbon tax.
What was the consultation in relation to the
carbon tax? There was, I will acknowledge,
significant consultation with the Australian
people, and that consultation was, 'There will
not be a carbon tax under the government I
lead.' So there was consultation in relation to
the carbon tax, but the consultation was built
on sand. It was a broken promise in relation
to something that the Prime Minister went to
the election with three days before the last
election. It was a solemn, hand-on-heart vow
to the Australian people, 'There will be no
carbon tax under the government I lead.'

The Henry tax review—and I am referring
to someone else's words here—was meant to
be the root-and-branch reform to deliver a
simpler, fairer tax system. But what we have
ended up with is a dog's breakfast, something
that went from about 161 pages when the
government released the first draft, to 287
pages with this legislation. As I said before,
there is an unfair competitive advantage
given to the big three companies that were
actually allowed to design the tax, and a
significant unfair and higher tax burden for
the smaller mining ventures and start-ups.

I just want to talk about the international
competitiveness issue, which my colleague
Senator Scullion so eloquently talked about
during his address. What we are doing with
this mining tax is sending out a very, very,
very clear message to the rest of the world
that we are not serious about our own
prosperity, that we are not serious about
having rules in place which will enable
people to invest in this country without the
rules changing. We have got the carbon tax
rules changing because of a lie that was told
before the last election. We have got the
rules changed in relation to mining tax, and
you just wonder what will be next. We run
the very grave risk of being the only
generation to pass on to our children a lower
standard of living than the one we were
given by our own parents, and to me that is a
horrifying thought.

The other issue is that the revenue from
the MRRT is highly volatile and is
downward trending. Indeed, if you look from
the first year since the mining tax was
announced, revenue estimates have jumped
around from $12 billion under the RSPT, to
$24 billion for the RSPT with revised
commodity price assumptions, to $10.5
billion post the Gillard government mining
tax deal and commodity prices assumptions,
down to $7.4 billion post exchange rates to
about $7.7 billion with post further exchange
rate changes. Treasury has had a look at these revenue forecasts and they have done them up to 2020. Under FOI it clearly shows that Treasury expects revenue to reduce over time. This is quite a remarkable figure: the cost of the proposed increase in compulsory super to 12 per cent alone is expected to rise to $3.6 billion in 2019-20, which is when it will be fully implemented, and that same year Treasury projections for MRRT revenue is $3 billion. So, on that one measure alone, in 2020 this nation will be $6.6 billion behind without taking into account anything else in this package, any increase at all in the cost of the matters included in this. The government stand utterly condemned for what they have done in this regard.

I want to talk briefly about the constitutional validity of the MRRT. Senator Brown thinks it is appropriate to come in here and accuse the Clerk of being biased. We know his amendment. The Clerk has said that is unconstitutional. Senator Brown, that paragon of virtue, is quite happy to attack someone in the gallery without letting them know and quite happy to attack the Clerk of the Senate without letting the Clerk know. As the Clerk has walked in, I will not make any further comment about that except to say that I repeat my request to the President to look at the comments made by Senator Brown tonight.

I want to finish on this note. Ken Henry confirmed that the government did not at any stage seek advice as to the constitutionality of the MRRT. I find it quite extraordinary that, with a piece of legislation which could well end up in the High Court, there was apparently no endeavour at all— (Time expired)

The ACTING DEPUTY PRESIDENT (Senator Stephens): Senator, I have noted your request that those remarks be referred to the President for consideration.

Senator BOSWELL (Queensland) (21:01): Tonight I rise to speak on the Minerals Resource Rent Tax Bill 2011. This is a copybook example of how not to implement a policy. The government did not talk to the states who own the resources before it announced its policy. It did not consult with the mining companies which have the right to mine the resources. It did not consult with the Australian people before it announced its original mining tax.

The tax has so many flaws it directly led to the removal of the sitting Prime Minister as an unprecedented event in our political history, an event from which the Labor Party has yet to recover, since it was that event that led them to the arms of the Greens where they are now terminally wedged, Labor wanting to do the right thing by the workers and the wealth creators of this nation and the Greens wanting to progressively shut down our economy, particularly those parts which rely on exploiting our abundant national resources. Most of those resources are in regional Australia and, therefore, it is no surprise that the vote of the Greens is much lower outside the capital cities.

While the mining tax might be the greatest example of how the Labor Party can stuff up a mining industry, it is not the only example. The Labor government in Queensland has acted with similar haste with coal seam gas. Coal seam gas could be a historic economic opportunity for Queensland, particularly western Queensland, but it must be managed properly and a fair share of the benefits must flow to the regions from which the resources come. The Labor government in Queensland has fundamentally failed to strike this balance. It has sold off mining leases.

Senator Feeney: Madam Acting Deputy President, on a point of order regarding relevance: I seek that Senator Boswell draw
himself back to the legislation that is before the chamber.

**The ACTING DEPUTY PRESIDENT (Senator Stephens):** There is no point of order.

**Senator BOSWELL:** Thank you, Madam Acting Deputy President. That is a good decision. I want to talk about the mining tax and the coal seam gas tax. The Labor government sold off mining leases throughout the state in a desperate attempt to improve the parlous state of their finances. Licences have been sold and projects approved without proper protection for families that have owned and farmed land for generations. At the last minute the Labor government have made concessions and changes. They have extended the time for agreement to be reached and required mining companies to give landholders more support during the negotiation processes. However, it still remains the case in Queensland that the negotiating table is unbalanced in favour of the mining companies. After 50 business days of negotiation, mining companies can enter land, even without an agreement. It is then up to the courts to decide one.

Vast tracts of Queensland's best agricultural land remain under threat of further mining and coal seam gas development. Some areas should be off limits. Some parts of Queensland are so important for our future security that we should not rush into allowing them to be scarred by mining. That is why the National-Liberal opposition has promised the Scenic Rim will be off limits to all mining, including coal seam gas. A Queensland LNP government will also fast-track the planning process to ensure that areas in the Darling Downs and the Golden Triangle are protected as soon as possible.

