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SITTING DAYS—2013

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RADIO BROADCASTS

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FORTY-THIRD PARLIAMENT
FIRST SESSION—EIGHTH PERIOD

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

Senate Office holders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Stephen Shane Parry
Temporary Chairs of Committees—Cory Bernardi, Thomas Mark Bishop, Suzanne Kay Boyce, Douglas Niven Cameron, Patricia Margaret Crossin, Sean Edwards, David Julian Fawcett, Mark Lionel Furner, Scott Ludlam, Gavin Mark Marshall, Bridget McKenzie, Claire Mary Moore, Louise Clare Pratt and Ursula Mary Stephens
Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Deputy Leader of the Government in the Senate—Senator Hon. Penelope Ying Yen Wong
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. Jacinta Mary Ann Collins
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

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

Printed by authority of the Senate
## Members 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 (vice H. Coonan, resigned 22.8.11), pursuant to section 15 of the Constitution.
(3) Chosen by the Parliament of New South Wales to fill a casual vacancy (vice Hon. M. Arbib, resigned 5.3.12), pursuant to section 15 of the Constitution.
(4) Chosen by the Parliament of Western Australia to fill a casual vacancy (vice J. Adams, died in office 31.3.12), pursuant to section 15 of the Constitution.
(5) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. B. Brown, resigned 15.6.12), pursuant to section 15 of the Constitution.
(6) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. N. Sherry, resigned 15.6.12), pursuant to section 15 of the Constitution.
(7) Chosen by the Parliament of South Australia to fill a casual vacancy (vice M. J. Fisher, resigned 15.6.12), pursuant to section 15 of the Constitution.

PARTY ABBREVIATIONS

Heads of Parliamentary Departments
Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
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<td>Prime Minister</td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Digital Productivity</strong></td>
<td><strong>Senator the Hon Stephen Conroy</strong></td>
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<td><strong>The Hon Dr Craig Emerson MP</strong></td>
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<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Mental Health Reform</strong></td>
<td><strong>The Hon Mark Butler MP</strong></td>
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<td>The Hon Gary Gray AO MP</td>
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<tr>
<td>Cabinet Secretary</td>
<td>The Hon Jason Clare MP</td>
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<tr>
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<td><strong>The Hon Warren Snowdon MP</strong></td>
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<td>The Hon David Bradbury MP</td>
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<td><strong>The Hon Bernie Ripoll MP</strong></td>
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<td><strong>Senator the Hon Stephen Conroy</strong></td>
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<tr>
<td>Minister for Defence</td>
<td>The Hon Stephen Smith MP</td>
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<tr>
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<td>The Hon Dr Mike Kelly AM MP</td>
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<tr>
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<td><strong>Senator the Hon Bob Carr</strong></td>
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<td><strong>(Vice-President of the Executive Council)</strong></td>
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Wednesday, 27 February 2013

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 09:30, read prayers and made an acknowledgement of country.

BILLS

Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator FAULKNER (New South Wales) (09:31): A little earlier in the week I commenced my second reading debate contribution and spoke, I think, for all of 37 seconds about this important legislation—the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. I was about to mention that the bill reinforces the key values of fairness, equity under the law and a fair day's pay for a fair day's work.

Slavery still exists. It is not a relic of the past. This bill takes head-on three modern manifestations of slavery—forced marriage, forced labour and organ trafficking—and it does so in accordance with Australia's international legal obligations. Under the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the International Covenant on Economic, Social and Cultural Rights, Australia is obligated to take steps to fully realise rights recognised in these treaties, including marriage with the free consent of both spouses.

Forced marriage should not be confused with arranged marriage or religious custom. Christianity, Hinduism, Islam and Sikhism require full and free consent to marriage. In an arranged marriage families usually play a significant role in promoting the idea of marriage to the bride and groom but spouses do have the right to refuse the arrangement. The International Family Law journal suggested in 2004 that many victims of forced marriage suffer tremendously. Cases have included emotional and physical abuse, abduction and kidnapping, genital mutilation, rape, enforced pregnancy, abortion and even murder.

This bill creates a new offence for forced marriages. While it may be argued that the broad definition of 'slavery' as found by the High Court in The Queen v Wei Tang allows prosecution under the existing Criminal Code, the government has chosen to codify the crime, leaving no room for uncertainty at common law. Proposed new section 270.7A provides a definition of 'forced marriage'. This expanded definition will allow for prosecution of servile relationships which are not legally recognised as marriage in Australia. Proposed new section 270.7B inserts two new forced marriage offences. One subsection will be used in the prosecution of those who are a party to the marriage. The other subsection allows for the prosecution of third parties who either use force or coercion to foster such a marriage or are reckless to the fact that the marriage is forced.

While many consider the face of 21st-century slavery to be forced prostitution, a recent discussion paper from the Attorney-General's Department noted that slavery also exists in industries such as hospitality, construction, and agriculture, as well as in domestic situations. One recent example of this was a horrific case in the Blue Mountains in NSW where a restaurateur was prosecuted after promising a better life to an Indian national. After his arrival in Sydney, this individual's travel documents were seized and he was forced to work hours on
end without pay as a kitchen hand, accommodated only in a backyard tin shed.

This bill broadens the definitions and offences which were previously associated with sexual servitude and creates a number of new sections which will apply more generally to all forms of servitude and all forms of forced labour. The definition of sexual servitude is replaced with a definition of servitude. Also replaced is the offence of sexual servitude with a broader offence of servitude. The elements of the new offence are: causing a person to enter or remain in servitude, or conducting a business involving servitude.

The bill creates a continuum of offences, from forced labour where physical restraint is not proved, to servitude where ownership is not proved, to slavery. The bill allows for an alternative verdict for forced labour if servitude is not proved beyond reasonable doubt provided the accused is accorded procedural fairness with respect to the alternate crime.

The third arm of this bill relates to organ trafficking. Australia is obliged under the trafficking protocol to criminalise organ trafficking. This bill inserts seven new offences into the Criminal Code relating to organ trafficking based on two subdivisions: organ trafficking and harbouring a victim. The offences are designed to criminalise every element of organ trafficking. For example, the harbouring offence only requires the prosecution to prove recklessness in harbouring, receiving or concealing a victim. Factors which will trigger the aggravated offence—carrying a larger penalty—are: if the victim is under 18; if the victim is subject to cruel punishment; or if in the conduct of organ trafficking the victim or another person dies or suffers serious harm. The aggravated offence of harbouring will be triggered if the victim is under 18.

It is now 189 years since slavery was abolished in the British Empire. This decision had effect in the colony of New South Wales in 1824. It is 147 years since the 13th amendment of the US Constitution banned slavery. It is 125 years since slavery was abolished in Brazil in 1888. Nevertheless, this bill recognises that slavery remains a reality today. This bill will ensure more investigations, simpler trials and swifter convictions for those involved in such appalling exploitation and denial of liberty, and I support this bill.

Senator FAWCETT (South Australia) (09:41): I also rise to address the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. As Senator Faulkner has just indicated, it is some hundreds of years, over 200 years in fact, since Wilberforce in 1807 brought the Slave Trade Act into the British parliament, and in 1837 the abolition of slavery. So many people when they look at films about slavery, like Lincoln with Daniel Day-Lewis who won the Oscar, tend to think about it as a thing in the past.

But it is not. For many people around the world their basic freedoms, their liberties and their individual rights are being abused. The exploitation involved, normally in the form of people trafficking, can take a wide range of forms including sexual exploitation, forced labour or services, organ harvesting, as well as sexual or domestic servitude and including forced marriage. The United Nations Office on Drugs and Crime found that victims were trafficked from a wide range of countries, over 127 countries, and there were more than 130 places around the world where they were exploited. All of this looks at trafficking for people for forced labour or sex but it does not actually include
things like forced marriage or forced adoptions, so there is quite a broad range of people.

It is difficult to determine the extent of it in Australia. There are discrepancies between the estimates of government and non-government operations, but the Australian Federal Police have undertaken 305 investigations around people-trafficking offences between 2004 and 2011. As of June 2011, 184 victims had been referred to Australia's Support for Victims of People Trafficking Program, which indicates that it is an issue here in Australia and not just in other parts of the world.

It is interesting to see that the people who are quite active around the world and here in Australia are groups such as World Vision and groups within the Catholic Church and other churches. It is a timely reminder that, for all the bad press that churches receive at times, when it comes to standing up for people's freedoms and their rights it is often people who are motivated by their faith who are actually taking steps and going out of their way to stand up for and to support people. Wilberforce was one of the earliest examples in this particular area, but I commend organisations such as World Vision for their extensive work and their campaigns of not trading lives.

It is an issue, though, in Australia. In South Australia recently we have had bills looking at things like decriminalising prostitution. Evidence has come from the University of Melbourne, for example, talking about the existence of trafficked prostitutes in Asia working in South Australia's illegal brothels and that decriminalisation would make the problem even worse. So there is evidence that this is not something that is just overseas, that is just in someone else's backyard. This occurs in our backyard and it affects our communities, so it is appropriate that this parliament does something about it. We need to support the work of organisations such as World Vision and Rahab, which was started by young women who reach out to and care for the women who are caught up in the sex industry, often having been trafficked, in places like South Australia.

It is also the case that whilst we tend to think of forced marriage as being something that perhaps happens in other countries, it does happen here in Australia. There have been a number of newspaper articles over the last few years highlighting the cases of young women who have sought the protection of the Australian Federal Police and others to stop them being sent from this country by their parents to end up in a marriage that they were not willing to be part of. The Australian Embassy in Lebanon, for example, handled around 12 forced marriage cases involving girls as young as 14, with claims that they were raped and kidnapped, back in 2005. So whilst the size of the problem is not definitely known, we do know that it is a problem.

This bill seeks to codify, for the first time, some of these offences so that we are making a very clear statement that what may be culturally acceptable in some countries is not acceptable here in Australia; that it is not only against our values and the freedoms and rights of individuals but, if those are not being respected, we will make it against the law so people realise what is expected if they live here in Australia. The objective of the bill is to strengthen and expand the capability of investigators and prosecutors to combat people-trafficking and slavery, in particular for the purposes of labour exploitation, and to facilitate the prosecution of these offences.

Specifically, the bill introduces new offences of forced labour, forced marriage, harbouring a victim and organ trafficking
and makes a number of consequential amendments. It ensures that the slavery offence applies to conduct which renders a person a slave, as well as conduct involving a person who is already a slave. It extends the application of the existing offences of deceptive recruiting and sexual servitude so that they apply to non-sexual servitude and all forms of deceptive recruiting. It increases the penalties applicable to the existing debt bondage offences to ensure they adequately reflect the relative seriousness of the offences, and again there are some consequential amendments. I will come back to that point later because I have some concerns that some of the priorities in terms of the potential sentences do not reflect correctly the relative seriousness of the offences.

The coalition does have some concerns with the bill, and coalition senators made additional comments in the report by the Senate Legal and Constitutional Affairs Legislation Committee which looked into this crimes legislation amendment bill. One of the concerns is around the very broad definition of coercion. The explanatory memorandum explicitly says the term has been drafted to be broad and non-exhaustive in order to supplement the existing framework and 'ensure the broadest possible range of exploitative behaviour is captured and criminalised'. But the failure to actually define what coercion means leaves open the possibility that a broad range of relationships in which power is unequal might be characterised as coercive. There are also some concerns around the strict liability provisions, and the coalition will be putting forward some amendments in that regard.

I would like to come to some specific issues that I have noted in both the information surrounding the bill and specific clauses. One specific issue I thought was worthy of note when I was researching the background for this speech and looking at the inquiry in South Australia is that evidence from a Melbourne university in relation to the South Australian bill looked at alternative models of legislation. I think it is worthwhile for this parliament to also consider alternative approaches to reducing the demand for services that create the market for people to traffic.

The Nordic model was discussed during evidence provided to the South Australian parliament. Under the model that was first adopted in Sweden, the clients of prostitutes commit an offence punishable with fines or even custodial sentences, while the prostitutes themselves are considered to have committed no offence. The evidence presented indicates that it seems to have been effective as there is now no known trafficking in Sweden. There are a small number of women, perhaps as few as 600, involved in prostitution now in Sweden, compared to Australia, where the industry believes there are some 17,000. There are no brothels and street prostitution is almost gone. Clearly, having a different approach and making the consumer of the service liable, as opposed to the provider, is a way to protect people who are often victims of life circumstances that force them into that line of work. By not making their conduct illegal
but making the conduct of the client illegal, it seems to be effective.

I believe it is appropriate that this parliament should take note of some of those kinds of initiatives to make sure that we balance cracking down on these sorts of behaviours and these sorts of industries that exploit people with protecting the people who are exploited. I would particularly like to come to this concept of relative offences. Clause 270.7 talks about deceptive recruiting for labour or services. The penalty in the case of an aggravated offence is imprisonment for nine years or, in any other case, imprisonment for seven years. We heard Senator Faulkner talk before about the person who had been brought from the Indian subcontinent to Australia and who ended up essentially being made to work as a slave, living in a tin shed. That was deceptive recruiting, which led to slave-like practices. I completely accept that that is not appropriate. But if we move on to 270.7A, which looks at forced marriage, we find that in the case of an aggravated offence for forced marriage the imprisonment is seven years or, in any other case, the imprisonment is only four years. The relativity of that is, I believe, inappropriate.

Let us look at some of the newspaper articles, and I go particularly to an article in the Australian in February of last year. It talks about a centre in Western Sydney where there is a lady who runs a support service for young women who have been caught up in forced marriage or who have had pressure from family around that. She talks about the fact that this is very common in Australia, that it is deliberately hidden by community and religious leaders and that it co-exists with family violence and the subjugation of women. The article talks about the fact that legal aid lawyers have told the courts that, in a number of cases, girls are subjected to violence or threats of violence, including being dragged around by the hair, hit when they refuse the marriage that has been planned for them, taken out of school, locked in their bedrooms until they agree to go through the ceremony, or psychologically pressured by being told that their female relatives will be kidnapped and raped if they continue to resist the plans that have been made for them. In the worst case recorded, workers in the Migrant Resource Centre in Tasmania told authorities there that local families were exchanging dowries before girls were even 14, and that they have a case of a girl's family in Australia who pinned her down while her new husband raped her to seal the deal. How can that be a lesser offence in terms of the penalties than the deceptive recruiting? In terms of the standards that Australia maintains for the respect of individuals, this legislation should be sending the message that that kind of behaviour is inappropriate, that it is unacceptable and that it will be punished to the full extent of the law.

I also have some concerns as to the same section around strict liability. Clause 270.7B(2)(c) talks about the person who is not a victim of a forced marriage having committed an offence and says that strict liability applies to that person. What that means is that, in this case, if there is a young woman, a young girl who is 13 or 14 years old, who is forced by her parents to take part in a marriage, there is a strict liability upon the groom, whether that person is 18 or 48 or whatever age, to prove his innocence. Firstly, that is a fundamental change in the assumption of innocence that we normally have here, in Australia. Secondly, as we have seen in many of these cases, that person is in another country and, yes, he may be a party to the marriage, but the one who is actually guilty of forcing the marriage, who is guilty of the psychological or physical oppression, is not the groom; in many cases, it is the
parents. If there is going to be strict liability then, surely, it would be on the people who have actually caused the physical or psychological harm, the people who have exerted influence and control over the young woman as opposed to the person who is the other party in what some would see as an arranged marriage. Clearly, for someone who is underage in Australia, those who are guilty of making this a forced marriage are the caregivers, which, unfortunately and unthinkably from our world view here in Australia, appear to be the parents. So I have a concern with the concept of strict liability in the first place of reversing that onus of proof, but I am particularly concerned that it may be applied against the wrong party. I believe it is something that needs to be considered in this bill.

Having said that, I do support the bill for all the reasons I have stated. It is long since Abraham Lincoln and long since William Wilberforce, and so you would like to think that our world has moved on; but, clearly, it has not. I believe it is important to recognise that many of the practices we are talking about, particularly around forced marriages, come from cultures other than that which is considered mainstream in Australia. The citizenship pledge which people take when they come to this country says in its preamble that it is important for all Australian citizens to understand their responsibilities. It also talks about what it means to be a citizen, whether Australian by birth or by choice. It is a critical part of building our nation. People are required to make the Australian Citizenship Pledge at citizenship ceremonies and, in doing so, they are making a public commitment to Australia and to accepting the responsibilities and privileges of citizenship. The pledge says:

I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.

So the strength of this piece of legislation is in the fact that it is saying that, in Australia, we do believe in democracy. We do believe that individuals have rights and liberties. We have extended a welcome hand to people to come and be part of this country, but if they will not respect the rights and liberties of all citizens, including their own children, then this parliament representing the people of Australia will make laws that highlight the standards that we expect in terms of upholding those rights and liberties.

The people who come to this country are welcome and expected, under this pledge, to share our democratic beliefs, to respect rights and liberties, and to uphold the law. I plead with them to leave behind those things that are not compatible with the expectations of this country, which they have chosen to make their new home in, in the interests of their dependants, their families and this community, so that we can build a strong, cohesive community as one people living in one nation under one law.

Senator STEPHENS (New South Wales) (10:00): I too rise to make a contribution to the debate about the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. We heard this morning that William Wilberforce introduced the bills to the British parliament 200 years ago to abolish slavery, and that over 80 years ago slavery was declared internationally illegal by the League of Nations. One would think that that was the end of it, but we know that there are an estimated 27 million slaves in the world—and that is at least twice the number of slaves that existed in the Roman Empire.

It is particularly disturbing for us in Australia because so many of the world's
slaves—roughly 20 million to 22 million of them—are actually found in our region. Many of these people have been born into slavery, or have been enslaved close to home in a factory or on a farm, in a quarry or in a mine, in a restaurant or in hotels. A smaller number are caught in trafficking rackets, and we do not even know how many are subject to forms of slavery that occur in war and conflict or in systems of slavery such as child trading or forced marriage. We do have some numbers, and they are very depressing. There are an estimated 15 million bonded labourers in Pakistan, India, Bangladesh and Nepal who are all slaves to their masters and have no rights. We have an estimated 2.4 million people trafficked each year and many, as we have heard this morning, are trapped sex workers.

Then there are the child soldiers. That is the story that really hits home. An estimated 40,000 children are captives in Uganda—40,000 children who have lost their childhood. It is an evil trade. We know that. Enslaved people across the world are deliberately harvested from groups, or from classes of people who have been excluded or marginalised, or set aside on the basis of their gender or race, their disability, their religion or their caste, and who are excluded from the benefits of the economic system, the social system, from systems for conflict management and, of course, from the justice system.

The government is committed to both a strong criminal justice response to, and protection for, victims of trafficking and slavery. It is an absolute violation of human rights, and it is not enough for us to simply express our moral outrage. We must act to redress it. As the Australian Human Rights Commission reminds us: every person has equal rights, just by being born human. We know that we have a responsibility to ensure that enslaved people are not excluded from the legal system, that their rights are recognised, and that those who take these rights away are guilty of crime. The Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012—a mouthful in itself—is designed to bring Australian laws into harmony with our obligations under antislavery conventions that we ratified in 1927 and 1958 in an attempt to ensure that our laws are comprehensive and apply to the current situation we face both here in Australia and in our region.

I am a member of the Parliamentary Joint Committee on Human Rights which has the task of assessing the compatibility of all proposed legislation with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011. In considering this bill, the committee has been thinking about what it means to be owned and thinking about the big questions. What is bondage in the modern world? Why is it slavery? Where does trafficking fit in the big picture of slavery, and above all, how can we stop it happening? In considering that process, I found the book Australians and Modern Slavery by Roscoe Howell to be very helpful, and I would strongly recommend it to anyone concerned with this human rights issue. It is an analysis of how Australia relates to each of the 11 forms of modern slavery and, frankly, it is quite eye opening. It brings to the fore behaviours that we do not often think about and which can easily be left in the too-hard basket and behaviours that, as we have heard, are happening in our own country as well as in our region.

Sometimes people in this country are married too young or they are trapped into a forced marriage, and this occurs under systems of belief where women are regarded as property, subordinate, or with identity
regarded not as personal but as familial. It happens today in cultures and communities that are established in Australia or are coming to Australia. Cultural ceremonies are taking place here where women, and men and families, believe that they are subject to cultural practices and that cultural rules are paramount. What this legislation does is make it known and make it clear that the rule of law is paramount in Australia. We all have to be ready to adapt to changing circumstances so, of course, the time is right to reassess the laws relating to slavery, slavery-like conditions and people trafficking, when millions of people every year are being exploited by others for financial gain.

It is important that we amend the earlier legislation, the Crimes Act 1914, the Migration Act 1958, the Criminal Code Act 1995 and the Proceeds of Crimes Act 2002, to establish the new offences. Senator Faulkner went through each of those offences in turn. They are offences of forced labour, forced marriage, organ trafficking and harbouring a victim. This bill will do all that. It will also modify the scope and application of existing offences such as slavery, deceptive recruiting, sexual servitude and trafficking in persons, and increase the penalty for an offence of debt bondage—and debt bondage is something that we are hearing much more about.

There has been extensive consultation on the proposed legislative change in this bill and there is very strong support from across the country and across advocates, lawyers, migration agents, migrant resource centres, charities, churches and all of those who are involved in dealing with the very difficult, seedy side of these kinds of practices and the industry that has been built around it. The bill will not only tighten the law relating to these crimes; it will help to raise public awareness of the issues, and that is one of the important things that we need to ensure occurs, to promote justice and to bring about the changes that we all want to happen. I commend the bill to the Senate.

Senator BOYCE (Queensland) (10:07): I am very pleased to have the opportunity to speak on the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. As a member of the Senate Legal and Constitutional Affairs Committee I was involved in the inquiry into the bill. I would like to put some time into putting a human face on the reasons this bill is necessary. As the shadow Attorney-General, Senator George Brandis, has pointed out, we have some concerns and we will be moving some amendments, but in general we support very strongly the need for this legislation.

I was involved, a number of years ago, in the federal Liberal Women’s Council’s moves to change the law as it then operated in Australia, where women who had been brought to Australia as sex slaves, to work in prostitution, were being deported back to their home countries before they had the opportunity to give evidence of any sort against the people who had brought them here. As a government we were in fact inadvertently assisting the people committing the crime of turning women into sex slaves in Australia. I must admit that, at the time, I thought that that was probably the extent of the problem—that it was something that happened perhaps at Kings Cross in Sydney but nowhere else, that it involved poor women from Asia being brought to Sydney and Melbourne but not much else. It took some time for me to realise that this was a far bigger problem than we had previously thought. We still have serious problems knowing the extent of not just the sex slave industry but the slavery and human
trafficking issues in Australia because it is very difficult to gather statistics.

It was probably about six years ago that I attended a presentation in Brisbane by the Reverend Tim Costello, who made the point while he was talking that right there, in suburban Brisbane, not very far away, there would be people who were living in slavery-like conditions, whether they were sex slaves, being exploited by strangers for their labour or being exploited by family for their labour. It was only then that the far greater extent of this problem really struck me.

One of the problems is that in some cases it can be very hard to identify who is in a slavery-like relationship and who is not. I know there are some small family businesses where children perhaps as young as eight actually have a role in the business and love their role in the business, and that is not something that I believe any government should interfere with. However, if that child is being forced to get up very early and stay up very late to take part in that business, then we do have a situation teetering on the edge of abuse and neglect.

Whilst the whole focus of the slavery and slavery-like conditions bill is around people who have been brought into Australia to be slaves, there are so many nuances within families, such as within forced marriages, as Senator Stephens was pointing out. One of our concerns about forced marriage is that, in many cases, both parties to the marriage can be very young. The suggestion that, if someone has been forced into marriage, the other party must be the guilty party is not necessarily the case. It can be far more nuanced than that. Both parties to the marriage, in fact, may have been forced into the marriage. So these are issues that we need to take into account in the way that we look at this legislation.

I want to go through a number of cases that have been brought to my attention by Anti-Slavery Australia—and it still strikes me as bizarre and awful that we need an organisation called Anti-Slavery Australia. The first case involves a woman—not called Maria but named Maria for the point of the exercise—who was 24 and came here from the Philippines. She had been working in a factory earning $10 a week to support her young son and her mother, and she was told that she could come to Australia to live with a friend's relatives and take English classes in her spare time, and that they would give her some money for a visa and an airfare. When she got here, she found that she was in fact supposed to be the fiancee of an Australian man. He took her passport and she was required to work in the fiance's family business seven days a week. She was never paid any wages. She felt that she could not leave, that she had to do what she was told by her so-called fiance or he and his family would hit her. She felt absolutely trapped, because there was no way that she could seek help from her elderly mother. She had been trafficked and enslaved—hardly the promise she had been brought here on—but perhaps from the outside it did not look like a case of slavery.

The next case involves a woman called Sun, who is 22 and came from South Korea and had come to Australia on a 12-month working holiday visa. She was actually someone who was doing sex work at home, in South Korea, to pay her way through uni. She heard from another sex worker that life was much easier both for study and to finance herself in Australia. She took out the 12-month working holiday visa thinking that she would study, and finance herself through sex work in Australia. But of course the agent who organised all this immediately had her collected from the airport and taken to a Sydney brothel, and the owner said she had
to pay off her flight and her visa. She was working up to 20 hours a day, and she very rarely received any money at all because she was paying off this alleged debt to the brothel owner in Sydney.

A third person, a man called Prishen, who was 43 and came from India on a three-month holiday visa was going to work with the family's restaurant in Melbourne during his three months. They had paid for him to come, and in return he would help out in the restaurant. However, when he got here he was working all night and every night, and being paid about $50 per week. He could do what he wanted to do in his hours off during the day, but he was clearly being very heavily exploited by his family. The only way that this person could currently seek remedy would be through civil action and, of course, that is not a very satisfactory way for an impoverished person, whose primary language is Indian, to function in Australia.

The fourth person is an Indonesian called Abdul, who is 35. He came here on a 457 visa. He had an interview with an employment firm that linked him up with a subcontractor in Australia. He was sponsored to come out here to work on, 'large building sites in Canberra'. He was told his pay would be in line with Australian award wages.

When he got here, he was not able to read any of the signs or understand any of the safety briefings that he was given and he was told that he would be working a six-day week for $250. He thought that was a fairly low wage. He lived 30 minutes out of Canberra and he was taken to work by his boss in a van every day and taken back again. He was then told that there would $100 per week donated from his $250 to send home to his family. You might not be surprised to hear that his family never received any of that money.

It can be a very broad field when we are looking at slavery and slavery-like conditions. But it is, despite those balanced examples I have given, generally, a quite gendered crime. It is in the main women who are the victims of slavery and slavery-like trafficking. I am delighted that we now have this legislation before us. I would hope that we can follow it up with perhaps some more real action in the field of child marriage and in the field of female genital mutilation which, in my view, are part of the same power control that goes on over women, particularly those from cultures where it is more normal for the men to exercise the power.

The coalition members of the Legal and Constitutional Affairs Committee have put in some additional comments to this report. We agreed with the comments of the government members of the committee but we would like to see a few areas of this bill clarified, because it does finally bring us to the stage where there is an understanding, at least from the legislatures, of what is happening in some parts of Australia right now—right under the noses of everybody.

I think there is probably still more room for this information to be promoted, not just to the people who might be the victims of it but also to the general public so that they recognise slavery situations when they see them. Fifty years ago, domestic violence victims would certainly have passed under the radar, or just politely not be talked about; that is no longer the case. We need to get to the situation where everybody in the community is concerned and looking at whether what they are looking at is an equal relationship that both people want to continue, or if what they are looking at is, in fact, a form of slavery.
I commend the bill, and hope that the government will accept the amendments that we will be proposing.

Senator SINGH (Tasmania) (10:21): I also rise to speak to the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. I am proud to do so as I believe it is my duty—in fact, it is the duty of us all as elected members of parliament—to make certain we implement the very best possible safeguards for the protection of vulnerable individuals. I would like to thank Senator Boyce for her support of this bill and for highlighting some of the real-life examples of people who have fallen victim to slavery and human trafficking here in Australia.

The need for legal and cultural reform to ensure that all people are free from bondage is as pressing now as it was when Abraham Lincoln resolved, through the 13th Amendment of 1865, to hold together the American union on a foundation of liberty and basic human dignity. And we are all reminded now of the singular importance of that fight against slavery as we seek to protect and extend these freedoms today.

This bill is about the Gillard Labor government striving to make sure Australia remains a just society, where the rights of individuals are upheld, and those who aim to exploit individuals and remove their rights are brought to justice. We are a part of an ever-changing world, a global society where trends move fast and people, sadly, can be treated as a commodity. Human trafficking and slavery is tragically becoming a growing concern in the 21st of century, internationally and here in Australia. Research suggests that globally between 500,000 and four million people are trafficked internally and across state borders, and of those people being trafficked 80 per cent are women and girls. Australia is not immune to this terrible trade. According to the Australian Institute of Criminology, 305 investigations and assessments of people-trafficking related offences were conducted by the Australian Federal Police’s Transnational Sexual Exploitation and Trafficking Team. One hundred and eighty-four victims of trafficking were provided with assistance through the Australian government’s Support For Trafficked People Program and 13 people were convicted for people-trafficking related offences here in Australia.

The majority of cases were of women being trafficked for the purpose of sexual exploitation. Many of these tragic cases follow the pattern outlined in case study from Anti-Slavery Australia:

When she got to the Sydney parlour, the owner told her she had to repay a 'debt' of $25,000 that she'd 'incurred' by having her flight and visa organised. In order to pay off this 'debt' she worked 14 hours a day, 6 days a week and her boss pressured her to work on her day off as well. She wasn't paid any money until her 'debt' had been paid off. Sometimes, her boss pressured her to perform sexual services without a condom. She lived in an apartment adjoining the parlour and was not permitted to leave the premises unsupervised. The boss threatened Sun with deportation if she complained too much, refused a customer or tried to go to the authorities for help.

Women typically find themselves in this situation having come to Australia under the pretence of undertaking a course of study or sometimes with the expectation of reasonable work in the sex industry or in other fields. The emotional cost and enduring pain each person experiences through this degrading trade is a price that one should never have to pay. This bill, which was developed with the support of non-government organisations and subject to two discussion papers with broad consultation, strengthens the protection of those who may fall prey to this unforgiving trade of slavery.
One life involved and subjected to this trade, I believe, is one life too many. I welcome the changes being made through this bill being debated today, such as the definition of exploitation which will be broadened to include a range of slavery-like practices and increase the penalties applicable to the existing debt bondage offences to ensure they adequately reflect the seriousness of this offence.

Slavery is not acceptable and the bill loudly proclaims the government will not allow it to take root in our society. Slavery in any part of the world should never be acceptable and it is rightly prohibited under the 1948 Universal Declaration of Human Rights and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery. Australia strongly condemns the practice and in 2005 ratified the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime. However, in our society, which is not immune to international trends, it is imperative we continue to provide strong leadership in this area. It is the Gillard Labor government which is taking this action and standing up for people of all ages and ethnicities who may unwillingly become subject to slavery offences and or human trafficking. In the 21st century, no individual should be forced or threatened to take part in work or physical labour without their consent. No individual should be coerced into a marriage through any form of pressure. No individual should be involved in the illegal trade of body parts and no individual should be subjected to sexual or non-sexual servitude.

Labor has implemented a strong whole-of-government strategy to target human trafficking, including sexual trafficking and forced labour. This bill reflects this strategy and helps further administer its four central pillars: prevention; detection and investigation; prosecution; and victim support and protection. The Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 brings Australia's laws on trafficking and slavery into line with Australia's human rights obligations. It ensures the Commonwealth can meet its human rights obligations and adequately deal with the criminal conduct taking place in the area of people trafficking and slavery offences. I strongly welcome, through this bill, the introduction of new offences of forced labour, forced marriage, harbouring a person for the purpose of further offence of trafficking and organ trafficking into the Commonwealth Criminal Code.

The changing nature of this trade, and its global sophistication, can make it difficult for law enforcement agencies to detect and prosecute its range of exploitive behaviours. That is why it is important that the bill enhances the power required by law enforcement agencies to adequately deal with this sort of criminal conduct in the 21st century. The bill strongly condemns the trade and its practice, clearly stating to offenders or those intending to take part in the trade, that it is a crime—a serious crime, one that our society will not stand for.

I am sure I am not the only senator here who has come face-to-face with a woman who is desperately seeking help and guidance because she is sadly facing the prospect of being forced into a marriage she has not chosen. Women in our society should not be facing this crisis. I call it a crisis because that is exactly what it is. When threats, deception and coercion are used to bring about a marriage or a marriage like relationship, it is a clear human rights abuse.
Whilst forced marriage like slavery and human trafficking is not clearly evident in all areas of our society, it does still exist. I am concerned that, if we do not take action and introduce new measures through this bill such as the criminalisation of forced marriage, then these issues may become rooted in all other areas of our society.

To feel powerless, unheard and invaluable is not a life a woman should live. It is not a life anyone should live. We need to empower women. Women who are supported and empowered both economically and socially create a flourishing, productive, rich and diverse society. This bill will continue that proud Labor tradition of empowering women and protecting the vulnerable in our community. Through the support of this bill, we have a real opportunity to show global leadership in the area of slavery and human trafficking. By putting in place good policy, we can work towards the eradication as well as the prevention of this degrading trade in Australia and beyond. I commend this bill to the Senate.

Senator HANSON-YOUNG (South Australia) (10:31): I rise to speak in favour of the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. I think it is really important to reflect in this place that often we have differing views about things yet it has been very humbling experience to listen to the passion and dedication of people on all sides of this debate today. It is obviously something that cuts across political borders. As fellow human beings we understand there can be no justification for forcing another person into that type of slavery or sexual abuse and assault.

It might surprise many people listening today that this type of activity even happens here in Australia because we are the lucky country. We do have the rule of law. We do ensure that we look after those who are vulnerable in our community and do what we can to ensure people are not exploited. Many people are shocked at the idea that sexual slavery, the slavery of individuals, even happens here on Australian soil. But the sad fact is it does. The inquiry into this legislation brought out that it is often occurring to those who are so vulnerable that it is kept silent.

One of the key problems in this issue is that we just do not know how many people are actually affected. There are NGOs and community based organisations that try and keep their finger on how many people access their services. Project Respect, for example, based out of Melbourne, helped over 900 victims of sexual slavery in the 2011-12 year alone. But there is no hard data as to how many people, and women in particular, are trafficked into Australia for the purpose of sexual slavery.

One of the recommendations made during the inquiry into this legislation was that we actually fund proper research into the demand for trafficked persons so we can keep a closer eye on just how many individuals and human lives are being destroyed and exploited through these means. To do that we would need adequate funding and partnerships resourced between academic institutions and other groups as well as, of course, government agencies managed by both state and federal government for policing and border patrol so that we can keep check on how many women are being affected by this awful hideous crime, which, I would argue, is a crime against humanity.

This bill goes a long way to ensuring that we put very clearly in the law the seriousness of these crimes against individuals. It ensures that there are tougher penalties for those who engage in putting women into these types of
slavery conditions. Those types of penalties are welcome. They go a long way to sending the signal that this is a very serious crime. The bill includes penalties in relation to debt bondage, which we know is how many of these women, particularly young women, are caught in this hideous crime. They are often tricked into coming to Australia to study. A number of victims have study visas. They think they are coming here to learn English or to expand on their other skills they were learning at home only to find themselves bonded into debt by those who then force them to participate in prostitution and other types of slavery.

We need to have these types of penalties but we also need to do what we can to expand the support for victims. That is not what this bill goes to but I think it is very important that we use the motivation from around the chamber today, across the political divide, to advocate stronger support for the victims involved. One of the key recommendations from the inquiry was the setting up of a proper federal compensation scheme. One of the biggest problems in this issue is that victims’ compensation is managed by the states but the people who are involved in trafficking individuals, particularly women, move their victims from state to state to avoid being caught. If a crime was committed in Victoria and the person has been moved to a brothel in New South Wales, it is unclear which victims of crime compensation the individual is actually entitled to. This is a federal issue. Many of the people are coming to Australia under the misunderstanding of their visa requirements. It is a crime now in the federal legislation and we should establish a federal compensation scheme to help those victims.

One of the other issues that are particularly pertinent in this area is that as part of the support for victims—whether that be through accessibility to a longer stay visa once somebody has been rescued, if you will, from these hideous circumstances—there should be an ability for that person to access a proper, valid visa that is in their interest, that is going to be supporting them as a victim of these hideous crimes and that is not just directly linked to whether their case is helpful for particular prosecutions. This is really, really important because we need to be able to allow the victims in this area to feel free, comfortable and able to come forward, tell their stories and ask for help and assistance. Because many of them have been flown to Australia under the guise of a different type of visa, once they have been found to be working in a brothel and it is found that they are not in Australia on a valid visa, of course we need to do something to ensure that they can stay here safely and with all the support necessary. That support and compassion offered to those individuals should not simply be linked to whether the prosecution team believe that their case is going to be helpful enough to any legal case.

We need to make sure that there is proper support through the visa system, and that includes de-linking those visas and supports from the criminal justice process. I believe it is really important that we have victims being able to speak out against how they have been treated so that we can keep the individuals who are responsible for these hideous crimes locked up—I absolutely believe that—but we also have to ensure that we look after the victims through that process. I have often called for some type of special humanitarian visa, which would be available for those women victims who have been trafficked. I think that would be a very simple way of being able to acknowledge that we owe these women all the care and support that they deserve. A special humanitarian visa for those who have been victims of trafficking and slavery would be one thing that I urge both the government...
and the opposition to consider in coming months.

I also believe that we need to do more in terms of educating our communities about these issues. As I said at the outset, many people are surprised that this even happens here in Australia, and yet many people who find themselves in these circumstances, because they are being brought to Australia under a false pretence, find it very difficult to explain to individual members in our communities. Whether they are at university or at TAFE, or at other learning institutions where often many of these young women attend, there is a disbelief about the fact that this is going on. When they ask for help, when they put their hand out for assistance, there is an unawareness amongst our community that this is going on. We need to ensure that we invest significant resources into community education campaigns, letting those victims of these hideous crimes know that they have rights in Australia, that this is not allowed to happen to them, that it is a crime and that the people doing this to them are criminals. We also need to let them know that they deserve help, support and assistance. We need to ensure that we have proper education campaigns targeting high schools, universities, TAFEs and the professions which these women come into contact with, so that anyone who may need assistance is able to be offered that and action can be taken.

As I said, we also need adequate funding for the research to ensure that we know exactly what is going on: how many women in particular are a subject of this awful, hideous crime. The other recommendation that has not been picked up in this piece of legislation, but that I think is worth considering in future debates, is the responsibility that must be taken by individuals who intentionally use these services. It should be a criminal offence to intentionally, knowingly or recklessly obtain sexual services from a trafficked woman. If it is a crime to put women into this circumstance—which it should be—it should also be a crime to knowingly use that service; otherwise we are simply turning a blind eye to why these services are even able to continue. It is absolutely paramount that we send a very strong message to both the criminals in these syndicates and the people who knowingly use their services that the Australian government does not accept this, that this is a standard that is unacceptable in Australia and that we do stand by the human rights as outlined under the various international conventions that stamp out slavery and that say that treating another human being like this is a hideous crime and will not be accepted. An individual who knowingly uses these services must also take responsibility for their continuation of the abuse of these individuals.

Further support for victims, as I have mentioned in terms of a special visa category, would go a long way to helping these women. Ensuring that we have a federal compensation scheme and these other legislative reforms, as I have outlined, are all things that we now need to move on to. This bill has been a very, very important step and I commend it to the Senate. But our work is not yet over. We have got goodwill around this place; let's try and see how we can work together over coming months to make sure that the victims caught up in these awful circumstances are actually looked after. I commend the bill to the Senate.

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (10:44): I rise too, with an enduring concern and interest to protect women from the most abhorrent crimes, as Senator Hanson-Young has referred to, to speak on the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill
2012. As my colleague Senator Brandis noted earlier in this debate, most of the offences described as new by the government are in essence definitional changes to existing offences in the Criminal Code. However, there are important new offences in organ trafficking and forced marriage, and it is the establishment of two new offences related to forced marriage that I will confine my remarks to, largely because of my involvement in the inquiry which has been alluded to.

In saying that, though, I would just like to briefly mention that I support the strengthening of regulations against organ trafficking. I do not think there is anyone in Australia who would consider it to be anything but a heinous crime, but we have to recognise and be cognisant of the fact that this is an emerging and flourishing commercial trade that happens overseas and continues to happen today as we stand here to legislate against it. So this is a good move in the sense that it strengthens our position on it—legislating against it to make sure that we stamp out all possibility of this happening in Australia and of people overseas abusing the legislative program and framework here in Australia.

As I said, I support my colleagues' comments on the bill before me and in particular the concerns that they have raised, such as about the ambiguously wide definition of 'servitude', which could be misused in an industrial relations context. As always, on this side of the chamber we give the utmost care and consideration to ensuring that legislation that comes before us in this place does not lead to unintended consequences for our community. I call on the Gillard government to support our proposed amendments.

I will now focus the remainder of my comments today on forced marriage and the relevant offences that this bill addresses. It was just over a year ago that confronting media reports and stories from the community about young women being brought to Australia to be forced into marriage led me to co-author with Senator Cash an inquiry into this issue. While that inquiry looked at all aspects of prospective marriage visas, many of the submissions contained evidence and commentary relating to the incidence of forced marriage in this country. We heard from many witnesses who came forward about their concerns in this regard.

The definition that this bill inserts into the Criminal Code defines a forced marriage as one where, because of 'coercion, threat or deception', a person, the victim, 'entered into the marriage without freely and fully consenting'. It is inconceivable to many of us that any person, any woman, could be forced into entering a marriage against her will. As we understand, it is a cultural—and in some countries, a religious—practice, a tradition, where marriages are arranged between two parties, but I note that here in Australia that is not how we do things. Marriage is probably one of the biggest decisions that any two individuals can make between themselves, and so it should be. I strongly oppose anything that contravenes that, and I am particularly concerned that individuals may be forced into marriages here in Australia, when it is certainly not our tradition and it is not the Australian way of life.

Unfortunately, I have to say that the anecdotal evidence reveals that there is a hidden and disturbing problem here in this country. It may not be a huge problem. That is something that is very hard to identify, and Senator Sarah Hanson-Young has just spoken to the lack of anecdotal evidence that
we have here, but there is certainly evidence
that this is a disturbing problem here. There
are reported cases of so-called marriage
trafficking, where women are brought to
Australia and forced into marriage, as well as
the reverse situation, where women are taken
overseas for the very same purpose. It is
impossible for me to forget the widely
reported plight of a 17-year-old Sydney girl
who managed to save herself from a forced
marriage in Lebanon with the help of the
Australian Federal Police. There are also
alarming accounts of women living in
Australia being similarly forced into
marriage here, particularly in the migrant
community.

As I mentioned earlier, the difficulty that
we have is that this evidence is anecdotal.
The incidence of forced marriages in this
country is an unknown factor. As Dr
Tomison, Director of the Australian Institute
of Criminology, made clear in the recent
prospective marriage visa classes inquiry,
research into human trafficking and in
particular the connection between marriage
and human trafficking is in an infancy stage.
In other words, there is and has been extremely little, if any, research undertaken
to ascertain the significance of this in
Australia. The AIC does intend to further
examine these connections, and I wish them
all the best in that critical work. There is no
doubt that, as the AIC, as well as the
Coalition Against Trafficking in Women in
Australia, have argued, there is a need for
greater research into and awareness of the
issue of forced marriage.

In this respect, we can look to the United
Kingdom, where this issue has been given
significant attention and focus, with the
Foreign and Commonwealth Office even
establishing a Forced Marriage Unit in 2005.
This unit has a policy role in working with
other government departments and
community organisations to tackle the issue
and has been responsible for, among other
things, publishing guidelines to help front-
line workers identify and deal with cases of
forced marriage. It has been recommended to
this government that it consider establishing
a working group to investigate the incidence
of forced marriages in Australia and to
explore relevant options that can be provided
to assist victims. I strongly call on the
government to act on this recommendation
which goes hand in hand with the legislation
that we have before us today.

It is also imperative that we seize the
opportunity to put the spotlight on this issue
to protect current and future victims. We
need more research into exactly how
prevalent forced marriages are, we need to
raise awareness of the problem in the
community and we need to provide more
information and support to women who
tragically find themselves the victim of this
heinous practice. We also need, as the
prospective marriage visa classes inquiry
recommended, to raise the minimum age of
visa holders within the prospective marriage
visa program to 18 years of age to help
minimise the incidence of forced marriage
and human trafficking in Australia. The
current visa requirements allow for young
women under the age of 17 to be brought to
this country for nine months, be sponsored
by someone here in Australia and come here
under the age of 18 with the intention of
them being married at the age of 18. The
inquiry heard much evidence in relation to
this, but we did determine that: that was too
young; girls under the age of 18 were
particularly exposed; they would potentially
not be provided with proper protection and
afforded the rights that they should; it was
a fragile age; and that is one immediate
change that could be made to strengthen our
position in relation to forced marriages. And
now, this moment in time, is when we need
to do all of this. We cannot afford to wait a
moment longer because, if we do, another young woman could find herself trapped in a situation not of her own making.

I welcome the creation of two forced marriage offences in this bill. The Criminal Code does not currently explicitly criminalise the act of causing a person to enter into a forced marriage, but with this bill it will become illegal to both cause a person to enter into a forced marriage and to be a party to a forced marriage. The second offence is directed at the spouse who is not a victim of forced marriage. Some critics have raised concerns about criminalising forced marriage and the potential for victims to be deterred from reporting for fear of the court process and being ostracised. This is another issue raised during the inquiry that I will come to shortly and that I have serious concerns about. I agree with the majority of organisations, including the Coalition Against Trafficking in Women, that work in this field needs to support criminalisation. We need to make absolutely clear that Australia condemns this practice of forcing women into marriage and that under no circumstances do we support it. Ours is a country where people are free to choose whom they marry, and so must it remain. I also believe that including these offences in the Criminal Code will help to raise awareness of the problem—a problem that often remains hidden but, once again, exists. However, the coalition does have concerns as to the strict liability imposed in the forced marriage offences. There is a reversal of the onus of proof so that, if the prosecution establishes a person was forced into marriage, the other party to the marriage is presumed guilty and must establish a lawful excuse.

I will just reflect on a couple of issues that came out of the inquiry and that other senators have raised in their debate on these particular bills. Firstly, there is the need for a central register. Through the inquiry, we established that there is no one agency responsible for collating any information on this. If the police, the department of community affairs or the immigration office are advised of a matter, there is no one central agency that is advised of the incidence or the concerns expressed that an individual may be in a forced marriage and may be having issues in relation to that. There is no single body collecting this information. The example that we were given in the United Kingdom is one that we encourage the government to consider because it centralises the data collection process. Whilst that sounds clinical and cold, all we have here at the moment is anecdotal evidence which raises huge concerns. It is critical that we actually have analytical data to back up and provide the support for changing the current system in the way it applies. In my mind, having a central agency, whether that be the Department of Immigration and Citizenship or not, responsible for the collection of data is the number one way in which we could strengthen the process and the regulation that relates to this. I also note that, when we talked about forced marriages and we discussed the women who are victims in this so-called equation, it is very difficult to flush out this information because many of these women are very fearful of their circumstances.

So you have situations where women are brought here who do not speak English, who have no network of friends around them—when the husband leaves for the day, they have no-one else they can speak to—and who are not aware of their rights here in Australia. They may come from countries where they fear police, so they may come here with a culture of fearing police authorities. More importantly, they are actually unaware of their rights and they do
not have anyone to speak to. The big issue is in ensuring that every woman who comes here under a sponsored marriage arrangement is apprised of their rights—and I think through the immigration department. Australian authorities should be assured and comfortable with the fact that that individual is fully across what their rights are in Australia, what our protections are for individuals and the support network that is available through the refugee network. If they should change their mind about the circumstances in which they have come here then they should feel that they genuinely have a network they can turn to that will provide support.

I support the comments that Senator Sarah Hanson-Young made in relation to humanitarian visas. That was something that was crying out for attention in this inquiry. These women not only are not aware of the support network but tragically are scared that they are the ones who will be returned to their country of origin. They are particularly scared because in many of these instances, because of the cultural practices and traditions of their countries, they will be blamed for the marriage collapsing. With that blame they are ostracised; with that blame they will be rejected by their own family. So if they are returned to their country of origin, they will be penalised by their family, whether formally or informally, will be blamed for the collapse of the forced marriage and will incur whatever the consequences may be.

In many of these instances it is fair and reasonable to suggest that they will be discriminated against on their return. It is not a black-and-white scenario where they come here to be married and the marriage does not work so they should be returned to their country of origin. They will be discriminated against. There is no question that they will face prejudicial behaviour and in many cases rejection from their own immediate family. There is a need for us to consider a carving off, if you like, in part of the visa framework of a humanitarian allocation for women who are in this incredibly difficult circumstance so that consideration can be given to them to stay here with clearly strong support from various agencies. They could stay here and not be forced to return home to what would be quite difficult circumstances.

I support this legislation. I am concerned that there may be unintended consequences, but I strongly support it. I look forward to further consideration of other ways in which we can strengthen the framework to support women who may well find themselves in what could be loosely described as forced marriages.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (11:04): I want to begin by thanking the senators who have contributed to this important debate on the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012. Slavery, slavery-like practices and people-trafficking are insidious crimes that fundamentally violate the human rights and indeed the very dignity of victims. Sadly, these crimes are not just past injustices relegated to the history books. Throughout the world exploitative practices, such as slavery, servitude and forced labour, continue to be a daily reality for millions of our fellow human beings. Regrettably, Australia is not immune. While we are fortunate that the number of people identified as victims of slavery and trafficking in Australia remains low, just one person affected by such egregious behaviour is one too many. This bill sends a strong message that Australia will not tolerate any form of slavery, trafficking or related coercive practices.
The purpose of this bill is to clarify and strengthen the operation of existing slavery and people-trafficking related offences in the Commonwealth Criminal Code. The bill will target those who facilitate exploitation by harbouring victims and introduce stand-alone offences of forced labour and organ trafficking to ensure that these practices are comprehensively criminalised. The bill will criminalise the unaccepted practice of forced marriage, ensuring that it is absolutely clear that marriage must be entered into freely, without duress or constraint.

The bill will also amend existing definitions in the Criminal Code to ensure that the broadest range of exploitative conduct is criminalised. It expands the definition of 'servitude' to non-sexual servitude to capture a broader range of exploitative behaviour. I want to make it absolutely clear that the intent of the government is not to in any way lessen the seriousness of sexual servitude by creating this broader offence but rather to ensure that all people in all industries are not subjected to the injustice of servitude.

I will now, if I may, turn to some specific comments that have been raised by senators in their contributions to this debate. First, the additional comments that have been made by the coalition speak of arguing for a distinction between real and apparent consent. The government in the strongest possible terms rejects the proposition that this distinction should exist. This is a proposition from the 1950s. One might very well retort, 'No does mean no and that consent must be full and free as is found in our bill.' This in our judgement is an antiquated notion and the government firmly sticks to the wording that is proposed in the bill.

We note that Senator Brandis indicated in his remarks that the opposition would not support a strict liability element within the offence of being a party to a forced marriage. But we note that the Liberal Party not only supported a similar strict liability offence but, indeed, introduced it in 2005. Philip Ruddock introduced drug offences involving children in division 309 into the Criminal Code in the Justice Legislation Amendment (Serious Drug Offences and Other Measures) Act 2005. Senator Chris Ellison took this bill through the Senate. The application of strict liability to the physical element that a child was involved was part of the original Liberal Party's bill, so we note that Senator Brandis is arguing a point here that is in defiance of his own party's history and previous conduct.

In her remarks, Senator Boyce made the point that a child being coerced into work early in the morning or late at night might be a form of slavery-like conditions. The government is of the view that the Liberal amendments would allow this very egregious act to happen. They will remove the concept of taking advantage of a person's vulnerability from the definition of coercion in the government's bill. They are also removing the concept of psychological oppression from the definition of coercion. The government cannot support this. Senator Boyce's own examples would not even be covered by the Liberal Party's changes and we urge her to look carefully at the amendments she is purporting to support and to reconsider her position.

I would like to thank the Senate Standing Committee on Legal and Constitutional Affairs for its report on the bill which was released in September of last year. The government notes the recommendations made in the committee's report. A key recommendation of the committee was for the explanatory memorandum to be amended to better articulate that slavery-like offences may occur within intimate relationships. In line with this recommendation, an addendum
to the explanatory memorandum was tabled in the Senate on 9 October 2012. The addendum clarifies that the offences of servitude and forced labour can apply whether the exploitation occurred in the victim's public or private life including in the context of intimate relationships.

The development of this bill has been a collaborative process. On behalf of the government I would like to thank the non-government organisations, industry associations, legal bodies, academics and members of the public, all of whom have provided input into this bill and made a valuable contribution. The Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012 will ensure that our laws criminalising slavery, slavery-like practices and people trafficking are as robust and effective as possible.

The bill is also essential in ensuring that our law enforcement authorities are adequately equipped to investigate and prosecute these heinous crimes. The bill reflects the government's commitment to doing all it can to prevent the reprehensible practices of slavery and people trafficking in all forms. In conclusion, I commend this bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:11): by leave—I move opposition amendments (1), (2) and (3) together:

(1) Schedule 1, item 8, page 4 (line 8), omit paragraph (d) of the definition of coercion in section 270.1A.

(2) Schedule 1, item 8, page 4 (line 9), omit "power;", substitute "power.

(3) Schedule 1, item 8, page 4 (line 10), omit paragraph (f) of the definition of coercion in section 270.1A.

The effect of opposition amendments (1), (2) and (3) would be to omit two of the subcategories from the definition of coercion in section 271A. At the moment, coercion is defined to include the following conduct: force, duress, detention, psychological oppression, abuse of power and taking advantage of a person's vulnerability. The effect of the opposition amendments would be to remove from the definition the categories psychological oppression and taking advantage of a person's vulnerability.

And we do that for one very straightforward reason. The terms are vague, they are undefined, they are potentially without limit, and they do not refer to established legal categories or concepts with an established legal meaning. Force, duress and detention, and, arguably, abuse of power—although I must confess that is somewhat wide itself—do. In particular it is very difficult to imagine that conduct which constituted duress would not be psychologically oppressive given that the legal definition of duress established over more than centuries of case law involves the overbearing of the will of the person alleging the duress. It is very difficult, equally, to see how 'taking advantage of a person's vulnerability' would not already fall within the concept of abuse of power, because the whole point of abuse of power is that in the relationship between two people there is a disparity of power so that one is in a position to take advantage of the other.

I stress that this bill is largely uncontroversial. It has the opposition's support. But, equally, it is important when we write new categories into the law that we do not conflate legal definition with rhetoric. Much as one would wish to see in an act of parliament statements in the nature of
exhortation about the evils of the practice which is prohibited, statements in the nature of exhortation have no place in the definitions of concepts. The definitions of concepts, particularly where those definitions—as I said a moment ago—rely upon well-established legal categories, are more safely left alone or, if they are sought to be extended, they ought to be extended in a way that is not merely rhetorical but has meaning and actually lends something, adds something, to the reach of the statute by expanding the definition in a certain and specific way.

There is, in my view, nothing in proposed subparagraph (d) of the definition—'psychological oppression'—or subparagraph (f) of the definition—'taking advantage of a person's vulnerability'—that is not already captured by the other four subcategories. So all we are doing is introducing new and vague concepts without making this law, which the coalition supports, more effective. That is bad legislative practice.

So for those reasons, and only for those reasons—that these words add nothing but flummery, as it were—the opposition moves the amendments I have foreshadowed that would leave the definition of coercion as conduct which includes force, duress, detention or abuse of power.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (11:17): I begin by noting that the opposition are indeed supporting the bulk of this legislation. But of course, Senator Brandis, you will, I am sure, not be surprised to learn that the government is not supporting the amendments proposed by the opposition. Let me address myself to that and endeavour to change your mind.

Items (1) to (3) of the amendments proposed by the opposition would, as articulated by Senator Brandis, remove the concepts of 'psychological oppression' and 'taking advantage of a person's vulnerability' from the definition of coercion proposed by the bill. Under those proposed amendments, coercion would be defined to include only coercion by force, duress, detention or abuse of power.

Items (4) and (5) of the opposition's proposed amendments would remove one of the two proposed offences of forced marriage contained in the bill—that is, the proposed offence of being a party to a forced marriage—and I think it is probably appropriate that I speak to that now as well. That offence would capture the conduct of a person who is a party to a forced marriage, other than the victim, but who did not necessarily cause the victim to enter into a forced marriage, unless they have a reasonable excuse. While the opposition's proposed amendments insert a note, following the proposed offence of causing a person to enter into a forced marriage, to make it clear that a person who is a party to the marriage would be captured, the effect of removing the offence of being a party to the forced marriage would mean that, in order to be guilty of an offence, a person who is not the victim to the forced marriage would have had to have caused the victim to enter into the marriage—that is, the opposition's proposed construction is much narrower.

The definition of coercion proposed by the bill is designed to bring Australia's legislative framework further into line with our obligations under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children. Under article 3A of this protocol, 'trafficking in persons' is defined as:

... the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the
giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.