One of the areas the LNP will protect from all mining is around the state seat of Beaudesert, covering much of the Scenic Rim. The Australian Party state leader, Aidan McLindon, is running in the seat. He and his national leader, the member for Kennedy, have made much of their apparent policy to protect landholders' rights against those of the mining parties. It is important to place on record here that the Australian Party stance on this issue—and Mr Katter's particular stance—is one of distortion and hypocrisy. The Australian Party website, under their coal seam gas policy, states that the party will promote and support property rights legislation that restores negotiating power to landholders. What is left unsaid is that, if they are to do this, they will be seeking to amend the legislation which gave the mining companies more rights—legislation that Mr Katter introduced and argued for in the Queensland parliament. This fact was uncovered last week in the *Courier-Mail* and the front pages of *Queensland Country Life*. The first paragraph of the story by Cameron Thomson in *Queensland Country Life* stated it best, saying:

Bob Katter—the man so bitterly opposed to mining and gas development on private land across Queensland—is the author of the very law he rails against.

I have here a copy of the second reading speech that Mr Katter gave on the minerals resources bill on the 5 October, 1989. I think it is in the public interest that I table this speech because, mysteriously, this speech is not located on the member for Kennedy's website. In that speech the member for Kennedy explained how he had negotiated with the mining industry to allow access to someone's land after simply a phone call. The provisions of the bill relating to prospecting permits had been reworded to allow the mining registrar to advise the land owner by telephone or similar method immediately he issues a prospecting permit.
and further to clarify that the holder must give notice to the land owner prior to entry.

Now many aspects of this bill were good. It was introduced by the then Russell Cooper government and, in many instances, strengthened the rights of landholders. For example, the bill ensured that landholders received a minimum 10 per cent premium, on top of the amount owed to them as compensation, to reflect the compulsory nature of the acquisition. Those provisions should be commended and, indeed, recommended for introduction in other mining laws. The member for Kennedy certainly commended the bill to the Queensland parliament when he introduced it. It is therefore hypocritical for the member for Kennedy to now violently fulminate against the laws that he introduced. His anger and passion can hardly be believed. The Australian Party's stance on these matters looks more like a political mask of convenience than a genuine, well-thought-through policy position.

The Queensland people should be wary of Mr Katter and the Australian Party taking them for a ride. They have more concern for their votes than they do for their interests. In my political career I have never seen the member for Kennedy solve any problem. He whinges about problems but I have never seen him find a solution. Mr Katter is good at finding problems but he does not provide the solutions.

The member for Kennedy is good at taking down straw men. He constantly talks of imported bananas as if the boats from the Philippines are just off the coast. But there has never been one banana, except for perhaps two or three that came in once on an Air New Zealand flight and they were immediately incinerated. It was not Bob Katter who stopped bananas, it was the Nationals in the Senate.

While other members are fighting tooth and nail for practical road and rail projects and improvements in their electorates, the member for Kennedy spends his time blustering about projects which grab many headlines but never seem to get built, just like the $1 billion CopperString project. His party will be the same. Their members will not be in the party room, they will not be able to fight for their electorates with the Treasurer direct. They will be shouting from the grandstands trying to look relevant to the media. You cannot score a try from the grandstand; you cannot kick a goal from the benches. You have to get involved to make a difference. Those in the Katter party do not want to fight these battles. The Katter party is led, here in Canberra, by someone who introduced the very laws that protect miner's rights and it is led in Queensland by someone who has never shown an interest in mining law until the focus groups told him that he should.

A search of the Queensland Hansard record reveals that the state leader of the Katter party, Mr Aidan McLindon, did not make one mention of coal seam gas in the Queensland parliament before he left the Liberal-National Party to form his own party. His passion on coal seam gas is feigned. It is a suit of political opportunity worn to try and harness enough votes to get him across the line at this election. We should not be surprised by this pattern. Mr McLindon has already left the Liberal Party for the Nationals, then the Nationals for the Liberal-National Party, then the Liberal-National Party for the Queensland Party and then the Queensland Party for the Australian Party. He has been a member of more political parties than he has had years being in the parliament. Perhaps his next venture will be to the Labor Party. Then he will truly be able to join the Billy Hughes club.
The Katter party's position is not genuine and cannot be believed. Today, Bob Katter put out a media release challenging 'Cameron Newman' to a debate on coal seam gas. Just for the Hansard record, I have not mis-spoken. The media release did state 'Cameron Newman' in the title and in the text of the media release. Notwithstanding this embarrassing mistake, this might be the first time in Australia's political history that the leader of a party who is not actually running in an election challenges the leader of a party who is running in that election.

Campbell Newman is running for the seat of Ashgrove. He is asking Queenslanders to vote for him. Bob Katter, the member for Kennedy, is not. He is not running for any seat. No Queenslanders can vote for him on Saturday. Bob should be here this week. The member for Kennedy should be in the other place representing the interests of Kennedy. Instead he is running around Queensland in an attempt to remain relevant. If he wants to serve in the Queensland parliament he should get on the ballot paper.

So instead of being in Canberra today, the member for Kennedy has been making false claims about the LNP's policy on coal seam gas in Queensland. Mr Katter claims that the LNP will not protect the Scenic Rim, and that is simply not true. The LNP and Campbell Newman have clearly stated that they will not allow any mining in the Scenic Rim. The LNP will not allow coal seam gas to be extracted in the Scenic Rim. The member for Kennedy has today also falsely claimed that the LNP will not protect prime agricultural land. Again, not true; the LNP will fast track planning arrangements to ensure that prime agricultural land is protected.

The rights of landholders will only be properly protected through the election of an LNP government in Queensland. The member for Kennedy can continue to promise Queenslanders the electoral equivalent of golf courses on the moon because he knows he cannot deliver.

The Labor Party can never get the balance right. It is always too focused on the wasteful spending that it thinks the mining industry can provide. That is why the Labor Party has fatally over reached with this mining tax. It was predicting rivers of gold and it will now be lucky to get a trickle. The mining tax will go down in history as one of the great policy debacles. The Greens know that it is a debacle as well. They are only agreeing to vote for it to keep the government alive. Time will prove that this tax is a dud. The policy is suited to Labor but it is not in the best interests of Australia's future.

The PRESIDENT: You have 30 seconds, Senator Joyce.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (21:14): I would like to talk about the mining tax in the 17 seconds I have left. Getting something through this parliament with a Green-Labor-Independent alliance is hardly splitting the atom. It is going to be very interesting to see exactly how much financial trouble this crowd gets us into, considering that this mining tax is actually going to cost us money. It is actually going to send us out the back door.

The PRESIDENT: Senator Joyce, you actually have another 15 seconds.

Senator JOYCE: I would probably want slightly more to show you the deficiencies in the mining tax, but let us go with 15 seconds. Mr Wayne Swan says that the royalties belong to everybody. Well, they do not. Under section—(Time expired)

The PRESIDENT: The time for the debate has concluded.
Senator CORMANN (Western Australia) (21:16): Pursuant to contingent notice, I move:

That so much of standing order 142 be suspended as would prevent further consideration of the bill without limitation of time.

The mining tax is a bad tax. It is bad for the economy, it is bad for jobs and it is bad for investment in the mining industry. It will hamper Australia's competitive advantage when it comes to attracting investment into Australia and, of course, above all, this is a tax package which is bad for the budget.

Only the Labor Party could come up with a multibillion-dollar new tax which actually leaves the budget worse off. This of course brings us to what the whole purpose of this tax is, and that is to try and fill a Labor Party budget black hole.

We have on the other side of the chamber a Minister for Finance and Deregulation who, in the first 12 months that she was in the job, presided over a $25 billion blow-out in the budget deficit. This is a Labor government which spends too much, is full of wasteful spending and is always casting around for yet another tax grab. Before this Labor government has even collected one cent of mining tax revenue it has already committed more in spending than what the tax is going to collect.

Mr President, the Senate needs more time to debate this flawed tax. This is a bad tax which was negotiated in a deeply flawed process. This is a tax that was negotiated quite inappropriately by the Prime Minister and the Treasurer behind closed doors, exclusively and in secret, with the managing directors of the three biggest mining companies. This is not tax reform; this was a political fix after a significant stuff-up by the worst Treasurer that the Commonwealth has ever seen in the history of Federation.

This is a bad tax that needs further scrutiny by the Senate. It is a tax which will not raise the revenue that the government says it will. That is why this government continues to keep the mining tax revenue assumptions secret. This is a tax in which the government has already spent way more on related promises than the tax will raise. That is, of course, why this government is not prepared to give the Senate full information and full details about the cost of all of the related measures.

This is a tax, we have to remember, which started with the Henry tax review process. The Henry tax review process was one that was supposed to deliver, as the former Prime Minister Kevin Rudd said at the time, a root and branch reform of our tax system to make it simpler and fairer. Instead what we got was something that manifestly makes it more complex and less fair. This was a tax that was supposed to help the smaller and new mining projects—to make the tax system less distorting to make sure that they had a better chance of success, a better chance to grow and a better chance to make a contribution to our economic growth into the future. But, of course, it does the exact opposite.

This is a tax which is not only more complex and less fair; it is a tax that is more distorting than the status quo and which will make it harder for the smaller and newer mining projects to become the success stories of tomorrow. Something that this government does not understand in its high-taxing pursuit is that less government spending and lower taxes actually help us grow the economy more strongly, which will lead to more government revenue without the need to charge more taxes.

This government has gone from stuff-up to stuff-up with this mining tax. The whole mining tax has become a dog's breakfast because the Treasurer, Mr Swan, did not do
his homework to start off with. The Treasury
secretary Ken Henry said to him: ‘You make
sure you negotiate with the states; you make
sure you’ve got the states on side. Talk
through and negotiate the federal-state
financial relations implications of this.’ He
did none of that. This stuff-up, the dog’s
breakfast that is the mining tax, is Mr Swan’s
personal responsibility.

Of course, it was Mr Rudd who lost his
job. It was Mr Rudd who got the boot and
Mr Swan, who was actually personally to
blame for this dog’s breakfast that is now in
front of us, got a promotion. The more incompetant you are,
the faster you get promoted. This mining tax package needs and
deserves more scrutiny by the Senate. The
fact that the gag is about to be moved by this
Labor-Greens alliance is an absolute
disgrace. The way this dog’s breakfast of a
mining tax was negotiated by the Prime
Minister and the Treasurer, without any
involvement of officials, directly with the
managing directors of the three biggest
mining companies, is a national disgrace and
should not be allowed to stand as a precedent
for the way a tax is designed in Australia.
Serious tax reform requires a more
professional, more considered and more
open, transparent and inclusive process.

Senator JACINTA COLLINS
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (21:21): There is nothing new in this debate. I move:

That the question be now put.

The PRESIDENT: The question is that the
question be put.

A division having been called and the
bells being rung—

Senator BOB BROWN (Tasmania—
Leader of the Australian Greens) (21:24): Mr President, just for the clarification of the Senate, while the bells are ringing I ask you
to let the Senate know whether amendments
that have been circulated will be voted on or
whether there is some procedure needed. It is
my understanding that motions that have not
been moved but are circulated will be dealt
with.

The PRESIDENT (21:24): Senator
Brown, I have to deal with the matter before
the chair at this stage, and that is that the
question be put.

The Senate divided. [21:26]

(The President—Senator Hogg)

Ayes .............................. 37
Noes .............................. 34
Majority......................... 3

AYES

Bilyk, CL
Brown, CL (teller)
Cameron, DN
Collins, JMA
Di Natale, R
Farrell, D
Feeney, D
Gallagher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ
Wright, PL

Bishop, TM
Brown, RJ
Carr, KJ
Crossin, P
Evans, C
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Urquhart, AE
Wong, P

NOES

Abetz, E
Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A

Back, CJ
Birmingham, SJ
Boyce, SK
Buabby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
The question is that the motion moved by Senator Cormann be agreed to.

The Senate divided. [21:30]

(The President—Senator Hogg)

Ayes....................33
Noes....................37
Majority.............4

AYES
Abetz, E Back, CJ
Bernardi, C Birmingham, SJ
Boswell, RLD Boyce, SK
Brandis, GH Bushby, DC
Cash, MC Colbeck, R
Cormann, M Edwards, S
Eggleston, A Fawcett, DJ
Fierravanti-Wells, C Fifield, MP
Fisher, M Humphries, G
Johnston, D Joyce, B
Kroger, H (teller) Macdonald, ID
Madigan, JJ Mason, B
McKenzie, B Nash, F
Parry, S Payne, MA
Ronaldson, M Ryan, SM
Scullion, NG Sinodinos, A
Williams, JR Xenophon, N

NOES
Collins, JMA
Di Natale, R
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Thistlethwaite, M
Waters, LJ
Xenophon, N

Question negatived.

The question is that the second reading amendment moved by Senator Cormann on sheet 7171 be agreed to.