Investigations into slavery, slavery-like conditions and trafficking offences have revealed that the exploitation of many victims in Australia does not involve abduction or violence or even physical restraint. Rather, offenders often use subtle, non-physical means to obtain a victim's compliance such as psychological oppression or taking advantage of a person's vulnerability. It is in these circumstances that it has proved challenging to convince juries that the offender's conduct constitutes the offence. Accordingly, the government does not support the opposition's proposed amendments to the definition of coercion.

In relation to forced marriage offences, in the government's view it is important to retain the offence of being a party to a forced marriage, in addition to the offence of causing a person to enter into a forced marriage, in order to ensure that the entire range of inappropriate behaviour relating to forced marriage is captured and criminalised. If the opposition's amendments were to proceed, there may be circumstances where a party to a marriage, person A, is aware that the person they are marrying, person B, is being forced into the marriage, but are able to escape criminal liability simply because they did not engage in conduct that caused person B to enter into the marriage and therefore their actions did not meet the elements of the offence of causing a person to enter into a forced marriage. Although they did not cause person B to enter into the forced marriage, person A's conduct may nevertheless be significantly inappropriate and warrant criminal sanction. Importantly, as noted in that example, per proposed section 270.7B(4) of the bill, the defence of reasonable excuse would apply to person A.

In terms of the definition of coercion, the situation of many victims in Australia does not conform to the popular image of slavery, slavery-like practices and trafficking involving abduction, violence and physical restraint; rather, offenders often use subtle non-physical means to obtain a victim's compliance such as psychological oppression or taking advantage of a person's vulnerability. Law enforcement agencies have, as I have already indicated, reported difficulties in successfully prosecuting cases where the offenders have used subtle coercive conduct. The definition of coercion proposed by the government in this bill is intended to capture both physical and non-physical coercive conduct—therefore capturing the broadest range of exploitative behaviour. The definition of coercion proposed by the bill will also bring Australia's legislative framework further in line with our international obligations. I note with interest that, in her remarks, Senator Boyce gave examples of children being coerced into work early in the mornings or late at night. And I note that, under the opposition's amendments, this very act, this very sin that Senator Boyce points to, would not be covered, because you are removing concepts of taking advantage of a person's vulnerability.

Lastly, the government asserts that it is important that both the forced marriage offences proposed in the bill are retained. The government is sending a clear message that forced marriage is a crime, that those who perpetuate a forced marriage will face serious penalties and that those penalties will be in line with the seriousness of their crime. For example, it would be inappropriate for an individual who knew that their spouse was a victim of a forced marriage and who entered into the marriage willingly to escape liability simply because they did not cause the victim to enter into the marriage.
Importantly, the offence of being a party to a forced marriage has been carefully drafted to ensure that it only captures serious, abhorrent conduct. As such, a person will only be guilty of the offence of being a party to a forced marriage if they are not the victim and if they did not have a reasonable excuse for entering into the marriage themselves.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:24): I want to stress again that Senator Feeney and the opposition are trying to achieve the same thing here; but those who may be listening to this broadcast who think that this is merely a verbal quibble should be reassured that it is a little more than that. The opposition support the bill but there are two respects in which we think the bill is badly drafted. I feel sorry for Senator Feeney, because he was reading out a script that no doubt was written for him by a junior officer of the Attorney-General's Department. And I have to say to you, Senator Feeney, with great respect, what you say is wrong—what you say is wrong in law. For you to be right—if we can deal with the definition question first; the definition of coercion—it would have to be the case that there were conduct which you say is criminalised by this act and which constitutes psychological oppression or taking advantage of a person's vulnerability which was not force, which was not duress as the courts have developed the meaning of that term over many, many years, which was not detention and which was not an abuse of power. One can well imagine that there may be psychologically oppressive conduct which was neither detention nor force. But how could there be psychologically oppressive conduct that was not an abuse of power? And, as I tried to point out in my remarks a little earlier, given that the courts have always considered duress or the essence of duress as being the overbearing of the will of a person in a weaker position by a person in a stronger position, how could it not be duress?

So the point we make is that there is no conduct that would not be caught by the opposition's amendment. We are not excluding or lowering the threshold, as it were, by introducing the amendment. We are merely trying to make the definition of coercion sharper by removing the rhetorical language of no legal consequence.

I seek your guidance, Madam Temporary Chairman. I have only moved the first set of opposition amendments that is to deal with coercion. Senator Feeney has addressed those and also anticipated the amendments I have not yet moved—which is fine. But I suspect the first set of opposition amendments should be put and then I will seek leave to move together the second set of opposition amendments, and I will address them at that time.

The TEMPORARY CHAIRMAN (Senator Crossin): That is correct. I will therefore put that opposition amendments (1) to (3) on sheet 7339 be agreed to.

Question negatived.

Senator MADIGAN (Victoria) (11:28): by leave—I move amendments (1) to (4) on sheet 7333 together:

(1) Schedule 1, item 8, page 4 (after line 21), after the definition of servitude in section 270.1A, insert:

sexual servitude has the meaning given by section 270.4A.

(2) Schedule 1, item 8, page 4 (after line 25), after paragraph (a) of the definition of slavery-like offence, insert:

(aa) section 270.5A (sexual servitude offences);

(3) Schedule 1, item 12, page 6 (after line 9), after section 270.4, insert:
270.4A Definition of sexual servitude

(1) For the purposes of this Division, sexual servitude is the condition of a person who provides sexual services and who, because of the use of coercion, force or threats:

(a) is not free to cease providing sexual services; or

(b) is not free to leave the place or area where the sexual services are provided.

(2) Subsection (1) applies whether the coercion, force or threat is used against the victim or another person.

(3) The victim may be in a condition of servitude whether or not:

(a) escape from the condition is practically possible for the victim; or

(b) the victim has attempted to escape from the condition.

(4) Schedule 1, item 12, page 7 (after line 12), after section 270.5, insert:

270.5A Sexual servitude offences

(1) A person:

(a) whose conduct causes another person to enter into or remain in sexual servitude; and

(b) who intends to cause, or is reckless as to causing, that sexual servitude;

is guilty of an offence.

Penalty:

(c) in the case of an aggravated offence (see section 270.8)—imprisonment for 20 years; or

(d) in any other case—imprisonment for 15 years.

(2) A person:

(a) who conducts any business that involves the sexual servitude of other persons; and

(b) who knows about, or is reckless as to, that sexual servitude;

is guilty of an offence.

Penalty:

(c) in the case of an aggravated offence (see section 270.8)—imprisonment for 20 years; or

(d) in any other case—imprisonment for 15 years.

(3) In this section:

conducting a business includes:

(a) taking any part in the management of the business; or

(b) exercising control or direction over the business; or

(c) providing finance for the business.

Whilst I and the DLP support the bill, we have serious concerns, as I have said previously, about what we believe will be its unintended consequences. We believe that the amendment differentiates in the case of assault and sexual assault, harassment and sexual harassment. Why should there not be a clear differentiation between servitude and sexual servitude? I remind the Senate that sexual servitude is an extremely serious offence and deserves legislative recognition and that 70 per cent of human trafficking cases involve sexual servitude.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (11:29): Can I begin by indicating on behalf of the government that we will not be supporting Senator Madigan's amendment. Given the increase in the number of the victims that have been identified in other industries, one of the primary purposes of the bill is to expand the application of the existing offences beyond the sex industry. As such, the bill removes the existing offences of sexual servitude and conducting a business involving sexual servitude, and replaces them with offences of servitude and conducting a business involving servitude.

The broader offences in the bill will continue to apply to a person who is exploited in the sex industry, but they will also be able to be utilised by law enforcement authorities who are investigating instances of exploitation in other industries. We also note that the penalties outlined in Senator Madigan's proposed amendments are the same as those
proposed for the broader offence in the bill. We also note that Senator Madigan's proposal does not aim to retain or reinsert the existing offence of deceptive recruiting for sexual services, which will be similarly broadened by the bill to an offence of deceptive recruiting applicable regardless of industry.

In addition, we note that proposed subsection 270.4A(2) of Senator Madigan's proposed definition of sexual servitude refers to 'coercion, force or threat' being used against a victim to gain their compliance, which is inconsistent with the remainder of the bill, which seeks to implement the broader concept of coercion, threat or deception. As the proposed amendments to the bill would not have any practical effect, our view is that there is not any policy justification for accepting the senator's amendments, which, in the government's view, would add unnecessary length and complexity to the statute book.

Given the increase in the number of victims that have been identified in industries other than the sex industry—such as hospitality, to name but one—one of the primary purposes of this bill is to expand the application of the existing offences beyond the sex industry. This is especially important in order to ensure that investigators and prosecutors have the most appropriate range of offences available to them where the circumstances of a matter do not amount to slavery, but nonetheless demonstrate significant inappropriate conduct. As such, the bill removes the existing offences of sexual servitude and conducting a business involving sexual servitude, and replaces them with offences of servitude and conducting a business involving servitude. The broader offences in the bill will continue to apply to a person who is exploited in the sex industry, but, as I have said, are also able to be used by law enforcement authorities regarding instances of exploitation in other industries.

As sexual servitude is already covered by the bill, we believe that the senator's amendment does not add anything to the government's legislation, and, as I have already indicated, the government will not be supporting the amendment.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:32): Thank you, Madam Acting Chairman. I completely understand what Senator Madigan is trying to achieve and I am entirely in sympathy with it. I have spoken to Senator Madigan about it, however, like the government, we simply cannot see that what Senator Madigan seeks to achieve by his amendment would not already be dealt with by the existing section 270.4 of the Commonwealth Criminal Code. I have engaged Senator Madigan; I have sought to see how it is that he feels that the existing provisions of the Commonwealth criminal law do not already cover that which he seeks to achieve by his amendment. I must say, I am at a loss to see how it is that this amendment does not address an issue that is already part of the law, so for that reason the opposition, respectfully, will not be supporting it.

The TEMPORARY CHAIRMAN (Senator Crossin): The question is that amendments (1) to (4) moved by Senator Madigan on sheet 7333 be agreed to.

Question negatived.

Senator BRANDIS: by leave—I move opposition amendments (4) and (5) on sheet 7339 together:

(4) Schedule 1, item 12, page 10 (line 21), omit the heading to subsection 270.7B(2).

(5) Schedule 1, item 12, page 10 (line 22) to page 11 (line 4), omit subsections 270.7B(2), (3) and (4), substitute:
Note: For the avoidance of doubt, an individual may commit an offence if the person is a party to the marriage.

This is not an issue of definition; this is an issue of the substance of an offence. It is the proposed section 270.7B that would be added to the Commonwealth Criminal Code by this legislation. This is the provision that creates the offence of forced marriage, and let me take you through it. By proposed subsection (1), an offence is created where a person engages in conduct that causes another person to enter into a forced marriage as the victim of the forced marriage. That is the significant provision of the proposed section 270.7B, and the opposition supports it.

Our amendment would omit subsections (2), (3) and (4). Subsection (2) is a curious provision, which provides that a person commits an offence if they are a party to the marriage, the marriage is a forced marriage, and the person concerned is not a victim of the forced marriage. So, it provides that the spouse of a victim of a forced marriage commits an offence. I will come back to it.

Subsection (3) imposes strict liability in relation to that, and subsection (4) applies an exclusion so that subsection (2) does not apply if the person has a reasonable excuse. We propose the omission of subsection (2)—that is, the offence of being a party to a forced marriage—for a very simple reason: that if a person is a party to or the other party of a forced marriage then it is very difficult to conceive of a set of circumstances in which they are not already in breach of the principal offence—that is, the offence created by subsection (1). It would be extremely difficult to imagine that a person who enters into a forced marriage is not a part of the conduct which causes the innocent victim to be in the forced marriage. So, in our view, subsection (2) is entirely unnecessary. We propose as well the insertion of a note to subsection (1), which would provide:

For the avoidance of doubt, an individual may commit an offence if the person is a party to the marriage.

So, if there were any residual reason to believe that this provision is necessary to fill what might be thought to be an unintended lacuna in subsection (1), then that is removed by the insertion of the clarifying note that we propose to be inserted at the end of subsection (1). As well, I should point out that there are no circumstances I can conceive of in which the existing accessorial liability—that is, the provisions of part 2.4 of the Commonwealth Criminal Code—would not apply to extend the liability for the offence created by subsection (1) to a person who is a non-innocent party to a forced marriage.

On the other hand, let us suppose that I am wrong about that. It is almost inconceivable that this could happen, but let us suppose there is a case where a husband, let us say, engages in a marriage ceremony with a woman and he is genuinely and innocently unaware that she, because of, let us say, duress on the part of her parents, is not a willing party to the marriage. Now, as I say, it is very difficult to imagine in a practical sense how that could ever be. But let us say that the other party to the forced marriage was entirely unaware of and innocent of any of the coercion of his proposed spouse. Well, if the person were entirely ignorant of, unaware of, innocent of, any coercion of his proposed spouse, then how has he committed a crime? Where is the fault element? It is a terrible situation, of course, for the victim, but the person who has done the wrong is the person or people who are doing the coercion.

The reason, I suspect, that we have subsection (3), which imposes strict liability on the other party to a forced marriage, is that that is the only set of circumstances in
which it is even theoretically possible that a party to a forced marriage could be caught by subsection (2) but not by subsection (1). And, if a person who is party to a forced marriage is completely unaware, completely innocent, completely ignorant, of the coercive circumstances, how have they committed a crime? If they are not unaware, if they are not ignorant, if they are not innocent of the coercion, then they have already committed the crime provided for by subsection (1). We should be very, very slow to impose strict liability for criminal offences but particularly in circumstances like these, where, if you analyse the provision, the requirement of strict liability is being sought to be invoked because the proposed offence could only theoretically apply when the person against whom the criminal conduct is alleged has done nothing wrong. Others have, but he has not.

Subsection (4) is merely confusing, because, having said that subsection (2) imposes strict liability, subsection (4) says it does not apply 'if a person has a reasonable excuse'. Now, this is a preposterously confused piece of legislative drafting. On the one hand, you have a conduct criminalised, where the person is innocent of any culpability, by the imposition of strict liability upon them; and then, in the very next subsection, the provision says, 'But if you have a reasonable excuse it doesn't apply to you.' So it is preposterous; it is confused. And, as I say, if a person who is involved in coercive conduct to bring about a false marriage, whether as the other party to the marriage, as a parent, as an employer or as a person who stands in any other relationship to the victim, that conduct would always be caught by subsection (1), the principal offence created provision, which the opposition supports.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (11:44): I might deal more broadly with a couple of issues as we work through this, particularly forced marriage and the definition of 'coercion', which—

Senator Brandis: We've done that.

The TEMPORARY CHAIRMAN (Senator Crossin): We have dealt with that. We are just dealing with opposition amendments (4) and (5) in relation to forced marriage.

Senator LUDWIG: I will be brief then. The nub of the argument seems to centre on, as I understand Senator Brandis's view, whether or not the person—person A, not the victim—knew. As I understand the way the clause reads, the spouse knew it was a forced marriage, and so the knowledge, in fact, could be present. But in this instance—at clause 270.7B(1)(b)—the focus is on the conduct which causes another person to enter into a forced marriage as the victim of the marriage.

It is not a question of knowledge but of cause. A spouse may know that it was a forced marriage, but did not cause it to be a forced marriage. That is in contemplation, and you could envisage circumstances where person A did know that it was a forced marriage and they did not cause it to be a forced marriage, but nonetheless they did acquiesce to the marriage. So someone else—be they a person interested in the marriage happening—caused the victim in this instance to enter the marriage, whilst the person A, who was not the victim, did not cause it to occur and may also have known about it.

On that basis I could imagine an argument around knowledge, but in this instance the reason we are putting is that you could look at either conspiracy or aiding and abetting offences. I am not sure they would go far
enough in this instance to capture person A. We are trying to put beyond doubt circumstances which allow the AFP to prosecute successfully where there are those subtle coercive events that occur that create the offence.

In terms of the issue around the second part—dealing with the knowledge element—which I just came in and picked up, so forgive me if I am wrong about this: these are not unsurprising provisions. I go back to the Criminal Code itself—particularly around division 309, which contains a number of drug offences involving children. In those offences strict liability applies to the physical element in each offence where the individual is a child. This means that the prosecution would need to prove that the individual was a child, but not that the defendant knew this. Again, the defence of mistake of fact would be available to the defendant.

There are circumstances where these have been used before, particularly those issues around drug offences and, if my memory serves me right, also in respect of issues around the Child Sex Tourism Bill—I think it is one that you spoke on in 2010, Senator Brandis. I think this issue was included within it and not raised in it. They might be materially different in your view in this circumstance, but the offence and the shifting of the burden were the same, and the use of the defences were also very similar in that bill.

So these are matters that you could now confidently say that both the opposition, when they were in government, and this government, have used in legislation to ensure that we do provide our law enforcement agencies with effective legislation to deal with a range of circumstances—particularly those types of heinous crimes, and including these ones as well. If that has not covered all of it, then please let me—

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:49): On the last point that Senator Ludwig makes, I am prepared to accept his assurance that there has been legislation passed by previous non-Labor governments or supported by the non-Labor side of politics in years gone by, which have contained in different contexts somewhat similar group liability provisions.

Senator Ludwig can I say to you, with awful candour, that I do not say that everything the opposition has ever done has been perfect. I do not say that everything that the coalition has done in government, or even said in opposition, has been perfect. There is no argument, with respect Senator Ludwig—and I see by your cherubic smile that you agree with me, or seem to agree with me—to say that because this mistake was made in the past it should be perpetuated again in the present. Or this error of judgement; if not mistake, this error of legislative drafting.

Coming to the substance of the issue: Senator Ludwig contends that the reason proposed subsection 2 of section 270.7B should remain in the bill is because it may operate in circumstances in which the other party to a forced marriage was aware of the coercion, but was not causative of or instrumental in the coercion. That effectively is what Senator Ludwig is saying: that that person is the non-innocent party and is aware of the coercion, but was not causative of or instrumental in the coercion. Senator Ludwig I have to say to you with respect, particularly when it comes to the fulfilment of a ceremony of marriage, and especially in view of the breadth of the definition of coercion, it is very difficult to see how a person who goes to the altar or
goes before a marriage celebrant knowing the other person has been coerced into being present nevertheless persists with the ceremony and says, 'I do'. It is almost inconceivable that they would not be regarded as thereby a party to, or at least an accessory to, the coercion; and therefore caught by, as I said in my remarks a little while ago, part 2.4—that is, the accessories provision of the existing Criminal Code. So I adhere to my view that the example you posit would be caught by the principal offence-creating provision, subsection 1.

But what you have not addressed, Senator Ludwig, is this: you have said, 'Well, there might be a circumstance in which there is knowledge on the part of the other person who is to undertake the marriage ceremony that the putative spouse has been coerced'; but subsection 2 does not work on knowledge. Knowledge is not an element of subsection 2. The elements of subsection 2 are: the fact that the person is a party to a forced marriage, so subsection 2 depends upon the subsection 1 requirements having been established to show that it is a forced marriage and that they are not the victim—in other words, they are the other party. Knowledge of the circumstances of coercion—knowledge of the fact that it is a forced marriage—is not an element of the offence; which of course means that it not only would capture people in the circumstances that you posit, who as I say in my view would in any event have committed the principal offence, but it also captures people who were not aware of the coercion. The very, very unusual, but I suppose theoretically possible, circumstance of a party to a proposed marriage going through the ceremony unaware that his or her proposed spouse had been the victim of coercion does not depend on knowledge.

So you have not answered the question, with respect, Senator Ludwig, of why it is that somebody in that situation should be held to have committed a crime when, in the absence of knowledge of the wrongful conduct of the coercion, they have done nothing wrong. They, in a sense, are themselves a victim, not a wrongdoer. And the legislation, as I pointed out before, seems to implicitly concede that by saying, 'Well, the only way we can get you is by imposing strict liability'—because we do not absent the unusual requirement of strict liability, say to somebody who was completely innocent of the circumstances of wrongdoing, 'You have committed a crime.' So, Senator Ludwig, I hear what you say but the opposition is entirely unpersuaded by your arguments.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (11:56): May I have one last valiant attempt, then, to persuade you? The way the construction of the forced marriage defences work is that strict liability applies only to the one element of the offence, which is being party to a forced marriage. We have established that. The element is that the person charged with the offence was not themselves a victim of the forced marriage; call that Person A. The use of strict liability means the prosecution—you would be more familiar with this than I am—must prove that the person charged was not a victim but does not need to prove any fault element for this physical element of the offence. Therefore strict liability has been applied to this element to avoid prosecution being required to prove that the defendant knew—and this is the point, even if they did not know—or was reckless about the fact that he or she was not the victim of the forced marriage. The issue which surrounds the knowledge element is that Person A may have been recklessly indifferent to others who caused A and B to wed.
In any event, if Person A did know that someone was causing the marriage, then the legislation seeks to capture their consent to the marriage on the basis that they are aware, or at least recklessly indifferent to, the fact that someone has caused the marriage—in other words a forced marriage in this instance. I would have thought, as you would think, that if you were aware or were recklessly indifferent to the fact and consented to a marriage where you knew there were others who had caused the marriage to occur through circumstances, that you would not go ahead with it. I certainly would not go ahead with it and I am confident that anyone in the opposition or on this side of politics would not go ahead with it, but in some circumstances it certainly appears to have happened.

On that basis I think they are culpable by acquiescing and going ahead with that marriage. Strict liability has been applied only to this element to avoid the prosecution being required to prove the defendant knew or was reckless about it. It is only that one element, and this is a question of fact. It would not be appropriate to require the prosecution to demonstrate the defendant was aware of a substantial risk—that they are not a victim. It would be very difficult to obtain evidence showing the defendant's state of mind, particularly in that circumstance, and the effectiveness of the offence would be undermined if the prosecution was required to prove just that one element. The prosecution would still, though, be required to prove that the person charged intended to be a party to the marriage and was reckless about whether it was a forced marriage. That is my best shot. If we do not agree we should get on with it.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:59): I know Senator Fawcett has another point to make. We have exchanged our views, but let me simply make the point to you, Senator Ludwig, that all that proposed subsection 2(c)—that is, the words:

(c) the person is not a victim of the forced marriage.

could possibly mean is that they were not the person coerced; they were not the person who was the victim of the unlawful conduct. But one would still have to prove, as is clear from subsection (a), that there was a victim—that coercive conduct or constituting a forced marriage occurred. So it is not as if this issue, on which the prosecution of course bears the burden of proof beyond reasonable doubt, is not going to have to be dealt with by the court in any event.

Anyway, I will not prolong it, Senator Ludwig. I simply restate the opposition's very clear view that none of the circumstances that you have posited, where there is any form of moral culpability on behalf of the nonvictim, would not be caught by subsection 1, and in the unusual theoretical circumstances in which they would be missed by subsection 1, then under no circumstances would the other party to the marriage have done anything wrong.

Senator FAWCETT (South Australia) (12:01): Minister, I draw your attention to two points. Firstly, to the issue of the strict liability being applied to the party, who in this case would normally be the groom, the position you have taken, which is that he would be guilty because he probably would have knowledge, is very much the world view of the majority of Australians—that arranged marriages, hence forced marriages,
are not the norm and therefore there could be some suspicion. But most of the circumstances that have been reported in Australia are where young women have been taken to another country where arranged marriages are quite often the cultural norm and where two willing participants may be commonplace. So it is well within the bounds of reason that somebody there may have no knowledge nor even suspicion that there has been coercion and forcing of the person—in this case the woman from Australia. So in regard to the oft quoted Edmund Burke who says that all it takes for evil to flourish is for a good man to do nothing, I concur that if there was knowledge by participating in the marriage that person would then commit an offence. But given the cultural norms in many of these countries it is quite conceivable that the other person is viewing this purely as an arranged marriage. So I have a concern that we would be making that person a criminal under Australian law when in actual fact they may have committed no crime.

My second point, and probably the one I am more concerned about, is the government's placing of strict liability on the other party. I ask you, Minister: who has done the greater harm to the victim, the other party or, as evidenced in the majority of the cases reported in the Australian media and brought before Australian authorities, the caregivers and, I believe, shockingly, the parents? It is they who have coerced or in some cases resorted to physical violence and imprisonment of their children in order to force them into the marriage. Surely they are the ones in the vast majority of reported cases who have inflicted the greater harm. So I wonder if you could explain to the Senate why the government has sought to put a strict liability on the groom—or, the other party—who may, because of cultural reasons, be quite innocent, and yet those who have actually inflicted the greater harm are not subject to a strict liability.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (12:04): I can be short on this. The strict liability offence only applies to where the person is the victim, so you would still have—

Senator BRANDIS: No, the nonvictim.

Senator LUDWIG: The nonvictim, I should say. So you would still have it for those using your term—I am not sure I like the term—who cause person A and person B to marry. There are still provisions here, quite strong, to allow the prosecutions to occur. I am sure you are not advocating for a strict liability in those circumstances. I am not being facetious—

Senator Brandis interjecting—

Senator LUDWIG: No, that is why I am pointing that out. Thank you, Senator Brandis. So on that basis the legislation is quite clear about where the strict liability applies and in only those circumstances and in only that very narrow one element of circumstance, not more broadly, and the legislation does encapsulate the broader issue around those people who may cause another person to enter into a forced marriage.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (12:06): I think the problem with that answer, if I may say so, with respect, is that, although as you said before the strict liability applies and in only those circumstances and in only that very narrow one element of circumstance, not more broadly, and the legislation does encapsulate the broader issue around those people who may cause another person to enter into a forced marriage.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (12:06): I think the problem with that answer, if I may say so, with respect, is that, although as you said before the strict liability merely applies to proposed subsection 2(c) so that the prosecution is relieved of the obligation to prove the person is not a victim of a forced marriage, it does not apply to subsection 2(a) or 2(b), which does require the prosecution to prove the character of the other party to the marriage and that the marriage was a forced marriage. In other words, to prove that which
subsection 1, the principal offence-creating provision, establishes as the elements of the offence. So those who think that some burden has been lifted from the prosecution's shoulders by creating, as it were, a statutory presumption in relation to the one issue in subsection (2)(c), really, with respect to them, missed the point, because that issue is nevertheless—albeit from a different aspect of the case—still before the court. It still has to be proved by the prosecution and it has to be proved beyond reasonable doubt.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (12:07): I agree: it still has to be proved that it is a forced marriage. You are quite right.

Question negatived.

Bill agreed to.

Bill reported without amendments; report adopted.

Third Reading

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (12:09): I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (12:09): I move:

That government business order of the day no.2, (Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012), be postponed till a later hour.

Question agreed to.

BILLs

Migration Amendment (Reform of Employer Sanctions) Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CASH (Western Australia) (12:10): I rise to contribute to the debate on the Migration Amendment (Reform of Employer Sanctions) Bill 2012. In doing so, I indicate that the coalition will not be supporting this bill on the basis that the coalition views the substance of the bill as imposing an additional and unreasonable regulatory burden on Australian employers, the vast majority of whom are honest and law abiding.

On the issue of additional regulatory burden being imposed on employers, the coalition recognises that, if we address the issue of over-regulation, we can provide business with an environment that supports stronger economic growth, greater investment, more innovation and higher productivity. We recognise that all modern economies need regulation, but excessive regulation creates greater costs than benefits and discourages investment and the willingness to have a go and add to Australia's productive capacity. There is clear evidence to show that Australia has been caught in the vice of over-regulation, and that excessive regulation stifles our economic prospects and impedes the work of Australian industry.

On the issue of Australia's migration program, the coalition has made it abundantly clear that Australia's migration program is intended as a supplement, not a substitute, to the Australian workforce to fill the gaps that occur when productivity capacity is unreasonably constrained by
Australia's natural population growth. The coalition has also made it clear to industry and business groups that, when supplementation is required to fill vacancies that cannot be reasonably filled by Australian workers, the compliance measures in place will remain.

However, in relation to these proposed new measures outlined in the bill that we are currently debating, we say that they go beyond the notion of reasonableness and will impose excessive regulatory and compliance measures on employers and cannot be justified in their present form. The purpose of this bill, as stated in the explanatory memorandum, is to implement the government's response to the independent report titled *Report of the 2010 review of the Migration Amendment (Employer Sanctions) Act 2007*, conducted by independent legal expert Mr Stephen Howells, and known as the Howells review. In his report, Mr Howells concluded that the provisions of the act, and in particular sections 245AA to 245AK of the *Migration Act 1958*, have not proved to be an effective deterrent against the small number of employers and labour suppliers who persist in employing or referring non-citizens who do not have permission to work in Australia. I emphasise the specific words of Mr Howells in referring to the extent of the problem as being 'limited to a small number of employers and labour suppliers who persist in employing or referring non-citizens'. The bill also proposes to amend the Migration Act 1958.

In essence, the bill imposes strict liability offences for employers that allow or refer illegal workers or temporary visa holders to work in breach of their visa conditions. Offences will incur civil penalties of up to $49,500 for corporate bodies, and $9,000 for individuals. In addition, infringement notices of up to $9,900 for corporate bodies and $1,980 for individuals would apply. Companies who sponsor foreign workers on 457 visas and fail to comply with their obligations can lose their sponsorship in addition to financial penalties.

An analysis of the new requirements proposed by the bill indicates that they are both onerous and unnecessary and are in direct opposition to the coalition's commitment to reducing the regulatory burden and compliance costs for small business. Given this government's complete lack of understanding of and contempt for business in this country, it is not surprising that an analysis of this bill confirms that, if it is indeed passed, the new requirements will add to the already substantial regulatory burden imposed by the Labor government on employers who hire overseas workers, like those we have seen in the Migration Legislation Amendment (Worker Protection) Act 2008.

In relation to the bill before the Senate, under the current Migration Act it is a criminal offence for a person or corporation to allow to work or refer for work an unlawful noncitizen or a noncitizen who does not have an appropriate condition on their visa permitting that person to work in Australia. These offences were introduced, lo and behold, by the former Howard government in 2007 in the *Migration Amendment (Employer Sanctions) Act 2007* and became sections 245AA to 245AK of the Migration Act. The offences are fault based—and there is an important distinction between this and what is proposed by the current legislation—meaning that the prosecution must prove both physical and fault elements beyond reasonable doubt: that is, the employer allowed the unlawful noncitizen to work, thus breaching the working conditions of their visa, and the employer had knowledge of the lack of work rights of the employee or was reckless about that fact.
Since the commencement of the Migration Amendment (Employer Sanctions) Act 2007, whilst departmental officers have considered approximately 100 instances of possible breach, only four of these possible breaches were suitable to be referred to the Commonwealth Director of Public Prosecutions. And yet it was on the basis of this extremely low prosecution rate that the Howells report concluded:

The provisions of the Migration Amendment (Employer Sanctions) Act 2007 are wholly ineffective as a deterrent against the small number of employers and labour suppliers who engage or refer non-citizens who do not have lawful permission to work or who work in breach of their visa conditions. The Employer Sanctions provisions are also ineffective as an educational tool for recalcitrant employers and labour suppliers.

The inherent contradiction in this statement is, without a doubt, a feature of the report. On the one hand, it is acknowledged that there are few breaches and even fewer convictions, and on the other hand it is proposed that such exceptional behaviour warrants the imposition of an even greater evidentiary and regulatory burden on employers, hence the legislation that we have before us. This is clearly legislation that can be properly described as using a sledgehammer to crack a nut and is a reflection of the chaos which is a daily feature of the government's failed immigration policies.

In relation to the proposed penalty regime, making new penalties applicable to all existing as well as future employees imposes an enormous additional regulatory burden on employers. As previously stated, Australia is already subject to overregulation, and that excessive regulation stifles our economic prospects and impedes the work of Australian industry. This overregulation was referred to by a number of industry groups in their submissions on the exposure draft of the bill. For example, the Australian Industry Group stated:

… we believe that the proposed changes are heavy handed and unnecessary. Imposing strict liability offences on employers and labour suppliers will not deter the small minority of employers or labour suppliers who already knowingly abuse the law to engage cheap labour. Rather the proposed changes will impact the unintended targets, i.e. good employers and labour suppliers. It is unfair that these persons be subject to high regulatory burdens because of the illegal practices of a very small few.

AMMA's contribution on the exposure draft stated:

…AMMA believes the existing framework is sufficient provided there is greater awareness of the current penalties and sanctions against employers who do the wrong thing. While it is important that penalties are in place to deter businesses and individuals in respect of work by non-citizens, the significant number of strong measures in the exposure draft … would impose disproportionate cost and inconvenience on resource industry employers …

…it is imperative that the cost of doing business is balanced appropriately against the cost of ensuring compliance with migration laws.

The National Farmers' Federation had this to say in their submission:

The NFF has been supportive of imposing stricter sanctions for employers who knowingly and repeatedly employ illegal workers. The NFF believe that these employers constitute a relatively small number and therefore we support Government adopting a targeted approach to identifying and prosecuting these offenders. The NFF does not believe that it is necessary and therefore would not be an effective spend of taxpayer money, to implement a broad scale compliance program across all employers.

The Australian Chamber of Commerce and Industry made the following comments:

ACCI believes that the recommendations in the Howells' Report, if implemented, would be a
disproportionate and inappropriate response to the problems they are trying to address.

And the HIA contends:

Strict liability offences should only be imposed in circumstances where it is just and fair to do so; not as a matter of administrative convenience. The case is not made in this Bill or the Policy Commentary supporting the Bill.

Yet, despite this repeated feedback from various industry groups throughout the period in the lead-up to the exposure draft et cetera that asserts that strict liability is not appropriate, the Gillard Labor government continues with its relentless attack on Australian businesses. Even the Howells report itself, if you analyse it, failed to make a plausible case that the extent of illegal workers warranted the sledgehammer effect which is a prominent feature of this bill.

In 2010-11, the department conducted 1,097 employer awareness visits, issued 515 illegal worker warning notices and located 1,788 illegal workers—and that is illegal workers, not illegal noncitizens. There is an important distinction between the two, and it is a distinction which Mr Howells appears to refuse in his report. Mr Howells estimates that up to 100,000 people are working illegally in Australia at any one time, but this is despite the department locating a mere 1,788 in 2010-11. One might also wonder if the department's investigations included the four illegal workers found on the Villawood site, who were working directly under the department and the government's nose. The figure that Mr Howells quotes incorrectly assumes that all overstayers are working illegally. There is no evidence produced to support this hypothesis. The coalition does not seek to trivialise the fact that there are illegal workers in Australia. However, I point out something that Mr Howells in his report does not: the measures proposed by this bill are disproportionate when compared to the limited extent of the problem they are attempting to stamp out. That limited extent is borne out by the department's own statistics.

The bill proposes that a number of offences should be strict liability offences. Whilst the Criminal Code reflects the same starting presumption as the common law—fault must be proven for each physical element of an offence for a person to be guilty—section 6.1 of the Criminal Code negates the requirement to prove fault if an offence is expressed to be a strict liability offence. Whilst the application of strict liability allows a defence of honest and reasonable mistake of fact to be raised, past governments and parliaments have recognised and have had regard for the findings of the Senate Standing Committee for the Scrutiny of Bills, which has long taken the view that any use of strict or absolute liability should be properly justified. The reasoning of the Senate scrutiny of bills committee on the issue of the use of strict liability provisions is that it is generally neither fair nor useful to subject people to criminal punishment for unintended actions or unforeseen consequences unless these resulted from an unjustified risk. Clearly, in this case, the decision of the government to make a number of offences strict liability offences is designed to give the government an easy win or an easy conviction notwithstanding the complexity of the issues and circumstances that could have been raised if fault on the part of the employer had to be proven by the prosecution. It is clear that, unless a prospective employee produces, prior to the commencement of any work performed, a valid Australian passport, valid visa or some other valid documentation permitting work, the employer could be subject to prosecution. The combined effect of these recommendations would mean an employer could be taking a risk of fines before the
courts or through an infringement notice should they not check a passport, birth certificate or visa status of a person who presents themselves for work.

The process involved in seeking these documents is not only arduous; it is also inherently discriminatory. For example, employees will in most cases be required to share information about their age and their place of birth. The need for this knowledge may lead to discrimination against persons who may be legitimate Australian citizens or permanent residents but are subject to questioning by their employer because of their racial identity, accent or level of English proficiency.

I touched earlier on the fact that Australia has been caught in the vice of over-regulation, excessive regulation stifles our economic prospects and impedes the work of Australian industry. I note that the current Labor government continues to increase the burden of red tape on industry notwithstanding the ironic election commitment to reduce over-regulation. Since 2008, the Rudd Gillard Labor government has introduced, approximately, an additional 20,900 regulations and has merely repealed 104 regulations despite having promised to cap the growth of regulation with their famous 'one in, one out' policy. Far from 'one in, one out', the Labor government has introduced, approximately, a '200 in, one out' regulatory policy. The Australian Chamber of Commerce and Industry National Red Tape Survey found that 73 per cent of businesses now spend longer complying with regulations than they did two years ago, with one in 10 spending more than 20 hours per week dealing with red tape. Seventy-two per cent of businesses surveyed said the time they spent on tackling red tape had increased in the past two years. Only one in 10 businesses feel that red tape does not impact their business. The Productivity Commission has estimated that reducing the burden of unnecessary red tape in Australia could generate as much as $12 billion extra GDP per year. In the World Economic Forum's Global Competitiveness Report 2012-2013, Australia's ranking relating to the burden of government regulation fell from 60 to 96 out of 144 countries surveyed. This ranking is well below OECD averages.

Whilst the coalition agrees that the exploitation of foreign workers is an abhorrent practice and that any business found to be exploiting workers should be punished to the full extent of the law, it is our view that this bill is a disproportionate response to the issues raised in the Howells report and seeks to place an onerous regulatory and evidentiary burden on all employers rather than providing a more targeted approach directed towards those employers that have been identified as having employed illegal workers. The coalition will not support government policy responses that are based on creating a one-size-fits-all administrative burden for employers that shifts the cost of enforcing the law onto the employers themselves. The existing regulatory regime and cost of compliance that the government has systematically built around the employment of foreign nationals is already onerous, and the proposed changes will significantly increase the regulatory burden and compliance costs on employers. This bill is in direct opposition to the promise and the commitment that the coalition has made to people of Australia to reduce the red tape burden and lift productivity. For these reasons, the coalition will not be supporting this bill.

Senator BILYK (Tasmania) (12:29): I rise to speak in regard to the Migration Amendment (Reform of Employers Sanctions) Bill 2012. The problem of people working illegally in Australia is one that this
government intends to curb as much as it possibly can. Clamping down on illegal work practices is important not only for the protection of our immigration regime but for the protection of workers themselves.

Noncitizens engaged in paid employment where their visa conditions do not allow them to do so has a number of consequences. Working without permission takes away work that could be available to people, citizens and noncitizens, who are legitimately entitled to it. We need to maintain the integrity of our migration system and ensure that the economic opportunities available to workers in Australia go to those who are entitled. Large numbers of noncitizens working illegally can distort the labour market; undermine the pay and conditions of legitimate workers, including health and safety conditions; and give employers an unfair competitive advantage over those who are doing the right thing.

Finally, the practice of working illegally in Australia can have consequences for the illegal workers themselves. The Department of Immigration and Citizenship has found in its investigations that the deliberate and systematic use of illegal workers in significant numbers is often associated with the abuse of these workers, including sexual exploitation, unsafe work practices and underpayment. It is also associated with crimes such as taxation and welfare fraud. At the extreme end of the scale, some of the practices are very disturbing.

In the other place, the member for Wills, Mr Kelvin Thomson, included in his contribution to the debate on this bill a detailed explanation of some of the tactics used by criminal organisations to bring women into Australia on student visas for exploitation in the sex industry. I will not go into the detail on that matter as deeply as he did, but I would certainly encourage senators to read his contribution or look at some of the work undertaken by the Victorian parliament's Drugs and Crime Prevention Committee in its investigations into this issue. I have also spoken on the issue of trafficking and sexual exploitation of workers—just this week, for example, in my contribution on the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Bill 2012.

It is important that we, the Australian government, do all we can to stop the exploitation of workers. The integrity of our industrial relations system and the benefits this provides for Australian workers relies on having an orderly process for providing work for noncitizens when we authorise it and when it is in Australia's national interests. Of course, where noncitizens are needed to fill skill shortages that cannot be filled by Australian citizens, there are a range of visa subclasses available to employers and employees under the skilled migration program. In addition, limited work rights are given to some visa holders to allow them to support themselves financially during their stay in Australia.

The number of people in Australia on a valid visa who either have no permission to work or have limited permission was around 960,000 as of 31 December 2009. These temporary migrants include students, tourists, business visa holders and working holiday-makers. Among those people are three groups of noncitizens who work in Australia without permission: noncitizens who have a current visa that does not permit work and have taken a job and commenced work; noncitizens who have remained in Australia after the expiry of their visa and have taken a job and commenced work; and noncitizens whose visa permits work, subject to certain conditions, but who are working in
breach of these conditions. An example in this last category are noncitizens on student visas who are limited to 20 hours per week but who work in excess of those hours.

It is impossible to know how many of these noncitizens are violating the work conditions of their visas, although recent estimates have put the figure at around 100,000. What we can quantify is the number of noncitizens who overstay their visas, which in the past decade or so has fluctuated between around 40,000 and 60,000 every year. The problem may appear relatively small compared with our overall labour market of 10 million workers. However, 100,000 people working without permission is not an insubstantial number.

Australia's lifestyle and living standards are the envy of the world. Noncitizens working in Australia without permission threaten this lifestyle by taking away employment opportunities and undermining hard-won working conditions. The previous government, in recognising this problem, introduced the Migration Amendment (Employer Sanctions) Act in 2007 to provide criminal sanctions for employers and labour suppliers who knowingly employ or refer for work noncitizens who do not have permission to work in Australia. The act quite rightly put some of the onus on employers to check that the workers they were hiring actually had permission to work. It also provided a mechanism to punish those employers and labour hire organisations actively involved in the recruitment and exploitation of illegal workers. The introduction of this act was coupled with an education campaign and administrative warning notices.

In 2010, barrister Mr Stephen Howells was engaged by the government to conduct a review of the act. Mr Howells's review was wide-ranging, examining the effectiveness of the current sanctions, the impact of the regulation on business, and the effectiveness of the systems verifying a person's right to work based on their visa entitlement or Australian citizenship. Mr Howells found that the criminal sanctions contained in the 2007 act had been ineffective as a deterrent to illegal work hire practices.

I will paraphrase a few sections of Mr Howells's report, which goes some way towards explaining why these sanctions have been ineffective. Since the commencement of the Migration Amendment (Employer Sanctions) Act 2007, departmental officers have considered more than 100 instances of possible breach. They have thoroughly investigated at least 10 matters involving what appears to have been the deliberate and systematic use of these workers in significant numbers at identified workplaces. There have been no successfully contested prosecutions under section 245AA to 245AK of the Migration Act 1958 resulting in a recorded conviction and sentencing.

In December 2010, one offender was convicted and sentenced after entering a plea of guilty and acknowledging a prior criminal record. The principal reason for the failure of the Migration Amendment (Employer Sanctions) Act provisions is that the best evidence of breach would almost always come from the workers themselves, but their evidence is affected by their complicity or independent culpability under section 235 of the Migration Act. They would normally be removed from Australia as soon as reasonably practicable, as required by section 198 of the Migration Act. The cost and the administrative inconvenience of detaining them pending a trial would be prohibitive.

In his report, Mr Howells noted that similar patterns of illegal work practices appeared in the United States, Britain and
New Zealand and that the successful responses appeared to be those that included other enforcement mechanisms, such as civil penalties and infringement notices. The compliance regime recommended by Mr Howells is contained in the bill currently before the Senate: the Migration Amendment (Reform of Employer Sanctions) Bill 2012.

What the government is proposing through this bill is a tiered enforcement approach. The scheme is designed to encourage voluntary compliance by business, through education and deterrence, and provide effective sanctions where this does not occur. This is achieved through graduated tiers of education, warnings, infringement notices, non-fault civil penalties and criminal penalties. The legislation's key amendments include amending the criminal offences and creating new non-fault civil penalty provisions and an infringement notice scheme for people who allow or refer an unlawful noncitizen to work, or allow or refer a lawful noncitizen to work in breach of a work related condition; creating statutory defences where reasonable attempts are taken at reasonable times to verify a foreign national worker's entitlement to work; broadening the application of criminal offences and civil penalty provisions to hold a person liable for participating in an arrangement, or series of arrangements, that result in a foreign national working without lawful entitlement; extending both criminal and civil liability in certain circumstances to executive officers of bodies corporate, partners in a partnership and members of an unincorporated association's committee of management; and creating search-warrant and notice-to-produce powers specifically to facilitate the investigation of suspected breaches of these offences and civil penalties.

So, I will explain the tiered enforcement model. Firstly, businesses are informed and educated on the requirement that only noncitizens with a visa that allows work are entitled to work. This will be achieved through a revamped education and information campaign. Then, where departmental officers identify a business or employer who is not complying with the legislation, they will usually issue an illegal-worker-warning notice. Subsequent infringement notices may be issues where repeated noncompliance with the legislation is detected. Finally, proceedings for a civil penalty order or prosecutions for criminal offences may be pursued where persistent noncompliance occurs and/or where serious breaches of the legislation are detected.

Where departmental officers identify an employer who is not complying with the legislation they will usually issue an illegal-worker-warning notice. These notices are available under the current act. Where repeated noncompliance with the legislation is detected, the department can then issue an infringement notice. Proceedings for a civil penalty order or prosecutions for criminal offences may be pursued in cases where the department finds persistent noncompliance or serious breaches of the legislation.

There has been extensive consultation on the measures contained in this bill. Mr Howells undertook consultation with key stakeholders, including employer groups, before releasing his report and recommendations. The government conducted further consultations on the recommendations in Mr Howells's report before releasing an exposure draft of the legislation. And of course there was then consultation on the exposure draft.

In drafting the bill, we have given careful consideration to the submissions made by employer and employee groups, government agencies including the Department Immigration and Citizenship and a range of
other key stakeholders. Contained within this bill is a comprehensive package of measures, which, I am certain, based on international evidence, will be effective in significantly clamping down on illegal work hire practices. I would like to congratulate the former Minister for Immigration and Citizenship, Chris Bowen, for his carriage of this legislation.

Now I would like to comment on one of the objections that has been typically raised to sanctioning employers for illegal work hire practices. Some employers say they cannot reasonably be expected to know the work entitlement of prospective employees. The department has overcome this problem with the visa entitlement verification online, or VEVO, system. Through VEVO, employers are able to check whether a named person has a current visa and whether they are permitted to work. Employers without internet access can use the department's toll free visa entitlement verification faxback service.

Mr Howells took into account the concerns of business when he recommended the creation of statutory defences where a business took reasonable steps to check that a worker or prospective worker had permission to work. These defences are now contained within the bill and define what a reasonable step is. It can include checking a computer system as prescribed by regulations or viewing original documentation such as a visa label in the noncitizen's passport which demonstrates that they have permission to work. Another defence recognises that an employer or a referee should not be expected to know whether a non-citizen worker is also working elsewhere. In other words, when a noncitizen has a limited entitlement to work, their employer can only be penalised if that worker exceeds their entitlement through the hours worked with that employer. None of these defences, unfortunately, have satisfied the opposition.

I note that in their contribution to this bill in the other place, the opposition criticised this legislation for introducing new obligations on employers and for imposing red tape and compliance costs. This, as the former Minister for Immigration pointed out in reply, is a furphy. There has not been one additional requirement added to what was already required under the 2007 legislation introduced by the previous government. With this bill, the opposition's usual negativity appears to have reached new heights. They are now opposing a bill on the basis of something that is not even in the bill. These mythical extra obligations to which those opposite refer do not exist. In fact, as Mr Howells pointed out in his review and as I mentioned earlier, the implementation of the VEVO system means that there is less of a compliance burden on business when it comes to verifying whether a visa holder has an entitlement to work in Australia. VEVO makes it easy for employers to conduct a check, and this is not an onerous requirement.

The suite of measures contained in the current bill, the measures which Mr Howells recommended, are not much different to the recommendations handed to the Howard government by their own 1999 review. The coalition rejected them back then too. Those opposite still refuse to accept this advice. They refuse to provide the Department of Immigration and Citizenship with the tools necessary to stop employers engaging in illegal work hire practices and to deal with them under the law.

Those opposite are just not serious about more jobs for Australians. They opposed the economic stimulus plan, putting 200,000 thousand jobs at risk; they opposed assistance for the auto industry, putting a
further 46,000 jobs at risk. Now they oppose effective action to prevent 100,000 or so noncitizens working without permission in Australia, taking jobs that could be going to Australians. I am proud to be part of a government that, by contrast, has created over 800,000 jobs since 2007 election during great global turmoil when jobs were being lost in the millions in other advanced economies. We created 800,000 jobs and kept the unemployment rate steady. We kept it lower than the average unemployment rate during the 12 years of the Howard government, despite the doom and gloom of the coalition when they predicted that the mineral resources rent tax, the Fair Work legislation and the carbon price would result in wholesale job losses. They peddled their doom-and-gloom scenarios and what happened? We did not see wholesale job losses throughout the economy. No, productivity tripled because of the economic reforms put in place by this Gillard Labor government and over 800,000 additional jobs were created.

This just goes to show that the Labor Party is the party of jobs. It demonstrates that we are the only party in this place which is serious about creating jobs for Australians and protecting the employment rights and conditions of Australian workers.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Bernardi) (12:44): Order! It being 12:45, I call on matters of public interest.

Western Sydney

Senator CAMERON (New South Wales) (12:45): The great heartland of Sydney is Western Sydney. Acres of newsprint have recently been devoted to Western Sydney, there have been hours of television and radio commentary about Western Sydney and today there are editorials in both the *Australian* and the *Financial Review* about Western Sydney. I really do not know how much the editors of the *Australian* or the *Financial Review* would know about Western Sydney. But, with all this interest in Western Sydney, the most bizarre thing I have seen was Senator Birmingham on the doors today. There he was, a senator for South Australia, on the doors with scripted and rehearsed spin about Western Sydney—a South Australian senator pontificating about Western Sydney. He was sent out to tell the people of Western Sydney that they were concerned about protection visas and the carbon price.

Apart from the 12 years I lived in Muswellbrook in the Upper Hunter region of New South Wales, I have spent most of my life in Australia in Western Sydney. I have lived in St Marys, I have lived in St Clair, I have lived in Parramatta and I now live in the Lower Blue Mountains. I have two daughters. They grew up and were educated in St Clair. Both have degrees and both are professionals. I am proud of them, I am proud of the public schools they were taught in and I am proud of the teachers of Western Sydney who gave them their opportunity.

I spend a lot of my time in Western Sydney and when people there talk about the issues—the things which will improve their lives—not many people raise the carbon price or temporary protection visas. When I have discussions in Western Sydney, it is all about infrastructure. It is about the Richmond bridge, where commuters queue for hours in the morning. It is about bringing more culture into the area through the government’s $9.5 million grant to get the Springwood Civic Centre up and running. It is about sport—building a stand for the Windsor Wolves down in the Hawkesbury so young people and their families can watch sport in decent comfort in winter. All of this
has been promoted and pushed by the Labor candidate for Macquarie, Susan Templeman.

On education, the people of Western Sydney want to talk about Gonski and improved public schools. They want to talk about health, they want to talk about the trade training centres which are being built across Western Sydney and they want to talk about jobs. They want jobs for themselves and jobs for their kids and they want decent rights in those jobs. They want to be treated with respect when they go to work and they want to have access to an industrial umpire—something which was not there under the last coalition government.

No government in history has, over two terms, invested more in Western Sydney than the Rudd and Gillard governments. Western Sydney, depending on which statistics you look at, has about 1½ million or 2 million people. The biggest employer in Western Sydney is manufacturing and the government has made recent announcements about how it will promote manufacturing. I will come to that later. Manufacturing is the biggest employer in Western Sydney, with 12.1 per cent of the workforce. It is followed by retail, health care and social services, which each employ 10.7 per cent of the workforce.

Look at what the government did when the global financial crisis hit this country, when investment was frozen by the private sector. The investment that the government made allowed the healthcare, retail and social services sectors to continue, and we avoided a recession in this country. We invested in construction, in transport and warehousing, in education and training and in public administration. That is what kept this country out of recession.

What do we have from the coalition? What do they want to do? They want to send these public administration jobs in Western Sydney to some remote part of the Northern Territory. This is the nonsense that we have from the coalition. They do not care about the issues in Western Sydney. One of the fundamental issues for people in Western Sydney is travel to work. Nearly 200,000 Western Sydney workers travel outside Western Sydney every day to get to work. There are areas of social disadvantage in Western Sydney that the Labor government is addressing. These are the issues for Western Sydney. It is not about sending a South Australian senator with his Richard Burton tones—his serious voice on—out in full view of the public to tell the people of Western Sydney what they need and what they are concerned about. It does not matter doing that; you have to get on with the job. I have to say that, after years of coalition government, they squandered the opportunity to build Western Sydney. As Peter Hartcher noted in an article in the Sydney Morning Herald in April 2009:

But when the mining boom arrived, framing the budget went from being a carefully managed process to the equivalent of a cargo cult. That is how the current opposition dealt with the budget; it was a cargo cult. Prime Minister Howard's former chief of staff, Arthur Sinodinos, now Senator Sinodinos from New South Wales:

was also a former Treasury official. He said the boom gave the budget process "a lucky dip feel"—

A lucky dip! They were dealing with the budget on the basis of a lucky dip—

...as officials and ministers scrambled to formalise tax cut options and decide which ones would get the go-ahead.

That is how the coalition dealt with the budget of this country, and that is from a current coalition senator, Senator Arthur Sinodinos.

The first phase of the mining boom in particular and economic conditions in
general saw the Howard government just about drowning in revenue. With so much money sloshing around, fiscal discipline and nation-building priorities collapsed. The priority was not Western Sydney; it was not about nation-building projects in Western Sydney; it was not about making life easier for people in Western Sydney. It was about giveaways; it was about a lucky dip approach to the budget. Who will ever forget the wave of panic, the panic spending by the coalition in the wake of the Liberals loss in the Ryan by-election in March 2001. That was to be dwarfed only by the infamous Crazy John's closing down sale in the mid-2004 election campaign when $6 billion was added to government spending in half an hour. Showering tax concessions and rebates on a startled middle class unaccustomed to such largesse became a social engineering art form carried out in the complete absence of social or financial need. Meanwhile, the nation's infrastructure needs were ignored, Western Sydney was ignored, while our research institutions, hospitals and schools were subjected to death by a thousand cuts. That is the reality of the coalition. And when they get out and say that they want to do things for Western Sydney you have to look at their record in Western Sydney.

What the Commonwealth government has done is committed 10 times what the Howard government spent on infrastructure in this country during its 12 years in office—10 times the amount. All the Howard government spent in Western Sydney was $350 million for this M7 toll road. Since late 2007 the Labor government has spent $3.2 billion, including $800 million for the development of the Moorebank intermodal, $980 million for the construction of the Southern Sydney Freight Line, $93 million to widen the F5 at Campbelltown and $300 million to upgrade the Great Western Highway, which has been a goat's track under the coalition government for 12 years. We have spent the money to make it easier for people to get to and from work, and there is much more to be done. We have spent $8½ million to begin planning for the installation of an electronic freeway management system along the full length of the M4. We have put up $25 million to advance the WestConnex project. A further $150 million has been set aside to improve the M2 to F3 link. We have $2.1 billion on the table for the Parramatta to Epping rail link, which would cement Parramatta's position as Sydney's second CBD. These are the practical things that we have done in terms of infrastructure in the Sydney region and Western Sydney.

Despite the coalition raking in over $40 billion worth of infrastructure promises at the last election, not one dollar of infrastructure spending was promised for Sydney, never mind Western Sydney. And they get out there and tell people what is good for Sydney! There was not one dollar in infrastructure promised at the last election. And what was the solution? Let me quote the Leader of the Opposition from the ABC's Four Corners program on 16 August 2010. He said:

Now ... if you want better public transport in Sydney ... sure ask the Feds for more money ... but basically you've got to change the State government if you want better public transport in Sydney.

What they are saying there is that it is not a federal government issue to improve public transport in Sydney or to improve infrastructure in Western Sydney; it is a matter for the state government. Well, we have never taken that view. We believe the federal government has a big role to play in Western Sydney—a role that has been completely ignored under nearly 12 years of the Howard government.
It is not just transport infrastructure; it is health. There is funding for the Nepean Hospital, with $96 million for the new east block and $17 million for a new clinical school; $31.7 million to Blacktown Hospital for 10 rehabilitation beds and a specialised 20-bed neuropsychiatry subacute unit; $11.5 million to Blacktown Hospital for additional emergency services; $15 million for a GP superclinic in Liverpool; $1.75 million in south-western Sydney for New Directions: Mothers and Babies Services and Strong Fathers Strong Families—and it goes on in health. In education there is the Hawkesbury Trade Training Centre; the Blacktown Girls High School Hospitality Trade Training; $2.16 million for two trade training centres to benefit two schools in Hughes, Bonnyrigg High School and Miller Technology High School; and up to $17 million for trade training centres in the Penrith area.