The Senate divided. [21:35]

(The President—Senator Hogg)

Ayes...............32
Noes...............38
Majority.........6

AYES
Abetz, E Back, CJ
Bernardi, C Birmingham, SJ
Boswell, RLD Boyce, SK
Brandis, GH Bushby, DC
Cash, MC Colbeck, R
Cormann, M Edwards, S
Eggleston, A Fawcett, DJ
Fierravanti-Wells, C Fifield, MP
Fisher, M Humphries, G
Johnston, D Joyce, B
Kroger, H (teller) Macdonald, ID
Madigan, JJ Mason, B
McKenzie, B Nash, F
Parry, S Payne, MA

NOES
Bilyk, CL Bishop, TM
Brown, CL (teller) Brown, RJ
Cameron, DN Carr, KJ

The PRESIDENT (21:35): The time allotted for the consideration of these bills has expired. The question is that the second reading amendment moved by Senator Cormann on sheet 7171 be agreed to.

The Senate divided. [21:35]

(The President—Senator Hogg)

Ayes.................32
Noes................38
Majority............6

AYES
Abetz, E Back, CJ
Bernardi, C Birmingham, SJ
Boswell, RLD Boyce, SK
Brandis, GH Bushby, DC
Cash, MC Colbeck, R
Cormann, M Edwards, S
Eggleston, A Fawcett, DJ
Fierravanti-Wells, C Fifield, MP
Fisher, M Humphries, G
Johnston, D Joyce, B
Kroger, H (teller) Macdonald, ID
Madigan, JJ Mason, B
McKenzie, B Nash, F
Parry, S Payne, MA

The Senate divided. [21:30]

(The President—Senator Hogg)

Ayes..................33
Noes..................37
Majority.............4

AYES
Abetz, E
Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Fisher, M
Johnston, D
Kroger, H (teller)
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Scullion, NG
Williams, JR

NOES
Collins, JMA
Di Natale, R
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Thistlethwaite, M
Waters, LJ
Xenophon, N

Question agreed to.

The PRESIDENT (21:30): The question now is that the motion moved by Senator Cormann be agreed to.

The Senate divided. [21:30]
The question is that the second reading amendment circulated by Senators Bob Brown and Ludlam on sheet 7211 be agreed to.

A division having been called and the bells being rung—

Senator Bob Brown: Mr President, I ask that the clerk read it out.

The President: That has been circulated, Senator Brown. I believe there is no need at this stage to read that matter out.

The Senate divided. [21:40]

(The President—Senator Hogg)

Ayes...................9
Noes...................59
Majority.............50

The President: The question now is that the second reading amendment circulated by Senator Xenophon on sheet 7213 be agreed to. Those of that opinion say aye; to the contrary no.

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (21:45): I do not have that motion before me. I ask that you see that it be delivered to me or that it be
read out, Mr President, one or the other, so that we can get a proper vote on the matter.

The PRESIDENT: Senator Brown, it has been circulated for a long time, or a reasonable time, in the chamber, as I understand it. The question is that the second reading amendment circulated by Senator Xenophon on sheet 7213 be agreed to.

The Senate divided. [21:50]

(The President—Senator Hogg)

Ayes.................42
Noes.....................28
Majority.............14

AYES
Abetz, E
Bernardi, C
Boswell, RLD
Brandis, GH
Bushby, DC
Colbeck, R
Di Natale, R
Eggleston, A
Fierravanti-Wells, C
Fisher, M
Humphries, G
Joyce, B
Ludlam, S
McKernie, B
Nash, F
Payne, MA
Ronaldson, M
Scullion, NG
Waters, LJ
Wright, PL

NOES
Back, CJ
Birmingham, SJ
Boyce, SK
Brown, RJ
Cash, MC
Cormann, M
Edwards, S
Fawcett, DJ
Fiffin, MP
Hanson-Young, SC
Johnston, D
Kroger, H
Macdonald, ID
Mason, B
Milne, C
Parry, S
Ryan, SM
Siewert, R
Williams, JR
Xenophon, N (teller)

Question agreed to.

The PRESIDENT (21:59): The question now is that these bills be read a second time.

Senator Bob Brown: Mr President, on the point of order, I refer you to standing order 195. It says that a senator may require the question to be read by the Clerk at any time during a debate. You have ruled that that does not apply if the question has been circulated.

The PRESIDENT: That is a ruling by a former President of the Senate, Senator Calvert, so I am relying on that.

Senator Bob Brown: I would ask you to come back to the Senate with that ruling and an assurance that this has been applied consistently throughout your period as President.

The PRESIDENT: It is a ruling by former President Calvert and, as far as I can reasonably recall, I have consistently applied that ruling. If I am in error on that, I stand to be corrected. The question is that the bills be read a second time.

The Senate divided. [21:59]

(The President—Senator Hogg)

Ayes .................38
Noes .....................32
Majority ...............6

AYES
Bilyk, CL
Brown, CL (teller)
Carr, KJ
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Ludwig, JW
Marshall, GM
Moore, CM
Pratt, LC
Singh, LM

NOES
Sterle, G
Urquhart, AE
Thistlethwaite, M
Wong, P

PAIRS
Adams, J
Heffernan, W
Sinodinos, A

Conroy, SM
Carr, RJ
McLucas, J

Bilyk, CL
Brown, CL (teller)
Carr, KJ
Cameron, DN
Collins, JMA
Di Natale, R

Bishop, TM
Brown, RJ
Evans, C
The President (22:04): The amendment to the Minerals Resource Rent Tax Bill 2011 circulated by the leader of the Australian Greens, Senator Bob Brown, is not in order. It broadens the tax base to include gold and other minerals and therefore imposes...
taxation within the meaning of section 53 of the Constitution. Section 53 provides:

Proposed laws … imposing taxation, shall not originate in the Senate.

The Minerals Resource Rent Tax Bill 2011 does not itself impose tax, but, by proposing to tax substances that are not currently subject to the tax, the request for further amendment transforms the bill into a bill imposing taxation. According to a ruling of President Calvert in 2003, in similar circumstances, such an amendment may not be moved in the Senate, even as a request, because it is contrary to the Constitution. The amendment is out of order and the question therefore will not be put on it.

Honourable senators interjecting—

The PRESIDENT: Order! Senator Bob Brown is entitled to be heard in silence.

Senator Bob Brown: Mr President, as I put to the Senate earlier in the evening, your ruling on this important amendment—

Senator Ian Macdonald: Is this a point of order or is he just having a chat?

The PRESIDENT: Order!

Senator Bob Brown: I am not going to talk over them.

The PRESIDENT: Is this a point of order?

Senator Bob Brown: It is.

An honourable senator: What standing order?

The PRESIDENT: Order! Senator Brown is entitled to be heard in silence.

Senator Bob Brown: This is a very important point of order. Your ruling is truncating the power—

An honourable senator: Which standing order?

The PRESIDENT: Order!

Senator Bob Brown: Mr President, your ruling is truncating the rights of this Senate under the Constitution to make requests to the House. I can do no other than object to you making this ruling, which goes against the interests of this great Senate vis-a-vis the House of Representatives. I know the numbers to support your ruling are with the old parties, and there is not much I can do about it except object.

The PRESIDENT: Senator Brown, I am not clear on your point of order. Are you—

Senator Bob Brown interjecting—

The PRESIDENT: You are finished; all right.

Senator Abetz: What did he ask for a ruling on?

The PRESIDENT: Order! I have given the ruling based on former President Calvert's ruling in 2003, and that is where the matter now rests. The question now is—

Senator CORMANN (Western Australia) (22:12): Pursuant to contingent notice, I move:

Pursuant to contingent notice, I move:

That so much of standing order 142 be suspended as would prevent the Senate debating the issues that were just raised by Senator Bob Brown in relation to the constitutional aspects of his amendment and the constitutional aspects of the mining tax.

This mining tax, which the Senate is asked to vote on, is very clearly unconstitutional. This mining tax is a tax on state property, as prohibited by the Constitution. This mining tax discriminates between states.

There are, of course, serious issues of constitutionality that are to be debated by the Senate tonight, and I encourage Senator Bob Brown and the Greens to join with the coalition to scrutinise and apply pressure on the government and force them to explain themselves here in the Senate. I urge Senator Bob Brown and the Greens to support the suspension of standing orders moved by the
coalition, so that we can properly flesh out all of the constitutional problems that arise with this mining tax.

We of course know that the Greens are even worse than the Labor Party when it comes to their high-taxing record. We have a high-spending, high-taxing government that, rather than wanting to support those parts of the economy that need help, wants to slow down the fast lane. We have a mining tax in front of us which is bad for the economy, which is bad for jobs, which is bad for investment in the mining industry and which actually happens to be unconstitutional. I have absolutely no doubt that this mining tax will ultimately be thrown out by the High Court, the same way as Labor's dodgy Malaysia people-swap deal was thrown out by the High Court. These are serious issues that need to be considered by the Senate, and I am very, very pleased that the Greens have finally seen the light—that this is a government that wants us to vote on something that is clearly unconstitutional. Given that the Greens have now got concerns about the constitutional aspects of what the Senate is asked to vote on, I urge Senator Brown to vote with the coalition to ensure that all of us are given a proper opportunity to properly flesh out and debate these issues.

The Greens are quite hypocritical in this debate, because the Greens have conspired with this very dodgy government in gagging the debate on this proposed legislation. This is a bad tax. This is a tax that was negotiated through a process that was highly dodgy. It was an absolute national disgrace the way the Prime Minister and the Treasurer sat down with the managing directors of the biggest mining companies in Australia, excluding their competitors from the process and excluding every single state and territory government from the process. The Greens have made themselves complicit to a dodgy, unconstitutional process, and here they are now today, at the last minute, querying the constitutional issues that arise out of the dodgy amendments that they moved here today.

But we welcome this debate. We think that we need to have a proper debate about it. A lot of my colleagues on this side of the chamber have a lot to say about the unconstitutional aspects of this dodgy mining tax. No doubt, given the issues that Senator Brown has just raised, he will join with the coalition in making sure that we have a proper debate about it, in the same way as Senator Brown joined with Senator Xenophon and the coalition in calling on the government to release the advice they have that says that somehow this mining tax is constitutional. We all know that it is not. In the past, Senator Bob Brown has been quite outspoken about it being time for the Senate to flex its muscle. If we want to be serious about the Senate flexing its muscle, we should insist on not further debating this mining tax legislation until such time as the government have complied with our request to table the constitutional advice about the mining tax.

In fact, I would go further. In the past, Senator Brown has been quite outspoken in criticising the government about their abject lack of transparency when it came to mining tax revenue estimates. They are still keeping the mining tax revenue assumptions secret. He has been quite critical of the government's lack of transparency in relation to the cost of all their related promises, but, when it came down to actually flexing the Senate's muscle and forcing a secretive government to be a bit open and transparent, what did Senator Brown do? He just got into bed with the government and voted with them to guillotine this debate, something which in the past he said was the most evil thing that anyone could possibly do.
Remember the days when the Greens said: ‘The guillotine is such an evil thing to do; you should never, ever do it’. Of course, we are now on to guillotine 20 or 25—who knows?

This is an opportunity for Senator Brown to right all of the past wrongs and to join with the coalition in ensuring that the Senate has a proper opportunity to properly debate the many flaws in the legislation before us, not least of which is the serious flaw that this is a completely unconstitutional piece of legislation.

**Senator JACINTA COLLINS**
(Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (22:17): I move:

That the question be now put.

**The PRESIDENT:** The question is that the question be now put.

*A division having been called and the bells being rung—*

**Senator Cormann:** I thought you wanted to debate this, Bob.

**Senator Brandis:** What a hypocrite!

**The PRESIDENT:** That is disorderly. You need to withdraw.

**Senator Brandis:** I withdraw.

**Senator Bob Brown:** Mr President, I was going to take that point of order on the bad behaviour of Senator Brandis.

**The PRESIDENT:** I have corrected the matter, Senator Brown, rightly. The question is that the question be now put.

The Senate divided. [22:21]

(The President—Senator Hogg]

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**AYES**

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**NOES**

| Abetz, E            | Back, CJ  |
| Bernardi, C         | Birmingham, SJ |
| Boswell, RLD        | Boyce, SK  |
| Brandis, GH         | Bushby, DC |
| Cash, MC            | Colbeck, R |
| Cormann, M          | Edwards, S |
| Eggleston, A        | Fawcett, DJ|
| Fierravanti-Wells, C| Fifield, MP|
| Fisher, M           | Humphries, G|
| Johnston, D         | Joyce, B   |
| Kroger, H (teller)  | Macdonald, ID|
| Madigan, JJ         | Mason, B   |
| McKenzie, B         | Nash, F    |
| Parry, S            | Payne, MA  |
| Ronaldson, M        | Ryan, SM   |
| Seullion, NG        | Williams, JR|
| Xenophon, N         |           |

**PAIRS**

| Carr, RJ            | Heffernan, W|
| Conroy, SM          | Adams, J    |
| McLucas, J          | Sinodinos, A|

Question agreed to.