These are the issues that build the western suburbs. These are the issues that build the infrastructure, the health and the education capacity of Western Sydney. That is what a Labor government is about. Compare that with the lack of attention to Western Sydney by the Howard government. Compare that with the profligacy of the Howard government, who did not care about Western Sydney, who squandered the opportunity of the mining boom and who left us with real challenges in Western Sydney.

So the Labor government has the track record in Western Sydney. We are the ones who understand that it is about education; it is about health; it is about transport; it is about infrastructure. For the coalition—through a South Australian senator—to lecture the Labor government on Western Sydney is an absolute joke.

Australian Labor Party

Senator RONALDSON (Victoria) (13:00): I also rise to discuss a matter of public interest. I noted with interest a few weeks ago a number of media reports in which the Vice President and National Secretary of the Transport Workers Union, Tony Sheldon, stated that the ALP was facing a moral crisis. I will not go through everything he said, but some quotes by Sheldon as reported in an article in the *Australian* on 2 February 2013 include:

Our crisis is more than just a crisis of trust brought on by the corrupt behaviour of property scammers and lobbyists … It's a crisis of belief brought on by a lack of moral and political purpose.

... ... ...

Our party is in a very serious and potentially catastrophic situation.

... ... ...

The headlines about corruption emanating from ICAC and the HSU scandal must shame us all into action …

... ... ...

... the full force of the law should be levelled against all those who have operated in an illegal and unethical manner.

... ... ...

I struggle to see what else but fading Labor values can account for the inexplicable decisions that sometimes come from Canberra …

... ... ...

... the toxic lack of trust that has poisoned our movement in recent times …

Tony Sheldon is 100 per cent right. The ALP and the union movement are in a moral and political crisis and cannot be trusted—whether it is Obeid, Thomson, Macdonald or the Prime Minister's broken promise in relation to the surplus et cetera, et cetera.

However, what Tony Sheldon said is breathtakingly hypocritical, given that what he said could equally apply to himself and given past allegations about his actions, moral compass and trustworthiness. Tony Sheldon has cried crocodile tears for the...
future of the ALP, but this is the man who has exhibited throughout his entire life in the union movement the same 'illegal and unethical behaviour' to secure his position within that movement. In the finest traditions of the New South Wales Labor Right, personified by Graham Richardson and Laurie Brereton, Mr Sheldon is simply no better than those who came before him or those he now criticises.

I want to look at some of these allegations against Mr Sheldon, in relation to both his role as TWU secretary and before that. The first is ballot rigging in the 1980s. In an article entitled 'Truckies' mate bails out' in the Australian on 6 December 2008, Brad Norington wrote about 'one time union star Tony Sheldon and his fall from grace' and reported:

Soon after losing to Robertson—
that is the infamous John Robertson—
Sheldon's union was caught out, gotcha-style, as video surveillance by private detectives showed his chief political operative Scott Connelly helping a campaign to unseat the NSW leader of the Australian Workers Union, Russ Collison.

In a letter to the Industrial Registrar, Collison lashed out. He challenged Sheldon's fitness to hold elected office because of a past conviction over ballot rigging, attaching parts of a 1990 report by Commissioner Marshall Cooke that referred to it after an investigation into elections of the Liquor Trades Union in Queensland, where Sheldon had been briefly an official.

In the article, Sheldon stated: 'No conviction was entered, to my recollection.' However, a report by Commissioner NM Cooke dated 1990 found ballot rigging by Sheldon in the Federated Liquor and Allied Industries Employees union of Australia, Queensland Branch Union of Employees. In relation to 1986 ballot rigging, Tony Sheldon was:

...CONVICTED under s 171(1)(h) of Conciliation and Arbitration Act 1904 ... [of] obtaining or having in his possession a ballot paper, on 27 July 1990. Discharged on good behaviour bond of $200 for nine months.

The commissioner said:

... the recorded convictions for relatively minor offences do not reflect the extent of ballot paper fraud revealed by this report.

So much for Mr Sheldon's statements in relation to this matter; perhaps it was a convenient lapse of memory.

I now want to turn to an allegation the TWU extracted funds from employers that were hidden in a special fund and used without the knowledge of their members. As reported in an article titled, 'Union's secret deal cost workers' in the Australian on 24 September 2007, the TWU allegedly:

... extracted millions of dollars from employers that have been hidden in a special fund and then used without the knowledge of its members.

This alleged slush fund was set up in 1998 by Tony Sheldon himself. The article states that the TWU allegedly did:

"side deals" with many employers of its members in which company money has been paid to a union "training fund"—possibly at a cost of discounting workers' wages.

According to one agreement ...labour hire firm Blue Collar agreed as part of an enterprise bargain to pay the TWU 1 per cent of the total payroll for the union's members employed at Qantas in Sydney.

Angry former TWU delegates from Qantas told the program workers were never told that their union's leadership had signed a side deal with payment into the union's "Industrial Rights and Training Fund".

They said the deal—personally signed off by TWU state secretary Tony Sheldon—was made at the same time Blue Collar employees stood to suffer a 30 per cent pay cut.

The Sunday program on 23 September 2007 further noted: 'Officials from within Sheldon's own circle raised their concerns about a shadowy fund the union had operated for over a decade. The lack of transparency
is making some union staff question if industrial peace has been put up for sale.' As I said, those are contributions to the TWU’s Industrial Rights and Training Fund, set up by Tony Sheldon, made at the cost of a discount to the workers pay rise.

On 27 September 2007, in an interview with Alan Jones, Sheldon stated, 'I do take full responsibility for the fund and the view of setting this fund up.' What is more, in relation to the training fund, it was already controversial back in 2002 when an article in the Weekend Australian dated 5 January 2002 stated, 'Members of the Transport Workers Union in New South Wales have taken strike action to force large employers to make payments in a "training, education and industrial rights fund" run by the union.' Despite this, Tony Sheldon continued with the fund and saw it grow to over $2 million by 2005 and more after that.

In a case of more good luck than good management, Tony Sheldon has personally remained reasonably unscathed by these allegations, but it was reported in the Australian on 6 December 2008 that a Deloitte consultancy report found that the TWU fund had no governance arrangements or financial management processes. It stated: Sheldon never established a fund board or council with company representation that was distinct from the TWU, despite wage agreements saying explicitly that this would happen.

He did not separate the training fund from the TWU’s general ledger. He did not separately audit the activities of the fund. And the definition of how it could be spent was very broad. … It is also not clear whether all TWU members knew about the fund’s existence, until a union resolution last year.

I now want to refer to the improper TWU payments in 2007 that were then paid. In an article entitled 'TWU audit reveals payments to politicians' in the Daily Telegraph on 13 October 2007, it was reported that an internal TWU audit 'identified $9,800 that may have been donated to ALP candidates improperly'. The beneficiaries of this included former Heffron MP and ageing minister Kristina Keneally and former minister Di Beamer. Other beneficiaries included 'Wollongong MP Noreen MP and the Barton State Electorate Council'. The article reports that 'all repaid the money in the full and the union has also issued a recall on any other money paid to political parties or candidates from the fund'. But the TWU management under Tony Sheldon should never have allowed these payments in the first place. I proffer an opinion that had it not been for this internal audit then these moneys would have remained with those as originally planned.

In conclusion, Tony Sheldon is right about the unethical behaviour occurring within the Australian Labor Party and the union movement. However, it is quite remarkable for him to go out and draw attention to the moral crisis within the Australian Labor Party and the union movement given that it could be said that he is no better than the rest of the pack. This just goes to show the utter hypocrisy, dysfunction and disarray in the Australian Labor Party and the union movement.

It is no surprise and no wonder that it is in such disarray when Australian Labor Party ministers such as Bill Shorten align themselves with militant unions such as the Maritime Union of Australia. That is quite remarkable. In an article in the Australian today entitled 'Bill Shorten sides with union militants', there is this quote:

A day after the union’s West Australian secretary Chris Cain told delegates ‘laws need to be broken, you’re going to get locked up’—

Mr Shorten attended a conference in support of the union, stating:

I wish we could bottle a bit of the spirit here and spread it on perhaps some of the members in the Labor caucus …
Spreading a bit of law-breaking spirit to the Labor caucus is just what the Labor Party needs now—I don't think. As was reported in the article, my colleague Eric Abetz said:

Mr Rudd had tried to 'modernise' the ALP, while the Prime Minister and Mr Shorten were more interested in paying 'sycophantic homage to trade union bosses'.

Minister Shorten is presenting himself as the minister for union bosses as opposed to the minister for workers.

It is time that the Labor government addressed the widespread irregularities within the union movement as opposed to sweeping them under the rug. However, the Australian Labor Party is not taking action and its ministers, like Minister Shorten, continue to support militant unions and union heavies who are breaking the law. This support continues despite continuous allegations of corruption within the union movement, including more recent reports of the CFMEU Drug and Alcohol Foundation diverting money, reports of the ETU diverting money to a union boss and reports of Prime Minister Julia Gillard attending a fundraiser in Melbourne for yet another AWU slush fund.

Where are the union officials clamping down on this culture? Where are the Australian Labor Party members in this place and elsewhere standing against this culture as opposed to paying homage to the unions? It is all well and good to opine about the lack of moral and political purpose in the Australian Labor Party. But where is the move for change within the union movement? I will end with comments by Tony Sheldon. In media comments, he said, 'This is a time for new blood and fresh contributions.' But the new blood and the fresh contributions are not to be found within the Australian Labor Party. Quite frankly, it is time for a change of government. That change cannot come soon enough.

Enough of the crocodile tears from people like Tony Sheldon and enough of the so-called moral judgements about what has been done in the past. How about some real action? Crocodile tears are not going to address the complete and utter dysfunctionality of the union movement, who are now aided and abetted by a government minister who was calling on his own Labor members to take militant action and to use illegal means of defending a position or putting it. The time has well and truly come.

Road Infrastructure

Senator RHIANNON (New South Wales) (13:15): Last week saw the demise of yet another private toll road consortium when receivers were appointed to BrisConnections, the operator of Brisbane's new $4.8 billion airport link toll road. This month the 6.8-kilometre toll road averaged 47,100 cars per day, almost a third of the forecast 135,000 vehicles per day. It is the second vehicle motorway to falter under the weight of dodgy traffic modelling, joining the RiverCity Motorway Group's Clem Jones Tunnel, CLEM7, as it is known, was Brisbane's first private toll road. It fell into a financial black hole in 2010 when it was forced to write down the operation's value by $1.5 billion. The tunnel struggled to attract half the forecast 65,000 vehicles per day. Since it went into receivership in February 2011 traffic volumes have slumped and tolls have gone up.

These failures have cast doubt over Queensland's numerous other private toll roads in the pipeline and motorway plans in other states. The chequered history of public-private partnership transport, with many failing, should make investors think again. The era of motorways should be left behind. The 21st-century challenges of worsening congestion, climate change, peak oil and air
pollution are best addressed by moving freight by rail and boosting public transport services. But right now both the federal Department of Infrastructure and Transport and Infrastructure New South Wales are pushing Sydney's next big toll road—WestConnex, which Infrastructure New South Wales has dubbed as the single biggest priority of the New South Wales government.

This is bad news for Sydneysiders, particularly people in Western Sydney, who desperately need governments to fix their ailing public transport system. It throws up the question: why are the New South Wales and federal governments ignoring the lessons of history and lining up to repeat their mistakes with WestConnex? The question is not a choice between if governments should be financing new roads or if they should build them through public-private partnerships. The question is: why are we squandering precious infrastructure funding to extend heavily congested roads when the problem is caused by a lack of fast, frequent public transport?

Sydney's transport crisis results from many years of high population growth coupled with chronic underinvestment in rail and bus services in greater Western Sydney and the failure to grow innovative, light rail and bicycle networks in the inner suburbs. Expanding already congested motorways will not redress this fundamental lack. Congestion in Western Sydney is causing crises reaching far beyond transport issues. It is impacting on jobs growth, business productivity, local health and people's lifestyles.

We cannot rely on Infrastructure Australia for transport solutions. It appears to be catching this case of motorway madness. It is courting private investment to build billions of dollars worth of road projects that would extend the Sydney orbital road network. We already know this will not solve the traffic gridlock that grips Sydney on a daily basis. Many Western Sydney residents would remember the government promises that the M7 would speed up travel time across the city. Now we are told we need another motorway—the WestConnex—to address the worsening congestion.

The ears of politicians have been successfully bent by the likes of the motorway construction companies, the road and trucking industry and the NRMA. Companies like John Holland, Leighton, Thiess and Macquarie Bank have given big donations to the major parties. The public do not know if deals are done behind closed doors, but there is the perception that MPs are favouring private road building businesses at the expense of public transport. The result has been more than a decade of state and federal spending on new roads that far outstrips spending on new public transport services. From my reading of approximately $36 billion of infrastructure projects listed so far under the Nation Building Program on the government's website, over 60 per cent have been awarded to road projects, about 20 per cent went to passenger rail and active transport—and less than one per cent of that to bicycle infrastructure—about 16 per cent went to freight rail and the remaining four or five per cent was hard to account for.

There is no federal strategy to drive investment in public transport. The process is reliant on what the states and private interests bid for. The transport minister, Mr Anthony Albanese, produces excellent reports full of strategies to make our cities more livable but—and it is a very big 'but'—he does not tie his infrastructure funding to implement his own strategies. Infrastructure Australia has invested in Sydney's freight rail
network but has missed a big opportunity to
drive investment in public transport.

We know that in New South Wales the
government is fixated on motorways. This is
borne out in the New South Wales transport
master plan's focus on roads. The O'Farrell
government has put up $8 billion for the
north-west rail link and has promised $1.6
billion for light rail in Sydney's CBD. These
are positive public transport initiatives, but
Western Sydney is still being denied the
public transport solutions it needs. The
concern is that the Premier in backing
WestConnex has put forward only $1.8
billion, whereas the price tag is anywhere
between $10 billion and $15 billion. As the
WestConnex proposal is entirely speculative,
it actually takes a guess that 75 per cent of
the road's cost will be funded by Sydney
motorists through tolls. So this is $10 billion
project using guesswork to determine
funding.

How much is being asked of the federal
government? Infrastructure Australia funding
this year for Sydney includes $92 million to
widen the F5 freeway, $30 million towards
the M4 extension and $25 million to the New
South Wales government to establish a
special purpose vehicle, a body to develop
the business case for WestConnex and bring
other private motorway projects to the
market.

This is largely planning money. This
raises more questions for Minister Albanese.
$25 million is a lot of money. What funding
source was this $25 million allocated from?
What has lost out because of that allocation?
The Nation Building 2 program will spend
$3.56 billion between 2012-2013 and 2016-
17. How much will flow to public transport?
It would be a travesty if a big chunk of
Nation Building 2 funds, or some other
infrastructure funds, go towards the
WestConnex project.

Funding WestConnex would be a lousy
investment and Minister Albanese should
inform the people of Western Sydney of his
intent with respect to this project. It is
Sydney's most expensive motorway
undertaking to date. The project is still a
concept with no evidence or traffic studies to
prove its merit as the state's biggest
infrastructure priority. The business case and
investor pitch have preceded the strategic
planning and traffic demand modelling.

The rationale for building WestConnex
are the same reasons we should invest in
public transport and more freight services.
The reasons are: to address major population
growth and jobs growth and growth in trade
at Port Botany. There is certainly clear
justification why the answer should be public
transport. People in Western Sydney need
faster, more frequent and more reliable
public transport services. Most people
commute to work in the city. They do not
want to drive to work. They know it could
take hours, would cost a small fortune in fuel
and tolls, and there is nowhere to park. When
Prime Minister Gillard is in Western Sydney
next week, she should ask commuters
whether their priority is a $10 billion road
extension built in the inner western suburbs
in 10 years or whether they want faster more
frequent train and bus services for greater
Western Sydney that connect them to the
centres where they work and shop and study.

Many respected transport planners have
also prioritised investment in rail in their
advice to the state government. But that
advice has been ignored. Experience shows
us that motorways may reduce travel times
initially, but traffic volumes soon increase
and travel times subsequently blow out to
where they were before—or worse.

The WestConnex proposal claims the
project will revitalise Parramatta Road, a
claim hotly contested by transport planners
and local residents alike. The Greens are backing a widely supported plan to build on Sydney's existing light rail extension in the inner west, and further expand light rail within the CBD along Parramatta Road and to the Balmain Peninsula. It would avoid the need for the M4 East motorway extension.

Another claim has been that WestConnex will reduce congestion at Port Botany and the airport. But the concept plan for the road no longer even goes there. In Transport Minister Albanese's own community he is sitting on the fence over the WestConnex proposal, saying it is too early to oppose WestConnex based on the limited information available. I understand he has been speaking with his constituents about the impact of feeder roads and smokestacks. The minister's local community does not want another failed motorway tunnel. Locals do not want to see $10 billion wasted to push more traffic congestion closer to the inner city. They want the minister to use his position to deliver better public transport and more active transport solutions.

The federal opposition leader, Mr Tony Abbott, has signed up to Mr Nick Greiner's motorway vision, pledging to prioritise Commonwealth funds for the WestConnex project. The WestConnex project is not a solution for Sydney's transport congestion problems nor can it meet future transport needs. It serves the vested interests of private road companies and cash-strapped governments but it does not serve the public interest.

If the government ignores expert advice from transport planners, the public will not be privy to that decision-making process because the whole process becomes shrouded in secrecy under the commercial-in-confidence excuse. In 2005 I used the call for papers process in the NSW Legislative Council to challenge a commercial-in-confidence ruling and expose the dodgy traffic modelling that underpinned two of Sydney's biggest private toll road failures—the Cross City Tunnel and the Lane Cove Tunnel. Both toll roads were riddled with flaws and failures and proved to be a profoundly bad deal for the travelling public. Like the more recent road flops in Queensland, the wildly optimistic traffic modelling that underpinned the business case of both toll projects was never realised. The Cross City Tunnel people claimed it would carry 90,000 vehicles per day but it saw only half those numbers. The Cross City Tunnel became extremely unpopular when an angry public was faced with 13 road closures and rat runs designed to funnel motorists into the tunnel. The government was ultimately forced to reverse the road changes, and faced a $100 million compensation claim by the owners for breach of contract.

Greedy consortiums hatched the idea in boardrooms that you can make a killing by charging people $4 to drive underground across Sydney's CBD. They concocted a business case for these roads that would attract investors, then worked backwards to finesse the traffic modelling until they got the figures they needed to sell it—a pattern we see being repeated with WestConnex. Most of these toll roads have contracts that last for 30 to 40 years. That is a long time to be locked into a bad deal.

Getting to the bottom of why a privately built or operated transport project gets the government go-ahead or goes bung is extremely difficult. When you read the financing and funding section of the WestConnex proposal, you quickly realise that the government intends to carry the risk of this project in some way. The public may never find out exactly how it is guaranteeing the deal and how much it will be up for. When the legal arbitrator Sir Laurence Street ruled on my motion in the New South Wales
Legislative Council that the Cross City Tunnel contracts be made public, the government released 30,000 documents which showed the government had effectively privatised the profits while socialising the risks. They exposed a litany of poor negotiations and bad deals, such as a clause that could trigger compensation for the motorway company if future public transport services affected the tunnel's profits. The same dodgy deal was offered to Sydney's M2 motorway operators back in the 1990s, during Mr Nick Greiner's days as Premier. Mr Greiner was also the Chairperson of Bilfinger Berger, the parent company of the Cross City Motorway Group. Today he heads up Infrastructure NSW and is pushing hard for the WestConnex motorway.

The problem goes much deeper than the Cross City Tunnel. The NSW government was forced to fork out $25 million in compensation to the private owners of the ailing Lane Cove Tunnel. $13 million in penalty payments was handed over to the private operators of Sydney's M5 East Tunnel. The Macquarie Group's Sydney airport rail link turned out to be an expensive lemon, with the NSW government outlaying $800 million from the public purse to prop it up.

The New South Wales Auditor-General has predicted $1.1 billion of public funding will be spent on Sydney's Harbour Tunnel by 2022 to ensure viability for its private sector owners. It is not just road PPPs either. Last year the New South Wales government had to hand over $175 million to bail out Reliance Rail, a $3.6 billion PPP to build the new fleet of Waratah trains for Sydney's CityRail network. A 2011 University of Sydney survey concluded that more than half of New South Wales residents believe public transport was the highest priority transport issue in Australia, and I think they are right. I urge the federal government to reject the WestConnex proposal and the Prime Minister to announce next week that, instead, her government will back public transport solutions. That is how she can deliver for the people of Western Sydney. (Time expired)

Unemployment Benefits

Senator THORP (Tasmania) (13:30): The Gillard Labor government's effective financial management over recent years has meant that we have got through the worst of the global financial headwinds with strong fundamentals. Life is significantly more comfortable for many, thanks to continuing wage growth, record low interest rates and reduced prices on many items. Unfortunately, the same cannot be said for unemployed Australians who are forced to survive on little more than $35 a day or $245 a week for a single person without dependants. It should come as no surprise then that the gap between the rich and the poor in Australia has opened up dramatically, threatening to trap the most vulnerable and disadvantaged Australians on the poorer side of the great divide. In fact, Australia has one of the lowest unemployment benefits, as a percentage of the average wage, in the developed world. The situation has become so bad that the OECD itself has pointed out that the low level of Newstart raises issues about its effectiveness.

The Newstart payment is currently 45 per cent of the net minimum wage, having fallen from 54 per cent around 15 years ago. At the same time there has been significant growth in the basic costs of living. In the last five years capital city rents have increased at twice the rate of inflation and electricity has climbed up to 56 per cent from 2005 to 2010—and we all know it has not stopped rising since then. With these pressures it is little wonder that unemployed Australians
can find themselves caught in a spiral of disadvantage, falling further and further into debt just to get by.

In some areas, the average cost of renting alone can exceed the entire Newstart allowance, making private rent close to impossible. As a result it is common to find job seekers forced into rooming houses that can be not only demoralising but downright dangerous. Drug use and alcohol problems can be common and violence not infrequent. In some of these places up to 10 adults can be forced to share a single bathroom. With these sorts of conditions I find it hard to imagine how people could possibly be able to get up and prepare to tackle the job hunt each day. A survey by the Australia Institute in April 2012 found the average amount considered necessary to meet weekly living costs is $454. This figure is almost double what is paid to unemployed people in this country.

In this environment it is not surprising the recent Newstart inquiry yielded so many stories of individuals who find themselves going backwards by hundreds of dollars per fortnight—and that is the healthy ones. Many thousands of others find themselves with crushing healthcare bills on top of their daily living costs. For the September quarter last year, the Melbourne Institute of Applied Economic and Social Research defined the poverty line for a single person living alone as $483.51 per week, including housing. This equates to close to $70 a day, almost double the rate we expect our job seekers to subsist on.

Another measure of poverty we can look at, which perhaps paints a clearer picture, is the multiple deprivation model. Rather than analysing income in dollar terms, this model looks at whether a person can access essentials—things like a substantial meal at least once a day, an annual dental check-up, warm clothes and bedding if it is cold, a separate bed for each child, a washing machine, secure locks on doors and windows, presents for family and children at least once a year and heating in at least one room of the house. These are things I am sure all of us in this place would consider non-negotiable requirements of life. On this measure, a full 61 per cent of households whose main income source is Newstart would fall under the category of multiple deprivation in that they are unable to access at least three of those elements. To my mind, this is simply unacceptable.

But whichever way you cut it, and whichever measure you choose to use, one thing is clear: we are putting hundreds of thousands of unemployed Australians at risk of a life of poverty and we are significantly limiting the available opportunities to break free of this life. A life where so much mental energy is expended on avoiding eviction, repossession or disconnection does not leave a lot of room for job hunting. There are many case studies that show people on Newstart can be left with as little as $35 a week to buy essential items such as food, transport and clothing. For so many, the search for work is relegated to second place after mere survival—not to mention the costs of the job search itself. When basic bills cannot be met, there is little chance job seekers will have money to spare for phone calls, transport, petrol, suitable clothing and haircuts—things that may actually increase their chances of securing work. Newstart recipients are also unlikely to be able to pay for training or upskilling to increase their attractiveness to employers.

At this point, Mr Acting Deputy President, I think it is time for a little myth busting. The decision to retain the current level of Newstart is often justified by the regularly sprouted, but entirely false, statement that if Newstart were raised it would provide a
disincentive for unemployed people to join the workforce. Even if the rate were increased by the full $50 a week, $295 a week could hardly be considered comfortable living. Even if they gained work on the minimum wage, a Newstart allowance recipient would double their after-tax income. I am sure you will agree that is still a pretty powerful incentive to continue on the job-hunting trail.

This feeds into the second damaging and demoralising myth that has somehow spread its tendrils into the public debate: that unemployed people do not want to work, that they are somehow actively conspiring to rip off the system and live off the public purse as long as they can. Nothing could be further from the truth for the vast majority of job seekers. Who wouldn't want to attain a better life for themselves and benefit from the dignity that work provides? I have seen many young people in their late teens and 20s forced to make less than ideal decisions about where and how they live as a direct result of not being able to survive on Newstart. Crowded and/or inappropriate living circumstances militate against a young person's attempts to find work and move forward with optimism for the future.

Not only is the myth of the dole bludger unhelpful; it denies unemployed people basic human respect and further exacerbates the demoralisation that unemployment can bring. At this point, I think it is salient to ask, 'What are unemployment benefits for?' Are they solely a payment to stave off starvation and homelessness? Or are they, as the name suggests, a means to give people the support they need to make a 'new start' in life? Do we want to condemn people to a life of poverty—a life where they are forced to rely on the public purse for survival? Or do we want to give them the dignity and respect of a fair living allowance that will provide the security of meeting their basic needs so that they can continue to seek opportunity in life?

Most of the arguments against raising the Newstart rate have purely fiscal origins. Ironically, by not acting, we are potentially setting ourselves up for a much greater strain on the public purse over time. Firstly, as I have outlined, the chances of job seekers having the financial, mental or emotional wherewithal to successfully gain work are reduced when their basic living needs are not being met. And we know that the longer unemployed people stay on benefits, the less likely they are to secure and maintain work. Of course, this increased cost must be borne by the welfare system. According to the Department of Education, Employment and Workplace Relations, six in every 10 Newstart recipients end up on the payment for more than 12 months. Perhaps, if we paid job seekers a reasonable wage, we could shorten this time significantly.

The health system is likely to bear a greater financial burden if we keep Newstart at its current level—and not just as a result of Newstart recipients relying solely on the public health system. As we have seen, Newstart recipients are less likely to be able to afford fresh, healthy food, making them more prone to illness. Secondly, we know that unemployment takes a tough mental toll, with unemployed people more likely to suffer from depression and other psychological consequences. This is further exacerbated as the time on benefits extends and people feel increasingly trapped and despondent. Similarly, the current rate of Newstart drastically limits recipients' ability to participate in their communities or maintain a social life as they may not be able to afford transport or phone calls, let alone a coffee at a cafe or a trip to the movies. This social isolation can lead to further psychological concerns and an increased
likelihood of physical illness, which must be treated through the public health system.

The justice and law enforcement system can also suffer if people turn to criminal acts in desperation. Higher crime rates would mean further resource demands could be made on the police service. Courts could become further clogged. And the lives of job seekers could be irrevocably worsened if they are charged. All these factors can be multiplied if short-term unemployment slips into long-term unemployment. Disadvantages and barriers to employment can become entrenched and much, much harder to solve. Further down the track, this can result in generational unemployment, where children grow up never knowing what it is to have a working parent, and find it hard to incorporate the world of work into their perception of their own futures. So it is clear that saving $50 a week now is a false economy that risks massive imposts on budgets across the public sector for many years to come—not to mention the obvious and unacceptable toll on the lives of individuals who are forced to live this way.

This Labor government has implemented some important and progressive policies to create jobs and grow the productive capacity of the economy—and I applaud them wholeheartedly. But it is not enough. We can and should do more by increasing the rate of Newstart by $50 a week, and we need to do it in the upcoming May budget. This is a change that is not only unanimously supported by the community sector; it was recommended by the Henry review. The Business Council of Australia has also recognised the low level of Newstart. On the issue, council chief executive Jennifer Westacott got it very right when she said:

Entrenching them into poverty is not a pathway back into employment.

I am very sorry that the Senate inquiry into Newstart rates did not find in favour of increasing the rate of the allowance. However, it is worth recognising some of the additional senators' comments to the committee report. I applaud my colleagues Gavin Marshall and Alex Gallacher's comments on the inquiry:

Labor senators took note of and were impressed with the quality of evidence presented on the inadequacy of Newstart Allowance throughout this inquiry. Multiple respected welfare groups and professionals with extensive experience in the social security field presented the committee with a clear, well-argued message which could not be ignored: the real value of Newstart Allowance has receded so significantly that it is exacerbating poverty and becoming an impediment to employment for many.

It was also clearly stated in the inquiry's additional comments that:

Labor senators lend their in-principle support to an increase in Newstart Allowance, and note that many in the welfare sector advocate an increase of $50 per week, as explained in the committee report.

It is often said that the gauge of a good society is how it treats its most vulnerable and disadvantaged members. And I have always believed that providing support and opportunity for our nation's most disadvantaged citizens is at the core of Labor's mission.

The Australian Social Inclusion Board chair illustrated the problem of the increased gap between the haves and the have-nots very effectively when she said:

We've managed to put people on the moon. We've managed to eradicate terrible diseases of the past. We've just put that robot on Mars …

Don't tell me we can't find somewhere safe and secure for people to live.

Don't tell me we can't solve the problem of children going to bed hungry.
While a modest $50 weekly increase in the rate of Newstart will not solve the multiple levels of disadvantage facing so many thousands of Australians, it will provide a much better foundation from which to start. I urge my colleagues to recognise the importance and urgency of this critical move.

**Economy**

*Senator BOSWELL (Queensland) (13:43):* I rise to speak on a matter of grave national importance—the destruction of industries and jobs by a Labor government that simply does not understand how business operates. Australian businesses are operating in an increasingly tough global marketplace but are being burdened with government-generated costs that are destroying their competitiveness. As a result, imports are rising and exports are falling under this Labor government.

Australia's fastest growing export commodity is jobs. Another 60 Australian jobs will go in June when Penrice Soda closes its soda ash manufacturing plant in Adelaide and instead will begin importing soda ash from America. The company blames the high Australian dollar, low international shipping costs, increasing energy and labour costs and increasing taxes—notably the carbon tax; I throw in renewable energy here—and increasing regulatory compliance costs.

They singled out the carbon tax, saying the already high carbon tax will hit $8 million in 2½ years time. In reply to a question in parliament about Penrice earlier this month, the Prime Minister said the impact of the carbon tax on a tonne of soda ash was around $1.20 a tonne. That may not seem like a lot to the Prime Minister, but it is enough to help force Penrice to cease production. Then you have to throw in renewable energy—about 90c a tonne on that. The Prime Minister also blamed, and I quote:

...lower international shipping costs, which are making imports more competitive.

What hypocrisy! What the Prime Minister did not say was it was her government's 2012 coastal trading bill that made coastal shipping so expensive. It pushed up coastal freight charges by 16 per cent and will slug the Australian economy more $460 million. The legislation protects the PM's mates in the Maritime Union from the very same international competition she expects business to cope with. Take the case of the pipe-making business in the western suburbs of Sydney called Pentair. It celebrated 50 years of pipe manufacturing there last May. Next month, Pentair will reluctantly cease production and 160 jobs in Western Sydney will be lost. Perhaps the Prime Minister can drop in and see them when she is down there. Another 160 jobs, gone. Pentair's iron pipes will now be made in China and imported into Australia. More Aussie jobs exported overseas. Every cost matters. An extra one per cent here, one per cent there, a bit of carbon tax, a bit of renewable energy: it all adds up. It adds up to missed contracts and lost jobs.

Late last year, Pentair tendered for a contract for iron pipes that would have been worth about $50 million. They lost to a pipe supplier from Turkey. The Turkish price was less than five per cent cheaper, but that was enough. All the jobs and all the flow-on benefits that would have occurred in Western Sydney instead went to western Anatolia. We see closures everywhere. Blue Scope Steel at Western Port in Victoria: 170 jobs to go there; Boral: 790 job cuts announced to try to bring their costs down. There is a long list of Australian businesses moving production overseas, businesses like: Kerry Foods, 100 jobs gone; Kresta blinds, 72 jobs gone; Cussons soaps, 75 jobs gone;
Aerogard, 190 jobs gone; Harley-Davidson, 212 jobs gone; and Bosch, 380 jobs gone.

There is Goodman Fielder, shutting 15 factories and cutting 600 jobs. Caltex is shutting its Kurnell refinery: 330 jobs gone. Now, Norsk Hydro has announced its aluminium smelter at Kurri Kurri, near Newcastle, will shut down, with 350 direct job losses. The company blamed lower metal prices, the high Australian dollar, rising energy costs and the long-term impact of the carbon tax. Costs are killing Australian business. The true problems with the economy are being masked to some extent by a strong mining sector. But Western Australian iron ore and Queensland coal did not save Wayne Swan's budget surplus and they cannot prop up the Australian economy on their own, either.

Imposts like the carbon tax and the tax for renewable energy are killing jobs. Take the example of a hotel on the Gold Coast. Its July 2012 electricity bill without a tax on carbon and renewables would have been $44,000. The next bill, with the extra charges, was over $64,000. The difference comprised a carbon tax of $11,870, and renewables tax of $8,614. Across a full year, that means an extra $245,000 minimum in taxes on carbon and renewables. The only place they can easily cut costs is in staffing. So, their extra $245,000 in carbon tax and renewables means four or five full-time jobs gone.

Australia once had a clear advantage in low electricity prices thanks to our abundant resources of coal but the government has robbed Australian industry of that advantage by imposing the carbon tax and higher prices for renewable energy. Renewables initially add about 60 to 70 per cent again on top of the carbon tax, but also have the effect of displacing cheaper, more reliable coal-fired power.

According to the Australian Industry Group, for the year ended 2012 electricity prices paid by manufacturers went up by 26 per cent and gas prices by 10 per cent. Meanwhile, in the United States, there is a massive resurgence of manufacturing thanks to the development of its shale gas resources. The USA is enjoying a manufacturing investment renaissance not seen there since the decades of the 1950s and 1960s, thanks to cheap power. The Labor government has thrown away Australia's international advantage as a manufacturing nation with cheap and abundant power. Senator Thorp ought to think of these things. The Australian Industry Group surveyed 485 businesses in 2012, and those businesses estimated the carbon tax had added an average 14.5 per cent to their energy costs. They face tough competition from imports from countries that do not impose similar carbon costs.

Food manufacturers are especially hard hit. More than 27,000 jobs have been lost across manufacturing since the introduction of the carbon tax. Once upon a time, some of those sacked workers might have joined a food processing line, but not anymore. The Australian Food and Grocery Council says production in its sector is down significantly, and 7,000 jobs were lost in the industry in the 2011-12 financial year. According to the council's State of the industry 2012 report, 335 businesses in the sector closed down or moved overseas.

You can understand why a company like Heinz has moved its food processing operations from Brisbane and Melbourne to New Zealand. With currency advantages, wages and on-costs, it costs about 50 per cent less to produce a product in New Zealand. The Kiwis do not have a payroll tax. And New Zealand has a minimal carbon tax of just NZ$1.11 cents per tonne of CO2. Australia’s carbon tax is 20 times more expensive, at $23 a tonne. Of course, when
food producers shut down particular commodity processing lines, or close their doors, this in turn affects Australian farmers. They lose markets for their produce. It has a serious flow-on effect. This impacts real farmers, real people.

Farmer Linton Brimblecombe was once the largest single supplier of beetroot to the Heinz Golden Circle cannery in Brisbane. That market disappeared when Heinz shut down its processing of beetroot in Brisbane and moved it to New Zealand and New Zealand factories. This has hurt the Brimblecombes, forcing Linton to reduce his permanent workforce from eight to four and significantly downscaling his business. It has similarly impacted his fellow farmers in the Lockyer Valley, west of Brisbane, traditionally a premier vegetable growing region. It is the same story for tomato farmers and others in Victoria, who have lost their markets with Heinz in Melbourne and country Victoria.

It is the lowest paid workers who are paying the costs of the carbon tax, like the 27,000 men and women who have lost their jobs in manufacturing since the carbon tax was imposed on Australia, and farmworkers and workers on food processing lines. They are the ones who, ultimately, are paying for Labor’s carbon tax.

The problem spans many industries. Meanwhile, the Labor government deny there is a problem. In response to the Australian Industry Group report on energy costs, Greg Combet, the Minister for Climate Change and Energy Efficiency, rolled out a spokesman who claimed the carbon tax is ‘a manageable economic and environmental reform’. Labor just do not get it—and, Senator Thorp, you ought to listen to this. Is it any wonder Australian businesses plan to hire fewer staff this year? An Australian Chamber of Commerce and Industry survey shows business hiring intentions for the first six months of 2013 are the worst in the history of the survey since it began 15 years ago. Businesses already shed almost 14,000 full-time jobs in December, and the unemployment rate has jumped to 5.4 per cent. Economists predict unemployment will get worse this year; the National Australian Bank and ANZ both predict 5.7 per cent, and JP Morgan says six per cent.

The underemployment rate is even worse. You only need to have worked for payment for a minimum of one hour in the previous week to be classified as employed. A further 7.2 per cent are underemployed and looking for more work. That makes it a total of 12.6 per cent of the workforce who are looking for a job or a job with more hours. Saying that one-eighth of the Australian workforce is underemployed better reflects the story I am hearing from job seekers.

Where are Australia’s young people going to find jobs? Australian Bureau of Statistics figures show the unemployment rate for our 20- to 24-year-olds is eight per cent and, for our 15- to 19-year-olds, more than 15 per cent. And it is getting worse. The ANZ says jobs advertised online and in newspapers fell by 3.8 per cent in December, the 10th consecutive monthly decline. Job ads were down 16 per cent over 2012, the lowest level since January 2010.

This government is moving single mums from parenting payments to the lower Newstart allowance, cutting their payments to encourage them to work. Where are they going to find jobs? The same applies to the less qualified among migrants to Australia: where are they going to find jobs, when so many of the formerly lower-entry qualification jobs have been exported overseas?

Process workers are paying for Labor adding on-costs to business. These are the
people the government has on $38 a day, while at the same time the very businesses—the production lines, the food processors—that could give them a break are being forced to close down or move overseas. What is needed is to strip unnecessary, unproductive, job-killing costs out of the manufacturing process. Get rid of the job-killing carbon tax and the renewables tax, and reduce the cost burden of regulations.

In a survey late last year by the Australian Chamber of Commerce and Industry, more than 80 per cent of small- to medium-sized businesses complained about the cost and complexity of employing workers, wages and conditions of employment, and workplace health and safety. Most of them said that government red tape had increased and was having a significant impact on their business, with more than 40 per cent spending over $10,000 a year in compliance.

Business is not a bottomless well. It cannot pick up all costs incurred by the government any time the PM or the union movement want to ingratiate themselves with the electorate. The government is bringing in extended flexible hours for parents returning from maternity leave—another cost on business. The government also says all workplace bullying will be referred to the Fair Work Commission; that will involve extra legal and other costs for business. The natural reaction by business owners is to not take on staff, or employ temporary staff or contractors, or to simply try to work even longer hours themselves.

Every day, the Labor government puts out another stunt. Now there is the Prime Minister's industry plan, which in fact will add more costs to industry and which business leaders say is not the way to create jobs. What they say is needed is cheaper energy and more flexible labour rules. This government does not get it—well, I think sometimes they do, but they do not care. They just keep on, with more stunts and thought bubbles, more costs and demands on industry, and more bureaucracy and paperwork adding to the burden of businesses large and small. Every extra government cost makes it harder and harder for businesses to employ the $38 a day Newstart allowance people the government want to force to find jobs.

The Labor government's high-cost policies are going to do nothing more than produce a diaspora of Australian businesses. Former Australian businesses will be spread around the world, going to countries without crazy energy taxes and unnecessary cost burdens, and creating over there jobs that once upon a time employed Australians.

QUESTIONS WITHOUT NOTICE

Prime Minister: Visit to Western Sydney

Senator PAYNE (New South Wales) (14:00): My question without notice is to the minister representing the Prime Minister, Senator Conroy. Given the Prime Minister's desperate announcement of a one-week Rooty Hill based visit to Western Sydney, on which day will the Prime Minister be visiting the Penrith Whitewater Stadium in the electorate of Lindsay, whose power costs have risen 15 per cent as a result of the Prime Minister's carbon tax, and whose management has resorted to shutting—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Payne, just cease.

Senator Cameron interjecting—

The PRESIDENT: Order! Senator Cameron!

Honourable senators interjecting—
The PRESIDENT: On both sides—order! Senator Payne is entitled to be heard in silence.

Senator PAYNE: On which day will the Prime Minister be visiting the Penrith Whitewater Stadium in the Lindsay electorate, whose power costs have risen 15 per cent as a result of the Prime Minister's carbon tax, and whose management have resorted to shutting down the facility during peak electricity usage times and have even considered the viability of using or buying their own generator?

Honourable senators interjecting—
Senator Conroy: No, exactly! Don't even pretend.

The PRESIDENT: Order! Senator Conroy, you have been called upon to answer the question.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:01): Could I thank the senator for her question and her alleged concern.

The Prime Minister is a regular visitor to Sydney. This will be her 18th visit in the past—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Conroy! Senator Conroy, just sit down! When everyone has settled down we will continue.

Honourable senators interjecting—

The PRESIDENT: Order! Now, when everyone has settled down—on both sides—we will continue.

Senator CONROY: As I was saying, the Prime Minister is a regular visitor to Sydney. This will be her 18th visit in the past year.

Senator Brandis: She wasn't—

Senator CONROY: Senator Brandis, the last time you tried to play geography games, you had to come back into the chamber to apologise. And the Prime Minister is in Brisbane today!

Honourable senators interjecting—

Senator CONROY: The Prime Minister is in Brisbane today, so Senator Brandis may need to come and make another apology.

Honourable senators interjecting—

The PRESIDENT: Order! Senator Conroy, just resume your seat. No, just wait a minute, Senator Brandis. When there is silence we will proceed.

Senator Brandis: Mr President, I rise on a point of order. I know that Senator Conroy still does not quite believe that he is a cabinet minister after five years. However, Mr President, I would ask you on the point of relevance to direct him to the question. The question was about the Prime Minister's proposed visit to Western Sydney, and specifically to Rooty Hill. Can you ask the minister to address that question rather than to behave like the clown that he is.

The PRESIDENT: Order! That is not called for. The minister was addressing the question until there was an unfortunate interjection which turned the minister's attention away from the question. I remind all senators that interjections are disorderly. There is a question before the Chair. The minister has one minute and 17 seconds. There is no point of order.

Senator CONROY: Her 18th visit in the past year. Part of governing is getting out there into the community, listening to people's concerns and talking to Australians about our real plans: our plans about helping modern families with modern pressures—our plan to improve schools and to provide jobs and opportunities for all Australians.

Senator Brandis: She wasn't—
Mr Abbott, on the other hand, sees Western Sydney as just a political prize on his map. Just a political prize! He has no plans for the future of Western Sydney—just cuts! Just cuts! He will scrap the schoolkids bonus, slash funding to schools and stop the NBN.

The NBN is currently rolling out fibre to over 48,000 homes and businesses in Blacktown, Lalor Park, Seven Hills, Prospect, Penrith, Kingswood, South Penrith, Jamisontown, Richmond, Windsor, South Windsor, Bligh Park, Londonderry, Hobartville, Richmond Lowlands, Agnes Banks—(Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! When there is silence we will proceed. I remind honourable senators that the time for debating issues is at the end of question time.

Senator PAYNE (New South Wales) (14:06): Mr President, I ask a supplementary question to the minister. Western Sydney is where I live and where I work. In light of the comments of former Labor identity and senator, Graham Richardson, that Ms Gillard’s trip to Western Sydney might actually harm Labor’s re-election chances, and Senator Doug Cameron’s remarks that the former Prime Minister Rudd is a vital campaign tool because of his ability to spread the Labor message, wouldn’t the Prime Minister be better off asking Kevin Rudd to campaign for her in Western Sydney?

Honourable senators interjecting—

Senator Conroy: Seriously, you had no health, no education.

Senator Wong interjecting—

The PRESIDENT: Order! Senator Conroy, just resume your seat. Senators on my right and left, order! Just sit down. When senators have resumed silence we will proceed. It is as simple as that.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:07): Those opposite do not want to ask about education. They do not want to ask about education. They simply want to inflict more pressure, more pain, on people in western Sydney. People in western Sydney are already feeling the pressure from the savage budget cuts inflicted by the O’Farrell government on schools and hospitals, and there is more to come if those opposite are elected in the coming election. Last time Mr Abbott was a minister in a government he cut $1 billion out of the health budget and he supported Work Choices which took away—

Senator Abetz interjecting—

Senator Cameron interjecting—

The PRESIDENT: Order! Order on both sides, Senator Abetz and Senator Cameron. I remind honourable senators that interjections are disorderly.

Senator Conroy: As I was saying, despite claims from those opposite, Mr Abbott supported Work Choices. Do not try to pretend in here now he did not. He came into parliament and he voted for it—(Time expired)

Senator PAYNE (New South Wales) (14:09): Mr President, I have a further supplementary question. Given that five years of this government has resulted in a carbon tax we were not meant to have—and I refer the minister to page 13 of the Penrith Press of 15 February for the letter on the Penrith Whitewater Stadium costs, double-digit hikes in electricity, water and gas bills, a broken promise on means testing of private health insurance rebates, a 29 per cent hike in rents, and $147 billion in net debts—why
should western Sydney residents have any confidence that this Prime Minister takes the needs and aspirations of those people seriously?

_Honourable senators interjecting—_

**The PRESIDENT:** Order! I remind senators that there needs to be silence.

**Senator CONROY** (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:09): This government has delivered the strongest economy, just about, in the Western world. You can try and pretend, because the illiterates over there and Mr Hockey—

_Honourable senators interjecting—_

**The PRESIDENT:** Order! If you wish to waste question time with interjections, then so let it be, but it is completely disorderly. You know that it is disorderly and it reflects poorly on both sides of the chamber when it happens.

**Senator CONROY:** Look at the evidence—800,000 jobs since we came to power, an economy that those opposite continue to try to talk down. 'No pulse,' said Senator Brandis a few days ago. 'No pulse,' said Mr Hockey—demonstrating his economic literacy—'It's flatlining.' Yes, it is flatlining at three per cent growth and 800,000 jobs. We protected 200,000 jobs during the global financial crisis that you dismissed as just that thing that happened for six weeks in the Northern Hemisphere. This government is proud of its achievements in supporting modern families; proud that we introduced the schoolkids bonus, which you are going to take away; proud that we have introduced new payments for families—

_(Time expired)_

**Migration**

**Senator URQUHART** (Tasmania) (14:11): My question is to the Minister representing the Minister for Immigration and Citizenship, Senator Lundy. Can the minister update the Senate on the steps being taken by the government to help Australians get jobs and stop rorts of 457 visas?

**Senator LUNDY** (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:11): The Gillard government's No. 1 priority is ensuring jobs for Australian workers and making sure Australians are in work. The Gillard government values the 457 visa subclass; it provides us short-term labour in industries and regions experiencing skills shortages and most employers utilise the scheme as it was intended.

It is becoming evident, however, that the growth in the 457 program is not in line with our skills shortages and the government has evidence that some employers are abusing the system and using the 457 visas to employ foreign workers over local workers. This is not acceptable. Australians deserve the chance to get local jobs and the government is determined to make that happen. That is why we are introducing a set of changes to the 457 program including a requirement that employers need to show a genuine shortage exists before nominating positions to be sponsored, banning of on-hire arrangements for 457 visa workers and ensuring stronger compliance and enforcement powers to stop employers who have routinely abused the 457 system.

The government is not punishing the employers who have genuine skills shortages and who are using 457 visas in the way the system is intended, but the government is ensuring that reprobate employers who abuse the system and shirk their obligations to
employ Australian workers face the law in the strongest possible way. Although the opposition did not appear to be too interested in my answer, Mr President, I can assure you that this the highest of priorities for the Australian government. Despite their continual interjections throughout my answer, they show that they just do not give a damn about what is going on with Australian workers in the 457 class visa system.

Senator URQUHART (Tasmania) (14:14): Mr President, I ask a supplementary question. How does the government respond to suggestions that it is making conditions for a 457 visa too tough?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:14): The Gillard government does not apologise for making jobs for Australian workers our No. 1 priority. Yesterday Senator Cash asked a question referring to the lower unemployment rate of 457 visa holders than other groups.

Opposition senators interjecting—

The PRESIDENT: Senator Lundy, resume your seat. Senator Lundy, continue.

Senator LUNDY: What we all knew, but of course Senator Cash did not, is that it is a condition of the 457 program that such visas are only issued to people who have a job. So it is not surprising that they have a low unemployment rate. But what is more disturbing about the false premise of the senator's question is that she seems to be suggesting that Australian workers are somehow less valuable than temporary overseas workers, and that is an appalling, disgraceful line of argument to be presented in this place. No wonder the Leader of the Opposition, her leader, says that 457 visas will be the mainstay of a future coalition government's immigration program.

Opposition senators interjecting—

The PRESIDENT: I will give you the call when there is silence, Senator Urquhart. Order!

Senator URQUHART (Tasmania) (14:15): Mr President, I ask a further supplementary question. What are the implications of not changing the 457 visa category?

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (14:16): It is clear by the opposition's interjections in the Senate yesterday, and their opposition to a bill that supports local workers today, that they have no regard for Australian jobs. The opposition refuses to recognise that some employers are using unscrupulous practices to rob Australians of real job opportunities. In contrast, the Gillard government is committed to supporting Australian jobs, while the opposition continues to oppose—

Opposition senators interjecting—

The PRESIDENT: Senator Lundy, resume your seat. When there is silence, we will proceed. I remind honourable senators that time for debating the issue is after question time. If you have a contribution to make there is a full half-hour then in which to debate the issues.

Senator LUNDY: Perhaps the opposition will resist their interjections while I complete the answer to my question. They do not like to hear this stuff, Mr President. We are, of course, committed to supporting Australian jobs while those opposite continue to oppose the protections we are seeking to put in place. Let me be clear on this point: if an Abbott government was managing Australia's temporary skilled worker
program it is clear now that it would be open slather. There would be no protections, no restrictions, bringing in whoever they want with no priority for employing Australian skilled workers first. That is not the way the 457 class temporary skilled worker visa system is supposed to operate at all. *(Time expired)*

**Health Funding**

**Senator FIERRAVANTI-WELLS** (New South Wales) *(14:17)*: My question is to the Minister representing the Prime Minister, Senator Conroy. I remind the minister of the government's $403 million in retrospective cuts to public hospital funding this financial year as part of its $1.6 billion in funding cuts for public hospitals in MYEFO. Will the government rule out further retrospective cuts to public hospital funding midway through a financial year in the future?

**Senator CONROY** *(Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity)* *(14:18)*: Thank you for the opportunity to talk again, Senator Fierravanti-Wells, about what this government has been doing to increase funding—to increase funding, not as is being suggested, reduce it. Let us talk about New South Wales. There is a massive Commonwealth investment in New South Wales delivering more doctors, more nurses, more beds and more services to patients. Commonwealth funding to New South Wales will increase from $4.8 billion to $5.9 billion over the next four years, an increase of $1.1 billion, or 23 per cent.

We are delivering $378 million more this year than New South Wales would have received if the healthcare agreement of Mr Abbott was still in place. That is right: $378 billion more than the healthcare package Mr Abbott negotiated on behalf of those opposite. With this record investment it is clear that the New South Wales government should concentrate on service delivery rather than giving inaccurate and untrue information to those opposite, because this government is delivering record funding in New South Wales.

Queensland is another state which is trying to claim that the Commonwealth government is reducing health funding. Well, Mr Campbell Newman should stop his dishonest political scare campaign and start delivering better health services to Queensland families.

**Senator Fierravanti-Wells**: Mr President, I rise on a point of order—on relevance. I asked the minister a very clear question, and that was: will the government rule out further retrospective cuts to public hospital funding midway through a financial year in the future? It is a simple question—yes or no will suffice.

Honourable senators interjecting—

**The PRESIDENT**: Order! I cannot tell the minister how to answer the question. The minister is being directly relevant to the question that was asked. The minister still has eight seconds remaining.

**Senator CONROY**: I cannot rule out that Premier Baillieu will not cut more funds from Victorian hospitals; I cannot rule out that Mr Barry O'Farrell will not cut more funding to New South Wales nurses and beds. *(Time expired)*

**Senator FIERRAVANTI-WELLS** (New South Wales) *(14:20)*: Mr President, I ask a supplementary question. Will the government reinstate funding retrospectively cut from states other than Victoria?

**Senator CONROY** *(Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity)* *(14:20)*: Thank you for the opportunity to talk again, Senator Fierravanti-Wells, about what this government has been doing to increase funding—to increase funding, not as is being suggested, reduce it. Let us talk about New South Wales. There is a massive Commonwealth investment in New South Wales delivering more doctors, more nurses, more beds and more services to patients. Commonwealth funding to New South Wales will increase from $4.8 billion to $5.9 billion over the next four years, an increase of $1.1 billion, or 23 per cent.

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**The PRESIDENT**: Order! I cannot tell the minister how to answer the question. The minister is being directly relevant to the question that was asked. The minister still has eight seconds remaining.

**Senator CONROY**: I cannot rule out that Premier Baillieu will not cut more funds from Victorian hospitals; I cannot rule out that Mr Barry O'Farrell will not cut more funding to New South Wales nurses and beds. *(Time expired)*

**Senator FIERRAVANTI-WELLS** (New South Wales) *(14:20)*: Mr President, I ask a supplementary question. Will the government reinstate funding retrospectively cut from states other than Victoria?
Minister on Digital Productivity) (14:21): As I was saying before, Premier Campbell Newman must stop his dishonest political scare campaign.

Opposition senators interjecting—

The PRESIDENT: Senator Brandis, you can take your point of order, but I am going to draw the minister's attention to the question. The minister has been asked a question which he needs to address.

Senator CONROY: Mr President, if you live in Queensland—and actually, you do, Mr President—you are well aware of the state of hospital funding. You are well aware of the record increases that the Commonwealth government has already provided to Queensland, and you, Mr President, would be well aware of the savage cuts that Campbell Newman, the Premier, has made in Queensland.

Honourable senators interjecting—

The PRESIDENT: Order! Senator Brandis, you will be given the call when there is order—on both sides. When there is silence we will proceed.

Senator Brandis: Mr President, on a point of order: the minister's answer is no more relevant to the question than it was when you directed him to answer the question. He was asked whether the government would reinstate the retrospective funding cuts in states other than Victoria. He is defying your ruling, and you should either sit him down or insist that he answer the question.

The PRESIDENT: There is no point of order. The minister still has 25 seconds remaining. I am listening closely to the minister's answer and you are quite correct: early on in the piece I did draw the minister's attention to the question, and I draw the minister's attention to the question once again. The minister has 25 seconds.

Senator CONROY: That is right. The premise of the senator's questions is that the federal government has been reducing funding to Queensland. This is false. Premier Newman is engaged in a deliberately deceitful campaign—

Honourable senators interjecting—

The PRESIDENT: Order! If senators wish to debate the issue, the time is post question time. Senator Conroy, continue.

Senator CONROY: Thank you, Mr President. Premier Newman should stop covering up his savage cuts. Four thousand—

Senator Colbeck: Mr President, on a point of order: I am very interested as a senator for Tasmania to know if the $22 million cut from the Tasmanian budget under this program will be reinstated. I ask you to draw the senator's attention to the question.

Honourable senators interjecting—

The PRESIDENT: Senator Wong is seeking the call. She is entitled to be heard in silence.

Senator Wong: Thank you, Mr President. On the point of order, I appreciate that those opposite might be embarrassed to be reminded about just how much has been cut from coalition states' budgets, but I submit that it is entirely relevant to the question about health funding.

Honourable senators interjecting—

The PRESIDENT: Order! That is debating the issue. Time has expired for answering the question. I cannot draw the minister's attention to that question as time has expired.

Senator FIERRAVANTI-WELLS (New South Wales) (14:24): Mr President, I ask a further supplementary question. When will the government end the blame game and fix public hospitals as first promised by former Prime Minister Kevin Rudd six years ago?
Remember this? 'I will take responsibility for fixing our hospital systems'—Kevin Rudd, Labor Party. Remember this?

Honourable senators interjecting—

The PRESIDENT: Order on my right! I am waiting to call Senator Conroy to give the answer. I need silence. Senator Conroy.

Senator CONROY (Victoria—Leader of the Government in the Senate, Minister for Broadband, Communications and the Digital Economy and Minister Assisting the Prime Minister on Digital Productivity) (14:25):

Thank you, Mr President. Again, Labor's record of increasing public hospital funding is strong. Over the last five years, Commonwealth funding for public hospital services has significantly increased through the introduction of a generous indexation formula and an increase to base funding for public hospitals of $500 million per annum. The Victorian government are cutting their health budget by $616 million. The federal health funding to Victoria has increased by 26 per cent. Queensland have cut their budget by $3 billion; federal health funding to Queensland has grown 21 per cent.

Honourable senators interjecting—

The PRESIDENT: Senator Conroy, as much as I enjoy listening to the answer, I cannot hear it because of the interjections on both sides.

Senator Abetz: I think you are misleading the Senate.

The PRESIDENT: Thank you for your assistance, Senator Abetz.

Senator Ronaldson interjecting—

The PRESIDENT: Thank you, Senator Ronaldson. I do appreciate it, but I would like to hear the answer that Senator Conroy is giving and not the interjections that are coming from both sides. Senator Conroy.

Senator CONROY: Thank you, Mr President. Those opposite are simply trying to cover for their Liberal state mates. They have been slashing beds, slashing nurses and they want to try and blame someone else. They have been looking after their mates.

(Time expired)

Minerals Resource Rent Tax

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:27): My question is to the Minister representing the Minister for Resources and Energy, Senator Ludwig. I ask: given that the evidence shows the government has made a complete mess of the treatment of royalties in the MRRT—including the blank cheque to state governments on future royalty increases—can the minister confirm that Minister Ferguson was present at the meetings with executives from BHP, Rio Tinto and Xstrata when the detail and structure of the mining tax was negotiated and agreed to by the government?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:27): Can I say that the Australian government's new resource taxation arrangements, the MRRT, now apply to iron ore and coal extraction in Australia where profits exceed $75 million. The PRRT has also been extended to all Australian oil and gas projects.

Senator Ian Macdonald: She asked you if Minister Ferguson was there!

Senator LUDWIG: I will take that interjection. I did not know that you have joined the Greens, but thank you very much. It seems now that you are supporting their cause.

Honourable senators interjecting—

The PRESIDENT: Order! Senator Ludwig, ignore the interjections.

Senator LUDWIG: It is quite unusual for me to see that. I know they are up for a
marriage again but it seems that you are putting yourself up as a—

The PRESIDENT: Senator Ludwig, ignore the interjections; just address the question that has been asked by Senator Milne.

Senator LUDWIG: I know you want to be a groom for the Greens, but that is a matter for you really. The MRRT revenue depends on a range of fluctuating elements, such as commodity prices, volumes and exchange rates. What I am doing, Mr President, is dealing with that part of the question that I can deal with, which goes to the MRRT. What I cannot do—which I will take on notice just to ensure that the interjector who is supporting the Greens understands where I am going, because he is apparently too slow to understand it. I will take that part on notice, because I do not have any prior knowledge as to what meetings Mr Ferguson might or might not attend. So I will take that on notice, but there were other elements of the question that I can answer, which it seems to me that Senator Ian Macdonald is too thick to follow.

The second quarter of 2012 saw some of the heat come out of global commodity prices. The price of iron ore is now around—

Senator Ian Macdonald: Mr President, I raise a point of order. I may be thick, but I am not corrupt like the Labor Party Ian Macdonald.

The PRESIDENT: That is no point of order.

Senator Bernardi: Mr President, on a point of order: Senator Ludwig should withdraw his reflection on Senator Ian Macdonald—the good Senator Ian Macdonald, not the bad Ian Macdonald from the New South Wales Labor Party.

The PRESIDENT: That is not a point of order, Senator Bernardi.

Honourable senators interjecting—

The PRESIDENT: No. Order on both sides! Before we get into that: Senator Macdonald got up and used the word himself. That is the difficulty that I am now placed in. I would encourage all senators to show the due respect for each other that is warranted in this chamber.

Senator Brandis: On the point of order, Mr President—

Honourable senators interjecting—

The PRESIDENT: Just wait a minute, Senator Brandis, Order! When there is silence, we will proceed. Senator Brandis is on his feet wishing to take a point of order.

Senator Brandis: Mr President, the day before yesterday, the Deputy President required me to withdraw a remark that Mr Wayne Swan was a dope, and I did. For the sake of consistency, Mr President, if I cannot call Mr Wayne Swan a dope—a self-evident proposition, Mr President—then I do not see how Senator Ian Macdonald can be allowed without objection to be called dumb.

The PRESIDENT: Senator Brandis, there is no point of order at this stage. All honourable senators should refer to each other in the appropriate terms for this chamber and not stoop to anything else. Senator Ludwig, you have 23 seconds remaining to address the question from Senator Milne.

Senator LUDWIG: Mr President, I recognise your words, and I am always happy to withdraw if I have overstepped the mark. One of the difficulties in the question is that I know that Mr Ferguson goes to a range of meetings. It is on the public record that he was at meetings. The question never went to which meeting, which is the part I will take on notice. The other part, of course, is dealing more broadly with the MRRT revenue. (Time expired)
Senator MILNE (Tasmania—Leader of the Australian Greens) (14:32): Mr President, I ask a supplementary question. I thank the minister for taking on notice whether or not the minister responsible for resources and energy was actually at a meeting that determined the tax. Can the minister confirm that, even when mining companies arrange their affairs to pay no tax, royalty credits can be stored by corporations to be used to offset the paying of tax in future years? If so, can the government tell the Australian people through the Senate how much this design flaw of the tax is costing Australia in lost revenue over the forward estimates?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:33): Mr President, I will try—

Opposition senators interjecting—

The PRESIDENT: Just wait a minute, Senator Ludwig. Those on my left, Senator Milne is entitled to hear the response of the minister.

Senator LUDWIG: The premise of the question does go to whether there was a design flaw. We refute that. I am going through to explain, in fact, why it is refuted. It can take, as I said, months for higher spot prices to fully reflect the MRRT revenue, as trade can be conducted on a monthly or even quarterly basis. Resource rent taxes are by their very nature, as indicated, volatile, and— (Time expired)

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:35): Mr President, I ask a further supplementary question. Given that Minister Ferguson chaired with former BHP chair Don Argus the Policy Transition Group, which recommended that all current and future state and territory royalties on coal and iron ore should be credited, can the minister explain why Minister Ferguson has been invisible in the last few months, why the last transcript on his website is from September 2012 and why he is not out with the Prime Minister and the Treasurer defending the dud of a mining tax that he helped to create?

Opposition senators interjecting—

The PRESIDENT: When there is silence we will proceed.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:36): Much of that question went certainly not to me as minister representing Mr Ferguson, but let me refute this for a start. Mr Ferguson has been out there doing his duties as a cabinet minister across his portfolios very
diligently and very capably over the last years, particularly explaining the MRRT, as I am doing now. It is a pity that the Greens in this particular instance do not recognise what has happened with the MRRT, but let me try again. As the ATO commissioner noted, collections rose significantly between the first and second quarters, and this is the same time as we began to see some recovery in commodity prices. We recognise that some states have taken a reckless approach to royalties. I could name them, but I will not. That is why we had the GST review look into this, working with states or heads of treasuries— (Time expired)

**Reserve Bank of Australia**

**Senator FIFIELD** (Victoria—Manager of Opposition Business in the Senate) (14:37): My question is to the Minister representing the Treasurer, Senator Wong. Why did the Treasurer think ripping a $500 million dividend from the Reserve Bank to improve the look of the government's budget bottom line was more important than the Reserve Bank governor's formal advice to the government and his express wish to direct all of the bank's earnings to replenish the Reserve Bank Reserve Fund and the bank's balance sheet?

**Senator WONG** (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:38): I thank the senator for the question. I have been looking forward to a question—it has taken until Wednesday. I realise it is because Senator Cormann is at home!

**The PRESIDENT:** Can we keep other people out of this? Please just addressed the question.

**Senator WONG:** Senator Fifield and I are noticing the absence of Senator Cormann. We were talking about that. I get more questions when he is here. The decision to take a dividend is taken after consultation with the board of the Reserve Bank, and I would refer the senator to the 2012 annual report, which clearly states that this decision—the one to which the senator referred in his question—was taken after such consultation. It is the Treasurer's determination, and he made a determination as to the proportion of the RBA's earnings in 2011-12 which should be transferred. The dividend declared for 2011-12 is, in fact, quite modest when compared with the historical level of dividends paid, particularly those paid under the previous government. I point out that these are figures that Mr Koukoulas, who is a market economist, has indicated, so not figures that I have been provided as formal advice. He made the point that the average RBA dividend to this government over the last three years has been 0.13 per cent of total revenue and the average dividend paid during the previous governments was one per cent of total government revenue. So I think it would be wrong to suggest this is a massive increase.

The approach that the government takes will always ensure that the Reserve Bank is in a position to continue to play its vital role in supporting the Australian economy. I trust that, despite some of the strange economics on the other side of the chamber, at least on the issue of the institution of the Reserve Bank there could be a modicum of appropriate consideration by the opposition.

**Senator FIFIELD** (Victoria—Manager of Opposition Business in the Senate) (14:40): I ask a supplementary question. In evidence to the House economics committee last Friday, Governor Stevens said:

My preference was—and this was expressed, that—I would like to retain the whole 1,096…to build up the Reserve Bank Reserve Fund. But he did not agree with that…
Why should the Australian people put greater faith in the judgement of a Treasurer who never has and never will deliver a budget surplus rather than the independent governor of the Reserve Bank of Australia? 

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:40): If the opposition care so much about what the independent governor of the Reserve Bank says, why do they continue to promulgate economically incoherent positions? Perhaps if they think Mr Stevens— 

Opposition senators interjecting—

Senator WONG: I was asked about the position of the governor of the Reserve Bank and I am happy to respond, Senator Abetz. If those opposite have such respect for Governor Stevens, as we on this side do, maybe they could have a look at what he says about the Australian economy, maybe they could have a look at what he says about the Australian labour market, maybe they could have a look at what he says about the relative position of the Australian economy vis-a-vis other economies around the globe and maybe they could tell Mr Truss that we are not like Greece.

Senator Fifield: I rise on a point of order on relevance. The question is very specifically about why the formal advice to government of the governor of the Reserve Bank was rejected. His advice was that all earnings of the bank be put into the reserve fund. That was the question.

The PRESIDENT: I draw the minister's attention to the question.

Senator WONG: I refer to my first answer. The decision was taken after consultation with the board. The Treasurer made the decision after consultation, and this government will always ensure that the RBA is in a position to continue its vital role. I again point out to the other side that they are very happy to listen to Mr Stevens but only on some matters. (Time expired)

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (14:42): I ask a further supplementary question. In the foreword to the Reserve Bank's 2011 annual report, Governor Stevens wrote: …the prudent course will be to apply future earnings to rebuilding the RBFR before the resumption of dividend payments. As the government failed to take what the governor described as 'the prudent course', which antonym of prudent best describes the Treasurer's decision? Was it rash, foolhardy, irresponsible, unwise or just plain reckless?

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (14:43): I think that was, dare I say it, a somewhat political question. Surprise, surprise for question time! I again make a couple of points. The first is: if those opposite want to be taken seriously on prudent economic decisions then perhaps they should tell the person who wants to be deputy prime minister—apart from Senator Joyce—that likening Australia's economic position to that of Greece is not a prudent economic decision. Perhaps they should also tell Mr Hockey that using an accounting firm that was found to have acted unprofessionally is not a prudent economic decision, and perhaps they should remind themselves that using a catering company to do their costings is also not a prudent economic decision.

Senator Fifield: I rise on a point of order on relevance. My question was seeking the minister's guidance as to how she would describe the decision of the Treasurer? Given, by the governor's own definition, what the Treasurer did was not prudent, how
would the minister described the Treasurer’s decision?

The PRESIDENT: There is no point of order.

Senator WONG: I think in that point of order, Senator Fifield probably misquoted the Reserve Bank governor. He ought to be very careful about what he says in that regard. The point I would make is that the government always makes decisions that it believes are in the best interests of the Australian economy. (Time expired)

Senator Fifield: Mr President, I seek leave to table the governor’s foreword from the Reserve Bank of Australia’s 2011 annual report, which does put in context the governor’s use of the word ’prudent’.

The PRESIDENT: Is leave granted?

Senator Wong: Let’s have a look at it.

The PRESIDENT: Leave will be granted, I have been told, subject to the usual courtesy of the document that is being tabled being shown—

Senator Fifield: I know it is embarrassing, but—

The PRESIDENT: That is not the issue. I cannot make judgements on that. I am just saying that that is what has been said.

Fiji

Senator MARK BISHOP (Western Australia) (14:45): My question is to the Minister for Foreign Affairs, Senator Bob Carr. Can the minister update the Senate on developments regarding Fiji’s efforts to return to democracy?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:45): Australia greatly values its relations with Fiji. We are a partner and a close friend. We have worked with Fiji in difficult times and we have built close defence cooperation. Many of us are familiar with the political situation in that country and the actions of the regime, such as the decision to expel the visiting ILO delegation last year. Much has been written of Fiji’s post-1987 coup culture and noted that Fiji stands apart from the rest of the Pacific, which is a community of democracies. All of the Pacific wants a prosperous and democratic Fiji, something I have confirmed in discussions with my counterparts in Papua New Guinea, the Solomons, Samoa, Kiribati, Vanuatu and New Zealand.

The interim government in Fiji is making some progress in its efforts to restore democracy but the setbacks continue. On 15 January there was a decree on political parties. Subsequent amendments to it are as of much concern as the original decree. They include unacceptable conditions on the operation of political parties. There is an extreme regulation of the activities of political parties and their memberships. There are, for example, references to civil society leaders, officers of trade unions and employer associations, and restrictions or prohibitions on what they can do in the political arena. The imposition of penalties—up to five years imprisonment, for example, for media organisations reporting ’incorrectly’ on the names of prospective and former political parties—is another example. Strong political parties are indispensable to strong democracies. (Time expired)

Senator MARK BISHOP (Western Australia) (14:48): Mr President, I ask a supplementary question. Can the minister respond to recent suggestions that Australia has gone soft on Fiji?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:48): Our position remains unchanged and our sanctions prove that. Following Fiji’s coup, Australia prohibited individuals travelling to, or transiting, Australia who are
members of or associated with the Fiji military or senior members of Fiji's interim government. Our sanctions apply to the supply, the sale or the transfer to Fiji of arms and related material. They apply to the provision of technical advice or a financial service related to military activities or an activity involving the supply, sale, transfer, manufacture, maintenance or use of an export sanctioned good for Fiji.

Following a meeting I hosted in Sydney in July last year involving the foreign ministers of New Zealand and Fiji, Australia has agreed to be more flexible with its travel sanctions and to reinstate respective high commissioners, but what we want is an indisputable return to democracy in that country. (Time expired)

Senator MARK BISHOP (Western Australia) (14:49): Mr President, I ask a further supplementary question. Can the minister advise the Senate on what Australia and the international community see as fair and reasonable requirements to ensure Fiji's return to democracy is credible?

Senator BOB CARR (New South Wales—Minister for Foreign Affairs) (14:49): Nothing would give me greater pleasure than lifting our sanctions on Fiji, the normalising of our relations with that country. There are expectations, however, that must be met. We have them, the international community has them and the people of Fiji have them. They are the qualities we require of any electoral process and the restoration of democracy. They include an independent elections office, unrestricted participation by opposition political parties and civil society. They include robust freedom of expression, association and the media, and an election so free and fair its results will be acceptable even to those who lose the election. Once the interim Fiji government achieves this, Australia will happily lift those sanctions and—we believe this is important and should be important to the interim government itself—we will be ready to resume defence cooperation with the country. (Time expired)

The PRESIDENT: Before calling the next questioner, I have been advised that leave is granted for the document Senator Fifield wished to table.

Accommodation for Indigenous Students

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (14:50): My question is to the Minister representing the Minister for School Education, Early Childhood and Youth, Senator Kim Carr. On 24 July 2008 in a media release the Hon. Julia Gillard, the then minister for education, said:

This is an important step in meeting the Government's commitment to at least halve the gap for Indigenous students in Year 12 or equivalent attainment rates by 2020. The new facilities will provide more than 150 beds across a range of accommodation styles. Are newspaper reports that the government will now not build 152 beds in three boarding hostels in the Northern Territory as promised correct or is this just simply another broken promise?

Senator KIM CARR (Victoria—Minister for Human Services) (14:51): I thank the senator for his question. The boarding facilities initiative is a response, as I think his quote indicated, to the clear gap in the provision of postprimary education for remote Aboriginal and Torres Strait Islander students in the Northern Territory and it builds upon initiatives to provide more opportunities and more choice for students.

The policy also respects the fact that for remote Aboriginal and Torres Strait Islander people in particular connections to family and to land and to culture are central to their
lives. The provision of access to good-quality schooling on country will help to fill the gap that otherwise has resulted in too many young remote people falling through the education cracks. That is why the government has allocated $28.9 million towards a construction operation of three new boarding facilities in remote locations in the Northern Territory to provide accommodation for Aboriginal and Torres Strait Islander secondary students from remote and very remote communities and outstations. The initiative is also supported by a further capital contribution of $15 million for the Indigenous Lands Corporation.

I think we would all appreciate that the construction of these facilities faces many challenges. I believe that Senator Scullion would acknowledge the point that undertaking large capital works projects in very remote communities is always difficult, and that the complexity of the community consultations necessary to ensure there is strong, broadly based community support adds a further dimension to the difficulties. The government does take its responsibilities seriously in this regard and it has undertaken the necessary community consultations to ensure that there is a strong basis of community and other support, and that is a key element of this initiative. (Time expired)

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (14:53): I will take from that answer that, no, they are not going to be built and that it is a broken promise. I wonder if the minister is then able to answer a supplementary question. I understand that the purpose of the school hostels was to give young people the opportunity to go to a school that at least meets the national secondary education standards. Is it true that at the facility at Wadeye 20 out of 21 students boarding are actually from the local community and attending the same school they would have attended in any event?

Senator KIM CARR (Victoria—Minister for Human Services) (14:54): I think that you would be aware, Senator, that the provision of the facilities at Wadeye are extremely good, that the hostel arrangements have commenced operations and that the staff at the boarding facilities conducted an orientation program for 25 prospective students in early December 2012. It is equally true that this is a new experience for these remote families and for some it provides an opportunity that they otherwise would not have. It is not simply a case of saying that there is another facility in the region; it is about ensuring the successful completion of education programs, and I think that the students and families at Wadeye are entitled to a good education—

Senator Scullion: Mr President, on a point of order on relevance—and I know we only have 12 seconds. My question was very simple. I wondered whether there was an explanation why 20 of the 21 students currently living within metres of the boarding facility and attending exactly the same school they would have attended in any event, somehow attempts to meet the motivation of the program.

Opposition senators interjecting—

The PRESIDENT: Order! I do draw the minister's attention to the question.

Senator KIM CARR: I think that it is fair to say that an unfortunate fact of life is that many parents in the Wadeye community have missed out on a decent education. (Time expired)

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (14:56): Mr President, I have a further supplementary question. Why is the government wasting tens of millions of dollars on your unworkable plan whilst
Kormilda College in Darwin is having to turn away Indigenous boarders and close residential facilities because of a funding cut, a cut which will grow under the Gonski funding model?

Senator KIM CARR (Victoria—Minister for Human Services) (14:56): Senator Scullion, I am advised, and Senator Crossin has been only too happy to point out here to you directly, that that claim is simply not the case. What we have said is that the planning for the construction and the ongoing operation of these facilities is being developed in close collaboration with the communities affected, and we will continue to work with those communities to ensure that these facilities are well placed, well situated, well designed and well operated, and that they are supported by the local communities. It is all very well for you to try to make petty points on this matter, but I think you appreciate how serious this issue is of ensuring that Indigenous people get a high-quality education in their communities and that we have the opportunities for all Australians to benefit from the education they are entitled to. The sorts of petty points that you are making here— (Time expired)

Waubra Wind Farm

Senator MADIGAN (Victoria) (14:57): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Ludwig. In light of the recent communication to my office by Mr Paul Jarman, Assistant Director of Regional Projects for the Department of Planning and Community Development in Victoria, a copy of which has been supplied to your office, stating that the Waubra wind farm, which has been under review since it commenced in 2009, has not been signed off on any noise compliance by the Minister for Planning, Matthew Guy, therefore making it noncompliant, can the minister advise how the Waubra wind farm gained accreditation with the Clean Energy Regulator, which has enabled them to receive some tens of millions of dollars in renewable energy certificates?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:58): I thank Senator Madigan for his question on our climate change policy. I will start by indicating that wind farms are a very cost-effective form of renewable energy and they are already cutting carbon pollution.

Opposition senators interjecting—

Senator Brandis: No, they don't.

Senator LUDWIG: I will not take the interjections from those opposite because Senator Madigan does deserve an answer in this area. The Waubra wind farm is a significant local investment in rural Victoria and it is having a positive effect on the regional economy.

The Waubra wind farm was accredited under the Renewable Energy (Electricity) Act 2000 on 10 March 2009 by the Renewable Energy Regulator. Like all applications for the accreditation of a power station, it was required to submit extensive documentation and to demonstrate compliance with state or territory planning laws. The regulator then takes that information into account in accrediting power stations and gets regular information from power stations about a range of issues, including ongoing compliance. However, it is important to remember that the Clean Energy Regulator is not there to enforce state and territory planning requirements. States and territories do have a wide range of powers to ensure power stations comply with the wide-ranging requirements that they are subject to under state and territory laws. To require, as seems to be the premise of the
question, the Clean Energy Regulator to enforce state and territory legislation would undermine the proper allocation of jurisdictional responsibility between state and federal governments and add unnecessary red tape to clean energy investments. A duplication of regulation and confused lines of responsibilities would in fact ensue. Clearly, there are— (Time expired)

Senator MADIGAN (Victoria) (15:00): Mr President, I have a supplementary question. In the event that a wind farm that has been granted accreditation in direct contravention of the act and has been in receipt of RECs to which it was not entitled, will the minister order a review of the accreditation process and a review of the accreditation of all other wind farms that have been accredited under the same regulations as the Waubra wind farm?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:01): I thank Senator Madigan for his first supplementary question. I do not accept the entire premise of the question—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Madigan is entitled to hear the answer. Those debating across the chamber: you have a few minutes before you can participate in the debate. When there is silence we will proceed. Senator Ludwig, continue.

Senator LUDWIG: The regulator is aware of the allegations which you have raised and is investigating the issue further, including talks with state authorities to that effect. However, to date, the Clean Energy Regulator has not made any determination that the Waubra farm has breached the Renewable Energy (Electricity) Act 2000 and it is important in those circumstances not to prejudge. The regulator has thorough processes for ensuring compliance with his legislation and investigating any potential breaches. The act was comprehensively reviewed by the Climate Change Authority at the end of last year. For that reason there is no need for a further review of the accreditation process.

Senator MADIGAN (Victoria) (15:02): Mr President, I have a second supplementary question. In the event, Minister, that the regulator finds that they are noncompliant, will you order an investigation of how many renewable energy certificates have been raised by noncompliant power stations and traded into the REC market, as well as the extent to which the REC market and REC market prices may have been distorted by this possibly illegal activity? Is the minister prepared to instigate prosecution for any false or misleading statements that may have been made in the gaining of accreditation by these power stations?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (15:03): What we should not do is get ahead of the investigations or prejudge in these circumstances. To date, nothing has been proved about the accreditation of the power stations and there is no evidence of widespread fraud in the renewable energy certificate market. The regulator takes the integrity of the renewable energy certificate market very seriously and has strong enforcement powers for matters within his responsibility. The scheme has been highly successful over the last 10 years and during its time it has continued to maintain bipartisan support. However, it is not the regulator's responsibility to enforce state and territory planning legislation. But, as I indicated earlier in my answer to the first
supplementary question, it is a matter that is being looked at by the regulator and they do take it very seriously.

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

ANSWERS TO QUESTIONS ON NOTICE

Question No. 2006

Senator WONG (South Australia—Deputy Leader of the Government in the Senate and Minister for Finance and Deregulation) (15:04): by leave—Yesterday Senator Abetz asked me a question pursuant to standing order 74(5) in relation to two outstanding questions to me in my capacity as Minister representing the Treasurer. I indicated at the time that I believed both had been tabled. That was my advice at the time. I now understand that one of the questions had been emailed to the Table Office last year but was not in fact tabled in hard copy, as was then required. It has subsequently been tabled and a copy has been provided to Senator Abetz.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (15:05): by leave—I simply want to accept the minister's explanation. These things happen from time to time and I accept the explanation.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Prime Minister: Visit to Western Sydney

Senator PAYNE (New South Wales) (15:05): I move:

That the Senate take note of the answer given by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) to a question without notice asked by Senator Payne today relating to western Sydney and the Prime Minister.

It seems to me that small things apparently can amuse small minds, judging by the reaction of those opposite to the question I asked at the start of question time today. But they are not small things to the people at the Penrith Whitewater Stadium in the electorate of Lindsay. The fact that they are prepared to go on the record in their annual report, tabled in Penrith council in the second week of February, and say that they have seen a 15 per cent rise in their energy costs as a result of the carbon tax, as reported in the Penrith Press on 15 February and in the Western Weekender on 14 February, shows this is very serious for them. This is an international world-class facility that now finds itself in a position where it will probably have to buy a diesel generator to operate during parts of the day because of these increased costs and other increased costs for electricity as well. It is the facility that produced Olympic silver medallist Jessica Fox. It is not a laughing matter. The fact that those opposite and other members of this government continue to treat the people of Western Sydney, the people who are actually in their forgotten heartland, with contempt is the problem that this government has.

The headlines in relation to the Prime Minister's upcoming sojourn in Western Sydney are even more fascinating. We have: 'Oh west, where goes thy vote?' 'The west puts up a Do Not Disturb Sign to Prime Minister Julia Gillard'. And in an alliterative effort by the Australian Financial Review: 'Gillard's futile foray out west'. These are the sorts of observations which even the Canberra press gallery are making, and heaven only knows what the local Western Sydney papers will make of it, too. But my personal favourite is the small cartoon on the front page of today's Australian. It is not quite clear enough for me to see who drew it, but it has a very helpful gentleman at the
front desk of the Rooty Hill RSL Novotel saying, 'Can we help you with your baggage?' And around her are polls, boats, mining tax, ICAC, Kevin, more polls, the surplus or not, more polls, and the Prime Minister saying in response, 'That's the general idea.'

The people of Western Sydney will not be helping the Prime Minister with her baggage. A one-week visit is much like one swallow in a summer; it does not make a commitment to Western Sydney. Perhaps a little doorknocking would not go astray while she is there. Perhaps our candidate in Chifley, Isabelle White, could take some of her energy and enthusiasm to the streets with the Prime Minister, and she could meet some of the real people of Rooty Hill.

While I am on the question of the Rooty Hill RSL, it would seem to me that the Prime Minister is really not helped by her colleagues—colleagues like Minister Mark Butler, who thinks it is a joke to talk about one of the largest facilities in Western Sydney, like the Rooty Hill RSL, in the way that he did on Adelaide radio today. I will tell you where the joke lies, Mr Deputy President: it lies with Minister Butler. The Rooty Hill RSL does things like those outlined in the St Mary's Vietnam Veterans' Outpost website and newsletter—and I want to quote it. It was in 2010 but it is a pretty good quote:

We recently received our CDSE grant from Rooty Hill RSL Club which could not have come at a better time as we also received acknowledgement from DVA regarding our BEST Funding. Unfortunately with the Government in "Claw Back Mode" to pay for the insulation and schools improvement program our Grant has been slashed by several thousand dollars …

The activities of this extremely worthy organisation, the St Mary's Vietnam Veterans' Outpost, is supported by the Rooty Hill RSL, about which Minister Mark Butler thinks it is appropriate to say it is 'a bit too "Benny Hill"'. Was that a play on words as well? Was that a play on Sydney's history and the naming of Rooty Hill by Governor Sir Philip Gidley King, who named it after a place on Norfolk Island, where he had also lived? Or is that a joke as well? The people of Western Sydney are strong and proud. It is where I work and it is where I live. They are people who are sick and tired of this government, of their increased living costs, of their broken promises and of the lack of attention to the infrastructure that they need to go about their daily lives and not unreasonably to live and work and play where they live. The Rooty Hill RSL answers those questions. (Time expired)

Senator CAMERON (New South Wales) (15:11): It is actually quite refreshing and quite a change to hear Senator Payne stand up in here and talk about Western Sydney. This morning we had a South Australian senator, Senator Birmingham, being sent out to run the lines for the coalition. I do not know why Senator Payne was not sent out, but Senator Birmingham was sent out to run the lines for the coalition on Western Sydney. Like Senator Payne, I am also a resident of Western Sydney. I have lived in St Clair, I have lived in St Marys and I have lived in Penrith. So I know Western Sydney well.

I certainly know that the issues that are a problem in Western Sydney are issues that are being assessed and dealt with by this government. They are the issues of transport: the issues of almost 200,000 people in Western Sydney having to exit Western Sydney every day and come back into Western Sydney at night. That is a huge problem. It is the neglect of 1½ years of the Howard government to put infrastructure into Western Sydney. Look at the last election platform of the coalition. What was
the election platform for Western Sydney in terms of infrastructure? Zero. Nothing. They did nothing. They were promising nothing in Western Sydney, and so they have got a lot to answer for after 11½ years, when they were profligate.

When the money was flowing into the government, what did they do in Western Sydney? They did nothing in health. They did nothing in education. I have been to Western Sydney schools where the toilets look as if they were built in the 1800s, and that was after 11½ years of the coalition government. I have to say, in terms of transport, what have they done over 11½ years? Nothing. Who has invested in health in Western Sydney? It is the Labor government that has invested in health. If you go to every major hospital you can see the building work that is being done. There is the building work in health and the building work in education.

We are rebuilding the infrastructure in many of our schools by putting in school halls that would never have been built under a coalition government and putting in science labs and language labs that were never thought about under a coalition government.

Opposition senators interjecting—

Senator CAMERON: So I object. I will not accept a lecture from Senator Payne or Senator Fierravanti-Wells about Western Sydney, because the major neglect in Western Sydney came from a federal government, the Howard-Costello government, who did not care about Western Sydney and who did not invest in the future of Western Sydney. Do not come here and lecture me after the federal government has invested millions upon millions of dollars in Western Sydney in health, education, roads and infrastructure. Where has the investment come from? It has come from Labor. It did not come from the coalition. The coalition's record in Western Sydney is an absolute disgrace, and the public will soon realise it when this approach by the coalition of having a balanced budget at all costs will cost jobs in Western Sydney, it will cost investment in Western Sydney, it will make life harder for people in Western Sydney.

When I go out to Western Sydney—I do not know where Senator Payne goes—I do go to the clubs. I am a member of St Mary's RSL, I do go there; I am a member of Penrith Panthers, I do go there. When people talk to me about issues, they talk to me about jobs, they talk to me about a future for their kids, they talk to me about investment in education and they talk to me about an investment in health. These are the key issues. What do you hear from Senator Payne? Normally nothing. You normally hear nothing from her. You even have to send a South Australian senator out to the doors to run the coalition lines on Western Sydney. If you cannot do it, Senator, that is okay. You should just admit it. But do not send a South Australian senator out to do your job in Western Sydney. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (15:16): Clearly, Senator Cameron did not understand that the reason why the Investing in Our Schools Program was so successful was that we had to provide funding for toilets in New South Wales schools, because the New South Wales government had its eye on other matters, such as corruption and waste and mismanagement, and they did not provide the toilets that they should have been providing, Senator Cameron.

Can I move to issues pertaining to Western Sydney? I have to say that I, like Senator Payne, do spend considerable time in Western Sydney. Indeed, I was out in Chifley only last month. Perhaps the Prime
Minister needs a map to find her way out to Western Sydney? I am happy to provide her with directions from Kirribilli House out to the Rooty Hill RSL—it is about 50 kilometres. It is little wonder that she has now decided to stay at the Novotel at Rooty Hill. Because of the traffic congestion it takes long amounts of time to travel in Western Sydney, and, as Senator Payne has correctly said, this is the reason why the Liberal Party is committing $1.5 billion to the West Connect project.

Today's press is, of course, very telling as to why Ms Gillard has suddenly worked out: 'Oh dear, I'd better go out to Western Sydney. I'd better go out. Not because I really want to go out there, but because the polls are so bad, and I have to worry about my own survival'. It is all this woman ever worries about—her own survival.

When she eventually does find her way out to Western Sydney, and she goes to visit the Rooty Hill RSL, perhaps she might like to have lunch there. Perhaps she might like to talk to some of the people there. I have talked to them: they have complained about the high cost of electricity because of the carbon tax, or the blow-out in the budget of the boats coming out to Australia. Many of those people out in Western Sydney came to Australia through the front door and they are not very happy about the government's lack of a proper immigration process. They also complain about the cost-of-living pressures that are hitting the families out in Western Sydney.

Perhaps after she has had lunch at the Rooty Hill RSL, she might like to walk around the corner and perhaps go and visit the aged-care facility that I visited. And instead of Minister Butler making jokes about Rooty Hill, he ought to be worried about the chaos that he has perpetrated in the aged-care system by taking $1.6 billion out of aged care. Small aged-care facilities are saying to me, 'We are not able to make ends meet and we are having difficulty with grave financial circumstances'. So, Minister Butler, instead of making jokes about Western Sydney, why don't you go and worry about the aged-care facilities that are really doing it tough and that might shut down as a consequence of your mismanagement of your own portfolio, and do not worry about other matters in Western Sydney.

Minister Conroy, in his answer to me, did not answer my question.

Senator Payne: His non-answer!

Senator FIERRAVANTI-WELLS: His non-answer about taking cuts. While the Prime Minister is at the Rooty Hill Novotel, perhaps she might like to walk down the road 500 metres or thereabouts, and go to the Mt Druitt Hospital. Why does she not go and ask the doctors and nurses at the Mt Druitt Hospital about the impacts that the recent retrospective cuts are going to have on the health budget in New South Wales? While she is at it, perhaps she might go out to the Auburn Hospital, the Blacktown public hospital, the Campbelltown hospital, the Dundas public hospital, the Liverpool Hospital, the Nepean Hospital and Westmead Hospital, and ask them what the impact of the latest debacle in health is, and hear directly from them about what the impact is going to be on the health services out in Western Sydney. And so, as the papers are correctly saying: too little, too late; this is a stunt all about her survival. (Time expired)

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (15:21): Thank you, Mr Deputy President.

Senator Payne interjecting—Senator FIERRAVANTI-WELLS: Do you know where Western Sydney is?
Senator CAROL BROWN: I can assure the good senators on the opposite side that I have concern for Australians across the board, and I do know where Western Sydney is, Senator Fierravanti-Wells. What I find extraordinary is that the opposition is so het up about members of the ministry going out and talking to people in Western Sydney. It is like they do not think that people in Western Sydney deserve to have this sort of access. This is what they are saying. So you have got Senator Fierravanti-Wells—

Senator Fierravanti-Wells: Der! You've just worked this out now?

The DEPUTY PRESIDENT: Order, on my left!

Senator CAROL BROWN: I do not think you should be able to say 'der'. Senator Fierravanti-Wells has just cottoned on to the fact that the Prime Minister and the cabinet have conducted community cabinet meetings all over the country for years—for years. You have just worked out that they are doing this! Now you come in here with this extraordinary level of outrage because the Prime Minister is going out and talking to people who live and work in Western Sydney. Those opposite do this because they are preoccupied with negativity, and they are so caught up in the mud-slinging that they try to score cheap political points. I often listen to what Senator Payne has to say, but unfortunately she has been caught up here today—in her questions and in taking note of answers—in an extreme level of negativity. For those opposite to focus on the Prime Minister's visit in this negative way truly exposes the policy vacuum they have over there.

The Prime Minister visiting a range of electorates, as I have said, is nothing new. To speak to local people about issues is completely normal, and that is what you would expect—and that is what the government has been doing for years. Whilst visiting Western Sydney, I am sure the Prime Minister will have an opportunity to speak about many of the Labor government's policy initiatives that will benefit the people of Western Sydney. So we will not be distracted by the policy void that we find on the other side of the chamber today in the taking note of answers debate. In fact, Senator Fierravanti-Wells talked about—

Senator Fierravanti-Wells: Why don't you learn how to pronounce my name properly?

The DEPUTY PRESIDENT: Order! Order!

Senator CAROL BROWN: Senator, you seriously need to have a good look at yourself and at your interjections. You are really getting childish—very childish.

What the senator on the opposite side does not want people to know about are the Gillard government achievements. She talked about the Prime Minister in quite a personal way, which is not unusual for Senator Fierravanti-Wells. The Prime Minister has done many good things for this country. She has been getting on with the job. She is keeping our economy strong, spreading jobs, opportunity and fairness, and helping families with modern-day pressures. The Prime Minister has provided unprecedented support for families. We have the schoolkids bonus, new payments for families and teenagers, more family tax benefits, record support for child care and help with costs like taking the kids to the dentist. What we see here today are two New South Wales senators who say that Western Sydney families and people who live in Western Sydney do not deserve a visit from the Prime Minister. It is outrageous—outrageous—and you stand condemned. (Time expired)
Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (15:26): I must confess that, following the contributions of my distinguished colleagues from New South Wales Senator Payne and Senator Fierravanti-Wells, as a Victorian senator I almost feel I am standing here under false pretences—but not entirely so. I did spend most of my schooling and university, and had my first job, in Sydney. I grew up in the Hills district of Sydney, which is not the western suburbs—but, for those on the North Shore line, anyone from west of Wahroonga was called a 'westie'. So I am happy to stand here as an honorary westie!

I have to say I feel for the people of Western Sydney. They are suffering under cost-of-living pressures, they are suffering as a result of chronic neglect by state and federal Labor governments in terms of infrastructure. As if that were not bad enough—and I do not know what they have done to deserve this—the New South Wales ALP head office in Sussex Street have announced that they are going to relocate to Parramatta. In a brilliant electoral strategy by the New South Wales Labor Party, they are bringing to Parramatta, to Western Sydney, the outfit that brought you Eddie Obeid, Ian Macdonald, and the revolving door of leadership in that state! What have the people of New South Wales done to deserve that? I do not know.

Advancing that move by the Sussex Street head office is the Prime Minister herself. I do not know what the people of Western Sydney have done to deserve what I guess we must call 'a prime ministerial progress' through Western Sydney. It brings back the idea of the Elizabethan progress of Elizabeth I, where she deigned to leave London and go out into the extremities of the nation. I am not sure if it is an Elizabethan progress or if it has a little more to do with that TV series *Entourage*. According to the Rooty Hill RSL general manager, the Prime Minister will have an entourage of more than 10 people when she checks in for her minicampaign. It is a peculiar thing.

I notice Senator Faulkner has arrived in the chamber. So far, Senator Faulkner has shown the good judgement and common sense not to rise in this place to defend the progress of the Prime Minister through Western Sydney; nor for that matter has Senator Stephens—both two of the more highly regarded senators in this place. But I hope Senator Faulkner is not about to disappoint me.

 Senator Payne touched on a contribution from Mr Mark Butler. He was asked by Matt Abraham on Adelaide radio:

The Rooty Hill experiment, Mark Butler, not to put too fine a point on it. Is it a sign of a party that thinks it's rooted?

That last word was his, not mine. Mr Butler replied:

There are so many different sort of double entendres you can do with this place. I stay at the Penrith Panthers when I'm in western Sydney because I'm not sure I could check into the Rooty Hill RSL with a straight face. It just conjures up all these sort of Carry On films and Benny Hill episodes and Carry On Governing filmed at the Rooty Hill RSL.

The government itself cannot take this particular exercise seriously. It has become a matter of high farce.

But, what will not be a matter of high farce is when the Prime Minister meets the people of Western Sydney. It will not be pleasant, because on 12 August 2010—the last campaign—the Prime Minister, at the Rooty Hill RSL, told the people of Western Sydney at that gathering that she stood for cutting company tax, that taxpayers would get an automatic tax deduction of $500 rising to $1,000, that she would involve the community to get a consensus on climate
change, that Australia's net debt would not exceed six per cent of GDP and that she would bring the budget back into surplus in 2013.

Given the Prime Minister has broken each and every one of those promises, all I can assume is that she is going to Western Sydney to say to the people of Western Sydney, I'm sorry, I'm sorry. I was wrong. I misled you. I broke every commitment I made to you and now I throw myself upon your mercy'.

But one thing we on this side of the chamber know for sure is that in Western Sydney, for the Prime Minister, there will be no mercy. (Time expired)

Question agreed to.

Minerals Resource Rent Tax

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:31): I move:

That the Senate take note of the answer given by the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to a question without notice asked by Senator Milne today relating to the Minerals Resource Rent Tax.

What an extraordinary thing it is: it was reported at the time that the three people from the government who negotiated the MRRT were the Prime Minister, the Treasurer and the Minister for Resources and Energy. And that is what you would expect might occur, since it was a royalties tax. However, since the debacle of the tax has been revealed to the Australian people through estimates and the like. Martin Parkinson, the Secretary of Treasury, said that he—and I will paraphrase him—could not take responsibility for the flaws in the tax because they had not actually been in the room. He went on to say that they were not aware of some of the detail that had been negotiated because they were not there. Since that time, it has become disastrously obvious, in terms of the amount of money that has been raised, that the decision to rebate the royalties—that the states may increase—has meant that the Australia community has been diddled from the cash we could have had to spend on things we need like implementation of the Gonski review, to get money into schools; to improve Denticare, to roll more money out through that; and to get the National Disability Insurance Scheme and the like.

Whilst the Treasurer, Mr Swan, has been hung out to dry, and the Prime Minister has been expected to answer questions about why the mining deal she negotiated has turned out to be such a dud, no-one has heard anything of the Minister for Resources and Energy. On the website, you find that there is not a single transcript on his website, or the department of the minister, since September last year. How is that possible? Every other minister has transcribed press conferences on their websites, but not Minister Ferguson.

There is quite a famous children's book, that I am sure you are familiar with, Mr Deputy President, called, Where's Wally—you look around at all the pictures in these books to establish where Wally is in the crowd. That is the question I pose today: 'Where is Minister Ferguson and why is he running a mile from actually being out there defending the tax that he negotiated?' He was in the room with the Prime Minister, and with the Treasurer, negotiating and supposedly getting some sort of deal for the Australian community against the mining industry. What we find is that the big miners have, of course, turned up and were able to run rings around the government.

In fact, we have a situation where the mining industry designed their own tax. The outcome was exactly what they wanted; that is that they agreed to a political cover of a tax, knowing full well they would not have to pay it. At the same time, the Prime
Minister, the Treasurer and Minister Ferguson all got a tax where they were able to say that they negotiated an outcome where the former Prime Minister was not able to.

I remind the Senate, that at the time the Greens said to the government, when they introduced the legislation, that this was a major flaw in it. We introduced an amendment at the time, but we were not able to secure the support of the coalition. We sought the support of the coalition—Senator Abetz—to support this amendment which would have plugged the loophole, but the coalition refused.

Senator Abetz: You voted for it!

Senator MILNE: Do not go on now, Senator Abetz! You were not prepared to block the loophole; you were not prepared to raise the cash that we need. Now we have this extraordinary situation where the Minister for Resources and Energy—who basically sat there and allowed the mining companies just to run rings around him, and the Treasury and the Prime Minister—has now disappeared from view. He is the invisible man of the cabinet as the MRRT is shown to be a disaster in terms of raising money.

But the core issue here is: how are we going to improve it? How are we going to fix it so that we do raise the money? The core issue is that we need to raise the money. That is why the coalition's position is so appalling and threadbare on this, because they do not want to charge the big miners anything at all. They want to let them off the hook while refusing to increase Newstart, while agreeing to take money out of the pockets of single parents and while even opposing $4-a-week increase—$4 a week! The coalition were not prepared to see for people on Newstart allowance and youth allowance. (Time expired)

Question agreed to.

CONDOLENCES

Morris, The Hon. John Joseph

The PRESIDENT (15:37): It is with deep regret that I inform the Senate of the death on 8 February 2013 of John Joseph Morris, a senator for the state of New South Wales from 1985 to 1990.

I call the Leader of the Government in the Senate.

Senator CONROY: by leave—I move:

That the Senate records its deep regret at the death, on 8 February 2013, of John Joseph Morris, former senator for New South Wales, places on record its appreciation of his public service and tenders its profound sympathy to his family in their bereavement.

John Morris was born on 12 June 1936 at Young Wallsend, New South Wales and died on 8 February 2013. From a young age John was a passionate member of the Federated Liquor and Allied Industries Employees Union of Australia, New South Wales branch. He held the positions of organiser from 1966 to 1970, secretary from 1970 to 1981 and president from 1981. John was also the national President of the Federated Liquor and Allied Industries Employees Union of Australia in the 1970s and again in the 1980s. Among the other trade union positions he held during the period, John was a member of the interstate executive of the Australian Council of Trade Unions; World President of the Hotel and Catering Group Board and President of the International Union of Food and Allied Workers Association, Asia-Pacific Region.

With this strong union background, John was elected to the New South Wales Legislative Council in 1976 and served that parliament for eight years before resigning in 1984. In the same year he was elected as a senator for New South Wales. He began his term in mid-1985 and retired in June 1990. John was on a number of parliamentary
committees and served as Chair of the Senate Select Committee on Animal Welfare and Chair of the Joint Statutory Committee on the Australian Security Intelligence Organisation. John was also a temporary chairman of committees from 1987 until his retirement in June 1990. On behalf of the government I offer condolences to his wife, Margaret, and his family.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (15:39): The coalition joins with the government in this motion and extends its condolences to Mr Morris's family.

Senator FAULKNER (New South Wales) (15:39): One thing is true, and that is that there have been few kind words spoken about former Senator John Morris in this place. But it is also true John Morris did not have many kind words to say about the Senate. He and the Senate were not a good fit. I served with John from April 1989 to June 1990. My parliamentary career was in its infancy; John's was disappearing. I got to know John, or Johnny as we used to call each other, in my earliest days as a Labor Party official in New South Wales, many years before I became a senator. He was then, as we have heard, New South Wales Secretary of the Federated Liquor and Allied Industries Employees Union of Australia. It was John Morris whose 'New Deal' team was the driving force in wresting control of the union from its Stalinist leadership in 1970. Under John Morris, the liquor trade union became extreme right wing. By the late 1970s, John Morris was not only a right-winger but an enthusiast in the unceasing war against the left; but a realignment began in 1980 when John Morris was a member of the New South Wales council. I thought this afternoon, Mr President, I might share some of the background of that with the Senate.

Legislative councillors were moving in to the brand-new office building at the back of the New South Wales parliament. These offices were wonderful beyond all imagining; but some were more wonderful than others. The prized offices faced the Domain—they offered a view of park and trees; but there were five offices on the Macquarie Street side with a view of nothing. The Labor leadership and the Legislative Council conducted a draw from a hat for the five undesirable offices; the usual story—no witnesses. Whose were the five names that came out? No surprise—all three left-wingers in the legislative council, of course; also, Jim Kaldis—although a right-winger, he had no power base in the machine so apparently he did not matter; and the last name drawn out was John Morris, MLC. Oh dear, oh dear. It was on for young and old. John, not unreasonably, asked, 'What are the odds of this happening?' He was heard to say from that point on: 'All bets are off.' John Morris was also repudiated as a candidate for president of the New South Wales branch of the Australian Labor Party by the New South Wales right machine. He should have known that there are no rewards for unquestioning loyalty.

Out of these slights grew major intrafactionsal tensions within the New South Wales right. I remember them well because negotiations with the liquor trade union represented my blooding in terms of leadership responsibilities in the New South Wales left. I had just been selected to succeed Bruce Childs as assistant general secretary of the New South Wales branch of the Australian Labor Party; Bruce was coming to the Senate.

I immodestly mention here that I prevailed without a ballot over one Ian Macdonald. You may have heard of him. He has been prominent in a current New South Wales Independent Commission against Corruption
public inquiry. My victory was remarkable, because Macdonald was a self-proclaimed Marxist, when I was not.

The favoured place for negotiations with John Morris and his team was always a private room at a Chinese restaurant. These occasions were a spectacle to behold. The food kept on coming. But that was nothing compared to the wine and beer that disappeared. The leader of the left in New South Wales, Deputy Premier Jack Ferguson, was a more than active participant in the negotiations. One remarkable exchange, given all the New South Wales Right's shenanigans and history, occurred when John Morris said to Jack about the right, 'Jack, when you lie down with dogs you get up with fleas.' Jack's response was: 'Then you turn on the hose and wash the fleas off.'

Apart from myself and Rodney Cavalier, the other left negotiators, I can assure you, manfully matched the Liquor Trades boys drink for drink. In fact, Rodney's sobriety afforded him the second sight that enabled him to reconstruct these events later, and I am indebted to him for sharing his reflections.

From the left's perspective the aim of the negotiations was to restore the proportional representation voting system for the preselection of members of the Legislative Council, taken away in a ruthless power grab in 1977. The Liquor Trades Union forces, by then the self-styled 'Rank and File Committee', were confident of a quota in their own right. A complex deal was done that resulted in a realignment at the party's annual conference as well as the usual series of doublecrosses in two state preselection ballots. Of course, they turned into a triple-cross with, as so often happens, the usual stitch-up of the very naive.

All of this was very deep secret at the time, less so today, 27 February 2013, as a result of this condolence motion. The association between the New South Wales left and John Morris and the Liquor Trades Union did not last long. Within a couple of years the natural order of things had been restored. John Morris and the liquor trades were back in the fold.

In a major article in the *Sydney Morning Herald* in May 1990, Marian Wilkinson and Kate McClymont described it thus:

In 1984, in exchange for his Union's loyalty to the ruling right-wing faction in the Labor Party, Mr Morris demanded—and was given—a safe seat in the Senate. It was classic accommodation of interests.

Inevitably John Morris's Senate career will be remembered not for what it was but for what it was not. He was, of course, as we know, tagged 'the silent senator'. It stuck. He did not enjoy working on Senate committees. We served together for eight months on Senate estimates committee E. For the new senators in this chamber, I can explain to you that that was a committee which examined the then Department of Administrative Services, the Attorney-General's Department and the then Department of Immigration, Local Government and Ethnic Affairs. He hated it, but he did attend the meetings.

It is true he only made four speeches in the six years he served in this place. His first speech in 1985; a matter of public importance speech, also in 1985; and two adjournment speeches in June 1989, just a couple of months after I had been sworn in as a senator. The chorus of criticism grew. At the time I did what I could to assist John and his then staffer, Peter James, who spoke warmly and eloquently at John's funeral.

Why did I help? It is time to own up. Inevitably, anyone like me who has been in the ALP for over 40 years, who has been a party official and has been preselected by the party to run for public office has contested a
few ballots along the way. On a couple of occasions in my career John Morris, and the trade union block votes he controlled, broke the New South Wales right-wing ticket and voted for me. It is a long time ago, but I do not forget those things.

John Morris came from another time and another place. When he became a New South Wales legislative councillor all members of that chamber were appointed, not elected. Most Labor MLCs were trade union officials who retained their full-time jobs outside the parliament. I am certain that parliamentary responsibilities were not at the forefront of their minds. In fact, I am very confident most never considered their parliamentary duties as a primary responsibility or even most pressing concern. That was John Morris’s background. But that approach could not and did not work here in the Senate.

While John Morris might never have been at home in the Senate, he certainly was at the greyhounds. He died earlier this month doing what he loved at the track. To his family—and he was very close to his family—and to his friends I express my sincere sympathy.

Question agreed to, honourable senators standing in their places.

PETITIONS

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

Halal Islamic Food

TO THE HONOURABLE PRESIDENT AND MEMBERS OF THE SENATE IN PARLIAMENT ASSEMBLED

This petition of certain citizens of Australia draws the attention of the Senate to the dramatic expansion of Halal Islamic food in Australia and the lack of choice for those citizens who do not wish to eat Halal certified food that has been dedicated to the Islamic deity “Allah” and certified by an Islamic Authority who charge a fee.

We therefore humbly request the Senate to ensure that Halal Islamic food does not become the norm in Australian shopping centres, schools or defence bases etc and to ensure all Halal Islamic food is clearly labelled with a legible description and that Australian customers always have the choice of Halal Islamic food or non-Halal food, as we oppose any imposition of Sharia Law on Australia.

And your petitioners, as in duty bound, will ever pray.

by Senator Bernardi (from 193 citizens).

National Security Inquiry

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

The petition of the undersigned shows that we object to the proposals of the National Security Inquiry, in particular, those proposals which would introduce:

- Provisions for warrants to last up to 6 months without review;
- Penalties for failing to provide computer passwords;
- Near unrestricted interception of communications;
- Data retention of everyone’s Internet activity for a minimum of two years;
- The commandeering in secret of unrelated, privately owned computer systems for surveillance purposes;
- The ability of the Attorney-General to widen the scope of warrants without sufficient oversight; and
- The ability to shield intelligence and security agents from abuse of powers and improper conduct penalties.

We are critical of:

- Claims that Australians have a low expectation of the fundamental right to privacy in order to justify greater surveillance and erosion of privacy protections;
- The expansion of the scope of interception warrants which would allow unrelated devices belonging to third parties to be accessed unknowingly; and
• The lack of proper public consultation, including a small window of time for submissions to the Joint Parliamentary Committee on Intelligence and Security to be made.

Your petitioners request that the Senate commits to:

• Only authorising surveillance where judicially sanctioned, and targeted at specific individuals for specific purpose, as opposed to indiscriminate and widescale surveillance;

• Requiring from implementing mechanisms and structures of surveillance that violate fundamental human rights and freedoms by way of disproportionate and widescale data retention;

• Expecting intelligence, law enforcement officials and lawmakers to respect the values of Australian citizens by respecting the fundamental right to privacy; and

• Reject any legislation that would contravene any of the above requests.

by Senator Ludlam (from 1,447 citizens).

Petitions received.

NOTICES

Presentation

Senator Cameron to move:


Senator Cameron to move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 15 May 2013:

The feasibility of a prohibition on the charging of fees for an unlisted (silent) number service, with particular reference to:

(a) recommendation no. 72.17 contained in report no. 108 of the Australian Law Reform Commission on Australian privacy law and practice;

(b) whether the payment of a fee unduly inhibits the privacy of telephone subscribers;

(c) the likely economic, social and public interest impact for consumers and businesses, carriage service providers and the White Pages directory producer, if the charging of fees for unlisted (silent) number services was prohibited;

(d) the implications of such prohibition for the efficacy of the national public number directory; and

(e) any other relevant matters.

Senator Thorp to move:

That the following matter be referred to the Community Affairs References Committee for inquiry and report by 26 June 2013:

The care and management of younger and older Australians living with dementia and behavioural and psychiatric symptoms of dementia (BPSD), including:

(a) the scope and adequacy of the different models of community, residential and acute care for Australians living with dementia and BPSD, with particular reference to:

(i) Commonwealth-provided support and services,

(ii) state- and territory-provided services, and

(iii) services provided by the non-government sector;

(b) resourcing of those models of care; and

(c) the scope for improving the provision of care and management of Australians living with dementia and BPSD, such as:

(i) access to appropriate respite care, and

(ii) reduction in the use of both physical and chemical restraints.

Senators Colbeck, Ruston, Edwards, Heffernan, Xenophon, Whish-Wilson and Madigan to move:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 20 June 2013:
Review of the citrus industry in Australia, including:
(a) scale and structure of the industry;
(b) opportunities and inhibitors for growth of the Australian industry;
(c) competition issues in the Australian market;
(d) adequacy and efficiency of supply chains in the Australian market;
(e) opportunities and inhibitors for export and export growth; and
(f) any related matters.

Senator Thistlethwaite to move:
That the Senate—
(a) notes that:
(i) Charcot-Marie-Tooth disease (CMT) is the most common form of inherited motor and sensory neuropathy,
(ii) there is no cure for CMT and while most sufferers live a normal lifespan, many do so with severe disabilities,
(iii) estimates are that around one in every 2500 Australians is affected by CMT,
(iv) while CMT is more common than diseases such as muscular dystrophy, there is a low level of community awareness of CMT, particularly amongst Indigenous Australians,
(v) genetic counselling and pre-implantation genetic diagnosis means that those carrying the CMT gene can now conceive without the 50 per cent risk of passing CMT to their offspring, and
(vi) despite the advances, detection and genetic counselling, low awareness and detection of CMT means that this disease is still spreading to future generations, when it could be stopped;
(b) notes the need for more investment for research into the cause, care and cure of CMT; and
(c) as a first step, calls on the Government to provide funding for projects which will lead to the eradication of CMT.

Senator Milne to move:
That the Senate—
(a) notes that Australia has the highest number of asbestos victims per capita in the world and this is not expected to decline until after 2020;
(b) notes that many Australians are still vulnerable to mesothelioma when they renovate older houses and also through inadvertent exposure as a result of natural disasters destroying property;
(c) supports the Asbestos Free Australia campaign of the Australian Manufacturing Workers’ Union and the Construction, Forestry, Mining and Energy Union; and
(d) urges the Government to establish a National Asbestos Authority to implement the National Asbestos Strategy and fully fund and implement the recommendations from the Asbestos Management Review Committee to eradicate asbestos from Australia completely by 2030.

Senator Di Natale to move:
That the Senate—
(a) condemns the reduction in National Health Reform funding to the states indicated in the Mid-year Economic and Fiscal Outlook;
(b) expresses its concern over whether the methodology used to justify these reductions, especially in regard to population growth estimates, was correct and applied in good faith;
(c) calls on the Government to restore funding to the National Health Funding Pool to all states in 2013 and over the forward estimates;
(d) is concerned that the direct payments to Victorian hospitals announced by the Government undermines the Government’s own National Health Reform Agreement; and
(e) condemns the long-term underinvestment by some state governments in their public hospitals.