**The PRESIDENT** (22:24): The question is that the motion moved by Senator Cormann that so much of standing orders be suspended as would prevent debate taking place be agreed to.
The Senate divided. [22:24]
(The President—Senator Hogg)

Ayes.................33
Noes.................37
Majority.............4

AYES
Abetz, E
Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
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Edwards, S
Fawcett, DJ
Fifield, MP
Humphries, G
Joyce, B
Macdonald, ID
Mason, B
Payne, MA
Ryan, SM
Williams, JR

NOES
Bilyk, CL
Brown, CL (teller)
Cameron, DN
Collins, JMA
Di Natale, R
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Thistlethwaite, M
Waters, LJ
Wright, PL

Bishop, TM
Brown, RJ
Carr, KJ
Crossin, P
Evans, C
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Urquhart, AE
Wong, P
Xenophon, N

PAIRS
Adams, J
Heffernan, W
Sinodinos, A

Conroy, SM
Carr, RJ
McLucas, J

CHAMBER
Question agreed to.
Bills read a third time.

Senate adjourned at 22:33

DOCUMENTS

Tabling
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]


Civil Aviation Act—

Civil Aviation Regulations—Instruments Nos—

64/12—Instructions – GNSS as primary means of navigation for NDB and VOR (overlay) approach – Qantas Airways Limited [F2012L00589].

78/12—Permission and direction – helicopter operations (Aeropower) [F2012L00579].

Civil Aviation Safety Regulations—


Revocation of Airworthiness Directives—Instruments Nos CASA ADCX—005/12 [F2012L00586].

006/12 [F2012L00588].


Environment Protection and Biodiversity Conservation Act—Amendment of list of threatened species, dated 3 March 2012 [F2012L00582].

Higher Education Support Act—

Revocation of Approval as a Higher Education Provider—Oceania Polytechnic Institute of Education Pty Ltd [F2012L00581].

VET Provider Approval No. 2 of 2012—Nicolie O’Neill Kinesiology Pty Ltd [F2012L00580].

Lands Acquisition Act—Statement describing property acquired by agreement for specified purposes under section 125.


Renewable Energy (Electricity) Act—Renewable Energy (Electricity) Regulations—Determination of the method to be used to determine the number of certificates that may be created for a particular model of solar water heater, dated 8 March 2012 [F2012L00591].

Taxation Administration Act—PAYG withholding—Payment summary deferral – Employment termination and departing Australia superannuation benefits payments [F2012L00584].

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 2011—

Statements of compliance—

Broadband, Communications and the Digital Economy portfolio.

Department of Human Services.

Department of the Prime Minister and Cabinet.
Department of Veterans’ Affairs.
Immigration and Citizenship portfolio.
Regional Australia, Local Government, Arts and Sport portfolio.
Treasury portfolio.

**Departmental and Agency Contracts**

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Climate Change and Energy Efficiency

(Question No. 1220)

Senator Boswell asked the Minister representing the Minister for Climate Change and Energy Efficiency, upon notice on 19 September 2011:

How much will the renewable energy target cost the Australian taxpayer by 2020, in terms of government investment, subsidies, grants and higher electricity costs.

Senator Wong: The Minister for Climate Change and Energy Efficiency has provided the following answer to the honourable senator's question:

The Renewable Energy Target (RET) scheme is not a grant or rebate scheme and does not involve government investment in renewable energy projects. As such, it does not impose a direct cost on taxpayers.

The RET creates a guaranteed market for additional renewable energy deployment using a mechanism of tradable certificates that are created by renewable energy generators and owners of small-scale renewable energy systems. Demand for certificates is created by placing a legal obligation on entities that buy wholesale electricity (mainly electricity retailers) to source and surrender these certificates to the Renewable Energy Regulator to demonstrate their compliance with annual obligations. Liable entities pass the costs associated with sourcing these certificates on to electricity users through higher retail electricity prices.

In helping to transform the electricity sector and support households who take action against climate change by using renewable energy, the RET scheme is expected to have a modest impact on electricity prices.

In terms of these costs, on 9 December 2011, the Standing Council on Energy and Resources released a report by the Australian Energy Market Commission, which modelled the Impact of the enhanced Renewable Energy Target on energy markets. Economic modelling of electricity markets depends on the methodology adopted as well as underlying assumptions. This report estimates that with a carbon price, the average impact of the enhanced RET on electricity prices in the National Electricity Market will vary within a range from 0.93 cents per kilowatt-hour (c/kWh) to 0.64c/kWh in nominal terms over the period 2011-12 to 2019-20. Based on a residential customer in New South Wales with annual consumption of 5,500 kWh, this would add around $0.70-$1 to the customer's weekly expenditure on electricity.

The report also makes clear that the RET would have a greater cost to electricity consumers in the absence of a carbon price. In particular, the report indicates that without a carbon price supporting renewable energy investment the Large-Scale RET could cost an additional $20 billion in the period to 2030 in 2010-11 dollars.

There are a number of factors affecting retail electricity prices, including the cost of generation, transmission, distribution and retail services. A large cause of recent rises in electricity prices is the high capital cost of the investment required in electricity networks to ensure adequate supply. The Government continues to monitor the impact of the RET, including on electricity prices.
Immigration and Citizenship: Staffing  
(Question No. 1431)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 9 November 2011:

In regard to the interim replacement of the secretary of the department, Mr Andrew Metcalfe, with Mr Martin Bowles:

(1) What is the usual process for replacing a departmental secretary when they take extended leave.

(2) Was this process followed in this instance; if not, why not and what process was followed.

(3) When did Mr Metcalfe first raise his intention to take extended leave, and who was this communicated to.

(4) When did Mr Metcalfe formally submit a leave application for annual leave, study leave and long service leave.

(5) When were these applications formally approved and by whom.

(6) How many days will Mr Metcalfe be taking as study leave and what is the approved course of study to be undertaken during this time.

(7) How many days will Mr Metcalfe be taking as annual leave.

(8) How many days will Mr Metcalfe be taking as long service leave.