Senators Ruston, Xenophon and Madigan and Senator Milne to move:
That the Senate—
(a) notes:
(i) the significant increase in Australian Quarantine and Inspection Service (AQIS) licence fees for exporters from $500 to $8,350 from 1 July 2012 for horticulture and plants,
(ii) the disproportionate impact on small and medium exporters,
(iii) that the licence fees discriminate against and discourage small and medium exporters, and
(iv) the failure of the Government to successfully negotiate the acceptance of AQIS Approved Officers in many of Australia's export markets; and
(b) calls on the Government to urgently review the AQIS licence system so as not to discriminate against and discourage small and medium exporters.

Senator Ronaldson to move:
That the Senate—
(a) notes that the average annual Defence Force Retirement and Death Benefits Scheme military superannuation pension in 2011-12 was $24,603;
(b) condemns the Gillard Labor Government for its ongoing and stubborn refusal to grant 57,000 Australian military superannuants and their families a fair go;
(c) denounces the Australian Labor Party for misleading veterans before the 2007 election into believing that Labor would actually deliver fair indexation, a point highlighted in 2009 by Senator Lundy and the then Parliamentary Secretary for Defence Support (Mr Kelly) in their letter to the former Minister for Finance and Deregulation (Mr Tanner) of 14 September 2009; and
(d) criticises the Government for its ongoing failure to schedule a time for the Senate to consider the Veterans' Affairs Legislation Amendment Bill 2012 thus denying the Senate the opportunity to debate and vote on the Coalition's amendments to provide fair indexation for these men and women who have served their nation.

Senator Cash to move:
That the following bill be introduced: A Bill for an Act to amend the Migration Act 1958, and for related purposes. Migration Amendment (Reinstatement of Temporary Protection Visas) Bill 2013 [No. 2].

Senator Madigan to move:
That the Senate—
(a) notes that:
(i) the Assistant Director of Regional Projects for the Department of Planning and Community Development in Victoria has confirmed that the Waubra Wind Farm, which has been under review since it commenced in 2009, has not been signed off on any noise compliance by the Planning Minister, Mr Matthew Guy, therefore making it non-compliant,
(ii) to obtain accreditation from the Clean Energy Regulator, the Waubra Wind Farm must provide evidence that it is compliant with all state permit requirements, and
(iii) as a result of having been granted Clean Energy Regulator accreditation of its Waubra Wind Farm, Acciona has received tens of millions of dollars in Renewable Energy Certificates (REC); and
(b) calls on the Government to:
(i) order a review of the accreditation process, and a review of the accreditation of all other wind farms that have been accredited under the same regulations as the Waubra Wind Farm, and
(ii) order an investigation of how many REC have been raised by non-compliant power stations and traded into REC markets as well as the extent to which REC markets and REC market prices may have been distorted by this activity.

Senator Siewert to move:

Senator Waters to move:
That the Senate calls on the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to act on his promise of August 2011 to protect national parks under federal environment laws by listing them as matters of national environmental significance to protect them from the threats of logging, grazing, mining or large scale land clearing.

Postponement
The following items of business were postponed:
General business notice of motion no. 1141 standing in the name of Senator Xenophon for
today, proposing the introduction of the Broadcasting Services Amendment (Material of Local Significance) Bill 2013, postponed till 28 February 2013.

General business notice of motion no. 1148 standing in the name of Senator Siewert for today, proposing an order for the production of documents by the Minister representing the Minister for Climate Change and Energy Efficiency, postponed till 13 March 2013.

BUSINESS

Leave of Absence

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:54): by leave—I move:

That leave of absence be granted to Senator Kroger for 26 February 2013, for personal reasons.

So yesterday.

Senator Jacinta Collins: Can we do that retrospectively?

The DEPUTY PRESIDENT: Yes, we can do that retrospectively.

Question agreed to.

Senator McEWEN (South Australia—Government Whip in the Senate) (15:54): by leave—At the request of Senator Xenophon, I move:

That leave of absence be granted to Senator Xenophon for today, for personal reasons.

Question agreed to.

COMMITTEES

Legal and Constitutional Affairs References Committee

Reference

Senator WRIGHT (South Australia) (15:55): I seek leave to amend business of the Senate notice of motion No.1 standing in my name for today.

Leave granted.

Senator WRIGHT: I move the motion as amended:

That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 6 June 2013: The impact of federal court fee increases since 2010 on access to justice in Australia, with particular reference to:

(a) the impact of federal court fee increases on low-income and ordinary Australians and operators of small businesses;
(b) whether these fee increases are reasonable, based on evidence and consistent with other justice policy matters;
(c) how increases in court fees, and other reform to the courts and justice system, can act as a barrier to accessing justice;
(d) the extent to which court fee increases may impact on services provided by legal assistance services (i.e. legal aid commissions, Aboriginal and Torres Strait Islander legal services, family violence prevention legal services and community legal services);
(e) the degree to which the fee changes reflect the capacity of different types of litigants to pay;
(f) the application of the revenue that has been raised by federal court fee increases; and
(g) other relevant matters.

Question agreed to.

Rural and Regional Affairs and Transport References Committee

Reference

Senator McEWEN (South Australia—Government Whip in the Senate) (15:56): At the request of Senators Heffernan, Xenophon, Madigan, Williams, Back, Siewert and Nash, I move:

That the following matters be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 17 June 2013:

(a) the possible imminent importation of beef products from countries whose cattle herds have bovine spongiform encephalopathy (BSE) and/or foot-and-mouth disease (FMD);
(b) the processes undertaken by Australian government agencies in determining risk to
consumers and industry and the adequacy of such processes;
(c) the lessons to be learnt from the recent contamination of the beef supply chain with horse meat throughout Europe and its implications for Australian consumers and industry;
(d) the likely implications of allowing imports of beef from BSE and FMD countries on Australia's international reputation and standing as the world's safest exporter of beef;
(e) the adequacy of Australian food labelling laws to ensure Australian consumers can make a fully informed choice on Australian meat products; and
(f) any related matters.

Question agreed to.

BUSINESS

Consideration of Legislation

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:57): I move:

That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the Marine Safety (Domestic Commercial Vessel) National Law Amendment Bill 2013, allowing it to be considered during this period of sittings.

Question agreed to.

MOTIONS

Ovarian Cancer Awareness Month

Senator CASH (Western Australia) (15:57): I move:

That the Senate—

(a) notes that:

(i) February 2013 is Ovarian Cancer Awareness Month,

(ii) Ovarian Cancer Awareness Month is run each year by Ovarian Cancer Australia with its purpose to raise awareness of the signs and symptoms of ovarian cancer and to offer support for the women, their families and friends affected by ovarian cancer, and

(iii) Wednesday, 27 February 2013 is Ovarian Cancer Australia's Teal Ribbon Day, a day when Australians are invited to purchase and wear a teal ribbon to show support for ovarian cancer awareness, support and research, and to recognise those affected;

(b) recognises that:

(i) according to Ovarian Cancer Australia, one in 77 women will develop ovarian cancer in their lifetime,

(ii) each year, more than 1200 Australian women are diagnosed with ovarian cancer and around 800 will die from the disease, equating to an average of 3 Australian women being diagnosed every day, and

(iii) early detection of ovarian cancer is key, as detection in the early stages increases the percentage to up to 95 per cent of women being alive and well after 5 years; and

(c) commends Ovarian Cancer Australia for the work that they have done in raising awareness of the signs and symptoms of ovarian cancer and to reduce the impact on Australians of ovarian cancer.

Senator MILNE (Tasmania—Leader of the Australian Greens) (15:57): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator MILNE: I wanted to take this opportunity to remember for a moment the late Senator Jeannie Ferris. She was the Government Whip when I first came into the Senate, and she was diagnosed with ovarian cancer in October 2005. She fought a very brave battle, which she lost in 2007. During that period she took the opportunity to move for an inquiry into gynaecological cancers in Australia, and as a result of that report, which recommended more funding for these cancers, awareness was raised. In the spirit of Senator Cash's motion, it points out that early diagnosis is a critical component and I wanted to remember the late Senator Ferris's efforts in raising awareness, in that very
difficult time in her life, of the importance of early diagnosis.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Meeting

Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (15:59): At the request of Senator Heffernan, I move:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 12 March 2013, from 3 pm, to take evidence for the committee's inquiry into fresh pineapple imports.

Question agreed to.

MOTIONS

Lake Eyre Basin

Senator HANSON-YOUNG (South Australia) (15:59): I, and also on behalf of Senator Waters, move:

That the Senate—

(a) notes that South Australia's iconic Lake Eyre is dependent on water flows from the Cooper, Diamantina and Georgina rivers, which are under threat by the Queensland Government's proposal to repeal legislation that currently protects them;
(b) opposes the repealing of the Wild Rivers legislation by the Queensland Government; and
(c) urges the South Australian Premier, Mr Weatherill, to act promptly to work with the Federal Government to protect the Lake Eyre Basin from the proposal of the Premier of Queensland, Mr Newman.

Question agreed to.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:59): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave has been granted for one minute.

Senator JOYCE: Thank you very much, Mr Deputy President. In regard to the motion by Senator Hanson-Young and Senator Waters, we do not agree with the repealing of wild rivers. We believe that that is something that has to be fleshed out more, especially with the Indigenous communities of the gulf, who rely on that for their economic development.

On point (c), it is Premier Weatherill who is responsible for not funding one of the crucial parts of the Murray-Darling Basin Plan, so we think it is the height of hypocrisy to be asking Mr Weatherill to work more closely with the federal government when he is not actually working with the federal government at the moment.

Senator HANSON-YOUNG (South Australia) (16:00): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave has been granted for one minute.

Senator HANSON-YOUNG: Thank you, Mr Deputy President. I am seeking clarification as to whether Senator Joyce is suggesting that the coalition do not support the repealing of wild rivers legislation. That is what he said. If that is not right, would he be willing to correct the record?

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (16:01): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave has been granted for one minute.

Senator JOYCE: That is good. We do support the repealing of wild rivers legislation.

Tamar Valley Pulp Mill

Senator WHISH-WILSON (Tasmania) (16:02): I move:

That the Senate—

(a) notes:
(i) the comments by the Tasmanian Premier Ms Lara Giddings at the Press Club in the week beginning 17 February 2013 calling for the Tamar Valley pulp mill project to be revived,

(ii) the comments by the Minister for Regional Australia, Regional Development and Local Government in late 2012 in support of a pulp mill in the Tamar Valley in Tasmania, and

(iii) the Federal Government funding promised to Tasmania under the Intergovernmental Agreement with the Tasmanian Government; and

(b) calls on the Government to guarantee they will not buy the Tamar Valley pulp mill permits and that no more Government resources will go to supporting this pulp mill.

The DEPUTY PRESIDENT: The question is that motion No. 1142, moved by Senator Whish-Wilson, be agreed to.

The Senate divided. [16:06]

(The Deputy President—Senator Parry)

Ayes..........................9

Noes..........................34

Majority..................25

AYES

Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

NOES

Back, CJ
Bernardi, C
Bilyk, CL
Boyce, SK
Brandis, GH
Cameron, DN
Cash, MC
Colbeck, R
Collins, JMA
Crossin, P
Edwards, S
Evans, C
Farrell, D
Feeney, D
Fierravanti-Wells, C
Fifield, MP
Furner, ML
Gallacher, AM
Kroger, H
Lundy, KA
Marshall, GM
McEwen, A (teller)
McKenzie, B
McLucas, J
Moore, CM
Parry, S
Polley, H
Pratt, LC
Ruston, A
Smith, D
Stephens, U
Thistlethwaite, M

Urquhart, AE
Williams, JR

Question negatived.

Gunns Ltd

Senator WHISH-WILSON (Tasmania) (16:08): I move:

That the Senate—

(a) notes that:

(i) the Minister for Environment and Water Resources under the Howard Government approved the construction and operation of the Gunns proposed pulp mill in Tasmania in October 2007,

(ii) under Condition 45 of the Federal Approval for the pulp mill it states ‘If, at any time after five years from the date of this approval, the Minister notifies Gunns Limited in writing that the Minister is not satisfied that there has been substantial commencement of construction of the pulp mill, then this approval lapses and the action must not thereafter be commenced’,

(iii) it has now been more than 5 years since that approval was granted and no substantial commencement of construction has begun, and

(iv) the passing of the Pulp Mill Assessment Act 2007 by the Tasmanian Parliament bypassed the environmental impact assessments usually required for a project of this significance; and

(b) calls on the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to notify the receivers of Gunns Limited that the approval has lapsed.

Question negatived.

National Security Inquiry

Senator LUDLAM (Western Australia) (16:09): I seek leave to make a brief statement.

The DEPUTY PRESIDENT: Leave is granted for one minute.

Senator LUDLAM: The motion that we will shortly put to a vote acknowledges that the Joint Standing Committee on Intelligence
and Security, which is investigating a whole suite of proposals, most controversially one into two-year data retention for all Australians, has released the list of submissions that were put to that committee. A total of more than 5½ thousand submissions were put to the inquiry. If you take out the ones that were kept confidential, 98.9 per cent of submitters, from a very broad spectrum of Australian society, oppose two-year mandatory data retention for all Australians. So, we are not quite in the 99 per cent in this particular instance; we are in the 98.9 per cent. I hope our new Attorney-General pays very close attention to the tenor of the submissions to the national security inquiry. I congratulate the Australian Pirate Party for registration for tabling the petition that I did a short time ago on the same issue. I move:

That the Senate—

(a) notes that:

(i) less than half of one per cent of Australian organisations and individuals making submissions to the Joint Standing Committee on Intelligence and Security inquiry into potential reforms of National Security Legislation support the proposal for tailored data retention periods for up to 2 years,

(ii) of the total 5554 submissions made to the inquiry, 25 were explicitly supportive of data retention, 32 submissions were listed as confidential and 34 do not address the issue, leaving 5463 submissions or 98.9 per cent of submitters from a broad spectrum of Australian society explicitly indicating their opposition to the retention of data for up to 2 years, and

(iii) respondents objected that the proposal to retain data on all Australians for up to 2 years was vaguely and briefly presented, threatens privacy and freedom of expression and posed security risks through potential misuse of preserved data; and

(b) calls on the Government to:

(i) abandon the proposal to retain data on all Australians for up to 2 years due to the public consultation revealing a wide diversity of opposition from across the political spectrum, from industry, lawyers, non-government organisations, information technology experts and the media, and

(ii) propose national security measures that are appropriate, proportionate and strengthen rather than erode human rights standards that are the cornerstone of Australian democracy.

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

The Senate divided. [16:11]

(The Deputy President—Senator Parry)

Ayes ...................... 9
Noes ..................... 33
Majority ................. 24

AYES
Di Natale, R
Ludlam, S
Rhiannon, L
Waters, LJ
Wright, PL

NOES
Back, CJ
Bilyk, CL
Cameron, DN
Colbeck, R
Crossin, P
Evans, C
Feeney, D
Fifield, MP
Gallacher, AM
Lundy, KA
McEwen, A (teller)
McLucas, J
Parry, S
Pratt, LC
Smith, D
Thistlethwaite, M
Williams, JR

Bernardi, C
Brandis, GH
Cash, MC
Collins, JMA
Edwards, S
Farrell, D
Fierravanti-Wells, C
Furner, ML
Kroger, H
Marshall, GM
McKenzie, B
Moore, CM
Polley, H
Ruston, A
Stephens, U
Urquhart, AE

Question negatived.
Climate Change and National Security

Senator MILNE (Tasmania—Leader of the Australian Greens) (16:13): I move:

That the Senate—

(a) notes that:

(i) on 25 February 2013, 38 retired generals and admirals from the United States of America (US), and prominent national security experts, presented a letter calling on US policymakers to recognise the security effects of climate change and the undeniable consequences and costs of inaction in addressing climate change for vulnerable nations,

(ii) the Australian Strategic Policy Institute in 2007 called on the 2009 Defence White Paper to examine the full implication of climate change for the Australian Defence Force, and

(iii) the brief acknowledgement in the 2009 Defence White Paper that climate change has the potential to be a destabilising global force erroneously concludes that the strategic consequences of climate change will not be felt before 2030; and

(b) calls on the Government to:

(i) recognise the undeniable security implications of climate change, the costs and consequences of inaction, and

(ii) ensure that the Defence White Paper, due to be released in May 2013, addresses the fact that climate change is shaping the contemporary security climate, is a driver of conflict and should guide procurement and deployment in Australia’s national security.

The DEPUTY PRESIDENT: The question is that motion No. 1152 moved by Senator Milne be agreed to.

The Senate divided. [16:15]

The Deputy President—Senator Parry

Ayes.................9
Noes.................34
Majority............25

AYES

Back, CJ
Bilyk, CL
Brandis, GH
Cash, MC
Collins, JMA
Edwards, S
Farrell, D
Fierravanti-Wells, C
Furner, ML
Kroger, H
Marshall, GM
McKenzie, B
Moore, CM
Polley, H
Ruston, A
Stephens, U
Urquhart, AE

Waters, LJ
Wright, PL

AYES

Whish-Wilson, PS

NOES

Bernardi, C
Boyce, SK
Cameron, DN
Colbeck, R
Crossin, P
Evans, C
Feeney, D
Fifield, MP
Gallacher, AM
Lundy, KA
McEwen, A (teller)
McLucas, J
Parry, S
Pratt, LC
Smith, D
Thistlethwaite, M
Williams, JR

Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Health

The DEPUTY PRESIDENT (16:16): I inform the Senate that, at 8.30 am today, Senators Birmingham, Fierravanti-Wells, Ronaldson, Siewert and Williams each submitted a letter in accordance with standing order 75 proposing a matter of public importance for discussion. The question of which proposal would be submitted to the Senate was determined by lot. As a result, I inform the Senate that the following letter has been received from Senator Fierravanti-Wells:

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

Labor's waste and mismanagement and the chaos caused in the health sector, especially through retrospective funding cuts.
Is the proposal supported?

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

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

Senator FIERRAVANTI-WELLS (New South Wales) (16:18): This latest funding debacle had its origins in the various versions of the so-called health reform proposal. The funding authority was included in the April 2010 version of the National Health and Hospital Networks Agreement but, with the ink barely dry, it was scrapped by Minister Roxon, who stated that we did not need to increase the size of the bureaucracy; it was appropriate for us to establish an authority without the need to do so. This was supposed to be the centrepiece of transparency for the so-called health reforms—and it was dumped with the ink barely dry. Then it was reinstated in the 2011 version and it actually became nine pool accounts in the August 2011 version, which eventually was enacted as the National Health Funding Body in 2012 to supposedly introduce unparalleled transparency into public hospital funding. In going out of her way to say that she is going to fund the hospitals directly, the Prime Minister is now acting contrary to her own legislation in funding the Victorian hospitals directly.

All of this chaos is in addition to all the other cuts that we have seen by Labor over the years: the $1.6 billion ripped out of public hospitals, the $4 billion ripped out of private health insurance, the $1 billion ripped out of dental health through the closure of the Medicare Chronic Disease Dental Scheme, the seven GP super clinics that were promised but were never even opened, and the list goes on.

I would like to remind those opposite of this document—which of course they want to forget: New directions for Australian health: taking responsibility: Labor's plan for ending the blame game on health and hospital care, by Kevin Rudd. And there is a picture of Kevin Rudd smiling.

The DEPUTY PRESIDENT: Order! Senator Fierravanti-Wells, refer to Mr Rudd as Mr Kevin Rudd.

Senator FIERRAVANTI-WELLS: There he is smiling—Mr Kevin Rudd. This document is co-authored by Mr Rudd and Ms Roxon. Of course, we know what Ms Roxon really thinks about Mr Rudd, and she was very vocal in telling us so. Goodness only knows what they told each other in those hundred photo shoots that they did together. Let us look at what has happened with this debacle about the funding cuts midstream. We know that Labor has established dozens of new bureaucracies since coming to office, at a cost of $1 billion. So when we look at this latest issue with the states, the health minister will not explain the Commonwealth cuts. All she is doing is making accusations about the states and targeting Victoria and Queensland.

Labor's excuse about the variation in population growth has been debunked by the hapless Treasurer himself.

In the health funding determination, the Treasurer used a population growth figure for Australia of just 0.03 per cent. However, for an earlier determination for local government funding, he used a growth figure of 1.4 per cent, which is consistent with publically available ABS data.

The minister needs to stop playing the blame game, quickly review the Treasurer's determination and negotiate a resolution with the states. The matter needs to be resolved
quickly, before even more damage is done. As a consequence of the funding cuts which have been made part way through the financial year, people were sent letters telling them that their elective surgery was going to be cancelled; nurses and doctors were put off; beds were closed. And, despite the reversal, enormous damage has been done. This latest fiasco in health just demonstrates that this is a Prime Minister who cannot keep her promises. In this space of health they have absolutely no credibility. (Time expired)

Senator DI NATALE (Victoria) (16:23): This debate has been a very frustrating one. Full of huff and bluster, lots of hand wringing, lots of finger pointing: 'It's your fault'; 'No, it's your fault'; 'It's the states'; It's the Commonwealth's responsibility'; 'It's Labor's fault'; 'It's the Liberal's fault'. I think what is forgotten in all of this is what this means for patients.

Let's get back to what this actually means. It means the closure of the emergency department in Colac overnight. It means that in the Peter James Centre in Burwood people who are waiting to get a bed so they can have rehabilitation for their stroke cannot get one. It means that a hospital like the Austin Hospital, which does such great work, originally budgets a $2 million surplus then suddenly finds itself with a $4 million deficit. Spokespeople report that that means 800 fewer operations at that hospital in order to make those savings. For Barwon Health it means the closure of a number of beds at Geelong Hospital. It means potentially the closure of more emergency departments. At Peter MacCallum, it means the closure of 16 beds—announced in February. At Royal Melbourne, it effectively means cuts to 700 operations. At the Royal Children's Hospital and at the Northern Hospital a series of planned expansions are being cut.

What this whole debacle means is that people who are waiting for urgent treatment are no longer going to get it. When you strip away all of the huff and the bluster, the finger pointing, the hand wringing, the 'It's your fault,' 'No, it's your fault', what you get is an issue that affects people's lives. We have to fix it. How are we going to fix it?

Firstly, let's work out what has actually happened. It can be summarised in a few short sentences. We have seen state governments underinvest in our public hospital system, particularly in the states of Queensland and Victoria. That is, I think, not in dispute. But we have also seen the sudden withdrawal of funding by the Commonwealth government from the public hospital system.

It is a very simple proposition. A number of state governments are underinvesting in health care, and then in December this year we see the Commonwealth government pull out $1.5 billion over the forward estimates. When you have a simple proposition like that, how is it that we hear arguments that allow both the state and federal governments to escape responsibility for their share of the problem? The lesson is: if you muddy the waters enough, you can get away with saying or doing anything.

Let's strip this back. In question time today we heard Senator Conroy say that the Commonwealth share of hospital funding is increasing. He is absolutely right. But that is not the relevant point. The relevant point is that the states are now confronted with the proposition that they are going to get a reduction in funding compared to what they were promised. So, sure, the Commonwealth share of funding is increasing, but it has increased by less than what was promised to the states. That is effectively a cut. Let's say I negotiate a pay increase with my employer. I take out a mortgage based on that new pay
increase. Then, a year later, I find out that I cannot pay the mortgage, because the employer says: 'Well, I am not going to give you as much as I said I was going to give you. I gave you a little bit more, but you are not going to get quite as much as I promised you.' That is a cut. That is what has happened here.

Why have they done it? Why has the Commonwealth cut back on funding to hospitals? The answer is a little complicated but not very complicated. The Commonwealth has based its reasoning on a change in population. The government's argument is: population has not changed much and therefore we are not going to increase the funding as was promised. It is able to get away with that claim because it has compared two different population datasets. In 2011 the census changed the way it would ultimately establish population number. So there was a change between 2006 and 2011 in the way we estimate population.

What the government has done is, instead of comparing like with like, essentially compare population changes using the old approach for one and the new approach for another. That is a maths 101 error. It is a straightforward mistake and it is despite the recommendations from the ABS, the Australian Statistician, that we should be comparing like with like, that we should be using the new population estimates and comparing those using the same dataset. By doing that, the government has been able to strip away $1.5 billion worth of funding that was promised to the states over four years. Sure, it is going to increase its commitment, but it is still a reduction on what was promised.

The other part of this equation is this thing known as the health price index or health inflation. Health inflation is another measure that determines how much money is being paid by the states. Unfortunately, we have a health price index, or an inflation measure, that does not actually reflect the cost of running a hospital. The health price index brings in all these other costs that have absolutely nothing to do with running a hospital. That is why, for example, private health premiums are going up by five per cent based on health inflation and yet, when it comes to public hospitals, we have a health inflation figure of 0.9 per cent, despite the fact that wages—by far the biggest cost of running a public hospital system—have gone up by in the order of three per cent. So we have got two important factors here. We have got the population data, which is wrong, and we have got the health inflation index, which does not reflect the cost of running a hospital.

On the back of those two things, the Commonwealth has pulled out the money that was promised to the states. But, worst of all, if that were not bad enough, halfway through the financial year, after hospitals planned their budget, worked out how many operations they were going to do, got staff employed and got everything lined up—being good corporate citizens—the government says, 'Guess what? We are going to pull away some of your funding; you need to find savings. And not just that—we are not going to pull away just this year's funding; we are going to go back to the year before and in Victoria take out $40 million from the previous year.' Again, to take the analogy of the pay cut: you negotiate a pay increase with your employer and he comes back a year later and says, 'Guess what? I am not going to pay you as much as I said I was going to pay you—but, even worse than that, I am going to deduct pay from the year before.' That is what has happened here, and it is not acceptable.
What is welcome is that the government in Victoria decided to restore $107 million worth of funding. That is absolutely welcomed. But the government has continued to play politics here. Rather than doing what it should do and give the money through its own agreed National Health Reform Agreement, which is a central funding pool jointly owned by the states and the Commonwealth, it has decided to bypass the states, undermining its own agreement, and fund the hospitals directly so that it can continue playing this ridiculous blame game—'It's your fault'; 'No, it's your fault.' It is not good enough.

What we have is a situation now where we do not know how the money is going to be paid to these hospitals. Who is going to oversee it? Are they going to get it in a block? Is it going to be paid out in dribs and drabs? How is that money going to be paid? We have doubts over the constitutional validity of how that money should be paid. We know that some of the money is not coming from additional Commonwealth spend and that we are in fact rearranging the deck chairs on the Titanic and some of the money that was originally allocated to Victoria for national occupational health and safety reforms is going to go to plug the shortfall.

So what we are seeing is an effort to continue the blame game, rather than a genuine effort to resolve the issue. The responsible approach would have been, 'Look; we misinterpreted the ABS data. We have a health inflation index that does not reflect the cost of running a hospital. We are going to fix it. We are not going to fix it by this short-term political fix in Victoria; what we are going to do is restore funding to all states and not just for this year but over the forward estimates.' That is the right thing to do.

In the end it is the people who miss out. It means that somebody who was going to get their hip done next week might not be able to get it done for another six months. It means that the kid with asthma who is in an emergency department might not be seen immediately but might have to wait two, three or four hours.

The only little ray of light in all of this is that we are going to move to a new way of funding our hospital system. We are going to get an independent umpire. It is two years away. It cannot come soon enough, because this spectacle has been particularly unedifying.

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (16:33): The opposition's criticism of the government's approach to the health sector is one of the most hypocritical and disingenuous claims that I have heard since I have been in this chamber. The National Health Reform Agreement, announced in partnership with states and territories on 2 August 2011, is a huge step towards a better health policy for this country. The agreement increases publically available information to enable a proper comparison of health service performance and ensures more transparent funding of public hospitals based on services delivered. In addition to this, it substantially enhances access to care to drive improved efficiency.

For the first time, Commonwealth funding will be directly linked to the actual level of services delivered by public hospitals, with funding flowing from the National Health Funding Pool directly to local hospital networks. From 2014-15 Commonwealth public hospital funding will be completely uncapped and based solely on activity levels. States will not simply get lump sums of cash but will be paid according to the work done by the hospitals—so that, as service levels
and costs rise, Commonwealth funding will rise as well. The agreement will result in an extra $19.8 billion spent on public hospitals through to 2020 and a total of $175 billion to 2030. It is also worth remembering that the agreement carries a pledge of accelerated emergency department treatment and substantial cuts to elective surgery waiting lists, so that all Australians receive the care they need without lengthy delays.

The adjustment in Commonwealth funding to the states, announced by the Commonwealth Treasury on 3 November 2012, was undertaken in accordance with the terms of the Health Reform Agreement. In the first two transition years of the agreement, Commonwealth funding variations may occur based on the application of the agreed funding formula set out in the Intergovernmental Agreement on Federal Financial Relations. The formula is calculated with reference to growth in population estimates provided by the Australian Bureau of Statistics, a health price index provided by the Australian Institute of Health and Welfare and a fixed technology factor. When they signed the agreement, every jurisdiction approved this formula which reflects the costs of delivering public hospital services. There is no grand conspiracy; the adjustment was simply made in accordance with an agreed formula.

Last week in Melbourne the Finance and Public Administration References Committee's hearing into the implementation of the Health Reform Agreement heard that numerous false allegations have been thrown at the government. The Victorian Premier Ted Baillieu and his health minister, David Davis, in particular, have been quick to blame the woes of their inept leadership and lack of commitment to health funding on the Gillard government. Commonwealth funding to the state of Victoria is increasing by $900 million over the next few years. With such a comprehensive increase, it really is incredible that the Victorian government cannot take care of the state's health system.

Instead, the Victorian government budget papers show significant cuts to health funding by the Baillieu government in both 2011-12 and 2012-13 of some $616 million. Elective surgery waiting lists have reached a record high of 46,131. I note that this is 7,000 more than when the Premier came to office. However, they are not owning up to their mismanagement of the state's health sector. Instead, as the Victorian branch of the Australian Nursing Federation informed the committee, the Victorian government is using the recent Commonwealth funding adjustments as a smokescreen to hide their own massive cuts to the state's health sector.

It is important to bear in mind that the Victorian Liberal government has not, since June 2012, issued its quarterly reports of elective surgery waiting lists and emergency department waiting times. It has not, as is customary, entered into a statement of priorities with the state Department of Health to indicate what services they intend to provide. The Baillieu government has also failed to provide the independent Health Reform Agreement administrator and the National Health Funding Pool with details on how it is allocating the Commonwealth funding. None of this information has been forthcoming. The reason it has not been forthcoming is that cuts to services were already intended. The Health Reform Agreement funding adjustment has presented the Victorian Liberals with the opportunity to cynically blame the Gillard government for their own failures.

That is why the Victorian Premier and his health minister cannot be trusted. That is why the emergency $107 million health rescue package for Victoria's crippled health system, announced by the Minister for
Health last week, will sidestep the Baillieu government and be handed directly to local hospital networks. Those funds will be an enormous relief to those who work in the Victorian health system and to all Victorians who rely on the state's health services. But it should never have come to this.

As the health minister said herself last week, the Baillieu government has proven itself to be a cruel and incompetent manager of the Victorian health system. But of course the Victorian Liberal government is not the first Liberal government to grossly mismanage health priorities and expenditure. Those opposite me in the chamber serve under a Leader of the Opposition—Mr Tony Abbott—who, as health minister during the Howard government years, saw $1 billion dollars cut out of public hospitals. That is enough to pay for 1,000 hospital beds.

If Mr Abbott was to become Prime Minister, we know the coalition would cut emergency departments, cut elective surgery improvements, cut GP superclinics, cut after-hours services, cut local control and cut the 24-hour telephone GP help line. How do we know this? Because that is their history—we saw it when John Howard and his government were in power for 12 years.

The shadow minister for health said in November last year that jobs would be slashed from the health department and portfolio agencies. Do not forget that he also announced that jobs were to be cut from Medicare Locals, which were established to coordinate primary healthcare delivery and confront crucial service gaps. Under the opposition, how many social workers would remain, how many outreach workers would remain and how many Aboriginal health workers would remain? Just who would be safe if the opposition were to make their cuts? We know that, if they get onto the government benches, that is exactly what they will do.

The opposition leader has taken several swipes at the components of the nation's health architecture which ensure transparent and effective health funding. That includes the Independent Hospital Pricing Authority, the National Health Performance Authority and local hospital networks. These bodies, which may be abolished if the opposition leader has his way, actually deliver the reforms that our health system needs. These are the health systems that our country needs.

The opposition leader has many questions to answer, but we know he has no answers. His solution to the issues confronting health services is to just cut—cut jobs and services. If you support the principle of activities based funding then why don't you provide unqualified support for an independent authority to identify the services which are being paid for? If you are committed to improving transparency and accountability in the health system and making sure Australians have access to information about health services then surely you would want to continue with an independent agency to crunch the data and publish the reports. If you agree that decisions on health should be made, where practicable, by local communities then surely you would to retain local hospital networks which achieve this purpose. I know, from my home state of Tasmania, how effectively they are working. These bodies are not examples of bloated bureaucracies; they are valuable tools in the nation's health system and they ensure that money is spent by those who know where the services need to be.

The government is committed to the National Health Reform Agreement and to making sure that every Australian receives the health services they need. When the
opposition leader was health minister, bulk-billing rates were 67 per cent. Today, the rates are over 81 per cent. A record 1,100 GPs were trained this year. When the opposition leader was in charge, training places were capped at 600. We have made medicines cheaper so that Australians can afford drugs for conditions such as high cholesterol and diabetes. We have established a $4.6 billion public dental scheme to assist children and low-income earners. We have introduced plain-packaging reforms and extended the Gardasil vaccine to boys. We have means-tested the private health insurance rebate and built GP superclinics. We are ensuring that the future health needs of Australians are being met, and we are ensuring that there is less waste and increased transparency and accountability—unlike those opposite, who only oppose these reforms.

Senator BOYCE (Queensland) (16:43): I would like to commend Senator Di Natale for his well-reasoned and well-thought-out slamming of this government’s current handling of the—

Senator Wong interjecting—

Senator BOYCE: I think I should take that interjection from Senator Wong: 'A unity ticket between the Greens and the coalition.' They cannot cop criticism over there. They are very upset with the trial separation that they are currently undergoing with their friends from the Greens. But it is good to have someone with Senator Di Natale's background and analytical skills looking at this area—the contribution that we just had from Senator Polley was just nonsense—as the current funding situation has developed.

We are here talking about Labor's waste and mismanagement, and the chaos caused in the health sector. None of that should come as a surprise to anybody dealing with this government. Waste and mismanagement is their middle name. But the thing about this particular little effort that really stunned all the state health ministers was the fact that the funding cuts were in part retrospective. As the Queensland Minister for Health, Mr Lawrence Springborg, has pointed out, they were going back to grab money off procedures that had happened 18 months earlier. It is just inconceivable that Ms Plibersek, as Minister for Health, thought that she could drive her way out of this by talking about 'over the next four years' without mentioning what had happened.

Let us look at the much-vaunted National Health and Hospital Reform package. Let us look at the national partnership agreement. One would have thought, as Senator Di Natale said, if you were going to backdate a wage decrease to someone you had a national partnership agreement with, you would have told them. But it was in the detail of the MYEFO late last year where the health ministers found out what they had lost. If you look at those figures, it is just startling to think about how much money has been ripped off.

Victoria has had $107 million restored. Well, Queensland would like its $103 million restored, although that is only a part of the $382 million that has been taken out of our health budget over the next four years. If you look at the results of that, it is shocking. The Cairns and Hinterland Hospital and Health Service in Queensland has lost $6½ million. In Brisbane, Metro North has lost $22½ million and Metro South has lost $18.8 million. Did we get any comments at all from the Queensland Leader of the Opposition about the fact that this money has been pulled out of Metro South? You would have thought the member for Inala cared about the fact that the federal government has taken almost $19 million out of the hospital and health services in her area—but
no, nothing. Townsville has lost $7.8 million. Probably even more disturbing, the Torres Strait northern peninsular, which of course everyone knows is such a well serviced area, and I am being sarcastic in saying that, have lost $1 million out of their budget.

I suppose, as I said, there is no surprise in the waste and mismanagement aspect of this problem. This government have set up 12 new health bureaucracies over the past five years, but they promised 16 early psychosis prevention and intervention centres. Guess how many of those they have delivered? They have delivered none, none at all. There has been nothing delivered there, just more bureaucracy. They seem to think they can get away with using the state health budgets and talking drivel, as I said earlier, about the effects without anyone objecting. And there is the blame game. When Mr Lawrence Springborg in Queensland was talking about the half-cocked approach that Ms Plibersek was taking to this, he said: 'Just give us the $103 million. I don't care if you break the COAG agreement, just somehow put it back into our health budget.' What a disaster.

Senator URQUHART (Tasmania) (16:48): I rise to participate in this MPI debate on Australia's health system and to comment on the great leadership displayed by federal Labor health ministers Plibersek and previously Roxon, particularly in my home state of Tasmania—leadership that stands in stark contrast to that of the Leader of the Opposition, when he was health minister of our country for the years leading up to the 2007 election. This was a time when over $1 billion was ripped out of Australia's health system by the Howard coalition government. During a time when the mining boom was delivering them more cash than they knew what to do with, their priorities are laid bare in that fact. Contrast this mismanagement and spin with Labor's firm priority to deliver better results for patients and their families. I want to read for the Senate a letter to the editor in today's Advocate from my local area, concerning the quality of health care in Tasmania. It states:

Last Friday week at 3 am, I suffered a major heart attack at Penguin.

My wife drove me to the Burnie hospital where I was assessed and given first-line treatment and when I was stable, it was decided to evacuate me to the Hobart hospital for specialist treatment.

Unfortunately there were no beds available so I was sent by the Royal Flying Doctor Service to Launceston, where I was seen by specialist staff and by 8am had had a stent placed in my heart.

After a few days of wonderful treatment, I was discharged to enjoy the remainder of my holiday in your state.

This guy's letter continues:

All I can say as a visitor from Queensland, thank you very much to the health services of Tasmania and the professional staff.

I want to thank Mr Baltokiewicz for writing this letter and to wish him well in his recovery. I hope that he travels with his wife again to Tasmania soon.

I, too, want to thank the wonderful staff at the Burnie and Launceston hospitals who treated this patient within five hours. This is hardly a health system in disarray. This letter highlights that in this instance Tasmania's health system delivered satisfactorily. Everyone on both sides accepts that there are ongoing stresses to the health system across Australia. We Australians want and need a federal government that makes the tough decisions and steps in where required.

In Tasmania, the federal Labor government acted last year to provide a $325 million assistance package to boost access to health care. The package will boost the healthcare outcomes for all Tasmanians. This is a state that has the oldest population and whose population demographic is ageing the
fastest. Just yesterday the preliminary report on improving the delivery of health services for Tasmanian patients was released. Developed by the Commission on Delivery of Health Services in Tasmania, the report addresses the key stresses in my state's health system, highlights community suggestions and sets the direction for 2013.

The commission was set up through the assistance package and is tasked with advising the state and federal governments on how best to redesign the state's health services to help better manage current and future pressures.

Labor is committed to making plans for the future and delivering quality services for all Australians. Health has definitely been a major topic in the Advocate this week, with Tuesday's front page dedicated to the start of physical works at the North West Regional Cancer Centre. This cancer centre, a 2010 Labor election commitment, will provide a treatment facility closer to home for the 600 north-west Tasmanians who are diagnosed with cancer every year. It has taken around 18 months to prepare the site and construction is scheduled for completion by the end of 2014. The centre will be operational in 2016 after the linear accelerator goes live.

Other Labor election commitments delivered for north-west Tasmanians are the GP superclinics at Burnie and Devonport and the revitalisation of the Mersey Community Hospital. These superclinics, which would be scrapped by the opposition, provide a fantastic level of care across a range of frontline services, taking some of the burden off our region's emergency departments. In Latrobe, Labor has invested over $200 million on upgrading and running the Mersey Community Hospital. The upgrades, completed over the past few years, have delivered a state-of-the-art emergency department and outpatients unit as well as a new high-dependency unit. The evidence from Tasmania highlights that, as all Australians know, the only party who can be trusted to deliver a quality public healthcare system is Labor.

**Senator SMITH** (Western Australia) (16:54): I rise to speak in support of this matter of public importance and to condemn Labor's waste and mismanagement and the chaos caused in the health sector, especially through retrospective funding cuts. Labor should be ashamed of its lack of care and lack of concern for the health and wellbeing of Australians using the public health system. Let us be clear, Labor is undermining our health system on a number of fronts. Let me name just three. Firstly, Labor is contravening the National Health Reform Agreement by rebasing funding under the agreement and then moving to fund hospitals directly instead of through the states. Secondly, Labor is increasing uncertainty about whether it plans to expand and improve health and hospital services and whether these plans can actually be funded—we know you cannot have a health plan without funding certainty. Finally, Labor is constantly undermining the 30 per cent private health insurance rebate, meaning increased costs for Australian families.

The federal Labor government's failure to honour the National Health Reform Agreement by reducing the funding and beginning direct funding of hospitals is bad policy. For Western Australia this is seriously bad policy, and I understand that the negative impact could be in the order of almost $100 million over the period to 2015-16—funding that is much needed to support a growing WA population with unique challenges of providing health services over a vast geographic area. The WA government has given effect to the National Health Reform Agreement, which Western Australia
Some background is necessary to understand the complexity of health funding in Australia. In the Western Australian context, for 2012-13 and 2013-14 this arrangement will not result in any different funding outcome for the state, other than under the current national healthcare agreement. However, from 2014-15 the Commonwealth's funding for public hospital services in Western Australia will vary on the quantum of activity delivered. From 2014-15 the Commonwealth will fund 45 per cent of the efficient cost of the growth in public hospital services over the preceding year. From 2017-18 this proportion will increase to 50 per cent. But this is the critical point: it is important to understand that this does not mean that the Commonwealth will become an equal partner with the state in the funding of public hospital services. This point has been made particularly clear by our state health minister. This is the case for two reasons. Firstly, the arrangement commencing in 2014-15 does nothing to address the current gross inequity in state and Commonwealth funding shares for public hospital services in Western Australia; it only applies to activity growth from that point forward. Secondly, the Commonwealth's funding of the growth in public hospital activity will be determined by the relevant proportion of a national efficient price to be determined by the Independent Hospital Pricing Authority. If the pricing authority's modelling fails to take into account the significant and legitimate cost of disabilities involved in the delivery of services in a state the size of Western Australia, the state will again be left to meet the shortfall in funding.

The improvements that we may have expected to see as a result of the introduction of activity based funding are now at risk of being lost. If you do not want to believe the coalition, that might be okay. If you do not want to believe the Greens and you do not want to believe Labor, that might be okay. But you might just want to read an editorial from the Financial Review earlier this week. It said:

However, these incremental improvements—referring specifically to the benefits of activity based funding—now look likely to fall victim to Labor's poor economic management. Desperate for budget savings in this year's Mid-Year Economic and Fiscal Outlook, the Gillard government used revised population estimates to cut $1.6 billion in hospital funding. So the issue is serious and detrimental to our state.

There is much that I can say in regard to this, but let me just make one final comment. Less than two weeks ago, in Perth, the Leader of the Opposition, the member for Warringah, made an important statement. He said: 'The Barnett government has become a model for all the governments we run, or hope to run, right around the country.' Importantly, he said how much he would like to model himself on the WA Premier. 'In the area of delivering quality health services Labor has failed Australians. Only the coalition can deliver us a better health system. Only the coalition can properly meet the challenging needs of Australia, especially in health and ageing. There is much to learn from Colin Barnett and the WA Liberals.'

Senator THISTLETHWAITE (New South Wales) (16:59): We have hit a new low in this place with the notion that we are debating today; and it is ironic, it is Orwellian and it is downright offensive to the people of New South Wales, the constituents I represent in this place, because it is actually the complete opposite of what is occurring in reality. One need only look at
today's Sydney newspaper headlines to see exactly what is going on in the New South Wales health system. I refer to an article by Alicia Wood in today's *Daily Telegraph* with the headline 'Ward and bed cuts at Prince of Wales Hospital'. The article reads:
The state government plans to close a ward and slash 26 beds at Randwick's Prince of Wales Hospital despite assurances that frontline health services would remain intact.
The article goes on:
Staff were advised by an email from Patrick Bolton, the director of clinical services, who said hospital management was "required" to cut bed numbers, close a ward and reduce staffing costs.
That is from today's newspaper. That is what is occurring in New South Wales. Another article from today's newspaper, this time in the *Australian* with the headline, 'Prince of Wales loses 26 beds.' It reads:
The NSW health department says it's "consolidating" beds at a leading Sydney hospital but if refusing to comment on claims that 26 beds have been lost.
This follows up from an article in the *Sydney Morning Herald* by Shaun Nichols of 14 September last year. The headline is, 'Health budget slashed by $3 billion.' It reads:
Thousands of jobs may be axed from the NSW health service as part of deep budget cuts confirmed by the NSW Health Minister, Jillian Skinner.
Just days after the Education Minister, Adrian Piccoli, announced a $1.7 billion funding cut in his department, Mrs Skinner confirmed this morning that $3 billion would be cut from NSW health over the next four years.
They are the facts. This is exactly what is happening in my state of New South Wales. They come in here and seek to blame these health cuts on the federal government when the government is actually increasing funding to the states. In New South Wales, they have increased funding over the next four years to the tune of $1.1 billion—an extra 23 per cent of the base funding for New South Wales. But despite that, the New South Wales government is taking that money and cutting services in particular areas. If you think that the public is unaware of this, those opposite, then you are kidding yourself.
I was alerted to a Facebook page which has been set up in the wake of the health cuts in New South Wales. The Facebook page goes under the name of 'Save Prince of Wales Hospital from Budget Cuts'. I encourage members of the public who are concerned about health cuts in the Randwick and eastern suburbs area of Sydney to visit this particular website and post their opposition. I want to read some of the comments that have been posted on this website by members of the public who understand what these cuts to health services that have been undertaken by the New South Wales government will mean for them.
Belinda Mahony posted on 23 February, 'We actually need more hospitals. Too many people now. Not closure. It is a disgrace what these pen pushers are doing'. Another person posted on 23 February, 'Heard on the radio this morning that Deputy Premier Andrew Stoner got a $50,000 pay rise, and our local hospital, Prince of Wales, is having bed closures and job cuts. Hope our pollies realise this is not the way to go and get their priorities right in serving the people of our great state New South Wales.' They are some of the some of the comments of members of the public. Another one on 22 February, 'And it has started. Bed closures at Prince of Wales Hospital. Prince of Wales Hospital services patients from all over New South Wales. Emergency will be backlogged, elective surgery list will increase.' And it continues with a post from Lyn Williams on 21 February. Lyn Williams is a woman I have much regard for, and who has made representations to me about the concern that
she has. She is in a wheelchair and relies heavily on the hydrotherapy pool at Prince of Wales Hospital. That is now under threat because of the cuts to health services in New South Wales. She posts, 'Every day, I hope and pray that sanity prevails and that Minister Skinner reconsiders any planned privatisation of the hydrotherapy pool which I need for my physical and mental wellbeing. Being in a wheelchair is a steep learning and it turns your life on its head. The things I once took for granted came to a crashing halt. I would ask Minister Skinner and the Prince of Wales Hospital board to wheel a mile in my shoes.' Again, another post this time from 20 February: 'Please Minister Skinner, reconsider these cutbacks as, unfortunately, I need my local Prince of Wales Hospital and outpatient hydrotherapy pool.'

They are the facts. This is the voice of the people of New South Wales. These are the people who are facing service cuts to health provisions within their community. Yet, those opposite seek to come in here and waste this parliament's time and move this particular motion. I have had representations from people in my community—from the elderly, from the disabled—who rely on these health services on a daily basis, and they are really concerned. I find it disrespectful that these people, who are facing cuts to their health services and who are distraught, have this motion moved as an insult to the work that they are doing in my community in trying to ensure that health services are not cut. This motion is lazy, it is tardy and it is not factual. In New South Wales, because of federal government outlays the budget in health has increased by $1.1 billion—a 23 per cent increase. When we look at all the other initiatives that this Labor government has undertaken in the area of health to improve services, people see that the arguments put forward by those opposite simply do not stack up.

Federal Labor has increased funding for national health in New South Wales under the Health Reform Agreement. I mentioned the $1.1 billion over four years. We have a commitment to better health care. We have, of course, undertaken the plain packaging reforms and pushed those through—despite opposition from a number of large corporations and despite a High Court challenge—which will result in a healthier society over the longer term. We have invested $4.6 billion in a new public dental health scheme that will provide better services, particularly for children and those from disadvantaged backgrounds who cannot afford to access adequate dental care.

We have reduced the cost of more than a thousand generic drugs, through the Pharmaceutical Benefits Scheme. Those drugs include cholesterol, blood pressure and diabetes drugs. We have established an after-hours health help line to ensure that people, particularly in rural and regional areas, who get sick after hours and do not have the wherewithal to travel long distances to hospitals can ring a help line and get the security and assurance that they need to make sure that their health is being looked after.

We have established 60 GP superclinics throughout the country to ensure that we are taking some of the pressure off our hospital waiting rooms and our hospital emergency departments. We have made a big investment in training more doctors and nurses to ensure that we have the adequate resources to look after our population. In that respect, this year alone we have provided the funding for the training of an extra 1,000 general practitioners throughout this country. When Mr Tony Abbott was the health minister he capped that number at 600. An extra 400
positions have been funded and paid for by this federal government to ensure that we have adequate doctors in the system. An extra $500 million is available for training nurses, particularly nurses who are working in aged care and in rural locum services where there are shortages. And, of course, we have means-tested the private health insurance rebate to make sure that that system is much fairer.

That is Labor's commitment to better healthcare services in this country, in stark contrast to what is occurring in my state of New South Wales, where the Liberals are doing what Liberal governments always do. When they come to office they commission these audits and then they cut services. They use the audits as an excuse to cut services, and that is what they are doing in New South Wales.

Senator FAWCETT (South Australia) (17:09): I rise to address this matter of public importance on Labor's waste and mismanagement and the chaos caused in the health sector, especially through retrospective funding cuts. I would firstly like to rebut a couple of the comments that many of the government members have made. They have been trying desperately to paint the Howard government as a government that did not care about health and did not fund it. It is interesting that the Museum of Australian Democracy has fact sheets on different prime ministers, where they highlight just half a dozen of their key achievements. Guess what one of those half-dozen key achievements was for Prime Minister John Winston Howard AC: record health funding of $47.6 billion in 2006-07. And just in case you think this might be some kind of conservative think tank, there are four ex-members of parliament on their advisory council, two of whom are Labor, one of whom is a Democrat and only one of whom is Liberal. So it is hardly a partisan body that would be favouring the conservative party. But they put down as one of the key achievements of the Howard government record health funding.

The government members have been saying today, particularly during question time and during this MPI: 'Who, us? Would we cut health funding? Never!' But if you look at the analysis of the health provisions in the 2012-13 MYEFO—conducted not by the Liberal Party but by the Australian Primary Health Care Research Institute at the Australian National University—you see that in their introduction they bell the cat on this. They say:

The hidden disaster in the 2012-13 MYEFO is the hit (unacknowledged by anyone in the Government) taken by preventive and public health. We know that $1.5 billion over four years … has been cut from the National Health Reform (NHR) funding.

So do not come and talk to the coalition and say that we are saying things that are unfounded. Go and look at independent experts who have studied this in detail, look at their pronouncements, and you will see that they have indicated that the government has made these cuts.

This matter of public importance that was raised by Senator Fierravanti-Wells talks about waste, mismanagement and chaos. In South Australia we know too well about Labor waste in the health area. There were 64 GP superclinics promised at a cost of $650 million around the country. In Modbury in South Australia a clinic opened right next door to areas that were well served by existing private practices: no GPs. President of the AMA Steve Hambleton hit the nail on the head when he said that this is a big waste of government money.

I come to mismanagement. People in South Australia, particularly those in rural areas, know only too well that Ms Roxon, in 2009, got rid of the Rural, Remote and
Metropolitan Area way of allocating funding and brought in the Australian Standard Geographical Classification that saw places like Hobart considered more rural and remote than parts of South Australia. Large parts of our population lost out on funding to provide accident, emergency and after-hours health.

In terms of chaos, which is the point of this MPI, retrospective funding cuts hurt. We have seen in Victoria that the state Liberal government has taken this government to task and challenged them about their $107 million. The problem for people in South Australia is that we get a double hit of Labor's waste, mismanagement and chaos because not only do we have a federal government that has cut funding to the tune of $31 million from South Australia's health budget, but we have a Premier, Mr Weatherill in South Australia, who does not stand up for the state. In fact, when questioned in state parliament about this, rather than say, 'You're right; perhaps I should go and challenge the federal government,' he tried to indicate that perhaps the Victorians were not doing what everyone knew they were doing.

Now that New South Wales and Queensland are also challenging, he still has not taken his federal counterparts to task. So Mr Weatherill must step up to the plate and fight for South Australia to reclaim that $31 million, as opposed to just rolling over, because the consequences for the South Australian public are extreme. The long-promised outpatient facility at the Lyell McEwin Hospital has been scrapped to save money. There have been other delays at Modbury, and at Flinders there were six ambulances left waiting on a ramp, just last week, on a day when temperatures peaked at 40 degrees. The health outcomes for the people in South Australia are suffering as a result of Labor waste, mismanagement and chaos. They get a double hit. They get a hit from this Gillard government and, as I have just shown, independent external commentators are highlighting the cuts to the health budget but the Labor state Premier, Mr Weatherill is not fighting for the people of South Australia.

Senator McKENZIE (Victoria) (17:14): I, too, seek to speak in the debate on the matter of public importance on Labor's waste and mismanagement and the chaos caused in the health sector, especially through retrospective funding cuts. Midway through the financial year we have had yet another dysfunctional decision by the Gillard Labor government when they announced $1.6 billion-worth of cuts to public hospitals from the hospital national pool, causing chaos right through the hospital system all over the country, playing havoc with people's lives.

These funding cuts have been directly linked to bed closures, operating theatre closures and delays in elective surgeries right across the country, and you have heard this from senators from Queensland to South Australia to WA and beyond.

The fact is, hospital patients are paying the price for Labor's economic mismanagement in search for the elusive, yet now abandoned, budget surplus. Labor cannot manage health—$403 million has been cut halfway through this financial year alone for funding that has already been spent and allocated in the 2011-12 and 2012-13 financial years. Labor does not understand how the business end of our hospital system works. Contracts need to be signed, staff hired and surgery lists set. How many times have we heard repeatedly from Labor benches that the buck stops with them on hospitals. For the hospitals in Victoria, we thought the lack of federal bucks for a time would stop their operation. Failed and hollow promises were made yet again that
they would end the blame game and fix public hospitals. The public hospital cuts are in addition to the $4 billion slashed from private health insurance and the $1 billion slashed from dental health. The Prime Minister needs to stop the blame game and stop using it as a way to pick a fight with premiers and to target my own home state of Victoria.

In the face of the Victorian hospitals budget reductions in the 2012-13 financial year by $107 million, the Victorian government stated that it would have a major negative consequence for the Victorian community, including the cancellation of Victorian hospital services and the retention of staff. The state government has further stated that this clawing back of health funding from the 2010-11 financial year, after patients have been treated, was based on incorrect application of population growth data. Across all aspects of this particular government, they just cannot get the numbers right. When we look at numerous levels right across this nation, we need to send some of the ministers back to the maths classroom—particularly Minister Plibersek so that she can use an appropriate dataset on which to base her financial predictions.

What did these funding cuts mean on the ground in Victoria? What did they mean for a city like Bendigo, with 100,000 people in the middle of building a world-class hospital right in the heart of regional Victoria? It meant that the budget of the Bendigo Health Care Group was $2 million out of pocket. What did that mean? It meant reducing elective surgery by 600 cases, the closure of 24 beds, $100,000 worth of savings in the mental health area by not filling positions, and reducing after-hours services. These are all services that a regional city like Bendigo needs. The Bendigo Hospital CEO, John Mulder, said that this was an unprecedented move by federal government to remove funding at this point in their cycle. This is the case being felt by hospital administrators right across our state, because they have had to manage in an economically responsible way. They have had to balance their budgets. It meant that services had to be cut. Other hospitals, right across Victoria, suffered, and I notice Mr Trewin, from Benalla, in the gallery today. Benalla and District Memorial Hospital is set to lose $202,000 out of its budget.

The health minister needs to stop the blame game, targeting the states, particularly my home state of Victoria. The truth is the Victorian government are reducing bureaucracy, re-investing administration savings and efficiencies over the next six years in the health portfolio and delivering back into front-line health services, which is exactly what the Gillard Labor government need to get serious about, instead of wasting more health dollars by advertising their backflip in our local papers over the weekend. It does not matter which way you look at it, and how much they squirm, Labor cannot be trusted on health. The public expect more from us. They have to stop shifting the blame and, basically, grow up.

The ACTING DEPUTY PRESIDENT (Senator Boyce): Order! The time for the discussion has expired.

COMMITTEES
Scrutiny of Bills Committee
Report
Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (17:19): On behalf of the Chair, Senator Macdonald, I present the report of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table the Scrutiny of Bills Alert Digest.

Ordered that the report be printed.
**Economics References Committee Report**

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (17:19): I present a report on the Economics References Committee on the review of changes to car fringe benefits arrangements, together with submissions received by the committee.

Ordered that the report be printed.

Senator BUSHBY: I move:
That the Senate take note of the report.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

**Economics Legislation Committee Report**


Ordered that the report be printed.

**Electoral Matters Committee Report**


Ordered that the report be printed.

Mr President, the Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012 introduces a suite of measures in response to seven recommendations of the committee's report into the 2010 federal election: *Report on the conduct of the election and related matters*. The bill:

- sets out the procedures to be followed when a ballot-box is opened prematurely;
- removes the requirement for an applicant for a pre-poll ordinary vote to complete and sign a certificate;
- provides that pre-poll voting cannot commence earlier than four days after the date fixed for declaration of nominations;
- brings forward the deadline for applications for postal votes by one day;
- provides for further fixed periods of time to complete inquiries into objections against a proposed redistribution of electoral boundaries;
- allows the Commissioner of Taxation and other taxation officers to provide some forms of taxpayer information to the Australian Electoral Commission to maintain the veracity of the roll of electors; and
- makes other minor and technical amendments to the Commonwealth Electoral Act and Referendum (Machinery Provisions) Act.

In referring the bill, the Selection Committee wished the Joint Standing Committee on Electoral Matters to further scrutinise its amendments and ensure consideration was given to any unintended consequences. During the committee's inquiry, issues arose regarding the exclusion of ballots, the new pre-poll voting arrangements and the ability of the Australian Electoral Commission to use taxpayer information to update the electoral roll.

The bill provides that prematurely opened ballots must be excluded from the count. At the 2010 federal election, ballot boxes were
opened prematurely due to an official error in two pre-poll voting centres. Due to the legislative ambiguity regarding the appropriate response to these breaches, the Australian Electoral Commission sought legal advice. The advice was that it would be prudent for these ballots to be excluded. The commission subsequently recommended to the committee that the appropriate action be clarified in the Electoral Act and that the votes should be reinstated if the incident proved to be an official error.

The bill does not contain a vote-savings provision and the committee did not support one in its 2010 federal election report. Having carefully considered the evidence in this inquiry, however, the committee took the view that votes should be reinstated if a ballot box is handled unlawfully by any person but no tampering of ballot papers has occurred. The committee's view is that this balances voter enfranchisement and electoral integrity. The committee recommends that the vote-savings procedures proposed by the Electoral Commission to this inquiry be incorporated in the bill.

The committee heard also that the Electoral Act lacks clarity on whether the penalties faced by an electoral official who deliberately and unlawfully interferes with a ballot box or ballot papers are the same as the penalties facing a member of the public for this offence. The committee recommends that the bill be amended to clarify this in the legislation.

The removal of the requirement for a pre-poll ordinary voter to complete a certificate will provide efficiencies in polling place management and align the Commonwealth with a number of state and territory jurisdictions. Moving the commencement of pre-poll voting back by one day will allow sufficient time to print the many millions of ballot papers required for a federal election. Moving the deadline for postal vote applications forward by one day will reduce the chance that postal ballots will be received too late. Increasing the fixed periods of time to inquire into further objections to a proposed electoral boundary redistribution will provide the Electoral Commission with valuable additional time to conduct these inquiries. Allowing the Electoral Commission to use certain taxpayer information to update the roll of electors is a logical extension of existing continuous roll update processes and direct enrolment using third-party information. The committee is satisfied that this will not undermine roll integrity. These provisions of the bill were recommended in the 2010 federal election report of the committee and continue to be supported by the committee.

On behalf of the committee I thank the organisations and individuals who assisted the committee during the inquiry through submissions or participating at the public hearing 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 RYAN (Victoria) (17:25): I rise today to address the report of the Joint Standing Committee on Electoral Matters, which was just tabled by Senator Brown: Advisory report on the Electoral and Referendum Amendment (Improving Electoral Administration) Bill 2012. It is easy to lose track of the various electoral bills before the chamber at the moment given the similarity in names.

The coalition's dissenting report outlines our response to the government's recommendations following the referral of this bill to the joint standing committee. Recommendations 9, 15, 29 and 30 of the inquiry, following the 2010 election, are
supported by both government and opposition members. Recommendations 3, 10 and 11 from the original inquiry, which are reflected in this bill, are opposed by opposition members because this bill moves to implement them. The opposition was opposed to these measures initially and remains so. I would like to briefly explain why.

The first recommendation is in respect of the sharing of data from the Australian Taxation Office. This measure is in response to recommendation 3 of the Labor government members' majority report into the conduct of the 2010 federal election and other related matters. Essentially, this proposal will enact legislative changes to the Taxation Administration Act, which currently governs the protection of personal data collected by the Australian Taxation Office. Such a change would allow the ATO to provide personal information to the Australian Electoral Commissioner for the purposes of automatic enrolment. The coalition remains opposed to the automatic enrolment provisions implemented by the ALP and the Greens and, as I have stated previously, with the support of the AEC.

In this sense, ATO data is rightly treated in a particular manner. Indeed, it was not long ago that Labor members of this chamber and the other place were making ridiculous claims that the limitations on the use of ATO data prevented the revelation of the revenues collected by the MRRT. Yet we now have the proposal that we should loosen controls on the use of ATO data for the purposes of automatic enrolment. Again, I restate the coalition's major reason for opposing this proposal is that we believe this process puts the integrity of the roll at risk. By furthering the use of electronic data for automatic enrolment we are, again, further removing the possibility of a paper trail to uncover or prove misconduct by someone attempting to manipulate the roll. I cannot help but wonder whether the results of the infamous Shepherdson inquiry, with the revelation of false enrolments by Labor members in Queensland, would have been the same if we did not have this evidence. After all, we would have less of a paper trail to follow.

I also add that requirements on ATO employees are different to those of AEC employees. I do not disparage ATO employees at all but there are unique requirements on AEC employees. The more we utilise employees and processes outside the Electoral Commission, the greater the risk of an incident reducing public faith in the impartiality of our electoral process, which is guarded so well by the Australian Electoral Commission. The coalition has previously stated that automatic enrolment will damage and question the integrity of the electoral roll. The reliance on external data sources that have been collated and that are utilised for purposes other than the electoral roll does not necessarily make them fit for that use. I will, again, quote a number of examples I have previously referred to in Hansard.

For example, in Numbers on the run: Review of the ANAO audit report No.37 1998-99 on the management of tax file numbers we found that there were 3.2 million more tax file numbers than people in Australia at the relevant census. There were 185,000 potential duplicate tax records for individuals and 62 per cent of deceased clients were not recorded as deceased in a sample match. Similarly, an ANAO audit report No. 24 of 2004-05: Integrity of Medicare enrolment data stated:

ANAO found that up to half a million active Medicare enrolment records were probably for people who are deceased. Government departments and data sources can get it wrong occasionally.
I would now like to turn to the other recommendation, with respect to pre-poll voting and the requirement currently in the act to sign a certificate to access a pre-poll vote. This measure seeks to implement recommendation 10 of the JSCEM report of the 2010 election and remove this requirement for a certificate from the Electoral Act and the referendum act. The opposition believes that electors should continue to be required to sign a declaration when casting a pre-poll vote. This simple task is another helpful measure that combats fraudulent and potentially multiple voting in elections, which, I would note, has the potential to increase as more and more people access the pre-poll voting period.

The coalition strongly believes that it is far from an onerous task to provide a signature for a pre-poll vote and that the benefits of doing so far outweigh any perceived difficulties or regulatory requirements. I must also add that I believe there is only one election day and that the increasing focus on a polling period undermines an election campaign. Pre-poll exists to assist those who are unable to vote on polling day due to work or travel commitments or health concerns. For that reason, pre-poll voters should still sign a certificate, as is presently provided for.

The third measure in this bill with which the coalition disagrees is that regarding the commencement of pre-poll voting. The coalition is opposed to recommendation 11 of the government majority report into the 2010 election, which provides that pre-poll voting cannot commence earlier than four days after the date fixed for declaration of nominations for any type of election or by-election. The opposition continues to believe that pre-poll voting should be opened 12 days before the election, rather than the 19 days that this measure may effectively mean. We made this position clear in our response to the 2010 election review by JSCEM. This period of pre-poll voting would ensure that electors are still given ample time to cast a pre-poll vote prior to election day, should they need to. I would add that voters also have relative ease of access to postal vote applications if they wish to vote earlier than that.

Our dissenting report details our concerns that allowing pre-poll voting for 19 days prior to election day takes the focus of polling day away from the day itself, which is when the overwhelming majority of votes are cast and, I believe, should still be cast. Having pre-poll voting open 12 days before polling day will also provide the AEC with sufficient time to accept nominations and, indeed, print some of the larger ballot papers that we have spoken about in this chamber in recent days.

The final issue, which was of some significant concern during the inquiry, was regarding votes contained within a prematurely opened ballot box, which happened a couple of times at the last federal poll. In its current form, this bill requires that, when ballot boxes are opened prematurely, the box in question is removed from the scrutiny. The coalition are opposed to this measure as it stands, but we note that the Labor majority of this committee has recommended that it be changed.

The coalition does not believe that, because a ballot box has been opened, it should be automatically assumed that the ballots have been tampered with and, therefore, should be excluded from the scrutiny. Instead, the opposition recommends the proposal of Electoral Reform Australia, the New South Wales Branch of the Proportional Representation Society of Australia, who provided a written submission and participated in the public hearing roundtable on 4 February this year.
Their submission states that, instead of removing the votes from the scrutiny, there should be room for discretion. This was a matter of questioning with the Electoral Commissioner and it is something that I strongly agree with.

I do not support a provision that would disenfranchise people from the vote due to no misconduct of their own and may inadvertently, to an extremist or someone who did not have faith in our democratic process, provide an incentive to sabotage a ballot. If there was no discretion for the Electoral Commissioner, simply breaking open the tags on the ballot box—and I note they will be made stronger for the coming election—could knock out all the votes in that box. I do not necessarily assume there are many people with this degree of malevolence, but it is always possible and electoral law should be drafted on the precept: what if someone really intended to cause a problem? In this sense, someone could choose a polling booth in a marginal seat of a particular party they were not in favour of and try to change the result by removing a ballot box from the scrutiny by simply clipping the tags to ensure it was opened prematurely. This is why I strongly believe—and I accept that government members have also made this recommendation—that we need to give the AEC discretion. They have a lot of discretion in other areas and, in this area, discretion can allow people's votes to be counted.

It would be inappropriate to disregard these votes, to not count them and to leave it entirely up to the court. People need a degree of transparency around votes that are excluded, and that transparency should include a count of those votes even if they are not admitted to the scrutiny. That way we can actually determine whether or not there was a malevolent purpose.

The opposition believe the government should adopt our positions. That would ensure a consensus on this particular electoral bill before parliament, particularly with respect to the ATO data being used by the AEC. We do not believe that it is necessarily fit for purpose. We do not believe that it necessarily has the same integrity as data held by the AEC. We accept that we have lost the argument in this place around automatic enrolment. The AEC is doing it, using best endeavours to ensure that data is correct. But I do not think that we should, at this early stage, expose the electoral roll to even greater risk by adding yet more data sources collected for very, very different purposes.

Question agreed to.

AUDITOR-GENERAL'S REPORTS

Report No. 25 of 2012-13

The ACTING DEPUTY PRESIDENT

DELEGATION REPORTS

Delegation to the Kingdom of Morocco and the People's Democratic Republic of Algeria

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (17:36): by leave—On behalf of Senator Marshall, I present the report of the Australian parliamentary delegation to the Kingdom of Morocco and the People's Democratic Republic of Algeria, which took place from 7 November to 14 November 2012.
DOCUMENTS
Tabling
The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red.

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

COMMITTEES
Membership
The ACTING DEPUTY PRESIDENT (Senator Cameron) (17:37): The President has received a letter from a party leader seeking variations to the membership of a committee.

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (17:37): by leave—I move:

That Senator Bernardi replace Senator Nash on the Rural and Regional Affairs and Transport Legislation Committee for the committee’s inquiry into the Australian Sports Anti-Doping Authority Amendment Bill 2013 on 1 March 2013, and Senator Nash be appointed as a participating member.

Question agreed to.

BILLS
Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012
Report of Legislation Committee
Senator STERLE (Western Australia) (17:38): I present the report of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Agricultural and Veterinary Chemicals Legislation Amendment Bill 2012, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Migration Amendment (Reform of Employer Sanctions) Bill 2012
Second Reading
Debate resumed.

Senator IAN MACDONALD (Queensland) (17:39): Before the break at lunchtime we were discussing the Migration Amendment (Reform of Employer Sanctions) Bill 2012. In making my contribution I want to congratulate Senator Michaelia Cash, who led for our side and who delivered a very erudite and persuasive argument on why this bill should be opposed. For the reasons raised by Senator Cash, I will certainly be opposing the bill. I hope that, in this instance, the crossbench senators, including the Greens political party, agree with us that this bill is not worthy of support.

Before I speak further, I will make a comment on the general issue of immigration. Immigration, these days, is almost a swear word. The current government has completely lost control of immigration into this country and has completely lost control of our borders. Ms Gillard once famously said that every new boat represented another policy failure. Of course she said that during the Howard government when there were only a couple of boats coming in. Since that time, the boats just come nonstop. Ms Gillard was right in one respect—every boat is another policy failure of the Gillard government. It is difficult to enumerate all the policy failures of the Gillard government. It would take more than the 20 minutes I am allocated just to list them. On the issues of border security and illegal entry into our country, the Gillard government takes the cake.

Senator Sterle: This was a minister who got taken out by Howard because he was so incompetent.
Senator IAN MACDONALD: I hear a babble from Senator Sterle and I look forward to his contribution to this debate later on. I hope it is a little better than the contribution by the previous speaker, Senator Bilyk. My hearing is not all that good, but I kept hearing her talk about 'the Howes report' or the 'Howes inquiry'. I think she was referring—and perhaps she was saying this and I just did not hear it properly—to the Howells review. But she could have been talking about the Paul Howes review, because this is another instance where policy—a whole lot of new regulation—is being thrust upon the Australian public at the behest of the union movement, in which Mr Howes is a very important and significant person. When Mr Howes and Mr Bill Ludwig, from my state of Queensland, say something, the Labor Party and the government jump. If those union leaders want to make it hard for employers to employ foreign labour, the Gillard government will do exactly as they are told. This is a government run by faceless men, most of whom are outside parliament.

I wanted to make a contribution on this bill firstly because I have an aversion to needless regulation and secondly because it is desperately difficult—particularly in Northern Australia, where I come from and which I have coalition responsibility for—for employers to get labour at appropriate times to do appropriate work. I also have some issues to raise which relate to my role as chairman of the Senate Scrutiny of Bills Committee. While listening to Senator Bilyk speak, I was thinking that her speech had probably been written by Mr McTernan, Ms Gillard's new imported worker from Scotland. I wondered, whilst I was thinking about that, whether Mr McTernan is here under some sort of work visa. I can understand why that might be the case—clearly Ms Gillard cannot find anyone in Australia to give her decent advice on how to increase her popularity. I know the provisions for importing workers into Australia require you to try to get local experts first, and clearly Ms Gillard has tried and tried and tried—

The ACTING DEPUTY PRESIDENT (Senator Cameron): Senator Macdonald, you should refer to the Prime Minister by her proper title?

Senator IAN MACDONALD: Ms Gillard?

The ACTING DEPUTY PRESIDENT: The Prime Minister.

Senator IAN MACDONALD: I will call her the Prime Minister; I thought 'Ms Gillard' was acceptable. It is a strange ruling, Mr Acting Deputy President. I hear people here referring to Mr Tony Abbott and not to the Leader of the Opposition. I did not realise it was part of standing orders that we had to refer to Ms Gillard as the Prime Minister. I refer to her more often than not as the Labor leader because that is in fact what she is—the leader of a political party, masquerading as the leader of our nation. I am curious why this matter would be raised when I am talking about Mr McTernan, a man of Scottish descent—like you and I are, Mr Acting Deputy President; we are of slightly different generations but we both trace our forebears back to good old Bonnie Scotland. I wonder what sort of visa Mr McTernan is here on. It is something I must make some further inquiries into and try to work out why it is that the Labor leader could not find someone to advise her rather than having to import this so-called expertise from Scotland. It was good to see Mr McTernan building on his expertise of Western Sydney by slipping out there a couple of days ago to have a bit of a look around. This is just the sort of advice Ms Gillard needs, from some Scotsman who has to come in for the first
time and have a look around Western Sydney so Ms Gillard can go there and conduct her political campaign this week.

Mr Acting Deputy President, you have directed me away from the topic of the debate. This bill just adds more regulation to Australian business. It is quite clear that since the Rudd-Gillard government—or should I say the Rudd-Prime Minister Gillard government; I will colloquially refer to the governments of both of them as the Rudd-Gillard government—took office in 2007 there have been 20,900 new regulations. You might recall that Mr Rudd—perhaps I should call him Mr Former Prime Minister Rudd; I will just call him Mr Rudd—made a pre-2007 election promise of capping the growth in regulations with a one in, one out policy. We have had 20,900 regulations introduced by the Labor government and how many have we had taken out? Do you think there would be 20,900, or perhaps 21,900, or perhaps 19,900? You would be wrong if you thought it might be any of those. A mere 104 regulations have gone out in spite of that promise—yet another Labor broken promise—to cap the growth of regulations with a one in, one out policy. Typical of Labor, it sounds brilliant—it talks the talk but, as with anything Labor ever promises, does it actually walk the walk?

It is a bad time for Australian governance because the people of Australia have been lied to so often by the current government that no longer do members of the general public take any notice or have any interest in any promises made by the Prime Minister, Ms Gillard, or any Labor politician. This promise about regulations is one such promise. This bill simply exacerbates the number of regulations in Australia.

As Senator Cash mentioned, the Australian Chamber of Commerce and Industry National Red Tape Survey found that 73 per cent of businesses spend longer in complying with regulations than they did just two years ago, with one in 10 spending more than 20 hours per week dealing with red tape. How can Australia ever be competitive internationally when, first of all, we have the world's largest carbon tax, which nobody else pays, and we have 73 per cent of businesses spending more time on regulations than they did two years ago and one in 10 spending more than 20 hours per week in dealing with red tape? We compete against Asia and Europe. In Asia, they have no carbon tax at all—sorry, I think some provinces of China have a carbon tax of about 0.1 per cent. Australia has a $23 a tonne carbon tax, rising to $39 a tonne and eventually to $300 a tonne. We compete with Europe, which has a carbon price of whatever it is this week—take your pick between $5 and $10, but nowhere near $23 a tonne. In Australia as well we have this enormous regulatory burden which the bill before us today exacerbates.

The Productivity Commission has estimated that, should we be able to reduce unnecessary red tape, we could generate in additional GDP for Australia as much as $12 billion each year. In the World Economic Forum's Global Competitiveness Report 2012-2013, in relation to the burden of government regulation, Australia ranked 96th—that is, down from 60th. So we have dropped 36 places out of the 144 countries surveyed. Clearly, Australia's ranking is well below the OECD average.

I now turn to the strict liability question, which interests me as a member and as chair of the Senate Standing Committee for the Scrutiny of Bills Committee. The bill before us proposes a number of what are called strict liability offences. The particular issue does, in fact, change the onus of proof for many offences that are alleged in this particular area of legislation. The Scrutiny of
Bills Committee has long taken the view that any use of strict or absolute liability should be properly justified. We in the committee say that this is because the use of strict liability provisions is generally neither fair nor useful—to subject people to criminal punishment for unintended actions or unforeseen consequences unless they have resulted from an unjustified risk.

It is pretty clear in this case that the decision of the government to make a number of offences strict liability offences is designed to enable the government to follow the dictates of its union masters and get more convictions. But if you look at the actual statistics on migration, you will see that the incidence of improper conduct is very small.

I referred earlier to Mr Howell's review, as did both Senator Cash and Senator Bilyk. He said that there was a problem with a 'small number of employees and labour suppliers who persist in employing or referring non-citizens'. I make the point that he was talking about non-citizens and there is some difference between that description and the conclusions that Mr Howells made in part of his review.

Mr Howells indicated a small number of employees were involved. In any group of people you get a bad egg—you only have to look at the Labor Party and see my namesake in New South Wales, a Labor politician in New South Wales by the name Ian Macdonald—he is a bad egg and Mr Eddie Obeid is a bad egg. But you do not abolish the Labor Party just because there are three, four, five or six of them in jail for improper conduct or conduct that is not very honest. You do not abolish the union movement simply because Mr Craig Thomson is proven by Fair Work Australia to have rorted his low-paid members' fees. You do not abolish the whole union movement for that; you do something that will make the union movement more accountable.

Similarly, in this particular bill before the chamber, there are a small number of bad eggs. What does the Labor government do at the behest, I suspect, of Mr Paul Howes, the AWU and the union movement generally? They bring out a sledgehammer to crack a nut. Senator Bilyk in her contribution said that it was difficult for the government to get the evidence because workers under the provision of the Migration Act did not want to give evidence. They did not want to be seen as complicit, though they were not too worried about the matters being investigated because, according to Senator Bilyk, they did not want to give evidence to the authorities.

But clearly, going back to Mr Howells's review, he said that they were a small number. Do you then impose upon every prospective employer in Australia these enormous new regulations and this aspect of strict liability? This is something that regrettably I see in the Scrutiny of Bills Committee is becoming all the more prevalent these days, when normal rights and obligations available to Australians are being curtailed by legislation such as this. This legislation involves strict liability, reversing the onus of proof and making it easier for big governments to get convictions when, in the normal course of English law, the law that has served Australia and indeed the Commonwealth so well over many years, you are altering that basic entitlement of freedom under the law.

For all of those reasons, particularly for the reason that Senator Cash so well enumerated at the beginning of this debate, I will be opposing this bill. I would encourage other senators to do the same.
Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (17:59): It is my pleasure to sum up this debate and I thank all senators for their contributions. The Migration Amendment (Reform of Employer Sanctions) Bill 2012 amends the Migration Act 1958 to implement the government’s response to the independent report, entitled Report of the 2010 review of the Migration Amendment (Employer Sanctions) Act 2007, conducted by the independent legal expert Mr Stephen Howells—the subject of some discussion through the course of this debate. Mr Howells found that the employer sanctions framework was wholly ineffective as a deterrent against a number of employers and labour intermediaries who persist in allowing the referral of non-citizens to work without required permissions.

This bill, if passed, will amend the criminal offences and create new, non-fault, civil penalty provisions for persons who allow an unlawful noncitizen to work, refer an unlawful noncitizen to a third person for work, allow a lawful noncitizen to work in breach of a work related visa condition or refer a lawful noncitizen to a third person for work in breach of a work related visa condition.

In order to address the illegal practices of sham contracting, informal labour hire and the use of illegal workers by various entities within a conglomerate, the application of the criminal offences and civil penalty provisions will be broadened so that a person who participates in the chain of events that results in a noncitizen being allowed or referred to work without the required permission can be held liable for contravening the work related offences and work related provisions. The bill will also introduce new investigation powers to allow authorised officers to gather evidence of suspected breaches of the work related offences and work related provisions. This bill does not, as some of the senators opposite would have people believe, create a new requirement on business, create any further obligations on business, or create any red tape for business that does not already exist. It is all about providing the Department of Immigration and Citizenship with the necessary tools to make sure that people who are working illegally, and employers who are hiring illegally, can be dealt with effectively under the law. This set of measures was recommended by the Howard government many years ago—and it was rejected by the Howard government.

This government commissioned Mr Stephen Howells to review the act and he made a series of recommendations which this bill reflects. The Howells review goes through the very serious issue of illegal work in Australia. It goes through some of the links to organised crime. It goes through some of the exploitation and underpayment of workers that occurs. Illegal work in Australia is an extremely serious issue. And it is very true that it is a very small minority of employees and employers who engage in this—but, nevertheless, it must be treated seriously. The government announced that we would introduce new laws to crack down on the hiring of illegal workers because we recognise that illegal work is a problem, because it undermines the integrity of the migration program and leads to the exploitation of vulnerable workers in the reduction of job opportunities for Australians and permanent residents—all extremely valid and important reasons.

This is an opposition which likes to talk tough when it comes to so-called illegal immigration and an opposition that goes out there and beats its chest, when it suits it, about certain forms of migration. But when you have a frankly much larger number of
employees working illegally, whether they be visa overstayers or people working in breach of visa conditions, the opposition is struck dumb. It is nowhere to be seen; in fact, it is opposing this bill, which seeks to stamp out these bad practices and give the department the tools it needs to be able to pursue these issues effectively under the law. In fact, more than being struck dumb, the opposition wilfully opposes the legislation. It is trying to stop the government and the Department of Immigration and Citizenship from having the ability to successfully prosecute employers who wilfully ignore their responsibilities. Checking to see if someone is a legal worker in Australia is not an onerous responsibility; in fact, you would think it is something that ought to be done as a matter of course. The fact is, we know that it is not done as a matter of course for that minority of employers—and that needs to change.

The Department of Immigration and Citizenship has the VEVO system, which works well and enables employers to check quite easily whether somebody is entitled to work in this country—yet this opposition stands opposed to this bill which makes hiring illegal workers and exploiting illegal workers more difficult for employers by making it easier to prosecute. I want to stress this very clearly because things have been said on the opposite side of the chamber that need to be challenged: there is not one extra piece of red tape, there is not one extra process that employers have to go through in this bill. Just follow the law and do not hire people illegally. That is all we are asking. That is what the law currently says, that is what the law said yesterday and that is what the law will say tomorrow. It is what the law will say after this bill passes the Senate. Yet we still see the opposition opposing this legislation, which I think is hypocrisy at its worst. In fact, we have just witnessed Senator Macdonald standing up and saying there are going to be mountains of new red tape. The fact is that there is no red tape; there is no additional process. Employers are required to abide by the laws as they currently exist.

The opposition are happy to issue press releases on a daily basis about illegal migration to Australia but when it comes to an opportunity to do something about people working illegally in Australia, real illegal migrants who are working in breach of their visa conditions or after their visa has expired, they choose to do nothing. And they choose to do worse than nothing: they choose to oppose this government's bill. The former Minister for Immigration and Citizenship made his summing-up speech to the House on 27 November last year, and the shadow immigration minister said, 'The government will have no problems with us on this bill.' Something changed on the way to Parliament House. We are not sure what changed, but what I am sure of is that that position is illogical and hypocritical, as I have described. It underlines the opposition's cheap and opportunistic approach to all these matters and their complete refusal to engage in matters of substance when it comes to immigration.

The independent review by legal expert Stephen Howes showed that the Howard government's failure to implement an effective penalty regime impeded the ability to take action against employers doing the wrong thing. By introducing this suite of new laws the government is taking actions on recalcitrant employers, employers who do the wrong thing, but also protecting and supporting those employers who have complied and continue to comply with the law. I commend this bill to the Senate.
The ACTING DEPUTY PRESIDENT (Senator Cameron): The question is that the bill be read a second time.

Senate divided. [18:11]

(The President—Senator Hogg)

Ayes ....................... 37
Noes ....................... 30
Majority ............... 7

AYES
Bilyk, CL  Bishop, TM
Brown, CL  Cameron, DN
Carr, KJ  Carr, RJ
Collins, JMA  Crossin, P
Di Natale, R  Farrell, D
Faulkner, J  Feeney, D
Furner, ML  Gallacher, AM
Hanson-Young, SC  Hogg, JJ
Ludlam, S  Ludwig, JW
Lundy, KA  Madigan, JJ
Marshall, GM  McEwen, A (teller)
McLucas, J  Milne, C
Moore, CM  Pulley, H
Pratt, LC  Rhiannon, L
Siewert, R  Stephens, U
Sterle, G  Thistlethwaite, M
Thorpe, LE  Urquhart, AE
Waters, LJ  Whish-Wilson, PS
Wright, PL

NOES
Abetz, E  Bernardi, C
Birmingham, SJ  Boswell, RLD
Boyce, SK  Bushby, DC
Cash, MC  Colbeck, R
Edwards, S  Egleston, A
Fawcett, DJ  Fierravanti-Wells, C
Fifield, MP  Heffernan, W
Humphries, G  Joyce, B
Kroger, H  Macdonald, ID
Mason, B  McKenzie, B
Nash, F  Parry, S
Payne, MA  Ronaldson, M
Ruston, A  Ryan, SM
Scullion, NG  Sinodinos, A
Smith, D  Williams, JR (teller)

PAIRS
Singh, LM  Cormann, M
Wong, P  Back, CJ

Question agreed to.
Bill read a second time.

Third Reading

The PRESIDENT (18:13): No amendments to the bill have been circulated. Before I call the minister to move the third reading, does any senator wish to have a committee stage on the bill to ask further questions or clarify further issues? If not, I call the minister.

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (18:14): I move:
That this bill be now read a third time.
Question agreed to.
Bill read a third time.

Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012

Second Reading

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

Senator PAYNE (New South Wales) (18:14): We consistently maintained our commitment to this cause at both the 2007 election and the 2010 election, and we will strongly carry that commitment to the 2013 federal election. While within the coalition we would like to see genuine and multipartisan progress on the constitutional recognition of Aboriginal Australians, much more needs to be done to build the necessary base community consensus that will be the foundation of an effective constitutional reform process in this area. In some ways, it is fair to say that this has become difficult, at least in the short term—as senators on all sides know only too well—due to the
marathon period that will be this election campaign of 2013.

However, this is an issue that is, and must be, above politics. It is most appropriate that the important step of any referendum is delayed until there is wide, long-lasting and multipartisan community support for constitutional recognition. In my view, in this instance it will be a case of better late, or later, than never. I understand that the Leader of the Opposition, Mr Tony Abbott, has written to the Prime Minister proposing that both leaders make statements to the House of Representatives affirming both our parties' support for recognition in the Constitution and the commitment of both parties to progress this matter in the next parliament. In a very positive development in this regard, we strongly commend the government's acceptance of Mr Abbott's offer to create a multipartisan joint parliamentary committee to ensure we progress even closer to achieving this goal.

From a personal perspective, I have seen the great value of such a broadly-based parliamentary joint committee. They have been formed on key issues over many years, and one which comes to mind—although perhaps its end result was not one I would like to point to in this regard—was the joint committee on the referendum in 1999. I learnt a lot from that process—I learnt a lot as a participant; I learnt a lot as a senator; and I learnt a great deal from the community about how valuable a tool a genuine joint parliamentary committee can be in its multipartisan approach—as I have said, with appropriate reference to the minor parties in this place and elsewhere—and with regard to its real ability to make sure it does hear from genuine grassroots Australians, particularly from the broad spectrum of Aboriginal Australians who want to have their say on this issue that we are discussing today.

We have constantly reassured both the government and the broader community of our strong support for the recognition of Australia's Aboriginal people in the Constitution. We want to play a part in ensuring that it occurs at the right time, when it has the best chance of being successful. Constitutional recognition of our first peoples is far too important to fail at the eleventh hour. Since an expert panel was appointed in December 2010 to consult and to advise the government on the best way to recognise Aboriginal and Torres Strait Islander peoples in the Constitution, the coalition has enthusiastically participated in this process. We were proudly represented on the expert panel by the first Aboriginal member of the House of Representatives, my colleague Mr Ken Wyatt AM MP. That panel delivered its report on 19 January this year, and on 30 January the joint select committee released its report on the bill. We welcome that report. It does— as Senator Siewert has previously made reference to—actually make very interesting reading, which is not something that you can say of every parliamentary report. We will continue to consider it carefully before proceeding towards that goal of recognition.

The issue of constitutional recognition also draws attention to the position of many Aboriginal Australians in our society today, both in remote outback communities and in more urbanised areas, such as the one in which I work in Western Sydney. I think it would be remiss not to make an acknowledgement of that fact.

Improving the lives of those many Australians will not be solved through constitutional recognition alone, important though it is. For too long, predominantly well-meaning but ultimately misguided focuses on welfare have left many Aboriginal Australians in not the best place they may have been. That is something for
which we all need to take some responsibility, and I think that by and large we do. I think by and large these are issues about which this parliament has the maturity, the capacity and the good sense to discuss maturely and sensibly—not all the time, as sometimes it is difficult to take the ‘P’ out of politics even on the most serious issues. We do need to provide a basic safety net to ensure children in remote communities are fed, clothed and educated in the way we would expect all Australian children to be fed, clothed and educated.

We on the coalition have over many years taken some direction and some great support from Indigenous leaders like Noel Pearson, and his Cape York Institute, and Alison Anderson, who has recently taken office in the Northern Territory parliament. These are people who have spoken about a focus on self-reliance and on building partnerships between Indigenous and non-Indigenous Australians. They are also very valuable examples of community leadership. For example, in Mr Pearson’s case, his philosophy is reflected in the work of the coalition towards the development of our policies concerning Aboriginal Australians: we absolutely support programs that lead to real jobs being created—not make-work schemes, not more training for the sake of training and not more courses that just lead to more courses. As the shadow minister for Indigenous development and employment, I am greatly encouraged by those participants in the public policy debate who force us to think more broadly, who force us to think across the spectrum and, for that matter, across Australia.

We as the coalition will continue to work with the government to ensure that all the efforts in this regard in relation to this bill and to a prospective referendum are effective and that we are able to experience again the unity of 1967 by recognising Aboriginal Australians in the Constitution of this great country of ours.

One does not always take the opportunity when speaking in the chamber to pick up the piece of legislation that one is referring to and recommend it for public reading. But in this case, this is a bill that is absolutely worth reading. This is a bill that embodies some of the most important principles that we will engage on in our constitutional future, in the short term. It is a bill that every Australian would benefit from reading, paragraph by paragraph. The sunset clause which is contained within this bill is, if you like, the action point. It is the point to which we must all address our attention to make sure that the time frame which is provided for the processes set up here is adhered to, and that this is not something that does not come back to this parliament in an appropriately timely manner.

In a spirit of my much-quoted multipartisanship in this reach, I make reference to the words of two members on either side in the other place. I acknowledge in quoting my friend and colleague the member for Wentworth Mr Turnbull that he and I have been on the same team in a previous referendum. I know we are on the same team now and we intend to make this very successful. On that side, Mr Turnbull said:

While there is an acknowledgment of Her Gracious Majesty, Queen Victoria, in our Constitution there is no acknowledgment of the original inhabitants of this country. So let's make our Constitution better. Let's make it, in that sense, even more Australian.

On the side of the government, former Prime Minister Kevin Rudd, who led the apology to the Stolen Generations in 2008, captured the sentiments of many Australians when he said in his remarks:
The apology was about getting things right for the past. Constitutional recognition is about getting it right for the future.

My commitment in this debate is to make sure that we get this right the first time.

Senator BOYCE (Queensland) (18:24):
It seems a little peculiar to be talking about making a good start on the recognition of Aboriginal Australians, given that it is more than 225 years since the colonisation of Australia began, but what we have in front of us here is a good start. The Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 gives us the chance to move to a system that will allow us to get a referendum happening. I would like to acknowledge the work of the expert panel which worked so hard to bring us to the point where we have consensus on the sorts of objects that should be put into the Constitution regarding the recognition of Aboriginal and Torres Strait Islander people. I acknowledge our Greens colleague, Senator Rachel Siewert, but more especially Mr Ken Wyatt, the first Aboriginal member of the House of Representatives and a very strong Liberal representative of Western Australia.

I will speak briefly and acknowledge the comments made by others. I was pleased to hear Mr Abbott's speech in the House of Representatives when he said:

We have to acknowledge that pre-1788, this land was as Aboriginal then as it is Australian now and until we have acknowledged that we will continue to be an incomplete nation and a torn people. We only have to look across the Tasman to see how it can be done so much better.

Mr Abbott also said that we have never fully made peace with the First Australians. I must agree with him there. He said:
This is a stain on our soul that Prime Minister Keating so movingly evoked in Redfern 21 years ago.

I note that many people talked about the history of the work to get the Australian people and the Constitution to the stage where we have outright, direct and respectful recognition of Aboriginal and Torres Strait Islander people in the Constitution. Mr Abbott makes the point when he says we are equal to the task of completing our Constitution rather than changing it and that the work must be done by the next parliament, given that we have now got a good start. The former Prime Minister, John Howard, outlined the coalition's views on recognising and putting the Aboriginal and Torres Strait Islander peoples into our Constitution. He said in 2007:

There is a window to convert this moment of opportunity into something real and lasting in a way that gets the balance right.

... ... ...

Some will, no doubt, want to portray my remarks as a form of Damascus-road conversion. In reality, they are little more than an affirmation of well-worn Liberal conservative ideas.

... ... ...

In the end, my appeal to the broader Australian community on this is simpler and far less eloquent. It goes to love of country and a fair go. It is about understanding the destiny that we share as Australians, that we are all in this together. It is about recognising that while ever our Indigenous citizens are left out, or marginalised, or feel their identity is challenged, we are all diminished. It is about appreciating that their long struggle for a fair place in this country is our struggle too.

I was delighted when that policy of Mr Howard's was accepted by the then Leader of the Opposition, Mr Rudd. We do, though, still have a lot of work to do. I note in the Library brief on this bill, they have spoken of the operational provisions of the bill being 'quite simple but unusually framed'. We have in proposed section 4 a requirement that the minister 'cause a review to commence' within 12 months of the act's commencement. This is a rather strange way of trying to go about ensuring that when a referendum to amend
the Constitution is put, then it will be accepted and understood. It has sunset provisions in it which are designed to force an outcome—to force the review to happen, to force a constitutional referendum. But the bill does not set out who will undertake the review, how it will be funded, whether it will have a secretariat, who will be on it or how it will go about collecting information when it is asked to undertake the task of doing a giant opinion poll prior to a referendum.

One suggestion from the coalition would be that the National Congress of Australia's First Peoples should have a strong role in the informing, reviewing and educating that needs to go on before we can go to this referendum. I must admit I was very disappointed to hear and see a lot of the commentary when this bill went through the House of Representatives some weeks ago. There were tweets going along the bottom of the screen, saying things like, 'Why do we have to have a referendum? Just put it in the Constitution now.' 'Why have we got to have this bill? Can't we just put it in the Constitution?' We are presumably talking about a reasonably literate group of the community—in that they were watching a political news program; presumably they are a reasonably savvy group of the community in that they are tweeting, and yet they have no idea that the only way we can change the Constitution is by referendum. Clearly not all of them would understand either what the constraints have meant that have seen so many referendums fail in this country—the fact that you need a majority of voters in a majority of states. The hurdles for a referendum are very high, and if people do not realise that without the referendum we cannot change the Constitution, I think we are in trouble.

I have no idea how we might go about fixing the problem, because clearly if people do not understand what they are being asked to vote on—not just the substance but also the process—the likelihood of a negative vote increases. So I would urge this government and the next government to consider how we might educate people somewhat better about what has to happen, so that we can change our Constitution and finally, hopefully, stop making starts and come to a conclusion that respects and atones for the omissions of the past.

Senator RYAN (Victoria) (18:33): I rise today to address the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 and to explain my own journey on this issue. I begin by acknowledging the comments of Senator Brandis and my other coalition colleagues, who have outlined in great detail the great Liberal record with respect to Indigenous issues and representation in recent years. From Neville Bonner to Ken Wyatt, from the Aboriginal Land Rights Act to the intervention, the Liberal Party has been at the forefront of addressing historical injustices faced by Australia's Indigenous people. These details must be outlined again due to the tendency of some on the other side who seem determined to paint only their preferred colour of the pallet of our history.

I will admit that I began as a strong sceptic of this proposal. I did not vote for the preamble in 1999. I do not believe in the politics of identity that has infected so much of our liberal democracy over the past four decades. Identity has replaced class as the dominant oppressive force of the left and the new means of disregarding the individual. To the advocates of identity politics, the individual disappears into a group based on a characteristic they have no control over and determined by self-appointed representatives to take precedence over their individuality. Whether it be race, gender, sexuality or another concept, identity politics is the new tool of the forces of illiberalism—those who devalue the individual in terms of their
power to determine their own fate or who deride their freedom and ability to choose for themselves, and where so-called ‘group rights’ are used to trump our status, dignity and freedom as individuals. So I initially found very troubling the acknowledgement of one group of people in our founding political and legal document, particularly when it is based on race.

I know there are debates regarding the terms ‘people’ versus ‘race’, but those arguments are a distraction, avoiding the substantive issue in this case. To many classical liberals, and I proudly describe myself as such, the notion of making a group of people exceptional and defining them in law is a troubling one. And, due to its history as a basis of discrimination and persecution, race is particularly problematic. Indeed, this is a wrong we are seeking to address in our Constitution in this debate. After all, it is due to the great success of liberalism over two centuries that racism has been purged from civilised society and debate. So my heart and mind are dedicated to opposing any form of racism. I find it obnoxious.

I do not wish to imply or accuse anyone in this debate of racism; I am merely explaining the liberal sensitivity to it, which I share. So, given my initial scepticism, I was asked by people whose judgement and motivation I trust to reconsider my position and open my mind to the unique experience of our Indigenous people. I recall in my studies at the University of Melbourne coming across this Indigenous challenge to liberalism. David Tucker, one of my lecturers, knew more about liberalism than most, and he outlined this challenge in great detail, saying it remained unfinished business—a problem for which liberalism had not yet developed a response. For the truth is that, in our past, the law did define Indigenous people and the lives they could lead by their race. As Indigenous people were treated as a group rather than as individuals, their racial identity did define them, regardless of their own choices. Their experience of the Australian body politic was defined as much by legal discrimination and identity as it was by their individuality.

It was explained to me that the recognition of this common experience and the historical facts prior to modern Australian settlement would add a great deal to the meaning of citizenship for many of our Indigenous people, for whom opportunity was denied and legal status was pre-determined for no reason other than the colour of their skin or the race of one or more of their forebears. So, like many others who began as sceptics, I have tried to open my mind, attempting to understand how this might add to our common citizenship without dividing the Australian people nor instituting group rights at the expense of the individual. I hasten to add that, in the words of my colleague Senator Brandis, to achieve this we must be respectful. We also must be cautious.

This bill is a significant step; but the key step, the crucial step which cannot be avoided by any sentiments expressed in this place are the very words we eventually choose to put before the Australian people in a referendum and in the course of the public debate. This bill empowers that discussion. This mechanism has not been used previously to generate community consensus, so I support this bill. But we do need to show, to all participants, respect and caution about how we go about this process, not only because there are many people who remain to be convinced, who fall into the category of those sceptical or hostile to the notion of law recognising or institutionalising race—although I believe there are many such people—but because of the key reason outlined before many speakers before me: that to propose and fail
at this referendum would be a profound step backwards.

So, the tone of the debate—the discussion of our history and our nation—needs to respect the achievements as well as the failings, the elements of which we should be proud as well as those we wish we could change. This is necessary to ensure that those who may start with a slightly different view do not feel that those elements of our history that they cherish will be devalued through this debate.

There are always things we wish we could change about our past, as a nation and likely as individuals. We may wish there were no blots on our past, but history is not like that. One will not find perfection by looking back. To seek it is to guarantee disappointment. But there is a lot to be proud of, even when discussing this bill and its promised referendum. For there are many like me who do not share the dim view of Federation expressed by some. This bill—and, if it is to be successful, this debate and future proposal—cannot be used to denigrate the formation of the Commonwealth of Australia, one of the great achievements of liberal democracy.

Federation was the result of the thrust of 19th century democratic Australian liberalism. Liberals of all strains supported it, while the labour movement opposed it. Was the formation of our federation perfect? No, it was not. But those of us who heed the words of Edmund Burke do not expect or hope for perfection in our politicians or leaders; indeed, we are wary of those who promise it. Yet it was an extraordinary democratic exercise, especially at that time. No nation with a democratic tradition as long as Australia’s can claim such a democratic heritage. In many ways it is republican in the truest meaning of that term. Our constitution was drafted by representatives of the people, elected by them. It was then approved by the people in referenda. Only then was it sent to London, along with the elected representatives of the people, for political ratification and formal legal implementation via the parliament at Westminster.

This is a story of which all Australians should rightly be proud, but that does not mean uncritical. I stated earlier that it was not perfect, but no political process ever will be, and neither will the people involved in it be any more perfect than we are. In that sense I am referring to the words of Edmund Barton quoted earlier in the debate by Senator Siewert. I find them offensive. But it is the very success of our liberal democratic polity that has made such attitudes no longer acceptable. Political debate always partially reflects community views, and it is regrettable but true that those views were predominant at the time. I do not seek to justify them, merely to outline that fact.

The truth is that any power over Indigenous affairs in our Constitution at Federation would likely have led to similar policies to those that occurred under state governments. A different clause in our Constitution would not have changed attitudes in 1901. But nowhere else in the world did as many people have the right and the opportunity to participate in forming their nation. No body politic has a halo.

I know this bill is bipartisan, and I do not wish to provoke rancour, but I feel I must also correct the record when it comes to this remarkably democratic process that formed Australia. In the Prime Minister’s speech in the other place, she stated:

Indigenous people did not ordain our Constitution, nor contribute to its drafting. They had no opportunity to vote for it, and yet all were affected by what it said and failed to say. It is simply not true that Aboriginal people were universally denied the opportunity to
participate in the elections and the Federation referenda. Indeed, in 1901 there was no statutory bar on Aboriginal voting in Victoria, New South Wales, South Australia, the Northern Territory or Tasmania. There were legal bars in Queensland and Western Australia. This is not to say that there were not other restrictions, but there was no specific legal prohibition on the right of Aborigines to vote across the colonies. The truth about the ban on Aboriginal voting needs to be told. The Constitution did not do this. The ban came later, and it was not the drafters of the Constitution or the people who instituted it by a referendum. The responsibility can be sheeted home to this place, the parliament.

Every Australian child is taught that we were the second nation to grant women the vote after New Zealand, and this is true. But the full story needs to be told whenever we teach this. Section 3 of the Commonwealth Franchise Act 1902 granted the vote to women. Section 4 took it away from all Aboriginal people. So, an act of this parliament about which we are so rightly proud for one reason also contains what we would all regard now as a profound moral error. I say again: no body politic has a halo. This ban was removed in 1962 by parliament, five full years before the 1967 referendum which reflected the significant change in community attitudes by amending our Constitution with a record majority. I note that both these initiatives occurred under Liberal prime ministers.

I want to turn to Section 25 of the Constitution now. It is often quoted as an obnoxious section due to the link between the franchise and race. My personal preference would have been to remove the race power altogether in 1967, but I was not born for another six years. As I stated earlier, we cannot amend history. As I outlined above, I find legalised racial notions obnoxious. I would personally remove section 25. But the background to Section 25 needs to be explained—again, to defend our Federation and our Constitution. Section 25 does not represent a power to prevent people voting on the basis of race. That power was not explicit in the Constitution as it did not need to be. The states had the power to determine their own franchise. Section 25 is a penalty provision for those states that implement a racial restriction on the franchise. It represents the lessons our founding fathers learnt from the US Constitution. It applies a penalty to any state that restricts the franchise by removing those people from the census and consequently for the purpose of assigning seats in the House of Representatives.

So a state that banned people of one race from voting would see itself penalised by likely having fewer seats in parliament. It represents a repudiation of the infamous three-fifths clause of the US Constitution, outlined in article 1, section 2, clause 3. This gave the slave states greater political power by counting slaves as three-fifths of a person for the purposes of assigning members of the US House of Representatives and, consequently, the presidential Electoral College. That original clause in the US Constitution empowered state based racism. It was removed by section 2 of the 14th amendment following the Civil War. But Section 25 of our Constitution is the opposite: it punishes such measures and it repudiates that infamous philosophy.

In conclusion, there have been many contributions to this debate. Some have outlined preferred words and clauses or concepts for a future referendum. I rise in support of this bill, but I also offer a warning, made with my best intentions. Any referendum proposal needs to address those who share a concern, scepticism or even an initial hostility to the legal recognition of
The debate must not disparage those who have yet to be convinced. It must persuade, not hector. And it must not overreach. I differ from those who propose far-reaching change to our Constitution, although I respect their views. I implore them not to seek to achieve other objectives through this process.

Do not seek a constitutional rearrangement of the roles of the legislature and judiciary, especially with respect to determining discrimination. Such a path will only provoke resistance.

And while bipartisanship is a necessary condition for success in a referendum, it is no guarantee. Indeed, on the same day in 1967 that 90 per cent of people voted for the referendum deleting section 127 and amending the race power, a bipartisan-supported referendum proposing the removal of the constitutional nexus between the House and the Senate was comprehensively defeated, with only 40 per cent support. More than half of the people who voted yes on one ballot paper voted no on the next one, despite them both having bipartisan support.

The Australian people take the notion of a referendum very seriously. It is probably the greatest legacy of the drafters that they prevented politicians from changing the Constitution. As it can only be altered with the direct consent of the people, it remains their property, reflecting their sovereignty. This makes a referendum a uniquely potent tool, but it also puts a high bar before politicians, whose role it is to initiate the process. We must be judicious and remain conscious of the record of referenda. I look forward to participating in this process and debate during the period outlined in this bill, and I commend the House on supporting it.

**Senator THORP** (Tasmania) (18:45): I rise to support the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 and, in doing so, I acknowledge the traditional custodians of the land on which we meet, the Ngunnawal and Ngambri people. We know that the Ngunnawal and Ngambri ancestors lived in the area surrounding Canberra and beyond for at least 20,000 years—and very likely much, much longer than that. I am pleased that recognition of traditional owners has become an integral part of so many formal proceedings held in this place. It is a small but important symbolic acknowledgement that the Aboriginal people have a profound connection to the land where we gather and a history that stretches back tens of thousands of years before European arrival.

So it is with the Aboriginal and Torres Strait Islander Peoples Recognition Bill, which lays the foundations for recognition within Australia’s highest legal document, our national Constitution. This bill is the first step. It asks Australians to legally recognise the Aboriginal and Torres Strait Islander peoples rightful place in the history of our nation. Despite extensive deliberation across the country, there is no record of any Aboriginal or Torres Strait Islander people taking part in the debate on the Constitution that would hold such great influence over the newly formed Federation. The final document which passed into law on 1 January 1901 contained no acknowledgement of the country’s first people. This bill takes an important step in rectifying those omissions.

Unlike so many issues on the national agenda, support for the bill is widespread and growing. So far 133,000 people have registered their agreement for the move on the Recognise website. Across cultures, ages and political persuasions there is a deep current of support for recognising the truth of our history so that we can start to heal as a nation.
Implicit in the bill is not only a recognition of a proud and rich history that spans millennia but also a recognition of the discrimination, dispossession and abuse that have happened as a direct result of European colonisation. Since colonisation, Indigenous Australians have been denied their right to speak their own languages, had access to their spiritual lands taken away, been forcibly removed from their families and have been subjected to abuse—both emotional and physical.

As a Tasmanian, I am acutely aware that some of the greatest atrocities occurred to Indigenous Australians in my home state. Our history is marred by abhorrent injustices, including widespread kidnapping of Aboriginal children for labour, a government campaign where troops were used to drive out Aboriginal people from their homelands and, most shamefully, organised and sanctioned hunts resulting in mass deaths. Before we can move on from some of the darkest chapters in our past, we do need to be honest about what happened. And we need to acknowledge that this history has contributed to vast discrepancies in life expectancy, health outcomes, education and employment outcomes and incarceration rates, as well as alcohol and drug problems and the underrepresentation of Indigenous people in so many areas of society.

I do not suggest that this recognition should lead to guilt. This would only serve to prolong and reiterate a troubled past. Rather, I urge that we use this recognition to spur out commitment to a better future—a future that strives for unity and is built on mutual respect and trust and a future built on the understanding that, when we work together, we become significantly more powerful than the sum of our parts. And that is exactly what this bill is about. But, just as a journey of a thousand miles begins with a single step, there have been many very important milestones that have got us to this point.

The ACTING DEPUTY PRESIDENT (Senator Furner): Order! It being 18:50, the time for this debate has concluded.

DOCUMENTS

Foreign Investment Review Board

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (18:50): I move:

That the Senate take note of the document.

In going through the Foreign Investment Review Board Annual report 2011-12, I have been particularly struck by the increase in foreign proposals and approvals from the Foreign Investment Review Board. Interestingly, from 2010-11 to 2011-12 the number of proposals—and they were subsequently approvals—increased from 17 to 49 in just that single year. The value went from $1.4 billion to $3.6 billion.

What concerns me and, I know, a lot of people in regional areas is the fact that we simply do not have the understanding, knowledge and data around the level of foreign ownership when it comes to agricultural land and agricultural businesses. I know the government has instigated a register—which we have been talking about and calling for some time but which we are yet to see. That is only the very first step in this issue. That is only the identification of what is currently the level—which, to be quite frank, we should be well and truly on top of already.

It is then about determining as a nation what the appropriate level of foreign investment and foreign ownership is, because this is potentially an issue of where our agricultural productive capacity lies in the future. Where is the control over that land and that productive capacity? The global population is predicted to be around
nine billion by 2050. The global food task is going to exponentially increase. We are going to have to play our role as a nation in terms of that food task, particularly regarding developing nations. We also want to retain every opportunity for our Australian farmers to take advantage of playing their role in terms of that global food task.

I am very concerned by the fact that we have not yet had the debate in this nation on the level of foreign ownership and investment. As a farmer in a regional area, I do not want to see us lose control of that productive capacity, of that supply. When I say this, people think that I am scaremongering—that it will never get to that. We export 70 per cent of what we produce. But I believe in long-term thinking, and at the moment our thinking on foreign investment is short term. We are thinking about the immediate capital injection from foreign investors into Australia, and we are not going beyond that. We do not want to risk our domestic security of supply or the opportunity for our Australian farmers to take advantage of the growing global food task into the future. A lot of people say that we have to have foreign investment. I agree that there have been, and will continue to be, instances where foreign investment is appropriate. But we are not thinking long term about how we want the ownership of agricultural land in this country to look. That concerns me greatly. On reading through the annual report and doing some further work, I learned that, to 2007, the average value of foreign investment per year was $274 million. From 2008 to today, the average investment per year was $2.5 billion. That is a tenfold increase, and we have no idea where that foreign ownership and investment is sitting because we simply have not been on the ball and we have let it slip under the radar.

We have to be aware that—and it is not surprising—foreign nations are looking at Australia as their potential back paddock to secure the food supply. Qatar has been on the record saying this, through Hassad Australia. China have said that they will provide subsidies to companies that invest overseas. If this is not a wake-up call for us, I do not know what is. We need to have a proper debate and discussion around this issue. In my view, the national interest test for FIRB is nowhere near appropriate to determine what is right when it comes to foreign investment in our agricultural land and businesses. It is about time this nation looked further than the immediate capital injection from foreign investment, to the much bigger picture of how we want this nation to look in the future.

Question agreed to.

DOCUMENTS

Consideration

The following general business orders of the day relating to government documents were considered:


General business orders of the day nos. 33, 34, and 40 to 42 relating to government documents were called on but no motion was moved.

ADJOURNMENT

Fiji

Senator BIRMINGHAM (South Australia) (18:56): Earlier today, in question time, Senator Bob Carr in his capacity as the Minister for Foreign Affairs answered some questions relating to democracy in Fiji. His answers were welcome. They were strong and clear on the expectations that Australia has for democratic advancement in Fiji and on the lifting of sanctions in Fiji that would—hopefully—result from that.
Amongst the criteria that Senator Carr rightly set out were that we would expect any changes in Fiji towards the restoration of democracy to include robust freedom of expression, association and the media. I hope that, as Senator Carr spoke about the freedom of expression and of the media, his colleagues in the Labor Party were listening—especially the Leader of the Government in the Senate and the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. We are soon to face media reforms from Senator Conroy, if speculation in the media is accurate. I hope that Senator Conroy is very mindful of maintaining the utmost level of freedom of expression and freedom of the media in whatever reforms he proposes.

I have concerns, however, that that may not be the case. My concerns are driven by the words of many Labor MPs, by the words of Senator Conroy himself and by the encouragement from some on the cross benches, including Senator Ludlam, who I note is here this evening. Recently we saw Mr John Murphy, of the other place, single out a news entity. His words were:

"We cannot possibly allow News Corporation to own more print or electronic media and that is a top legislative priority to deal with what is becoming a cancer in our democracy."

They are strong words indeed. I would be extremely concerned were the minister for communications, the man who should be the chief defender of a free media within the government of the day, to believe that we have a cancer in our democracy because we have robust and critical media. I would be concerned if Senator Conroy were to believe that somehow restricting that capacity of the media to be robust and critical were, as Mr Murphy says, 'a top legislative priority'. Of course, Senator Conroy is encouraged by others, such as Senator Cameron, who has made very clear his view about the need to further regulate how the media reports, how what it says is adjudged and assessed and how determinations of any complaints against it are made. Once again, we need to be very careful that such processes do not step into a zone where they impinge on the capacity of the media to critically assess what is said, and in particular to critically assess what is said and done by those of us in this place of whatever political persuasion.

I know the minister is well inclined towards these things. Over a period of time his embrace of terms like 'hate media' have made clear his prejudicial attitudes towards some media outlets. Of course, they happen to be media outlets that have, from time to time, criticised policies of the government. In particular, Minister Conroy's venom towards a media outlet seems to be turned up whenever they criticise policies in his particular portfolio area. Once upon a time, for example, the Financial Review seemed to be in a stable of newspapers that Senator Conroy thought was appropriate and did not seem to criticise terribly much. But then they ran some stories critical of the National Broadband Network and all of a sudden the Financial Review fell in with others that Senator Conroy likes to single out.