(9) Was the position advertised; if so, where was it advertised and on what date, and can a copy of the advertisement be provided; if not, why was it not advertised.

(10) How many applications were received for the position.

(11) How many applications were received from within the department.

(12) Were applicants required to address selection criteria; if so, can a copy of the selection criteria be provided.

(13) How many applicants were interviewed for the position.

(14) Were any applicants interviewed more than once; if so, how many.

(15) Did Mr Bowles submit a formal application for the position.

(16) Did Mr Bowles address the selection criteria.

(17) Can a copy of the memo sent to departmental staff advising of the appointment of Mr Bowles to the position of acting secretary be provided.

(18) What experience does Mr Bowles have: (a) in the department; and (b) with immigration policy.

(19) Given Mr Bowles' appointment as special advisor to the department from 5 December 2011, prior to taking up the position as secretary from March 2012: (a) what will his duties be as special advisor; and (b) does the position of special advisor have a role description; if so, can a copy of the description be provided.

Senator Lundy: The Minister for Immigration and Citizenship has provided the following answers to the honourable senator's question

In line with the Prime Minister's determination on Secretaries remuneration and conditions of 30 June 2012, applications to take recreation and long service leave must be made to a secretary's minister. Mr Bowen has approved Mr Metcalfe's request for leave and supports his plans for further studies.

Arrangements for appointing acting Secretaries are a matter for the Prime Minister. Accordingly, advice was sought from the Department of the Prime Minister and Cabinet on 7 February 2012 in relation to this question.
I am advised that the Public Service Act 1999 (the Act) provides that the Prime Minister may appoint a person to act as the Secretary of a Department during any period when the Secretary is absent from duty. Following advice from the Secretary of the Department of the Prime Minister and Cabinet, Dr Ian Watt AO, the Prime Minister agreed that Mr Martin Bowles PSO act as Secretary in Mr Metcalfe's absence. Dr Watt consulted the Public Service Commissioner, Mr Stephen Sedgwick, before recommending the acting appointment of Mr Bowles to the Prime Minister. He also canvassed the acting appointment with the Minister for Immigration and Citizenship, the Hon Chris Bowen MP and Mr Metcalfe.

Mr Metcalfe will commence his leave in late March 2012 and return to duty on 1 October 2012. Apart from 9 days as study leave approved by the Prime Minister, approximately 40 days will be taken by Mr Metcalfe as recreation leave, and approximately 103 days will be long service leave. Mr Metcalfe has worked for the Australian Public Service since January 1980 and during that time he has accumulated substantial amounts of unused leave.

Management Circular 22/2011 was sent to staff of the Department of Immigration and Citizenship advising of the acting arrangements. A copy of the circular is attached.

Mr Bowles is currently undertaking a significant briefing program across the Department, including close involvement with Mr Metcalfe and Deputy Secretaries on all senior management issues, as well as being involved in major policy issues in his own right. There is no specific role description for the position of special advisor.

The management circular was sent to staff at 10am on 4 November 2011, and will provide sufficient background to this issue.


Colleagues

I am writing to you today to provide details of my personal plans for 2012.

As you may recall, last year I was named the "Federal Government Leader of the Year" in the Leadership in Government Awards supported by the Institute of Chartered Accountants Australia. The award included a substantial prize to be used for my continuing professional development. For some time now I have been looking for opportunities to pursue further study and to combine this with a period of recreation and long service leave, and this award will assist me to do this.

Following discussions between Dr Ian Watt (Secretary, Department of the Prime Minister and Cabinet) and Stephen Sedgwick (Australian Public Service Commissioner) and myself, it has been agreed that I will be able to undertake further study overseas and access a period of several months leave commencing in late March 2012. Minister Bowen has approved my request for leave and supports my further studies.

Given the substantial time that I will spend overseas for my study and leave, it has been decided that Martin Bowles (Deputy Secretary, Department of Climate Change and Energy Efficiency) will transfer to the department to act as Secretary for that period of time. Prior to his current role Martin has served as a Deputy Secretary in the Department of Defence, and also in several senior positions in the New South Wales and Queensland State Governments.

In order to better familiarise himself with our work, Martin will transfer to our department from the beginning of December 2011 and undertake a significant briefing program across the department, including close involvement with the deputy secretaries and me in all senior management issues.

I look forward to Martin joining us in December, and I am sure that you will make him feel very welcome, and will no doubt enjoy working with him.
Commonwealth Firearms Advisory Council
(Question No. 1479)

Senator Bob Brown asked the Minister representing the Minister for Home Affairs, upon notice, on 23 November 2011:

In regard to the Commonwealth Firearms Advisory Council (CFAC) which was established in 2010:

(1) Which members do not represent the gun lobby.

(2) Has the CFAC ever discussed, advocated or put to the Minister:

(a) the reintroduction of 0.50 BMG, military issue ammunition (which bullets can travel up to 2.5 kilometres);

(b) the introduction of silencers;

(c) the introduction of paintball markers that look like M16s;

(d) the relaxation of hand gun laws to facilitate big magazines and high calibre firearms for use in competition; or

(e) mental health issues and the availability of knives;

if so, in what way do the matters fall within the business of the CFAC.

Senator Ludwig: The Minister for Home Affairs has provided the following answer to the honourable senator's question:

(1) The CFAC is an advisory council that exists principally to advise the Commonwealth Government on the technical operation of the laws governing the importation of firearms, as contained in the Customs (Prohibited Imports) Regulations 1956. Accordingly, the members of CFAC were selected on the basis of their specific individual knowledge of firearms and not because of their stance on firearms issues.

(2) (a) Yes. The Attorney-General's Department has recently conducted public consultation on proposed amendments to the Customs (Prohibited Imports) Regulations 1956, including the proposal to increase restrictions on the importation of .50 BMG firearms (among other things).

(b) Yes. At the fourth CFAC meeting, held on 27 October 2011, the CFAC discussed the current controls in place which regulate the use of sound moderators.

(c) No. Proposals to introduce paintball markers that imitate or replicate automatic firearms, such as the M16, have not been discussed by the CFAC.