In recent days, Senator Conroy has been consulting with the Australian Greens in developing his media reforms. This I find particularly remarkable—not that the government would consult with the Greens, for we know that they have been bedfellows with the Greens throughout this term of parliament. Despite the theoretical tearing up of the marriage agreement, the reality is that they still work hand in glove with the Greens on so many policy issues. On media reform, I am sure we are seeing another demonstration of this. The fact that Senator Conroy is in discussions with Senator Ludlam and others in the Greens on media reforms before he even takes those reforms
to his own cabinet is a demonstration of how close the working relationship remains. Given some of the approaches the Greens have taken in arguing for tighter controls on the media in terms of ownership, content regulation and complaint adjudication, this is again a cause for concern about the types of policies that this Minister for Broadband, Communications and the Digital Economy may yet come up with when he produces his media reforms in the near future.

We know that Senator Conroy himself is inclined towards reforms—he has made it very clear in his responses to the Finkelstein report and the Convergence Review that were released nearly a year ago. He has made it very clear and stated on 3AW last year that a public interest test when it comes to media mergers, which is based on a Productivity Commission report from a number of years ago, is something that he supports—never mind that the only surviving author of that report, Stuart Simson, labelled the minister's plans 'a dog's breakfast'.

I particularly note the interjection and endorsement of the minister's comments from Senator Ludlam. What appears to be occurring now is that contrary to the recommendations of the Convergence Review, there is an endorsement of multiple tiers of regulation. Senator Ludlam and Senator Conroy seem hell-bent on moving towards introducing a public interest test when it comes to media mergers, which is based on a Productivity Commission report from a number of years ago, is something that he supports—never mind that the only surviving author of that report, Stuart Simson, labelled the minister's plans 'a dog's breakfast'.

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That is the whole amazing point of where media reform has come to in this country. When Senator Conroy started out on the convergence review, it looked as though it was going to be about modernising our approach to media regulation, noting the great expanse in the number of media outlets and opportunities right across this country and the world because of the globalisation of media outlets. The barriers to getting messages heard are reducing because online news vehicles have the capacity to get coverage through a whole range of sources and there is increasing diversity of viewpoints coming through blogs and other opportunities. This is reflected in terms of the media in the declining revenue basis for traditional media. There is a decline in advertising take in traditional media because the audience is becoming more fragmented, getting its information from an increasing number of sources rather than the type of concentration that seems to be driving the responses of Senator Conroy.

It is a concern that rather than seeing this as an opportunity to reflect what is happening in the real world, to reflect and respond to those increasing number of voices and to actually decrease the level of regulation, we instead appear to have a minister who is going down a path driven by Mr Murphy, Senator Cameron, the Greens and Senator Ludlam towards greater regulation. This is exactly at a time when we should be trying to create and inspire greater innovation in our media sector instead.

Western Australia

Senator MARK BISHOP (Western Australia) (19:06): I rise tonight to talk about changes that have occurred over the last five years in my duty electorate of Swan
in Western Australia. In the past, the Swan electorate was very much defined by its boundaries: Perth airport to the east, the Canning River to the south, the Swan River lies to the west with Perth just beyond and in the middle is Curtin University. Like many electorates, residents regularly express concern about the issues of law and order, safety around train stations, traffic congestion and black spots. Of course, like most inner-city electorates throughout Australia, there is also the issue of airport noise. As can be imagined, federal politicians from both sides have made many promises on this issue in successive campaigns. They are after all important issues. They go to the quality of our lives in our homes and in our communities. But, as a government, we are tasked with looking at issues that extend beyond our electorates. For example, we need to look to the economy and how the decisions that we make impact on jobs. We need to have a clear understanding of what we want to achieve in areas such as education and infrastructure. We all know resources are finite, although expectations are not, so having a clear vision and understanding of what you want to achieve is quite an important starting point.

In the electorate of Swan over the last five years a quiet revolution has been taking place. That revolution has been made possible by funding from the federal government. I am especially proud of what federal Labor has achieved over the last five years. Oddly enough, so is the member for Swan. I know this to be the case because he continually lists those achievements in his newsletters. He seems particularly pleased with federal Labor's funding for the upgrade, from four lanes to six, of the Great Eastern Highway, a project the Howard government for 12 long years said they would not fund because it is a state road. The member for Swan lists this as an achievement—as he said, 'ditto to our commitment'. But, as we all know, it is much easier to make a commitment when you do not have to find the funds.

It was short-sighted of the Howard government not to invest in this road. But we have not made the same mistake, because it is not just any old road, it is the road that leads you from the eastern states and takes you through the wheat belt region and past Perth Airport. It then takes you through a regenerated residential area to the door of the city. It is one of five major roads that service what is commonly known as the centre of the supply chain in Perth. This is an area that encompasses Perth Airport and the Kewdale industrial estate. It is an area where aviation, road and rail all link. It is the busiest distribution hub for freight, not to mention its role in moving people around. It is such an important precinct that mining companies have now established many offices within it.

Our investment in that upgrade to the Great Eastern Highway is only one part of our story. We have long recognised the strategic importance of airport precincts to Western Australia's economy. For that reason federal Labor is providing almost $700 million for the Gateway project. This project will improve the road links around the airport and the adjacent industrial estate. The project will include the construction of five new interchanges and upgrades to the Tonkin, Roe and Link highways. Ultimately it will lead to improvements in access, safety and transport efficiency. Our investment in these two projects is over $1 billion.

But there is more. It is a little known fact that Australia is a world leader in radio astronomy. The Australian Square Kilometre Array Pathfinder project, ASKAP, and the international Square Kilometre Array project, SKA, in the Murchison region will
put Western Australia at the forefront of this technology. Federal Labor's $80 million investment in the Pawsey Centre will ensure that Technology Park is recognised as a major research centre both within Australia and internationally. The Pawsey Centre is a purpose-built facility to house a new supercomputer. In effect, it will be a state-of-the-art data centre and the brain of the ASKAP telescope and, later, the SKA telescope. Three hundred and fifty researchers from 150 international research centres have already booked time to use the ASKAP. It is very exciting stuff. If you look a little deeper, the supercomputer will increase capacity for computational research in areas such as geosciences, biosciences and nanotechnologies. This is where the industries of the future begin. Federal Labor's investment in the Pawsey Centre at Technology Park means this work is going to occur in our very own backyard.

None of this happened by accident; it took clear vision. It also took a determination to prioritise investment in innovation and infrastructure. This leads me, of course, to the National Broadband Network. Much has been said about the value of the NBN, but I can tell you that this is a project whose time has come. Our commitment to the NBN made possible the regional background that will carry data from radio telescopes in the Murchison. It ensures funding for upgrades to the national research networks. It also means this vital infrastructure link will go through our streets to our homes and businesses. It was my privilege at the end of 2012 to see the first NBN fibre cable hauled through the streets of Victoria Park. This is the first suburb in the metro area to see the green cabling, and 15 more suburbs will soon follow. Most of those suburbs are in the Swan electorate. Federal Labor is helping to build a technological hub at one end and we are improving and making efficient the transport hub at the other end.

This is only some of the work that we have done over the last five years; I have not even touched on the $94 million that we have spent on our local schools, money that went to the construction of new libraries, new science labs, new music rooms and, yes, even new school halls. I attended nearly all of the functions and, believe me, not one principal, teacher or parent said it was a waste of money. They all simply said: 'Thank you very much, Senator. Pass on our thanks to Prime Minister Gillard.'

We have invested a further $15 million in trade training centres at five of our secondary schools. I would be happy to speak about the success of the Building the Education Revolution program at another time. We also met our 2007 commitment to open a Medicare office in Belmont. The member for Swan, oddly enough, also lists this as an achievement in his newsletter. I am not sure why he thinks a Labor government delivering on a Labor commitment is his achievement. Maybe it is because the Howard government did not care much about Swan. After all, what did they do?

The same cannot be said for the Gillard government. We will leave a lasting legacy in the Swan electorate for residents, communities and businesses.

It is no longer an electorate defined by its boundaries. Today, because of a lot of the work we have done, it is defined by its opportunities, its innovations and its jobs. I am very proud of what we have achieved over the last five years and I look forward to being part of what will undoubtedly be achieved over the next five years.

James Price Point

Senator LUDLAM (Western Australia) (19:15): It is fitting that I am able to rise tonight to speak on a matter that is very close
to my heart after the parliament has spent a large amount of time today debating the Aboriginal and Torres Strait Islander Peoples Recognition Bill—a bill that does no more and no less than acknowledge the existence of those custodians of this ancient continent who have been here before us since time immemorial. Every day it is fitting to note that you, President, acknowledge the existence and prior ownership of this country of the Ngunnawal and Ngambri people, to which senators on all sides of this chamber rise, listen and acknowledge our respect for the people of the region on which this parliament stands. The sweep of history that senators from all sides have made perceptive contributions to, and that we face up to in the course of the debate on Aboriginal recognition, takes us from the point of terra nullius, where we refused to even acknowledge the existence of human beings with prior occupation and sovereignty over this land; to a period in our history where we treated them as flora and fauna, and they were treated as no better than animals; to the transition where we figured for their own good it would be better to remove children from parents in order to smash the culture that we figured was inferior to own. Behind all of this was dispossession from the land itself, by force, if necessary.

For those who believe, however, that that forcible dispossession of land is a phenomenon of the 19th or early 20th century, I have two words—compulsory acquisition. This is the legal mechanism chosen by the Western Australian Premier, Colin Barnett, to hand the gas industry—particularly Woodside and its joint-venture partners, including Shell—30 square kilometres of the West Kimberley coast, violating a dreaming trail that has been sung since at least the last ice age, compromising a whale nursery and covering a 130 million-year-old dinosaur track way in cement. Meanwhile, the Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke—as my colleague, the Greens leader Senator Milne, was able to establish yesterday—has spent more than 18 months dithering on a decision as to whether or not an emergency heritage protection over this area should be granted. Woodside may be only a matter of a few weeks from moving heavy equipment into the dunes at Wamadan, which will be for the company, its joint-venture partners and its political backers in this parliament and in the West Australian parliament, the point of no return.

I was enormously proud this Sunday just gone to stand with Goolarabooloo traditional owner Phillip Roe, representing his people from the West Kimberley; Martin Pritchard, who spoke passionately on behalf of Environs Kimberley; and Peter Robertson, a long-time campaigner for ecological and social sustainability of our nation with the Wilderness Society, as they spoke compellingly at one of the largest rallies that I have ever had the honour to address. Dr Bob Brown also spoke passionately of his experience on the beach at Wamadan. He spoke of the things that each of us who have taken the time to travel up there have been able to have, and the honour that is granted from the custodians of the area who will show you around and express quite directly the values of that place that they are seeking to preserve. The occasion that had brought us together—which has been a long time coming, and certainly welcome given that we are only 10 days out from a state election— was put together by the musician and campaigner John Butler with guests Missy Higgins and Ballpark Music and 20,000 of their closest friends. It is certainly the largest demonstration I have ever seen at the Esplanade Park in Fremantle, and we filled the streets. These events are not called
demonstrations for nothing. This is a demonstration for both of the major parties and their backers in this parliament and the Western Australian parliament against this poorly conceived, disastrous and unnecessary industrial occupation of the West Kimberley. This is an expression of defiance.

It is defiance not to speak for but to support the rights of people who have nowhere else to go, because what Premier Barnett has done is put their representatives of the last three decades, the Kimberley Land Council, in an absolutely impossible position. The land council has a legal obligation to tell the people that it represents that compulsory acquisition means you may have the right to negotiate but you do not have the right to say no. That is a bind that is very familiar to Aboriginal people who have entered into any form of interaction with the native title process: you can negotiate but you cannot say no. Compulsory acquisition adds insult to this injury by forcing the land council into a position where it has to tell its constituents, 'We need to negotiate because they are going to build this thing no matter what we say.' That is what was compulsory acquisition means. I was extremely proud, and I have been proud over a period of years, to stand with my colleague Senator Rachel Siewert, who has been absolutely tireless in her advocacy for the values of the West Kimberley, and my dear friend and long-time colleague Robin Chapple MLC, who has, in two terms in state parliament and many hours in between, spent a lot of time in the Kimberley supporting our local candidates, given that we are in the teeth of a state election. We are extremely competitive in the Kimberley, so I would suggest that is a seat you would want to watch early in March. I also stood with people who are either resident in the Broome community or the surrounding areas of West Kimberley, or those of their supporters who have put their lives on hold to travel to that part of the world to show their support for the traditional owners and for the wider population of the West Kimberley that this kind of inappropriate industrialisation, this foot in the door of heavy industry into the West Kimberley, will be resisted. It will be defied and it will be defeated.

There are better places and better ways if indeed that gas should come out of the ground—which is a position that I will contest, given the extraordinary greenhouse gas implications of accessing the very dirty gas of the Browse Basin. If it is the will of the proponents and the state government to process that gas, there are alternative locations to that beach. That is what the so-called strategic environmental assessment should have taken into consideration, rather than simply adopting the bullying approach of Premier Colin Barnett, backed up by the federal Minister for Resources and Energy, Martin Ferguson.

We see Minister Ferguson's hand in this—from WikiLeaks cables released in 2011—and elements in the federal government. While we wait on Minister Tony Burke to say anything constructive about the West Kimberley, we know that the major parties are thus far in this together. The only thing standing between those dunes and their violation by the gas industry and Woodside Petroleum is us: the people who assembled in the Esplanade Park in Fremantle and hundreds of thousands of their allies around the country and, indeed, around the world.

Compulsory acquisition means taking what is not yours without asking. That is compulsory acquisition. It is theft of land. If we want to believe that we have left these dark chapters in our history behind as we struggle towards a consensus among the Australian people that our Constitution—our
foundation legal document—should acknowledge the existence of traditional custodians of this country, a very good place to start would be by avoiding repeating the horrendous mistakes and the dispossession of Aboriginal people from their traditional lands, starting on that beach at Wamadan at James Price Point. I commend the campaigners, their supporters and their families who have given so much time and so much money. On this occasion, particularly I commend John Butler and Danielle, for putting their money where their mouths are, for putting their time on the line and for assembling the most extraordinary array of people and supporters that I have seen thus far in this campaign.

We will continue to turn up the temperature on this campaign until the government sees reason. I hope that, well before the forthcoming state election, we get a resolution to this issue to take the pressure off the people who are defending the extraordinary cultural and ecological values of James Price Point.

The ACTING DEPUTY PRESIDENT (Senator Furner) (18:56): Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

Senate adjourned at 19:25

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.]

Australian National University Act—
Programs and Awards Statute 2013—
Assessment Rules 2013 [F2013L00277].
Graduate Coursework Awards Rules 2013 [F2013L00278].
Research Awards Rules 2013 [F2013L00279].
Undergraduate Awards Rules 2013 [F2013L00280].
Civil Aviation Act—Civil Aviation Safety Regulations—Instrument No. CASA EX18/13—Exemption—recency flying at night by holders of night V.F.R. agricultural ratings [F2013L00276].
Customs Act—Customs By-Laws Nos—
1243684 [F2013L00318].
1244196 [F2013L00322].
1244204 [F2013L00319].
1300551 [F2013L00310].
1300938 [F2013L00315].
1300953 [F2013L00314].
1301116 [F2013L00313].
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1303608 [F2013L00292].
1303612 [F2013L00288].
1303616 [F2013L00287].
1303621 [F2013L00286].
1303625 [F2013L00296].
1303865 [F2013L00300].
1303867 [F2013L00283].
1303868 [F2013L00282].
1303869 [F2013L00284].
1303877 [F2013L00308].
1303878 [F2013L00320].
1305083 [F2013L00305].

Environment Protection and Biodiversity Conservation Act—
Amendments of lists of—
Exempt native specimens—
EPBC303DC/SFS/2013/13 [F2013L00291].
EPBC303DC/SFS/2013/14 [F2013L00293].
Key threatening processes, dated 23 January 2013 [F2013L00285].
Threatened ecological communities, dated—
13 November 2012 [F2013L00298].
14 February 2013 [F2013L00299].
Threatened species, dated 30 January 2013 [F2013L00281].
Instrument revoking and making Recovery Plan, dated 5 February 2013 [F2013L00289].
Interim (Small Pelagic Fishery) Declaration (No. 2) 2013 [F2013L00294].

Foreign Acquisitions and Takeovers Act—
Foreign Acquisitions and Takeovers Amendment Regulation 2012 (No. 1)—Commencement Instrument [F2013L00295].
Life Insurance Act—Life Insurance Amendment Regulation 2012 (No. 1)—Commencement Instrument [F2013L00297].
National Health Act—Instrument No. PB 13 of 2013—Amendment determination—pharmaceutical benefits—early supply [F2013L00275].

Stronger Futures in the Northern Territory Act—Stronger Futures in the Northern Territory (Alcohol Management Plans) Rule 2013 [F2013L00290].

Departmental and Agency Files
Tabling
The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:
Departmental and agency contracts for 2012—
Letters of advice—
Attorney-General's portfolio.
Defence portfolio.
Finance and Deregulation portfolio.
Department of Human Services.
Infrastructure and Transport portfolio.
Sustainability, Environment, Water, Population and Communities portfolio.

Order for the Production of Documents
Documents were tabled pursuant to the order of the Senate of 7 February 2013 for the production of documents relating to Court Filing Fees.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Myanmar Oil and Gas Enterprise**
(Question No. 1898)

Senator Ludlam asked the Minister for Foreign Affairs upon notice on 25 June 2012:

(1) Given that, in a speech made to the Association of International Life Offices, Daw Aung San Suu Kyi asked countries to prevent their companies from partnering with the Myanmar Oil and Gas Enterprise due to the lack of transparency and accountability, will the Government take steps to stop Australian companies investing in Burma's oil and gas industry.

(2) Will the Government apply internationally recognised standards such as the International Monetary Fund's Code of Good Practices on Fiscal Transparency in its trade with Burma, and require Australian companies to be subject to the code including the publication of accounts.

Senator Bob Carr: The answer to the honourable senator's question is as follows:

(1) The Government takes the view that the private sector has an important role to play in developing Burma's economy, consolidating democratic gains and contributing to sustainable reform, including through strengthening economic and corporate governance.

The Government will encourage Australian companies wanting to do business in Burma, including in the oil and gas sector, to apply the highest standards of corporate, environmental and social responsibility.

(2) The IMF Code of Good Practices on Fiscal Transparency is a set of guidelines that the IMF uses to encourage better transparency standards and performance by governments. It is not a code that another government can apply to companies in its jurisdiction.

Australia is a strong supporter of and major donor to the Extractive Industries Transparency Initiative (EITI) and encourages countries to implement it as a standard. We understand there is interest in the Burmese government about joining the EITI, which would help promote transparency and accountability in the oil and gas sector.

**Goods and Services Tax**
(Question No. 1989)

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 6 August 2012:

For each of the following financial years, 2008-09, 2009-10, 2010-11 and 2011-12:

(1) When was the due date for submissions to the Commonwealth Grants Commission in relation to goods and services tax (GST).

(2) When did the Tasmanian Government provide its submission.

(3) Can a list be provided detailing each occasion, including the date, location and who was present, when the Commonwealth Grants Commission, in relation to GST, met with:

   (a) the Premier of Tasmania;

   (b) Tasmanian Government ministers; and

   (c) Tasmanian Government public servants.
Senator Wong: The Treasurer has provided the following answer to the honourable senator’s question:

(1) States are requested to respond to the New Issues paper for years in which updates are conducted and to the Draft report for years when a Review is conducted.


- Review 2010 - Draft Report - responses from Tasmania

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<td>Nil response</td>
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- Update 2011 – New Issues Paper – response received 1 September 2010
- Update 2012 – New Issues Paper – response received 1 November 2011

(3) Various meetings have taken place over the years on a range of issues relating to GST distribution.
United Nations
(Question No. 2002)

Senator Ludlam asked the Minister for Foreign Affairs upon notice on 9 August 2012:
(1) Will the Government honour the verbal undertakings that facilitated United Nations (UN) member states agreement by consensus to the 'Cocos' association with Australia, the outcome of the UN supervised act of self-determination.

(2) What standing in international law does the Government accord to verbal undertakings made by ambassadors and permanent representatives at the UN when those undertakings produce results sought in Australia's national interest.

Senator Bob Carr: The answer to the honourable senator's question is as follows:
(1) The Australian Government's publicly stated position at the time of the Cocos' association with Australia was that it had no intention of making the Cocos Islands a military base. The Australian Government continues to honour that undertaking.

(2) A verbal undertaking made by a Permanent Representative at the United Nations does not establish rights or obligations at international law.

Economy
(Question No. 2006)

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 9 August 2012 –
(1) In relation to industrial disputation during the 2011 12 financial year:
   (a) what was the annual cost to the economy; and
   (b) what was the impact on Australia's productivity.

(2) Does the Treasurer acknowledge that there has been an increase in industrial action; if so, has the Treasurer expressed concerns to either the Minister for Employment and Workplace Relations or the Department of Education, Employment and Workplace Relations about this increase or the impact of industrial disputation on the economy.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:
(1) (a) Treasury has not calculated this.
(b) Treasury has not calculated this.

(2) No. Under Fair Work, days lost to industrial disputes are on average about one third of the average level since 1985 (the earliest year comparable ABS data is available).

Cluster Munitions
(Question No. 2124)

Senator Birmingham asked the Minister for Foreign Affairs upon notice on 31 August 2012:
With reference to the Criminal Code Amendment (Cluster Munitions Prohibition) Bill 2010 and the Convention on Cluster Munitions:
(1) What form will the 'public statement' or 'non-legislative assurances' take, to be made by the Government at the time of Australia's ratification of the convention.

(2) Is there a process under the convention enabling such statements.
Senator Bob Carr: The answer to the honourable senator's question is as follows:

It is intended that the public statement confirming the Government's commitment to not approve the stockpiling of cluster munitions in Australia by foreign governments will take the form of a Ministerial media release.

There is no specific provision in the Convention. States Parties are free to make public statements on their commitments to the Convention at any stage.

Thrombolites
(Question No. 2220)

Senator Siewert asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 19 September 2012:

(1) Is the Minister aware of the health of the endangered thrombolite communities in the Peel-Yalgorup Ramsar area.

(2) Are the critically endangered thrombolite communities in the Peel-Yalgorup Ramsar area now all dead.

(3) What are the reasons for the decline in health of the thrombolite communities in the Peel-Yalgorup Ramsar area.

(4) What part does nutrient pollution and rising salinity play in the decline.

(5) Can an explanation be provided as to why the Government has failed to uphold its obligations to protect the critically endangered thrombolite communities.

(6) Will this failure be reported to the Ramsar Secretariat; if so, when.

(7) Is the Minister aware that the thrombolite community at Lake Richmond is currently threatened by a marina canal development.

(8) What actions will be taken to protect the thrombolite community at Lake Richmond.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) Yes.

(2) There are currently no scientific measures to establish this.

(3) The reasons for any decline may include increasing nutrients, increased salinity, green macroalgae Cladophora and physical disturbance.

(4) See the response to question 3.

(5) The Australian Government has been taking into account the status of thrombolite ecological communities through environmental assessment processes and in the provision of funding to support conservation activities to ensure these ecological communities are not put at further risk. This included allocation of $698,839 to the Peel-Harvey Catchment Council Incorporated under the 2011/12 round of Caring for our Country for the restoration of habitat and management of threats to Lake Clifton's listed thrombolites communities.

(6) As per the response to question 2 above, the status of the Lake Clifton thrombolites has not been established.

(7) The Minister visited the proposed Point Peron Marina development site and Lake Richmond in early September 2012 in order to gain a better understanding of the development and its potential impacts, including potential impacts to the thrombolite community.

(8) The proposal is currently being assessed under the EPBC Act through a Public Environment Review, in accordance with the bilateral agreement between the Western Australian Government and...
the Commonwealth Government. Actions that have, or are likely to have a significant impact on a matter of environmental significance require approval under national environmental law from the Commonwealth Government. The assessment process is rigorous and includes opportunities for public input and the ability to obtain independent expert advice when required.

**Freedom of Information**

**(Question No. 2231)**

Senator Ludlam asked the Minister for Foreign Affairs, upon notice, on 3 October 2012:

With reference to the freedom of information papers FOI Reference No: 11/4734, released on 28 May 2012:

1. In regard to the recognition of the Saharawi Arab Democratic Republic on page 92, who does the Australian Government recognise as exercising state sovereignty in the area east and inland of the berm which divides Western Sahara.

2. In regard to the recognition of the Polisario Front in the document entitled *Western Sahara: Policy* as 'an important representative body', and the statement that 'it would be hard to preclude the emergence of other Western Sahara voices as the situation evolves', has the Government been approached by any other emerging Western Saharan voices claiming to represent the interests of the Saharawi People.

3. Given that, prior to 1975, the International Court of Justice advised that Morocco's claimed legal ties to Western Sahara were not sovereign ties to that territory, does Australia consider that Morocco's sovereign claims to Western Sahara are more legitimate now than when examined by the International Court of Justice.

4. If the Government accepts the International Court of Justice decision, that Western Sahara was not *terra nullius* and that Morocco's legal ties were insufficient to create any sovereign interest in the territory, why does Government policy attach equal importance/legitimacy to Morocco's continuing sovereign claim to rule Western Sahara by characterising the issue of sovereignty over Western Sahara as a conflict with two sides.

5. Does the Government take the view that the International Court of Justice Advisory Opinion was ambiguous in regard to Morocco's claims to sovereignty over Western Sahara.

6. Does Morocco's 36 year occupation of Western Sahara create greater sovereign interest in the natural resources of Western Sahara, allowing it to legally exploit those resources in partnership with Australian companies, despite having no legally recognised sovereign ties to the territory prior to invasion and annexation.

   a. is the Government aware that Standards Australia has considered and rejected the UNLOC code as an Australian standard and advises that Australians needing to state country locations in official documents must rely on their own enquiries and legal advice as to the actual geographical location of any particular city or the validity of sovereign claims to resources;
   b. does the Government's official endorsement of the misleading UNLOC code contradict its policy not to advise importers in regard to the legal implications of importing Western Saharan goods; and
   c. can a list be provided of the number and type of goods imported from the occupied territory of Western Sahara that have declared Western Sahara as the country of origin in importation documents.

8. In regard to fishing and information referred to at http://www.austrade.gov.au/Morocco-profile/default.aspx, and given that trade figures provided for 2007 state 'prepared seafood' was imported from Morocco, are these products still being imported and do they come from Western Saharan waters.
(9) In regard to the letter from the Government of Morocco dated 13 February 2008, requesting support for its autonomy plan, what was the Australian Government's response.

(10) Does the Government support the Moroccan autonomy plan as the preferred solution to the conflict over self-determination in Western Sahara.

(11) Will the Government revise its commercial and military regulations and guidelines so as to make any trade with Morocco conditional upon restoring human rights.

Senator Bob Carr: The answer to the honourable senator's question is as follows:

(1) Australia notes the UN classification of Western Sahara as a non-self-governing territory. The Government of Morocco and the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro dispute sovereignty of Western Sahara.

(2) No.

(3) Australia notes the UN classification of Western Sahara as a non-self-governing territory.

(4) The International Court of Justice (ICJ) stated in its advisory opinion that the territory of Western Sahara did not constitute terra nullius (a territory belonging to no-one) at the time of its colonisation by Spain. The ICJ also stated that, while other legal ties existed between Morocco and Western Sahara, it found no tie of territorial sovereignty at the time of colonisation by Spain, and accordingly no legal tie that might affect the application of the principle of self-determination to the peoples of Western Sahara. The ICJ Advisory Opinion did not, however, resolve the contentious issue of the present status of territorial sovereignty in relation to Western Sahara. Australia supports the UN classification of Western Sahara as a non-self-governing-territory and Australia's view is that the people of Western Sahara have a right to self-determination.

(5) The International Court of Justice (ICJ) stated in its advisory opinion that the territory of Western Sahara did not constitute terra nullius (a territory belonging to no-one) at the time of its colonisation by Spain. The ICJ also stated that, while other legal ties existed between Morocco and Western Sahara, it found no tie of territorial sovereignty at the time of colonisation by Spain, and accordingly no legal tie that might affect the application of the principle of self-determination to the peoples of Western Sahara. The ICJ Advisory Opinion did not, however, resolve the contentious issue of the present status of territorial sovereignty in relation to Western Sahara. Australia supports the UN classification of Western Sahara as a non-self-governing-territory and Australia's view is that the people of Western Sahara have a right to self-determination.

(6) Australia notes the UN classification of Western Sahara as a non-self-governing territory. The Government of Morocco and the Popular Front for the Liberation of Saguia el-Hamra and Rio de Oro dispute sovereignty of Western Sahara. The United Nations has not imposed any restrictions on trade in natural resources from Western Sahara and the Government is not aware of any country which has autonomous sanctions against that trade. Given the status of Western Sahara as a non-self-governing territory, the Department of Foreign Affairs and Trade consistently draws companies' attention to the possible international law considerations involved in importing natural resources sourced from Western Sahara and recommends companies seek independent legal advice before importing such material.

(7) (a) The Department of Foreign Affairs and Trade understands from Standards Australia that Standards Australia did not issue advice to this effect.

(b) The Government notes the fact that the port of Laayoune is designated under the UN Code for Trade and Transport as a Moroccan port. This does not amount to the provision of legal advice. The Department of Foreign Affairs and Trade consistently draws companies' attention to the possible international law considerations involved in importing natural resources sourced from Western Sahara and recommends companies seek independent legal advice before importing such material.

QUESTIONS ON NOTICE
(c) The Department of Foreign Affairs and Trade's Statistical Analysis and Retrieval System database (which contains data from July 1988 sourced from the Australian Bureau of Statistics) records the following imports from Western Sahara:

December 1988: broom or brush handles of wood; quantity: 27,700; value: $10,008;

May 1989: non-coniferous dowelling; quantity: not recorded; value: $11,644; and

March 2012: tape drives for computers; quantity: 1; value: $1,796.

(8) In 2011, Australia imported seafood, prepared or preserved, from Morocco.

(9) The Government does not comment on communications with other Governments.

(10) The Government supports the efforts of the United Nations to find an enduring settlement in relation to Western Sahara.

(11) No. The export of goods and technologies for use by armed forces are already subject to controls set out in the Customs Regulations. Applications for controlled goods are assessed against criteria which include consideration of potential human rights concerns.

School Education, Early Childhood and Youth; Employment and Workplace Relations; Early Childhood and Childcare; Employment Participation and Indigenous Employment and Economic Development

(Question Nos 2248, 2257, 2264, 2265 and 2276)

Senator Bernardi asked the Minister representing the Minister for School Education, Early Childhood and Youth, the Minister representing the Minister for Employment and Workplace Relations, the Minister representing the Minister for Early Childhood and Childcare, the Minister representing the Minister for Employment Participation and the Minister representing the Minister for Indigenous Employment and Economic Development, upon notice, on 3 October 2012:

In regard to each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:

(1) Is information collected from stakeholders and the broader community; if so:
   (a) what forms or other methods are used to collect information;
   (b) how many of these forms are: (i) paper-based, (ii) electronic based; and (iii) both;
   (c) do these forms request an estimate of the time taken to complete; if not, why not; and
   (d) is data collected on how long it takes to complete each form; if so, can this data be provided.

(2) For each proposed regulatory initiative since August 2010:
   (a) how many stakeholder consultations have been conducted; and
   (b) have there been any complaints from stakeholders about the consultation process; if so, from whom.

Senator Kim Carr: The Minister for School Education, Early Childhood and Youth has provided the following answer to the honourable senator's question:

Given the very broad nature of the question and the diverse range of information collected by DEEWR, attempting to answer this question would cause an unreasonable diversion of resources.
Foreign Affairs and Trade and Competitiveness
(Question Nos 2343 and 2350)

Senator Ryan asked the Minister for Foreign Affairs and the Minister for Trade and Competitiveness, upon notice, on 10 October 2012:

For each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio: For each of the following items:

(a) licences;
(b) registrations;
(c) fee for services; and
(d) permits (and all other permission structures):

(1) How many are administered to the non-government sector.
(2) What are the associated fees with each item, and which sectors of the community are required to hold each.
(3) How often does each item require renewal.
(4) What fees have been paid for each item for the following financial years (or since the item was introduced since 2007-08):
   (a) 2007-08;
   (b) 2008-09;
   (c) 2009-10;
   (d) 2010-11;
   (e) 2011-12; and
   (f) 2012-13.
(5) How much total revenue is collected annually from each of the listed items.

Senator Bob Carr: on behalf of the Minister for Trade and Competitiveness and myself, the answer to the honourable senator's question is as follows:

(1) (a) Not applicable to this department.
   (b) Not applicable to this department.
   (c) DFAT provides services (support for finance, human resource management and property) to the Reserve Bank of Australia and the New Zealand Ministry of Foreign Affairs and Trade under a Service Level Agreement (SLA). The SLA is designed to recover the costs to DFAT of delivering these services to non-DFAT staff at DFAT-managed posts. The fee is calculated on the basis of the percentage of time taken to deliver these services (salary and salary-related expenses) by DFAT locally-engaged staff (LES).
   (d) Not applicable to this department.
(2) (a) Not applicable to this department.
   (b) Not applicable to this department.
   (c) DFAT provides services under an SLA to recover the costs to DFAT of delivering services to non-DFAT staff at DFAT-managed posts (see 1(c)).
   (d) Not applicable to this department.
(3) (a) Not applicable to this department.
(b) Not applicable to this department.
(c) The current Service Level Agreement will expire on 30 June 2015.
(d) Not applicable to this department.

(4) (a) [Licences] Not applicable to this department.
(b) [Registrations] Not applicable to this department.
(c) [Fee for services]
   (a) 2007-08: $15,329,732
   (b) 2008-09: $14,354,332
   (c) 2009-10: $14,192,882
   (d) 2010-11: $18,230,208
   (e) 2011-12: $25,137,384
   (f) 2012-13: $2,519,132 as at 31 October 2012.
(d) [Permits] Not applicable to this department.

(5) (a) Not applicable to this department.
(b) Not applicable to this department.
(c) Total revenue is as noted at 4(c) above.
(d) Not applicable to this department.

Veterans' Affairs
(Question No. 2364)

Senator Ryan asked the Minister representing the Minister for Veterans' Affairs, upon notice, on 9 October 2012:

For each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio: For each of the following items: (a) licences; (b) registrations; (c) fee for services; and (d) permits (and all other permission structures):

(1) How many are administered to the non-government sector.

(2) What are the associated fees with each item, and which sectors of the community are required to hold each.

(3) How often does each item require renewal.

(4) What fees have been paid for each item for the following financial years (or since the item was introduced since 2007-08):
   (a) 2007-08;
   (b) 2008-09;
   (c) 2009-10;
   (d) 2010-11;
   (e) 2011-12; and
   (f) 2012-13.

(5) How much total revenue is collected annually from each of the listed items.
Senator Bob Carr: The Minister for Veterans' Affairs has provided the following answer to the honourable senator's question:

Permits issued under the Protection of Word 'Anzac' Regulations

(1) 141 permits have been issued to the non-government sector.

(2) Permits are issued (on application) at no cost to any sector of the community approved by the Minister to use the word 'Anzac'.

(3) This is assessed on a case by case basis.

(4) (a) 2007-08 - Nil
    (b) 2008-09 - Nil
    (c) 2009-10 - Nil
    (d) 2010-11 - Nil
    (e) 2011-12 - Nil
    (f) 2012-13 - Nil

(5) Nil

Christmas Island Detention Centre
(Question No. 2380)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 16 October 2012.

With reference to the answer provided to question no. BE12/0380, taken on notice during the 2012-13 Budget estimate hearing of the Legal and Constitutional Affairs Legislation Committee concerning the 2011 Christmas Island riots, which states that seven people were convicted and that the Minister refused the visa of one of the convicted persons:

(1) Can details be provided of the offence/offences for which each of the seven individuals was convicted.

(2) For what offence was the individual who was refused a visa by the Minister convicted.

Senator Lundy: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) Following consultation with the Commonwealth Director of Public Prosecutions, the Department can confirm the following:

Of the seven persons convicted:

3 persons were involved in removing or attempting to remove food and beverage items (cans of soft drink) from the kitchen and were convicted of "burglary";

1 person was convicted of "aggravated burglary" as a result of entering the kitchen in the company of others and removing a small number of food and beverage items;

1 person was convicted of 2 counts of "common assault" and 1 count "destroy or damage Commonwealth property" following their involvement in the disturbance;

1 person was convicted of "possess weapon" following their involvement in the disturbance; and

1 person was convicted of "threaten to cause harm to Commonwealth Official" following their involvement in the disturbance however this person was successful in a court appeal in relation to the conviction and the conviction has been set aside.

(2) The individual who was refused a visa by the Minister was convicted of the offence "possess weapon" following their involvement in the disturbance.
Myanmar
(Question No. 2388)

Senator Ludlam asked the Minister for Foreign Affairs, upon notice, on 19 October 2012:

(1) Why has Australia not signed up to the Voluntary Principles on Security and Human Rights, given that a number of countries such as Canada, the Netherlands, Norway, United Kingdom and United States are participants.

(2) Would an Australian company engaging the services of the Burmese military be viewed as in violation of Australia's arms embargo.

(3) Has the Australian Government, through any agency, provided any funding to Asialink at the University of Melbourne for their Asialink Conversations or missions to Burma or for the Australia Myanmar Business Taskforce.

(4) Is Australia providing any financial or in-kind assistance to Australian businesses to invest or operate in Burma.

(5) What precisely is proposed by the Minister when Australia offering support 'in establishing an investment regime' in Burma is discussed.

(6) With reference to the Labour, Trade and Investment Delegation to Myanmar:
   a) when is it scheduled to take place;
   b) who will participate and from which corporations; and
   c) with whom will the delegation meet.

(7) What is department's budget in relation to Burma.

(8) What is the budget used to fund.

(9) Who implements the programs and what proportion of funding is allocated to each element.

Senator Bob Carr: The answer to the honourable senator's question is as follows:

(1) The Government is currently considering the issue of joining the Voluntary Principles.

(2) Australia's arms embargo on Myanmar is implemented in the *Autonomous Sanctions Regulations 2011*. The making of a sanctioned supply or the provision of a sanctioned service by a person in Australia or by an Australian company or body corporate without prior authorisation is a criminal offence pursuant to section 16 of the *Autonomous Sanctions Act 2011*.

(3) The Department of Foreign Affairs and Trade has not made payments to Asialink for their Asialink Conversations or missions to Myanmar for the Australian Myanmar Business Taskforce. The Department of Foreign Affairs and Trade is not able to comment on whether or not other agencies have made payments to Asialink for the purposes outlined in this question.

(4) The Australian Embassy in Yangon refers business enquiries to Austrade in the first instance. The Embassy often provides general country briefings to Australian businesses that seek meetings. The Embassy also provides Australian businesses with generic contact details for the peak private sector body, the Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and the government agency responsible for investment, the Directorate for Investment and Company Administration (Ministry of National Planning and Investment). The Embassy has also issued to a number of Australian companies registered with ASIC a courtesy letter confirming their registration details, which they can provide to the Myanmar government for the purpose of arranging meetings. Both Embassy and Austrade staff assisted with the business delegation which accompanied Minister Shorten on his visit to Myanmar in late October (see Question 6).

Austrade does not have an office in Myanmar and currently responds to inquiries about the Myanmar market from its office in Bangkok, via a general inquiries line (Austrade Direct - 13 28 78) and through
the provision of information on the Austrade website. Austrade is currently planning how it will provide further support to Australian companies seeking to do business in Myanmar. Austrade participated in the Asialink mission to Myanmar in May 2012. In 2011-12, Austrade made Export Market Development Grants (EMDG) payments to three Australian organisations that listed Myanmar among their top six export markets.

(5) Australia is committed to supporting Myanmar's reform process, including in relation to economic development and the important role that quality foreign investment can play. To this end, Australia is co-funding the World Bank's analytical work program that is designed to support the broader re-engagement of the Bank and other donors in Myanmar to determine a range of capacity building priorities, including in relation to analysing the investment climate and access to finance issues. Australia is also discussing with Myanmar a range of other possible assistance, including capacity building, to help Myanmar manage the economic opportunities and challenges arising from its reopening. These discussions are at an early stage and information will be available once Australia and Myanmar have further determined specific priority areas for assistance.

Australia provides most of the funding for the Economic Cooperation Work Programme (ECWP) under the ASEAN-Australia-New Zealand FTA (AANZFTA). Under this program, Myanmar is undertaking an OECD Investment Policy Review. These reviews are an international best practice tool to support investment growth.

(6) (a) The Labour, Trade and Investment delegation visited Myanmar from 22-26 October 2012.

(b) The following business and union representatives participated in the delegation:

- Mr Ezekiel Solomon AM, Allens
- Ms Thuy Dam, ANZ Banking Group
- Mr Steve Knott, Australian Mines and Metals Association (representing the Australian Chamber of Commerce and Industry)
- Ms Ged Kearney, Australian Council of Trade Unions
- Ms Jennifer Hewett, Australian Financial Review
- Ms Simone Caylock, Australian Industry Group
- Mr Ian Silk, AustralianSuper
- Mr Andrew Stringer, Institute of Chartered Accountants
- Mr Andrew Buay, Optus
- Dr Matthew Peter, QIC
- Mr Jonathan Glickfeld, Visy Singapore
- Mr Peter Coleman, Woodside

(c) The delegation met with a number of government, non-government and business representatives in Myanmar, including President Thein Sein, Aung San Suu Kyi, the Myanmar National Human Rights Commission, the International Labour Organisation, the Federation of Trade Unions – Burma, and the Myanmar Federation of Chambers of Commerce and Industry. The delegation also met local civil society representatives.

(7) DFAT does not receive a specific budget appropriation for Myanmar. Each year, the department allocates an operating budget to work units in Australia and overseas based on business need. In 2012-13, the operating budget (excluding staff salaries and allowances) for the Australian Embassy in Yangon is $1.3 million.

(8) and (9) DFAT operates under a devolved budget management framework. Southeast Asia Division has overall responsibility for managing Australia's relations with Myanmar, in close cooperation with
the Embassy in Yangon. The Embassy in Yangon has a separate operating budget which is used to cover expenditure that relates to the running of the mission, including for locally engaged staff, property, security, ICT, minor assets and administrative expenditure.

**Government Programs, Initiatives or Decisions**

(Question Nos 2410 and 2411)

**Senator Abetz** asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs and the Minister for Disability Reform, upon notice, on 31 October 2012:

Since 1 July 2010, have any electorate-by-electorate dissections for actual or potential Government programs, initiatives or decisions been prepared by departments, agencies or authorities within the Minister's portfolio; if so, for each dissection: (a) what has been its purpose; (b) what resources have been used; (c) who requested it; (d) to whom has it been circulated; and (e) can a copy be provided.

**Senator Chris Evans:** The Minister for Families, Community Services and Indigenous Affairs and the Minister for Disability Reform provides the following answer to the honourable senator's question:

(a) to (e) The Department from time to time prepares briefs with factual information on a specific location (which may include one or more electorates) to support a senior official or Ministerial visit or event.

The Department publishes a series of grant reports on the FaHCSIA website: www.fahcsia.gov.au/grants-funding/grants-funding

**Government Programs, Initiatives or Decisions**

(Question Nos 2422, 2426 and 2435)

**Senator Abetz** asked the Minister representing the Minister for Health, upon notice, on 31 October 2012:

Since 1 July 2010, have any electorate-by-electorate dissections for actual or potential Government programs, initiatives or decisions been prepared by departments, agencies or authorities within the Minister's portfolio; if so, for each dissection: (a) what has been its purpose; (b) what resources have been used; (c) who requested it; (d) to whom has it been circulated; and (e) can a copy be provided.

**Senator Ludwig:** The Minister for Health has provided the following answer to the honourable senator's question:

(a) The Department of Health and Ageing prepares:
   (i) quarterly reports, by electoral division, on progress towards implementation of key initiatives and actual or committed expenditure measures; and
   (ii) annual reports, by electoral division, which contain demographic information and information on selected health and aged care programs and services.

(b) The Department does not make a distinction between the resources required to produce these reports and other program implementation, expenditure or demographic reports. As such, it is not possible to quantify the specific resourcing required to compile the reports.

(c) and (d) The Department prepares the reports described above as part of regular departmental operations. The reports are provided to portfolio Ministers' offices and to the Department of the Prime Minister and Cabinet on request.
(e) Facts, figures and statistics on selected health and ageing programs represented on a geographical basis, including by electoral division, are publicly available on the Department's internet site at http://health.gov.au/internet/main/publishing.nsf/Content/Statistics-1.

**Australian Taxation Office**

(Question No. 2448)

**Senator Cormann** asked the Minister representing the Treasurer, upon notice, on 1 November 2012 –


(1) Given that Draft Taxation Ruling TR 2011/D5 states that the 50 per cent rule is no longer considered correct, what is the reason for departing from the 50 per cent use test; for example, has there been an important court judgment on the subject.

(2) Has the ATO simply changed its mind about the issue.

(3) What is the ATO's intended service standard for the finalisation of public rulings.

(4) Given that Draft Taxation Ruling TR 2011/D5 was notified on 6 April 2010, and was issued on 5 December 2011, why has the ruling not yet been finalised.

(5) Is it sound administrative practice to withdraw a ruling such as Taxation Ruling TR 96/8 without first finalising a replacement public ruling, such as Draft Taxation Ruling TR 2011/D5.

**Senator Wong:** The Treasurer has provided the following answer to the honourable senator's question:

(1) The ATO initiated a review of Taxation Ruling TR 96/8 (TR 96/8) when compliance activity indicated that some funds were purporting to rely on the ruling in cases where non-school activities were extensive. In those cases, it was being argued that the 50% test was met and the building was therefore a school building, even though, viewed objectively, it appeared that the design and dominant use of the building was not as a school. TR 96/8 was withdrawn when the ATO concluded that the 50% test could not be sustained as a matter of law.

(2) TR 96/8 was reviewed, and subsequently withdrawn, when it came to the ATO's attention that the 50% test was being applied to buildings used for extensive non-school activities. See the answer to question 1.

(3) There is no formal published service standard for the finalisation of public rulings. However, the ATO provides general guidance as to the expected timeframes for the publication of draft and final public rulings on its external website and publishes regular status updates for its public rulings program. The ATO issues public rulings in draft form to seek professional, industry and community comment on its proposed position on tax issues. The ATO usually aims to issue a draft ruling for public comment within 6 months of the topic being notified as part of the public rulings program and to issue a final public ruling within 6 months of the draft ruling being published. However, timeframes for particular rulings can be affected by a range of factors, such as the complexity of the issues dealt with by the ruling, the nature of issues raised during consultation and the effect of legislative changes or court decisions.

(4) The ATO recognises that the process of finalising draft Taxation Ruling TR 2011/D5 (TR 2011/D5) has been lengthy and is aware of the community's concerns. In this case, the timeframe for issuing both the draft and final ruling was extended to enable the ATO to undertake additional consultation with peak bodies and other stakeholders, due to the level of public interest and comment on the issue. The period for comments on TR 2011/D5 was also extended in recognition of the committees that have at
their core, volunteers, who are involved with administering and running of school building funds. The ATO considered the community's feedback and finalised the ruling, which was released on 13 February 2013.

(5) It is usual ATO practice to withdraw a ruling when a replacement draft ruling issues.

TR 96/8 was withdrawn with effect from 5 December 2011, the date TR 2011/D5 was issued.

In addition, the ATO recognises the need for taxpayers to have certainty in situations where it is developing its position on an issue and therefore has provided a level of protection for existing arrangements:

- at the time the TR 2011/D5 was being developed, TR96/8 was still in place and could be relied upon by the community
- donations made to approved school building funds before the final ruling issued will remain deductible under the 50% test
- donations made to approved building funds after the final ruling issued will also be deductible under the 50% test where they relate solely to acquisition or construction arrangements which the fund was committed to before that time
- the final ruling also enables the 50% test to be applied in relation to money provided to maintain a building before 1 July 2013.

Financial Sector: Shareholdings
(Question No. 2453)

Senator Ronaldson asked the Minister representing the Treasurer, upon notice, on 1 November 2012:

With reference to the Financial Sector (Shareholdings) Act 1998 and its application to Authorised Deposit-taking Institutions (ADIs), and in particular Section 8, which sets out shareholding limits by reference to voting power, and subclause 10(1) of Schedule 1, which defines the stake that a person holds in a company at a particular time as 'the aggregate of: (a) the direct control interests in the company that the person holds at that time; and (b) the direct control interests in the company held at that time by associates of the person':

(1) Would a company that makes an application to the Australian Prudential Regulation Authority (APRA) to become licensed as an ADI, which has a majority of its capital of $2.5 million sourced from one individual through fully paid non-voting shares and a minority of its capital, $500 000, sourced through partly paid voting shares belonging to several individuals (between them having all the voting power but with no individual holding more than 15 per cent of the voting stock), be rejected on the grounds that the funding base is not diversified in accordance with the requirements of the Act; if so:

(a) what would be the legislative grounds for rejecting this application; and
(b) is it the intention of the Act that such an application would be rejected on the grounds that the funding base is not diversified.

(2) Does APRA require a diversification of not only the voting power but also the economic ownership for financial sector companies to comply with the 15 per cent shareholding limit; if so:

(a) what is the legislative requirement for such diversification under the Act;
(b) does the Minister consider such diversification to be the correct interpretation of the legislation; and
(c) why does the Act appear to establish that a person's stake is related to their voting power rather than their economic interest.
Senator Wong: The Treasurer has provided the following answer to the honourable senator’s question:

The 15 per cent control threshold in the Financial Sector (Shareholdings) Act 1998 is based on the concept of voting power. However a person with less than 15 per cent voting power may be declared to have practical control over a financial sector company, for example if the company’s directors are accustomed or under an obligation to act in accordance with that person’s wishes.

The FSSA does not impose a blanket prohibition on a person controlling a financial sector company. However it does require the person to obtain the approval of the Treasurer (or APRA, where it exercises the relevant delegation). Approval may be granted if it is deemed consistent with the national interest. Prudential considerations are a key factor in determining the national interest in these circumstances.

Regional Australia, Local Government, Arts and Sport
(Question No. 2458)

Senator Bushby asked the Minister representing the Minister for Regional Australia, Regional Development and Local Government, upon notice, on 1 November 2012:

(1) How many Australian Public Service full-time equivalent staff are engaged by each department, agency and authority in relation to the:
   (a) creation;
   (b) administration or management; and
   (c) enforcement of new or existing Acts of Parliament, legislative instruments and quasi-regulation.

(2) What and how many:
   (a) compliance requirements;
   (b) industry guidelines;
   (c) best practice procedures;
   (d) codes of conduct; and
   (e) any other industrial manuals/documents, have been created since December 2007.

(3) Was an Annual Regulatory Plan completed for each of the 2009-10, 2010-11, 2011-12, and 2012-13 financial years, and will a plan be completed for the 2013-14 financial year.

(4) For the 2009-10, 2010-11, 2011-12, and 2012-13 financial years:
   (a) how many pieces of regulation, including Acts of Parliament, legislative instruments and quasi-regulation, were included in each Annual Regulatory Plan; and
   (b) were the same, more or fewer pieces of regulation passed as anticipated in each Annual Regulatory Plan: (i) if more, which pieces of regulation were passed in addition to the plan, and (i) if fewer, which pieces of regulation were not passed and why were they not passed.

(5) Does each department, agency and authority assess the total costs associated with its regulatory measures; if so:
   (a) what is the total: (i) direct, and (ii) indirect, regulatory cost burden that each department, agency and authority imposes on the non-government sector; and
   (b) how much regulatory cost has each department, agency and authority: (i) imposed, and (ii) removed, from the non-government sector since August 2010.

(6) Does each department, agency and authority impose a cost-recovery scheme on the non-government sector; if so:
   (a) what are the cost-recovery programs;
(b) what fees are currently being imposed; and
(c) in each case, by how much have these fees increased since August 2010.

Senator Conroy: The Minister for Regional Australia, Regional Development and Local Government has provided the following answer to the honourable senator's question:

(1). Given the very broad nature of the question attempting to answer this question would cause an unreasonable diversion of resources.

(2). Given the very broad nature of the question attempting to answer this question would cause an unreasonable diversion of resources.

(3). Annual Regulatory Plans are managed within the Department of Finance and Deregulation; please refer to the response provided by the Minister for Finance and Deregulation to question 2469.

(4). Annual Regulatory Plans are managed within the Department of Finance and Deregulation; please refer to the response provided by the Minister for Finance and Deregulation to question 2469.

(5). Annual Regulatory Plans are managed within the Department of Finance and Deregulation; please refer to the response provided by the Minister for Finance and Deregulation to question 2469.

(6). Given the very broad nature of the question attempting to answer this question would cause an unreasonable diversion of resources.

Regional Australia, Local Government, Arts and Sport
(Question No. 2459)

Senator Bushby asked the Minister representing the Minister for the Arts, upon notice, on 1 November 2012:

(1) How many Australian Public Service full-time equivalent staff are engaged by each department, agency and authority in relation to the:
   (a) creation;
   (b) administration or management; and
   (c) enforcement of new or existing Acts of Parliament, legislative instruments and quasi-regulation.

(2) What and how many:
   (a) compliance requirements;
   (b) industry guidelines;
   (c) best practice procedures;
   (d) codes of conduct; and
   (e) any other industrial manuals/documents, have been created since December 2007.

(3) Was an Annual Regulatory Plan completed for each of the 2009-10, 2010-11, 2011-12, and 2012-13 financial years, and will a plan be completed for the 2013-14 financial year.

(4) For the 2009-10, 2010-11, 2011-12, and 2012-13 financial years: (a) how many pieces of regulation, including Acts of Parliament, legislative instruments and quasi-regulation, were included in each Annual Regulatory Plan; and

   (b) were the same, more or fewer pieces of regulation passed as anticipated in each Annual Regulatory Plan: (i) if more, which pieces of regulation were passed in addition to the plan, and (i) if fewer, which pieces of regulation were not passed and why were they not passed.

(5) Does each department, agency and authority assess the total costs associated with its regulatory measures; if so:
(a) what is the total: (i) direct, and (ii) indirect, regulatory cost burden that each department, agency and authority imposes on the non-government sector; and

(b) how much regulatory cost has each department, agency and authority: (i) imposed, and (ii) removed, from the non-government sector since August 2010.

(6) Does each department, agency and authority impose a cost-recovery scheme on the non-government sector; if so:

(a) what are the cost-recovery programs;

(b) what fees are currently being imposed; and

(c) in each case, by how much have these fees increased since August 2010.

**Senator Lundy:** The Minister for the Arts has provided the following answer to the honourable senator's question:

Please refer to the response to question 2458.

**Immigration and Citizenship**

(Question Nos 2461 and 2501)

**Senator Bushby** asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 1 November 2012:

For each department and agency under the *Financial Management and Accountability Act 1997* and each Commonwealth authority under the *Commonwealth Authorities and Companies Act 1997* within the Minister's portfolio:

(1) How many Australian Public Service full-time equivalent staff are engaged by each department, agency and authority in relation to the:

(a) creation;

(b) administration or management; and

(c) enforcement of new or existing Acts of Parliament, legislative instruments and quasi-regulation.

(2) What and how many:

(a) compliance requirements;

(b) industry guidelines;

(c) best practice procedures;

(d) codes of conduct; and

(e) any other industrial manuals/documents, have been created since December 2007.

(3) Was an Annual Regulatory Plan completed for each of the 2009-10, 2010-11, 2011-12, and 2012-13 financial years, and will a plan be completed for the 2013-14 financial year.

(4) For the 2009-10, 2010-11, 2011-12, and 2012-13 financial years:

(a) how many pieces of regulation, including Acts of Parliament, legislative instruments and quasi-regulation, were included in each Annual Regulatory Plan; and

(b) were the same, more or fewer pieces of regulation passed as anticipated in each Annual Regulatory Plan:

(i) if more, which pieces of regulation were passed in addition to the plan, and (ii) if fewer, which pieces of regulation were not passed and why were they not passed.

(5) Does each department, agency and authority assess the total costs associated with its regulatory measures; if so:

(a) what is the total:
(i) direct, and  
(ii) indirect, regulatory cost burden that each department, agency and authority imposes on the non-government sector; and  
(b) how much regulatory cost has each department, agency and authority:  
(i) imposed, and  
(ii) removed, from the non-government sector since August 2010.

(6) Does each department, agency and authority impose a cost-recovery scheme on the non-government sector; if so:  
(a) what are the cost-recovery programs;  
(b) what fees are currently being imposed; and  
(c) in each case, by how much have these fees increased since August 2010.

Senator Lundy: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's questions:

(1) Given the very broad nature of the question, attempting to answer this question would cause an unreasonable diversion of resources.

(2) Given the very broad nature of the question, attempting to answer this question would cause an unreasonable diversion of resources.

(3) Annual Regulatory Plans are managed within the Finance and Deregulation. Please refer to the response provided by the Minister for Finance and Deregulation to question 2469.