(d) At the fourth CFAC meeting, held on 27 October 2011, the CFAC discussed a proposal relating to the use of higher calibre handguns in international sporting competitions within the context of current import controls. Proposals to introduce larger capacity magazines for handguns have not been discussed by the CFAC.
(e) At the third and fourth CFAC meetings, held on 28 July and 27 October 2011, the CFAC discussed knives in the context of proposed amendments to Schedule 2 and 3 of the Customs (Prohibited Imports) Regulations 1956 and recent reviews of weapons legislation in Queensland, Western Australia and South Australia. Mental health issues were discussed by the CFAC at the third meeting in the context of recent suicides at public commercial ranges and discussions at the June 2011 Firearms and Weapons Policy Working Group meeting.

These matters fall within the business of the CFAC in accordance with the CFAC's Terms of Reference.

Sustainability, Environment, Water, Population and Communities

(Question No. 1526)

Senator Cormann asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 2 February 2012:

With reference to the proposed development of a network of marine parks, (the South-west Commonwealth Marine Reserves Network), in Western Australia:

(1) When will the boundaries proposed by the Commonwealth Government be released to the public and what is the process following their release.

(2) Has the Western Australian Government been consulted in the preparation of the proposed boundaries; if so, what is its position.

(3) Can the Minister confirm that Australia has more marine areas in sanctuary zones (with no commercial or recreational fishing) than anywhere else in the world.

(4) Can the Minister confirm that, when the current marine planning process is finished, Australia will have more sanctuary zones than the rest of the world combined.

(5) Do the boundaries proposed by the Commonwealth Government include new areas of marine national park near the Abrolhos Islands, the Perth Canyon or other areas off the coast of Western Australia.

Did the proposal of the new marine national park area originate in: (a) the department; (b) the Minister's office; or (c) a non-government organisation; if so, which organisation(s).

(6) Have any submissions to the Minister or the department been received in regard to the proposed boundaries of the marine national parks; if so, will the submissions be released to the public.

(7) What scientific data was used to establish the proposed boundaries for the marine park areas.

(8) What other advice did the Minister receive in regard to the development of the boundaries and the conservation goals of the proposed reserves.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

In regards to the South-west Commonwealth Marine Reserves Network in Western Australia:

(1) A final marine reserve network proposal will be released to the public during 2012 following the Government's consideration of submissions received during the public consultation process conducted in 2011.

Once a final marine reserve network proposal has been released, there will be a separate process to formally proclaim the marine reserve network under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

(2) The Western Australian Government has been consulted throughout the marine bioregional planning process and provided a written submission during the public consultation stage. In its submission, the Western Australian Government confirmed its general support for marine reserves and
its commitment to working with the Australian Government on marine biodiversity protection. The submission of the Western Australian Government will be made available on the website of the Department of Sustainability, Environment, Water, Population and Communities.

(3) Australia's existing highly protected zones (within Commonwealth marine reserves), including within the Great Barrier Reef Marine Park and external territories, covers approximately 300,000 square kilometres. This figure excludes the areas of proposed highly protected zones across Australia as these have not been finalised. Currently the Chagos Islands have the largest single highly protected marine protected area in the world at over 500,000 square kilometres.

(4) Australia’s marine reserves and their zoning have not been finalised. Therefore it is not possible to compare the size and extent of highly protected zones within the Australian system with what exists or what is proposed in other countries.

(5) The South-west marine reserve network proposal is being finalised following public consultation. All of the proposed marine reserves subject to public consultation were new areas.

(6) Work on the development of new marine reserves is being carried out by the Department of Sustainability, Environment, Water, Population and Communities. The public consultation process afforded all interested members of the community the opportunity to provide comments on the proposed South-west marine reserves.

(7) The formal consultation period invited submissions on a marine reserve proposal released by Government. The submissions that were received are being considered in revising the network. Where individuals and organisations have nominated, their submissions will be made publicly available on the department's website. It is anticipated that this will occur shortly.

(8) The reserve design is based on the Goals and Principles for the Establishment of the National Representative System of Marine Protected Areas (NRSMPA) in Commonwealth waters which were finalised in 2007 by the former Government, drawing on lessons learnt through the earlier development of marine reserves in the South-East region.

The department's website has a list of online datasets that have been used in developing marine bioregional plans http://www.environment.gov.au/coasts/mbp/. The list includes datasets from CSIRO and Geosciences Australia. The Goals and Principles for the Establishment of the National Representative System of Marine Protected Areas are also on the department's website.

(9) Key inputs into the process include:

- existing scientific information underlying the Integrated Marine and Coastal Regionalisation of Australia (IMCRA v.4.0) (e.g. bathymetry, geomorphic features, distribution of endemic biota)
- additional regional information on habitats, species distribution and ecology gathered during the marine bioregional planning process
- data on the location and distribution of human activities in a marine region
- views of ocean users and stakeholders in each marine region
- consideration of the contribution that existing spatial management measures can make to the NRMSPA, and
- consideration of potential management effectiveness (e.g. feasibility of compliance).
QUESTIONS ON NOTICE

Whaling
(Question No. 1553)

Senator Birmingham asked the Minister representing the Prime Minister, upon notice, on 15 February 2012:

(1) Can details be provided of all resources committed by the department, as well as known contributions from other agencies, towards the return to Australia of three protesters who boarded the Japanese vessel Shonan Maru No. 2 in January 2012.

(2) What was the department's total expenditure on this exercise.

Senator Chris Evans: The Prime Minister has provided the following answer to the honourable senator's question:

I am advised that the answer to the honourable member's question is as follows:

(1) My department did not allocate any additional resources to the return of the three anti-whaling protestors to Australia. My department responded to the incident within its existing resources.

Questions regarding expenditure by other agencies are best answered by those agencies.

(2) My department responded to the incident within existing resources. No additional expenditure was required.

Attorney-General's
(Question No. 1555)

Senator Birmingham asked the Minister representing the Attorney-General, upon notice, on 15 February 2012:

(1) Can details be provided of all resources committed by the department, as well as known contributions from other agencies, towards the return to Australia of three protestors who boarded the Japanese vessel Shonan Maru No. 2 in January 2012.

(2) What was the department's total expenditure on this exercise.

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

The work of the Attorney-General's Department towards the return to Australia of the three protestors was undertaken within existing resources. Questions as to contributions from other agencies are best answered by those agencies.

Twelve officers from the International Law and Human Rights Division, the Criminal Justice Division and the International Crime Cooperation Division worked on this issue to varying degrees during the period from Sunday, 8 January 2012 to Monday, 16 January 2012, when the protestors arrived in Albany, Western Australia.

The Department does not record time spent on discrete issues by individual officers.