(4) Annual Regulatory Plans are managed within the Finance and Deregulation. Please refer to the response provided by the Minister for Finance and Deregulation to question 2469.

(5) Annual Regulatory Plans are managed within the Finance and Deregulation. Please refer to the response provided by the Minister for Finance and Deregulation to question 2469.

(6) Given the highly detailed nature of this information, attempting to answer this question would cause an unreasonable diversion of resources.

Attorney-General; Emergency Management; Home Affairs and Justice
(Question Nos 2463, 2464, 2494 and 2495)

Senator Bushby asked the Minister representing the Attorney-General, Minister for Emergency Management, Minister for Home Affairs and Minister for Justice, upon notice, on 1 November 2012:

For each department and agency under the Financial Management and Accountability Act 1997 and each Commonwealth authority under the Commonwealth Authorities and Companies Act 1997 within the Minister's portfolio:

(1) How many Australian Public Service full-time equivalent staff are engaged by each department, agency and authority in relation to the: (a) creation; (b) administration or management; and (c) enforcement of new or existing Acts of Parliament, legislative instruments and quasi-regulation.

(2) What and how many: (a) compliance requirements; (b) industry guidelines; (c) best practice procedures; (d) codes of conduct; and (e) any other industrial manuals/documents, have been created since December 2007.

(3) Was an Annual Regulatory Plan completed for each of the 2009-10, 2010-11, 2011-12, and 2012-13 financial years, and will a plan be completed for the 2013-14 financial year.

(4) For the 2009-10, 2010-11, 2011-12, and 2012-13 financial years: (a) how many pieces of regulation, including Acts of Parliament, legislative instruments and quasi-regulation, were included in each
Annual Regulatory Plan; and (b) were the same, more or fewer pieces of regulation passed as anticipated in each Annual Regulatory Plan: (i) if more, which pieces of regulation were passed in addition to the plan, and (i) if fewer, which pieces of regulation were not passed and why were they not passed.

(5) Does each department, agency and authority assess the total costs associated with its regulatory measures; if so: (a) what is the total: (i) direct, and (ii) indirect, regulatory cost burden that each department, agency and authority imposes on the non-government sector; and (b) how much regulatory cost has each department, agency and authority: (i) imposed, and (ii) removed, from the non-government sector since August 2010.

(6) Does each department, agency and authority impose a cost-recovery scheme on the non-government sector; if so: (a) what are the cost-recovery programs; (b) what fees are currently being imposed; and (c) in each case, by how much have these fees increased since August 2010.

**Senator Ludwig:** The Attorney-General, Minister for Emergency Management, Minister for Home Affairs and Minister for Justice have provided the following answer to the honourable senator's question:

(1) Given the very broad nature of the question attempting to answer this question would cause an unreasonable diversion of resources.

(2) As per (1) above.

(3) Annual Regulatory Plans are managed within the Department of Finance and Deregulation. Please refer to the response provided by the Minister for Finance and Deregulation to question 2469.

(4) As per (3) above.

(5) As per (3) above.


**Foreign Affairs and Trade and Competitiveness**

*(Question Nos 2467 and 2474)*

**Senator Bushby** asked the Minister for Foreign Affairs and the Minister for Trade and Competitiveness upon notice, on 01 November 2012:

For each department and agency under the *Financial Management and Accountability Act 1997* and each Commonwealth authority under the *Commonwealth Authorities and Companies Act 1997* within the Minister's portfolio:

(1) How many Australian Public Service full-time equivalent staff are engaged by each department, agency and authority in relation to the:
   (a) creation;
   (b) administration or management; and
   (c) enforcement of new or existing Acts of Parliament, legislative instruments and quasi-regulation.

(2) What and how many:
   (a) compliance requirements;
   (b) industry guidelines;
   (c) best practice procedures;
   (d) codes of conduct; and
   (e) any other industrial manuals/documents, have been created since December 2007.
(3) Was an Annual Regulatory Plan completed for each of the 2009-10, 2010-11, 2011-12, and 2012-13 financial years, and will a plan be completed for the 2013-14 financial year.

(4) For the 2009-10, 2010-11, 2011-12, and 2012-13 financial years:

a) how many pieces of regulation, including Acts of Parliament, legislative instruments and quasi-regulation, were included in each Annual Regulatory Plan; and

b) were the same, more or fewer pieces of regulation passed as anticipated in each Annual Regulatory Plan:

(i) if more, which pieces of regulation were passed in addition to the plan, and

(ii) if fewer, which pieces of regulation were not passed and why were they not passed.

(5) Does each department, agency and authority assess the total costs associated with its regulatory measures; if so:

a) what is the total:

(i) direct, and

(ii) indirect, regulatory cost burden that each department, agency and authority imposes on the non-government sector; and

b) how much regulatory cost has each department, agency and authority: (i) imposed, and

(ii) removed, from the non-government sector since August 2010.

(6) Does each department, agency and authority impose a cost-recovery scheme on the non-government sector; if so:

a) what are the cost-recovery programs;

b) what fees are currently being imposed; and

c) in each case, by how much have these fees increased since August 2010.

Senator Bob Carr: On behalf of the Minister for Trade and Competitiveness and myself, the answer to the honourable senator's question is as follows:

(1) Answering this would require an unreasonable diversion of resources.

(2) Answering this would require an unreasonable diversion of resources.

(3) Yes.

(4) Answers for each financial year are set out below:

2009-10

(a) 13

(b) 2 of 13 pieces of regulation passed.

(i) 5 additional pieces of regulation passed:

- Charter of the United Nations (Dealing with Assets) Amendment Regulation 2010 (No.1)
- Charter of the United Nations (Sanctions – Eritrea) Regulations 2010;
- Charter of the United Nations (UN Sanction Enforcement Law) Amendment Declaration 2010 (No. 1);
- Charter of the United Nations (Sanctions – Liberia) Amendment Regulations 2010 (No. 1);

(i) 11 of 13 prices of regulation no passed:
- WTO Doha Round Negotiation (difficult to predict such regulatory change with accuracy);
- Legislative amendment regarding simplifying and expanding EFIC’s powers (difficult to predict such regulatory change with accuracy);
  - Negotiation of Australia-China Free Trade Agreement (difficult to predict such regulatory change with accuracy);
  - Negotiation of Australia-Japan Free Trade Agreement (difficult to predict such regulatory change with accuracy);
  - Negotiation of Australia-Korea Free Trade Agreement (difficult to predict such regulatory change with accuracy);
  - Negotiation of Malaysia-Australia Free Trade Agreement (difficult to predict such regulatory change with accuracy);
  - Scheme for accreditation of entities to issue Certificates of Origin under Australia's Free Trade Agreement (difficult to predict such regulatory change with accuracy);
  - World Wine Trade Group Agreement on Labelling Requirements (tabled 15 June 2010, but entry force in Australia not until 1 June 2012);
  - Negotiation of Anti-Counterfeiting Trade Agreement (ACTA) (the final ACTA text did not require any changes to Australian laws);
  - Trans-Pacific Partnership (TPP) Free Trade Agreement Negotiations (difficult to predict such regulatory change with accuracy).
  - Australia-Gulf Corporation Council (GCC) Free Trade Agreement Negotiations (difficult to predict such regulatory change with accuracy).

20010-11
(a) 8
(b) 6 of 8 pieces of regulation passed.
   (i) No additional pieces of regulation passed.
   (ii) 2 of 8 pieces of regulation not passed:
      - WTO Doha Round Negotiations (difficult to predict such regulatory change with accuracy);

20011-12
(a) 4
(b) 2 of 4 pieces of regulation passed.
   (i) 3 additional pieces of regulation passed:
      - Charter of the United Nations (Sanctions – Iran) (Export Sanctioned Goods) List Amendment Declaration 2011 (No. 1);
      - Charter of the United Nations (Sanctions – Libyan Arab Jamahiriya) Amendment Regulations 2011 (No. 2);
      - Amendment to Annex 4-A of the United States Free Trade Agreement (AUSFTA).
   (ii) 2 of 4 pieces of regulation not passed:
      - WTO Doha Round Negotiations (difficult to predict such regulatory change with accuracy);
      - Australia's Free Trade Agreement negotiations (difficult to predict such regulatory change with accuracy);

20012-13

QUESTIONS ON NOTICE
(a) 9
(b) Unable to comment – financial year still underway.

(5) No.
(6) Not applicable to this department.

Regional Australia, Local Government, Arts and Sport
(Question No. 2500)

Senator Bushby asked the Minister for Sport, upon notice, on 1 November 2012:

(1) How many Australian Public Service full-time equivalent staff are engaged by each department, agency and authority in relation to the:
(a) creation;
(b) administration or management; and
(c) enforcement of new or existing Acts of Parliament, legislative instruments and quasi-regulation.

(2) What and how many:
(a) compliance requirements;
(b) industry guidelines;
(c) best practice procedures;
(d) codes of conduct; and
(e) any other industrial manuals/documents, have been created since December 2007.

(3) Was an Annual Regulatory Plan completed for each of the 2009-10, 2010-11, 2011-12, and 2012-13 financial years, and will a plan be completed for the 2013-14 financial year.

(4) For the 2009-10, 2010-11, 2011-12, and 2012-13 financial years:
(a) how many pieces of regulation, including Acts of Parliament, legislative instruments and quasi-regulation, were included in each Annual Regulatory Plan; and
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(5) Does each department, agency and authority assess the total costs associated with its regulatory measures; if so:
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(b) how much regulatory cost has each department, agency and authority: (i) imposed, and (ii) removed, from the non-government sector since August 2010.

(6) Does each department, agency and authority impose a cost-recovery scheme on the non-government sector; if so:
(a) what are the cost-recovery programs;
(b) what fees are currently being imposed; and
(c) in each case, by how much have these fees increased since August 2010.

Senator Lundy: The answer to the honourable senator's question is as follows:
Refer to the response to question 2458.
Sri Lanka: Illegal Boats
(Question No. 2504)

Senator Cash asked the Minister representing the Minister for Defence, upon notice, on 2 November 2012:

(1) Have Sri Lankan authorities, including the Sri Lankan Navy, ever informed Australian officials of illegal boats arriving in or on their way to Australia; if so, can details be provided including but not limited to: the date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

(2) Have Sri Lankan authorities ever expressed a view that a boat or boats, of which the authorities may have informed Australian officials, should be returned to Sri Lanka, or that the authorities would be willing to aid in the return of the boat/s; if so, can details be provided including but not limited to: the date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

(3) Did the Minister, Minister's office or any agency instruct the Australian Customs and Border Protection Service to intercept any boat before it entered Australian waters; if so, can details be provided including but not limited to: the date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

Senator Bob Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) Yes. Operational information is provided by the Sri Lankan authorities to the Australian authorities on a confidential basis. The Australian Customs and Border Protection Service is the lead agency on people smuggling and questions regarding illegal boat arrivals should be referred to the Minister for Home Affairs.

(2) Yes. The Sri Lankan High Commissioner to Australia has publicly expressed the view that boats should be turned around at sea and sent back to where they come from (The Australian, 16 July 2012). Defence is not aware of any occurrence where Sri Lankan authorities have expressed views directly to Defence officials regarding a boat or boats being returned to Sri Lanka.

(3) No. At no time has the Minister for Defence, the Minister for Defence's Office or the Australian Defence Organisation instructed the Australian Customs and Border Protection Service to intercept any boat before it entered Australian waters. Border Protection Command is the lead agency for interception of Illegal Maritime Arrival ventures into Australia's maritime domain. Defence contributes to the conduct of interception activities; however Border Protection Command directs and controls interceptions.

Asylum Seekers
(Question No. 2505)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 2 November 2012:

(1) Have Sri Lankan authorities, including the Sri Lankan Navy, ever informed Australian officials of illegal boats arriving in or on their way to Australia; if so, can details be provided including but not limited to: the date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

(2) Have Sri Lankan authorities ever expressed a view that a boat or boats, of which the authorities may have informed Australian officials, should be returned to Sri Lanka, or that the authorities would be willing to aid in the return of the boat/s; if so, can details be provided including but not limited to: the
date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

(3) Did the Minister, Minister's office or any agency instruct the Australian Customs and Border Protection Service to intercept any boat before it entered Australian waters; if so, can details be provided including but not limited to: the date, time, method and nature of communication, the agency/agencies notified and any action taken by the agency/agencies notified.

Senator Lundy: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) These are matters for the Ministers for Foreign Affairs, Home Affairs and Defence. However, Sri Lankan agencies have not approached the Department of Immigration and Citizenship on this issue.

(2) As for (1) above.

(3) The Minister or the Minister's office did not instruct the Australian Customs and Border Protection Service to intercept any boat before it entered Australian waters.

Nauru

(Question No. 2508)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 02 November 2012:

For each of the 11 flights used to transfer asylum seekers to Nauru during the period 13 September to 19 October 2012:

(1) What was the date of the flight.
(2) From where did the flight depart.
(3) What type of aircraft was used.
(4) Which company operated the aircraft.
(5) What is the seating capacity of the aircraft.
(6) How many asylum seekers were on-board.
(7) What were the origins of the asylum seekers on-board the aircraft.
(8) How many officials, including but not limited to Australian Federal Police officers, departmental staff, interpreters and health and medical staff, were on the flight.
(9) Were any incidents on the flight reported; if so, can details of the nature and classification of the incident, such as whether it was critical, major or minor, be provided.
(10) What was the cost of the flight.

Senator Lundy: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

Detailed information for each of the first 11 flights used to transfer asylum seekers to Nauru during the period 13 September to 19 October 2012 is provided in the attached file.

Overall for the 11 flights, ten flights were from Christmas Island and one flight departed direct from Darwin to Nauru. The Airbus A319 operated by Skytraders was utilised for six of the flights and the Boeing 737-300 operated by Adagold Pty Ltd for five flights.

For the period 13 September to 19 October 2012, 365 asylum seekers were transferred to Nauru. The numbers and cohort of the asylum seekers were: Sri Lanka (215), Iraq (23), Iran (26), Afghanistan (58) and Pakistan (43).
On each flight escort duties were provided by the Australian Federal Police (AFP). At least two
interpreters were on the flights to Nauru. Two medical staff and two departmental staff were also
onboard all flights to Nauru.

The total direct cost of the 11 flights used to transfer asylum seekers to Nauru during the period 13
September to 19 October 2012 is $3 171 018. The cost of each individual flight ranges from $209 125
to $572 900.
### Question on Notice 2508: Charter Transfers to Nauru over the period 13 September to 19 October 2012

<table>
<thead>
<tr>
<th>Date of Flight</th>
<th>Departure From</th>
<th>Type of Aircraft</th>
<th>Aircraft Operator</th>
<th>Seating Capacity</th>
<th>Number of Asylum Seekers on Board</th>
<th>Origins of Asylum Seekers</th>
<th>Officials on board, AFP, DIAC Interpreters, Medical staff, any other</th>
<th>Reported incidents on board</th>
<th>Cost of Flight</th>
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<tr>
<td>13 September 2012</td>
<td>Christmas Island</td>
<td>Boeing 737-300</td>
<td>Adagold</td>
<td>120-125</td>
<td>30</td>
<td>Sri Lanka 30</td>
<td>27</td>
<td>NIL</td>
<td>$209 650.00</td>
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<td>17 September 2012</td>
<td>Christmas Island</td>
<td>A319 Airbus</td>
<td>Skytraders</td>
<td>120</td>
<td>36</td>
<td>Sri Lanka 36</td>
<td>29</td>
<td>NIL</td>
<td>$253 225.00</td>
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**QUESTIONS ON NOTICE**
Employment and Workplace Relations: Briefing Material
(Question No. 2515)

Senator Abetz: asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 6 November 2012:
(1) What briefing material is provided by the department to the Minister at the table for Senate estimates hearings.
(2) Does the department provide a briefing folder to the Minister at the table.

Senator Wong: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:
The Department provides a folder to the Senator representing the Minister containing briefing information.

International Labour Organization Occupational Safety and Health Convention
(Question No. 2542)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 6 November 2012:
Does the Government continue to stand by article 16 of the International Labour Organization Occupational Safety and Health Convention, 1981 (No. 155).

Senator Wong: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senators question:
Yes. Article 16 of the International Labour Organization Occupational Safety and Health Convention, 1981 (No. 155) imposes an obligation on employers to ensure, so far as is reasonably practicable, that the workplaces, machinery, equipment, processes and chemical and biological substances under their control are safe and without risk to health. In addition, Article 16 requires that employers provide, where necessary, adequate protective clothing and protective equipment to prevent the risk of accidents of adverse health effects.

Australia ratified Convention 155 on 26 March 2004. Australia most recently reported to the International Labour Organization regarding its compliance with Convention 155 on 7 September 2012. In its report Australia advised that all jurisdictions continue to be compliant with the articles of the Convention.

Rio+20 Summit 2012
(Question No. 2564)

Senator Birmingham asked the Minister for Foreign Affairs upon notice, on 21 November 2012:
(1) Did the Minister and/or any other minister or parliamentary secretary in the Foreign Affairs portfolio attend the Rio+20 United Nations Conference on Sustainable Development in Brazil in June 2012; if so, for how many days.
(2) Did any ministerial staff attend; if so:
   (a) how many staff;
   (b) for how many days did each attend; and
   (c) how many staff travelled:
      (i) first class, and
      (ii) business class.
(3) Did any departmental staff attend; if so:
   (a) how many staff;
   (b) for how many days did each attend; and
   (c) how many staff travelled:
      (i) first class, and
      (ii) business class.
(4) Can a full breakdown be provided of all costs associated with attendance at Rio+20 including, but not limited to, flights and accommodation.

       Senator Bob Carr: The answer to the honourable senator's question is as follows:

   (1) No.
   (2) No.
   (3) (a) Twenty-three officers from the Department of Foreign Affairs and Trade (including from the Australian Embassies in the region and the Secretary of the Department of Foreign Affairs and Trade who travelled with the Prime Minister's party) attended the Rio+20 Conference, including providing support for the Prime Minister's attendance.
      (b) DFAT staff attended Rio+20 for varying periods, ranging from three to 20 days.
      (c) (i) None
      (ii) Eight officers flew business class, and six officers flew in combination of economy and business class.
   (4) The cost to DFAT of attending the Rio+20 Conference was $388,865
      • accommodation cost was $53,237
      • airfares for commercial flights were $43,002
      • cost of travel allowances was $8,160
      • administrative costs were $284,466.

   Veterans' Affairs: On Base Advisory Service
   (Question No. 2632)

       Senator Ronaldson asked the Minister representing the Minister for Veterans' Affairs upon notice 28 November 2012:
With reference to the department's On Base Advisory Service (OBAS):
   (1) How many OBAS officers are there.
   (2) How many full-time equivalent staff are employed by OBAS.
   (3) Where are the staff located.
   (4) How many full-time equivalent staff are employed at each location.
   (5) Does the department keep records on the number of visits to each OBAS location; if so, can copies be provided; if not, how does the department measure the success or otherwise of the initiative.
   (6) Since the roll-out of OBAS, has the department kept statistics on the number of primary claims filed through OBAS offices; if so, how many and where have these claims been lodged.
   (7) Do ex-service organisations have any representation at OBAS locations.
   (8) Do staff working in OBAS locations refer current or former service personnel to ex-service organisations for independent advice about claims or for assistance in making claims; if so, what proportion of clients are referred to ex-service organisations.
Senator Bob Carr: The Minister for Veterans' Affairs has provided the following answer to the honourable senator's question:

1. There are currently 6 full time and 18 part time staff visiting Australian Defence Force (ADF) bases with a number of backup staff available depending on demand. As the Department of Veterans' Affairs (DVA) is focused on providing the appropriate support to ADF members and to ensure that they have timely access to services and benefits, there are a total of 50 staff trained nationally to support OBAS activities.

2. There are currently 16.3 full-time equivalent (FTE) staff. As noted above, there are overall 50 trained staff capable of undertaking OBAS duties nationally as required.

3. Due to a high demand for OBAS services, there are two On Base Advisors located full time on ADF bases: one located at Lavarack Barracks (Nth QLD) and the other at Enoggera Barracks (Sth QLD). The remaining On Base Advisors are located within the DVA State/Territory offices and visit over 35 ADF bases as scheduled. The On Base Advisors are generally located within Defence Health Centres (or within the health precinct). This allows all ADF members easy access to On Base Advisors. DVA continues to monitor the visiting schedule and adjust services as required.

4. The following is a breakdown of the current FTE in each State/Territory:

<table>
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<tr>
<td>QLD</td>
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<tr>
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<tr>
<td>VIC</td>
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<td>TAS</td>
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5. DVA does not record the number of visits to each OBAS location. OBAS advisors record all of their OBAS-related activities, which is then collated. These statistics assist DVA in monitoring the demand for OBAS and the flow-on impact to DVA business areas. Individual client feedback and feedback from the base also assist in measuring the success of the initiative.

6. Primary claims are not lodged through the OBAS system. OBAS provides advice and support relating to the provision of DVA services and benefits.

   In particular, OBAS provides the following:
   - Support for current or prospective compensation claims;
   - Early identification of health and income support requirements post discharge;
   - Liaison services with staff of the Australian Defence Force Rehabilitation Program and Member Support Officers providing appropriate advice and support;
   - Presentations and participation in ADF Transition Seminars and information sessions and events; and
   - Briefings to ADF personnel as part of their pre and post deployment briefings.

7. The ADF is responsible for determining ex-service organisation (ESO) representation on its bases.

8. Yes, On Base Advisors do refer OBAS clients to ESOs. In 2012, there were 1,220 enquiries to OBAS that were referred to ESOs.
Tourism Australia
(Question No. 2634)

Senator Ronaldson asked the Minister for Tourism, upon notice, on 28 November 2012:

(1) Given that, in 2009, the Minister for Tourism, Mr Martin Ferguson, encouraged tourism operators via the climate change guide Mitigation and Adaptation Measures for Australian Tourism Operators to "Firstly, think about the major costs and environmental impacts of your business. This may involve looking through your electricity, gas and water bills, looking at your accounts to see how much fuel you have used, working out how much time and money you spend on sourcing materials and services, costing your maintenance activities, or seeing what your staff ongoings are", has the department sought to engage with individual tourism operators since the introduction of the Carbon Tax to ascertain what extra "carbon charges" they now face, and what this means to their viability.

(2) What modelling has the department undertaken since the introduction of the Carbon Tax to determine the impact on tourism operators of the additional pressures from 2014, when the private vehicle fuel exemption will no longer apply to heavy vehicles.

(3) Why has the department refused at successive estimates hearings to undertake Carbon Tax impact analysis on behalf of the 350,000 tourism connected businesses in the Australian market?

(4) Is the Minister aware that Mr Kevin Rudd stated via Twitter on 4 October 2012, that "The front desks of all our major hotels must have Chinese language skills for the future. So too with guided tours".

(5) What proportion of Australia's 350,000 tourism connected businesses employ staff with a Chinese language ability.

(6) Is this considered a central part of being "China-ready"?

(7) What consideration is being given to linking tourism businesses with staff that have a Chinese language ability.

(8) With reference to the Strategic Tourism Investment Grant awarded to ensure Australian Tourism is "China-ready": (a) how much was awarded under this grant and to whom; (b) what has been achieved under this project; and (c) what does the department aim to achieve before its completion.

(9) With reference to the policy to drive China-readiness, are there plans to better utilise the Chinese language skills of Australians who speak fluent Chinese, or international students who are permitted to undertake limited work while studying in Australia.

(10) Given that the Government has invested $1 million via the Australian Tourism Data Warehouse (ATDW) to translate websites of Australian tourism connected businesses into Chinese and other world languages: (a) is the Minister aware of concerns that automated language translation leads to confusing broken Chinese messages; (b) has the department sought or received advice that automated translation services create perceptions that the businesses they represent are similarly lacking in quality; and (c) what is being done to resolve both these issues.

(11) Given that, since Mr Rudd was Prime Minister, Australian receipts from international education have declined by $3.6 billion, and that the international education sector is an important part of the tourism market, how is the department working to ensure that this trend is reversed.

(12) With reference to the early 2012 pre-Budget submission of the Tourism and Transport Forum indicating that, under a Coalition Government, Australia earned a net profit of $3.6 billion from tourism, while in 2012, Australia is forecast to lose $8.7 billion in the tourism sector, what is being done to stem the overall net decline of Australia's tourism performance.
(13) Can the department confirm that: (a) the United Nations World Tourism Organisation (UNWTO) lists Australians in the top ten international spenders; and (b) the Australian Bureau of Statistics has highlighted that Australians took 8 million overseas trips in 2011, and spent 139 million nights abroad.

(14) How much did Australians spend on overseas trips in 2011, and how does this compare to: (a) spending by international visitors to Australia; and (b) the long term average.

(15) With reference to the World Economic Forum system of ranking nations in international tourism competitiveness, what is the estimated impact the additional taxes and charges announced in the 2012 13 Budget will have on Australia.

(16) What impact has the 100 departmental staff cuts, announced at the end of 2011, had on the department's ability to manage ongoing projects.

(17) Given that the 2012 13 Budget provided no funding for the continuation of the T-QUAL program, the only program solely devoted to assisting improvements in tourism products in Australia, can an outline be provided of what dedicated tourism programs will be available to assist struggling tourism businesses to rejuvenate tourism products.

(18) What proportion of the T QUAL program budget has been allocated to the quality accreditation process in relation to the small grants component.

(19) In terms of the quality assurance and standards accreditation system, has consideration been given to how effective the program is in replacing the previous 1 to 5 star ratings system, in particular: (a) has the department reviewed market testing of the efficacy of T QUAL accreditation (brand awareness); (b) what does T QUAL mean to the average Australian traveller; (c) is it a recognised and understood brand for inbound tourists; (d) how does it differ from the world's major accreditation schemes, and why are they more or less well understood; (e) does the UNWTO suggestion for mystery shoppers have merit; (f) do assessors have a clear checklist to remove subjectivity, ensure consistency across venues and drive continual improvement; (g) is there merit in the Australian Accommodation Association (AAA) suggestion that T QUAL participation requires participation in an occupancy reporting regime (ABS/STA Global); (h) should every hotel front desk carry a pamphlet explaining T QUAL and inviting feedback; (i) are there other metrics that should be reflected in the brand such as disability access; and (j) have any venues lost their T QUAL status.

(20) What are the criteria for T QUAL accreditation.

(21) Has the department engaged in discussions across government departments and agencies with regard to the impact that the proposed mandatory pre commitment for poker machines will have on clubs in Australia; if so, what impact will the legislation have on clubs; if not, why not.

(22) With reference to the use of Garden Island in Sydney as an overflow facility for cruise ships: (a) can details of the plan be provided, including the long term projected growth of cruising, given that new ships coming on line will be increasingly unable to pass under the Sydney Harbour Bridge; (b) when and for how long will the agreement come into effect; (c) how many ships per year will be allowed to use the facility and during which months; (d) will the cruise industry be charged for use of Garden Island; if so, how much; and (e) what is the economic benefit to Australia, including how many trips per year will this secure by giving the sector certainty, and what is the total in country spend, both in Sydney and other ports visited, as part of itineraries of these cruise liners.

(23) Has any research been undertaken into the impact of the Passenger Movement Charge increase from $47 to $55 per passenger, particularly with respect to Australia's favourability as a tourist destination.

(24) With reference to the Jackson Report recommendations, and the corresponding T2020 objectives, and given that industry indicates it is currently unclear who is driving the National Online Strategy for Tourism, can the Minister clarify this and indicate what the forward objectives are.
(25) What action is being taken to promote the Going Global Action Plan and to incentivise the take up of the tourism e-kit.

(26) What Federal funding has been allocated to ATDW compared to funding received from the states since its inception.

(27) Are the digital ready programs run by state tourism organisations being monitored in order to better tailor programs provided by the Federal Government.

(28) Has the department expressed concern that disaster affected businesses have waited extended periods to have cyclone affected infrastructure repaired, and is the department aware that businesses at Mission Beach in Queensland continue to suffer due to the delay in funds to repair the Clump Point Marina and the yet to be announced repairs to the jetty on Dunk Island.

(29) With reference to the speech by Mr Alan Joyce to the National Press Club on 9 October 2012, indicating that 22 per cent of flights in Western Australia were mining related, undermining the Government's claim of healthy aviation activity, can the Minister advise whether Tourism Research Australia (TRA) will amend its national visitor survey to better represent the health of non-mining related tourism.

(30) With reference to the increased Passenger Movement Charge from $47 to $55, has any modelling been undertaken by TRA in relation to the effects of this rise (separate from the University of New South Wales modelling into a 20 per cent increase).

(31) Has any modelling been undertaken on the impacts of passing on the $118.1 million in costs relating to Australian Federal Police security to airports.

(32) Has TRA undertaken, or will TRA undertake, any modelling on the impacts of staff reductions from the Australian Border and Protection Service based at airports, or 750 staff cuts in total.

(33) Given that TRA is tasked with undertaking research on policy affecting tourism, what research is being undertaken by TRA since being absorbed into the department, and therefore no longer operating as an independent body.

(34) Are Tourism Australia or the department working to mitigate negative perceptions about "Brand Australia" in social media.

(35) How many hours or full time equivalent positions are devoted in the department, its agencies and other portfolios to monitoring online commentary and to engaging in and correcting dialogue relating to 'Brand Australia'.

(36) With reference to the increased passenger movement charge, the Asia Marketing Fund, and the Regional Tourism Infrastructure Fund (RTIF): (a) how is the Government spending the $48.5m million RTIF and over how many years; (b) how is Tourism Australia involved in using the fund to drive visitation to rural and regional Australia; (c) is there a commitment to focusing this funding towards "demand driver" infrastructure to ensure tourists are motivated to visit regional Australia given that groups such as Tourism Accommodation Australia and Inland Tourism New South Wales consider "support infrastructure" funding is wasteful.

(37) What does Tourism Australia estimate the impact of the decision to reduce its budget by 6.2 per cent ($8 million) will be.

(38) How much does Tourism Australia spend on cooperative airline attraction with Australia's leading airports, and what is the measured benefit.

(39) Which airlines does Tourism Australia or the department currently provide funding to, and can an outline of the purpose of this funding be provided, including the measured benefit and how is it measured.
(40) How many projects outlined in the Government's prospectus of 80 "shovel ready hotel construction projects" have attracted capital investors since it was launched, and have key performance indicator targets been set for departmental officers.

(41) Given that residual funds from the closure of the Sustainable Tourism Cooperative Research Centre were to develop a key performance indicator framework, did TRA develop its own set; if so, why and in what way were they different.

(42) Can an update be provided on the "best practice guide for destination management planning" funds to ARTN, including when it will be released for the use of regional tourism organisations.

(43) Given that the Jackson Review recommended in 2009 a "visitation priorities list" what progress has been made against this objective.

(44) Can a report be provided on the take up of recommendations of the L.E.K. report, published on the department's website, and given that many actions require state and local government involvement, how is the Council of Australian Governments process being used to drive outcomes in this space.

(45) To date, what successes have been achieved by the Investment Facilitation Branch now operating under Tourism Australia.

Senator Ludwig: The Minister for Tourism has provided the following response to the honourable senator's question:

(1) The Department has not conducted research on impacts of the carbon tax. The Department of Treasury is responsible for modelling impacts of the carbon price and any questions should be directed to Treasury.

(2) The Department has not undertaken any modelling in this respect. Also, refer to the response to Question 3.

(3) It is the Department's view that any assessments relating to the impact of the Carbon Tax should be undertaken by Treasury or the Department of Climate Change and Energy Efficiency.

(4) The Minister was not aware of the Twitter comment. Responses to Questions 7-9 below outline initiatives underway through Tourism 2020 and the T-QUAL Strategic Tourism Investment Grants program to assist tourism businesses to become 'China Ready'.

(5) The Department does not collect statistics on the Chinese language ability of the tourism workforce.

(6) Chinese language ability is an important consideration for tourism businesses with front-line staff that connect with Chinese tourists.

(7) As part of Tourism 2020, the National Tourism Alliance has been contracted to develop a Careers Promotional Campaign to provide tourism and hospitality businesses with a promotional toolkit to enhance their ability to market the various career pathways that the industry has to offer. One of the target markets of the Campaign to entice people from a non-English speaking background (including people fluent in Chinese) into a tourism and hospitality related career.

As part of Tourism 2020's Sydney Tourism Employment Plan, strategies will be developed to address labour and skills pressures being faced by the tourism and hospitality industry, including strategies to better utilise the language skills of international students in tourism and hospitality occupations. Strategies developed under the Sydney Tourism Employment Plan will be able to assist tourism business in other regions by providing options to employ workers with foreign language skills.

Also, refer to the response to Question 8.

(8) (a) The Welcoming Chinese Visitors project has been developed through the provision of $600,000 under the T-QUAL Strategic Tourism Investment Grants program. The successful grant recipient (a consortium led by Avana Learning Pty Ltd) was announced by the Minister for Tourism on 13 June...
2012. Collaborating with Avana on this program are China Ready & Accredited, the Australian Tourism Export Council (ATEC) and TAFE NSW – Western Sydney Institute.

(b) Following extensive research to develop a course curriculum for the 'China-ready' project, the consortium launched the formal training modules on 1 December 2012 at the China Tourism Industry Forum. The training modules will be rolled out throughout 2013 via a dedicated website at: www.welcomingchinesevisitors.com.

(c) Through this project and before the completion of the funding period on 30 June 2013, the Department aims to achieve:

- a nationally recognised training curriculum,
- a national system of trainers,
- the development of online training platforms,
- promotional activities to ensure awareness of the program,
- a business plan; and
- an ongoing strategy for continuation of the program beyond the end of the grant.

(9) As per the response to Question 7, one of the goals of Tourism 2020’s Careers Promotional Campaign is to entice people from a non-English speaking background (including people fluent in Chinese) into a tourism and hospitality related career to help drive China-readiness policy.

As part of Tourism 2020's Sydney Tourism Employment Plan, strategies will be developed to address labour and skills pressures being faced by the tourism and hospitality industry, including strategies to better utilise the language skills of international students, including Chinese, in tourism and hospitality occupations. Strategies developed under the Sydney Tourism Employment Plan will be able to assist tourism business in other regions by providing options to employ workers with foreign language skills.

(10) (a) No.

(b) No.

(c) The Australian Government provided $1 million to ATDW to translate approximately 26,000 tourism product records on the Australian Tourism Data Warehouse database. ATDW contracted SDL, a reputable worldwide translation company that won the project through a competitive tendering process. SDL were well briefed by ATDW and Tourism Australia to ensure that all translations were carried out to excellent standards. SDL have rigorous internal processes including review by editors and linguists. Tourism Australia's China office also reviewed samples of the translations to ensure the translations are accurate.

All accommodation data has already been translated and is currently searchable on Australia.com. The translated content will also be available for publication by all 150 distributors of ATDW product information, including state and regional tourism organisations and large and niche commercial players such as AAA Tourism, Flight Centre, Escape Travel and Yahoo7.

(11) The Department participates in the Interdepartmental Forum on International Education (led by Australian Education International). Through the Interdepartmental Forum, the Government has undertaken a substantive program of reform over the past three years to support a sustainable, high quality international education sector. These reforms include the establishment of national regulators, the introduction of the International Students Strategy for Australia and the Review of the Student Visa Program 2011 (Knight Review). These reforms among others allow for the streamlining of visa processing for international student visas and help increase the competitiveness of Australia as an international education destination.
Although international student enrolments have fallen from a historic peak in 2009, enrolments in 2011 were still the third highest on record, after 2009 and 2010. The Department of Immigration and Citizenship's (DIAC) June Quarter 2012 student visa data provided a basis for optimism that offshore interest in studying in Australia is up, with 15.1 per cent growth in higher education visas granted to offshore applicants, compared to the June Quarter 2011.

(12) Australia is not 'losing' $8.7 billion in the tourism sector. While the GFC, natural disasters and the high Australian dollar have impacted on visitor numbers to Australia, Australia's tourism industry is proving resilient.

Tourism Research Australia's State of the Industry 2012 report shows there was an eight per cent increase to total visitor expenditure to $95 billion in 2011-12. This is the strongest growth in total visitor expenditure since 2000-01 and has been primarily driven by a strong domestic tourism industry. Domestic tourism expenditure increased by nearly 11 per cent to over $68 billion. This is the strongest growth recorded for domestic tourism expenditure since the National Visitor Survey commenced in 1998.

As part of Tourism 2020, the Government is working with state and territory governments and industry to create a policy framework that will support industry growth and provide industry with the tools to compete more effectively in the global economy. Further information on the activities being undertaken as part of Tourism 2020 can be found at www.tourism.gov.au.

Funds allocated to marketing have increased over 2011-12 levels. Tourism Australia (TA) received $8.5 million as part of the Asia Marketing Fund, and additional funds for China projects including Chinese translation of the Australian Tourism Data Warehouse and China based TA website.

(13) According to the latest issue of World Tourism Barometer published by the United Nations World Tourism Organisation (UNWTO), Australia was in 10th place in relation to international tourism expenditure in 2011, representing 2.6 per cent of total global spending. According to the Australian Bureau of Statistics (ABS), there were approximately 7.8 million short-term Australian resident overseas departures in 2011.

ABS does not release data on visitor nights of Australian residents travelling overseas but it does release data on intended length of stay by Australian residents. According to TRA's National Visitor Survey (NVS), Australian residents (aged 15 years or more) spent 143 million nights abroad in 2011.

(14) TRA's NVS reports that Australians spent A$41.5 billion overseas in 2011. According to TRA's International Visitor Survey (IVS), international visitors spent $26.4 billion on their trips to Australia in 2011. From 2005 to 2011, Australian resident expenditure on overseas trips recorded an average annual growth of 11.6 per cent compared to the average growth in international visitor spend in Australia of 3.4 per cent over the same period.

(15) The Department has not done any modelling to estimate the impact.

(16) The small reduction in staff numbers within the Division announced at the end of 2011, did not have a material impact on the capacity of the Division to manage ongoing projects and effectively implement the Government's policies and programs for the Australian tourism industry. The Division is carefully monitoring its ongoing work program and all activities currently undertaken to ensure that available resources are effectively allocated to the Government's key priorities. Additional resources have been provided to the Division from 2012-13 to deliver the Government's new Tourism Industry Regional Development Fund (TIRF) grants program. There is also additional research funding for Tourism Research Australia in 2012-13 through the Asia Marketing Fund announced by the Government in the 2012-13 Budget. Overall staff levels for Tourism Research Australia have been maintained and have not been affected by the Departmental staff cuts.

(17) Funding of $40 million was allocated for T-QUAL funding over four years from 1 July 2011 until 30 June 2015.
The current Budget allocation for the T-QUAL Grants program provides for:

- a new annual round of Tourism Quality Projects in 2013 (the Department anticipates this will open for applications in the first quarter of 2013); and
- several new Strategic Tourism Investment Grants of up to $1 million each.

The Government has also provided $48.5 million over four years from 2012-13 to establish the Tourism Industry Regional Development Fund (TIRF) - which aims to increase the quality and range of visitor experiences in regional Australia through tourism product investment. The first round of TIRF Grants opened for applications on 23 October 2012 and closed on 14 December 2012. Successful applicants are expected to be announced in March 2013.

(18) Under current arrangements, individual applications for T-QUAL Grants - Tourism Quality Projects are assessed on merit under assessment criteria set out in the Program Guidelines. No proportion of the budget has been set aside in advance to fund projects relating to accreditation.

(19) To clarify, T-QUAL Accreditation has not replaced AAA Tourism's Star rating scheme. T-QUAL Accreditation provides an umbrella framework under which existing Quality Assurance Schemes (QAS), which include Accreditation Programs (AP) and Large Tourism Organisations (LTO), can apply to co-brand with a common national brand (the T-QUAL Tick) and standard oriented to building consumer purchasing preference and corresponding market benefit for accredited participants. AAA Tourism is one of 13 QAS's are endorsed under T-QUAL Accreditation as at 4 January 2013.

(a) Tourism Australia undertook quantitative research distributed through a national online survey. The survey was completed by 1,522 respondents that had travelled domestically in the last six months. This research suggests that the 2011/2012 consumer marketing campaign for T-QUAL Accreditation was successful with total consumer awareness of the marketing activity reaching 15 per cent (three times the campaign target of 5 per cent).

(b) Consumer marketing for T-QUAL Accreditation was launched in December 2011. Since then, the only consumer testing that has been conducted is that which is referred to in the response to (a) above. This research suggests that 15 per cent of consumers that had travelled between January and June 2012 had an awareness of the marketing activity for T-QUAL Accreditation.

(c) To date, consumer marketing activity has focused on the domestic market. In addition, Tourism Australia has recently implemented a comprehensive international awareness campaign through communications distributed to international trade partners through its international offices and industry events.

(d) T-QUAL Accreditation operates as an umbrella framework working with existing Quality Assurance Schemes (QAS) making it different to other international programs. T-QUAL Accreditation endorses existing QAS who meet the T-QUAL criteria, the QAS then accredit individual operators. Individual operators cannot become T-QUAL Accredited directly, but are eligible to use the T-QUAL Tick through their accreditation with a T-QUAL endorsed QAS. Most international schemes accredit operators directly.

(e) The UNWTO has confirmed that it does not have a position or information regarding mystery shoppers.

(f) Applications for T-QUAL Accreditation are assessed by independent assessors who use a standard assessment template, which includes each criterion. This ensures that each application is assessed against the full criteria. To become T-QUAL Accredited the QAS must demonstrate that they have a robust assessment process in place.

(g) Tourism Research Australia is working with a range of industry stakeholders including T-QUAL Accredited QAS to encourage participation in the Small Scale Accommodation Survey. Making participation in the survey a requirement for T-QUAL Accreditation would not necessarily ensure operator participation in the survey and may be beyond the remit of the QAS.
As part of the T-QUAL Tick Welcome Packs, a range of collateral is provided to operators including a strut card and a brochure explaining about the T-QUAL Tick. In order to become T-QUAL Accredited QAS and their operators must provide a feedback mechanism for consumers.

As part of T-QUAL Accreditation, the Customer Feedback Management System (CFMS) has been developed, providing a mechanism for consumers to escalate feedback where the response from the operator has not been satisfactory. Where the operator is T-QUAL endorsed, the feedback will be forwarded to the QAS in the first instance for action. Where the feedback is not resolved, or it is beyond the remit of the QAS, it can be forwarded to the relevant Office of Fair Trading for investigation. The feedback form is hosted on the Department's website.

(i) The T-QUAL Accreditation criteria stipulates that programs applying for T-QUAL accreditation must require all tourism operators they accredit, rate or certify to comply with applicable legal and regulatory obligations, including compliance with all Trade Practices Act, consumer affairs and Occupation Health and Safety obligations. This includes the Disability (Access to Premises-Buildings) Standards 2010, and the Disability Standards for Accessible Public Transport 2002 where applicable.

(j) An operator will lose their T-QUAL status when they are no longer accredited with a T-QUAL endorsed accreditation program. The Department does not collect statistics on this.


(21) The Department participated in Interdepartmental Committees relating to the implementation of the Government's problem gambling reforms. Determining the impacts of mandatory pre-commitment on clubs, players and more broadly, is the subject of the proposed trial of mandatory pre-commitment. The results of which will be evaluated by the productivity commission. The Department of Families, Housing, Community Services and Indigenous Affairs is working closely with government to implement the reforms which form part of the National Gambling Reform Act 2012. Industry stakeholders including clubs and pubs will have an opportunity to inform the development of regulations which give effect to the reforms through consultations in early 2013. This will ensure that new requirements are workable and take account of particular industry issues.

(22) (a) On 15 July 2012, the Prime Minister announced that the Australian Government was expanding the number of guaranteed berths for the biggest visiting cruise vessels. This will ensure three visits this coming cruise season and another three the next. The Government is also considering options to meet the long-term needs of the cruise industry.

(b) See response to Question 22a.

(c) Consistent with the Prime Minister's announcement, three cruise ship visits will be accommodated at Garden Island in the 2012-13 peak cruise season and a further three visits the following season. The first of the three 2012-13 visits took place on 21 November 2012 (Celebrity Millennium). Further visits are planned on 27 February 2013 (Balmoral - a ship which can proceed under the Harbour Bridge) and 28 February 2013 (Costa Delicioza). Available visit dates for the 2013-14 cruise season have yet to be agreed.

(d) The Department of Defence currently levies berthing charges on cruise ships accessing Garden Island at rates which reflect those charged by the Sydney Ports Corporation at the commercial Overseas Passenger Terminal berth at Circular Quay, Sydney. For each cruise ship visit, these charges are contained in a three-way Licence Agreement approved by the Department of Finance and Deregulation and executed by the Commonwealth (Defence), NSW Roads & Maritime Services (with respect to the seabed lease at Garden Island) and the Cruise Ship representative.

Most recent charges advised by the Department of Defence were as follows:
Berthage: $250.50 plus GST per hour
Water usage: $2.10 plus GST per kilolitre
Gangways: $68.50 plus GST per gangway per day
Crane hire: $682.50 plus GST per hour per crane
Hardstand area: $351.40 plus GST per day
Security: $58.87 plus GST per hour

Similar charges will apply for ships visiting on 27 and 28 February 2013. Future berthage charges remain subject to review, in light of new charging regimes being introduced by the NSW Government at the Overseas Passenger Terminal from 1 July 2013.

(e) The additional berthage announced by Prime Minister on 15 July 2012 will generate three trips to Garden Island in 2012-13 and three trips to Garden Island in 2013-14. The Department has not undertaken any economic modelling to determine the economic impact of these services.

Currently, an annual economic impact assessment of the cruise industry is conducted by Cruise Down Under. Its Economic Impact Assessment of the Cruise Shipping Industry in Australia, 2011-12 found that the cruise shipping industry resulted in $725.6 million in direct expenditure in the 2011-12 cruise season. The report details expenditure at various Australian ports but does not provide a breakdown of expenditure by itinerary. The most recent report, and previous reports, are available at: www.cruisedownunder.com/reports.

(23) In 2011, Tourism Research Australia commissioned the Centre for Economics and Policy at the University of New South Wales to model the impact of a 20 per cent rise to the Passenger Movement Charge which was then at $47. Under this scenario a 20 per cent increase equated to a rise of $9.40, or a total Passenger Movement Charge of $56.40.

The Centre for Economics and Policy modelling found that increasing the Passenger Movement Charge to $56.40 would have a net negative impact on the tourism industry of $7 million a year, but a net positive economy wide impact of around $40 million a year.

The Department has not conducted any further analysis following the increase in the Passenger Movement Charge from $47 to $55 on 1 July 2012.

(24) The National Online Strategy for Tourism (NOST) is driven by the Digital Distribution Working Group which is chaired by Destination NSW. The key objective of the NOST moving forward is to deliver global competitive advantage to the Australian tourism industry, through the areas of research and insights; partnerships and collaboration; industry and trade communication and education; content and consumer engagement; and distribution.

(25) The Going Global Action Plan is being promoted to the tourism industry through the Digital Distribution Working Group website; distributed and referenced in tourism-related consultations; and referenced in various industry materials (including workshop paper for 2012 Tourism Directions Conference).

As part of the Going Global Action Plan, the Tourism e-kit is promoted through the Australian Tourism Data Warehouse website; state tourism organisation websites; referenced in various industry materials; and distributed and referenced in tourism-related consultations.

Under Tourism 2020, The Australian Tourism Data Warehouse has been contracted to undertake the Tourism e-kit Development Project, which includes revisions to existing tutorials and the development of new tutorials to ensure that the industry is kept up to date with the latest in digital distribution, new technologies and consumer usage. The Project will also aim to increase uptake of the e-kit by industry through the delivery of a Train the Trainer Program, which will create an accredited group of trainers to teach specific e-kit tutorials to industry on a one-on-one and group workshop basis. The Train the Trainer Program is expected to commence in mid-2013.
(26) The Australian Tourism Data Warehouse (ATDW) was created in 2001 as a joint initiative of the government tourism organisations from all Australian states and territories and Tourism Australia to further secure Australia’s position in the global tourism marketplace and increase the number and expenditure of visitors to Australia. Total funding allocated to ATDW from 2001 to 2012 was $26.137 million – comprising $21.649 million provided by the states and territories and $4.488 million of Federal funding.

(27) The Department is aware of digital programs being run by some state tourism organisations. The Department does not monitor these programs, nor does it operate any of its own programs that would need to be tailored.

(28) The Department is aware that the substantial impact of Cyclone Yasi on North Queensland continues to be felt by the tourism industry in the region. The Queensland Government advised that for Mission Beach, the Cassowary Coast Regional Council has received assistance to rebuild the Clump Point and Dunk Island jetties as soon as possible with $5.5 million from Natural Disaster Relief and Recovery Arrangements funding allocated for these works. The tender process for the design and construction of the new jetties is well advanced with Cassowary Coast Regional Council approving the award of the contract to CivilPlus Constructions. All works are scheduled to be completed by June 2013.

(29) Aviation activity in Australia is increasing.

The most recently available figures from the Bureau of Infrastructure, Transport and Regional Economics demonstrate that domestic aviation capacity also continues to increase. There were 54.98 million passengers carried on Australian domestic airlines in 2011-12 – a record high. The number of available seats rose by 0.7 per cent to 71.08 million.

In relation to international aviation the most recently available data from the Bureau of Infrastructure, Transport and Regional Economics shows that in 2011-12, 56 airlines operated international scheduled flights to and from Australia. The number of airline seats available to travel to and from Australia increased by 3.6 per cent to a record high of 38.265 million seats. The number of international passengers travelling to and from Australia has increased from 16 million in 2002-03 to 29 million in 2011-12.

Regarding the National Visitor Survey (NVS) methodology, the NVS has been conducted in its current form since 1998 and collects information on the domestic overnight, domestic day and outbound travel of Australians aged 15 years or more. The annual sample is 120,000, increased by 50 per cent in 2005 from 80,000, with respondents interviewed in their homes by landline about their recent travel using Random Digit Dialling and a Computer Assisted Telephone Interviewing (CATI) system. Australia’s NVS is an international leader in the collection of domestic travel expenditure and behaviour.

NVS travel definitions are based on those recommended by the UNWTO. As such, interviews are conducted with people who have travelled for a number of purposes including holiday, visiting friends and relatives and business. Overall, the survey contains around 70 questions covering areas such as destination(s) visited, purpose of travel, transport used, accommodation used, length of stay, activities undertaken and expenditure on trip.

The broad coverage of the NVS ensures that it currently provides a robust measure of the overall health of domestic tourism and enables the level of performance for various segments within the domestic tourism industry to be compared. As such it is providing a good picture of the health of non-mining related tourism.

To further enhance the NVS, it will be transitioned to a combination of landline and mobile phone interviewing from 2014. With the number of "mobile only" households increasing substantially in recent years, this transition will ensure that collection methods are keeping pace with technological
advances and the survey continues to provide a good picture of the health of non-mining related tourism.

Notably, the new collection methodology will provide better coverage of population groups often away from home and/or more likely to be "mobile only" (for example, frequent business travellers, fly-in fly-out and drive-in drive-out workers and grey nomads). As such, from 2014, it is likely that the transition will not only enhance NVS measurement of non-mining related tourism but mining related travel as well.

(30) No. However, TRA was responsible for managing this project on behalf of states and territories and worked closely with the University of New South Wales.

(31) No.

(32) The selection of projects that TRA undertakes within its discretionary research budget is guided by the Tourism Research Advisory Board (TRAB) in line with the National Tourism Research Agenda (the Agenda). On behalf of the TRAB, TRA is currently updating the Agenda and this has involved wide consultation with industry and government. Issues relating to the Australian Federal Police and Border and Protection Services have not been raised as priorities in the consultation process.

(33) While TRA is a branch of the Department, it operates in accordance with the code of 'professional independence' as outlined on the TRA website. TRA's discretionary research program is approved by the Tourism Research Advisory Board.

TRA continues to provide independent statistics, research and analysis to support industry development, policy development and marketing for the Australian tourism industry.

Since becoming a branch of the Department, TRA has continued with all of the research projects and activities that were undertaken whilst it was located within Tourism Australia. In addition to this workload, TRA has undertaken a number of other research projects to support policy and industry development such as the "State of the Industry Report", "Investment Monitor" and "Small Scale Accommodation Survey".

Research undertaken by TRA may be categorised into three areas: current market dynamics, emerging trends and productive capacity (with broad dissemination of that research an overarching goal). Current market dynamics includes the annual State of the Industry report, TRA's benchmark surveys – the National Visitor Survey and International Visitor Survey, the Destination Visitor Survey program, Small-Scale Tourism Accommodation survey, regional expenditure and tourism profiles, and tourism demand segment research. Emerging trends includes tourism forecasts (arrivals and departures). Productive capacity includes benchmarking the tourism industry's [economic] performance via state tourism satellite accounts, tourism business performance and the estimates of the contribution of tourism to the economy at the national and regional levels as well as monitoring investment in the Australian tourism industry.

(34) Tourism Australia is not aware of any negative perceptions of Brand Australia on social media and all indications are that Brand Australia is portrayed positively in social media.

Tourism Australia is very active in the social media space and generates extensive global interest in Australia as a travel destination. Tourism Australia maintains the largest destination Facebook page worldwide, with over 4 million fans globally.

On 10 October 2012, Austrade issued a media release stating that the Brand Australia country reputation ranked second on the Reputation Institute's CountryRep Trak survey. According to the study, Brand Australia is in excellent standing. The survey measured reputation based on economic, social and aesthetic measures.

It is impossible to monitor and prevent negative comments posted on every blog or social networking site worldwide, however Tourism Australia is very proactive in hosting several social media sites that portray the positive aspects of Australia. Tourism Australia has a dedicated team regularly
removing spam and other offensive comments from the site. Tourism Australia deletes posts that are offensive, discriminatory or racist.

(35) Tourism Australia maintains three full time social media positions.

(36) (a) The $48.5 million Tourism Industry Regional Development Fund (TIRF) is comprised of $42.915 million in Administered funds and $5.585 million in Departmental funds, distributed across a four year period. TIRF Administered funds will be allocated across two separate programs - the TIRF Grants Program (which supports tourism industry projects in regional Australia through grants of up to $250,000), and a labour and skills initiative, administrative details of which are still being finalised. Departmental resourcing provides for the implementation, staffing and management of the Fund.

(b) Tourism Australia is represented on the TIRF Industry Advisory Panel established to provide industry experience and knowledge during the development of the TIRF Grants Program and Tourism Australia personnel will be directly involved in the assessment of TIRF applications. Tourism Australia has also been allocated Administered funding for the 'Great Australia Tourism Makeover', a marketing initiative linked with the TIRF Grants Program.

(c) The objective of TIRF Grants Program is to increase the quality and range of visitor experiences in regional Australia through tourism product investment and to encourage interstate and international tourism. Funding will be available in two streams for projects to improve tourism infrastructure in regional areas and for innovative tourism projects. The expected outcomes are enhanced tourism quality and visitor experiences and increased visitation and expenditure in regional Australia – in line with Tourism 2020 growth projections and objectives around productivity, innovation and quality.

(37) In 2012/13 Tourism Australia's appropriation net of efficiency dividend is $129.7 million. In addition to this, Tourism Australia received $8.5 million as part of the Asia Marketing Fund, as well as additional funds for special technology and China projects, and the promotion of the TQUAL Tick. This represents an increase on 2011/12 on funding levels. Tourism Australia's strong partnership model supplements the appropriation funding with $48 million in partner contributions in 2011/12.

Tourism Australia has also implemented significant efficiency and cost reduction strategies targeting staff travel, contractor, consultant and IT support costs. These costs have been reduced by 21 per cent in 2012/13.

Future appropriation and Asia Marketing Fund contributions will result in the following total funding over the forward estimates:

- 2012/13: $138.2 million
- 2013/14: $143.4 million
- 2014/15: $145 million
- 2015/16: $147 million
- 2016/17: $148 million

(38) In 2012/13, Tourism Australia plans to use the Asia Marketing Fund to spend $2 million on aviation development marketing. Tourism Australia works in partnership with airports as well as with state and territory tourism organisations and airlines to attract new aviation capacity. The partnerships help build demand for new air services through cooperative marketing. As part of this activity, Tourism Australia focuses on attracting international flights to Australia's leading airports. Tourism Australia is also in discussion with regional airports such as Canberra, Broome and the Sunshine Coast to attract new international flights. Tourism Australia, airports and state and territory tourism organisations regularly discuss and agree to pursue mutually agreed priorities to attract inbound tourists to Australia.

Where Tourism Australia undertakes aviation development marketing, airlines and state and territory tourism organisations must match Tourism Australia's investment and the marketing must incorporate Tourism Australia's branding (There's Nothing Like Australia). Aviation development marketing aligns
to Asia Marketing Fund projects such as geographic expansion in China, encouraging greater capacity to support growth from second tier cities in China.

The measured benefits of this activity include delivery of increased seat capacity to Australia, the establishment of new routes and increased co-operative marketing with airlines, state and territory tourism organisations and airports. The aim is to grow international aviation capacity to Australia by 40-50 per cent between 2009 and 2020.

Aviation development marketing is in addition to cooperative marketing partnerships with airlines outlined in the response to Question 39.

(39) In addition to the response to Questions 38, in 2012/13 Tourism Australia plans to invest $15.7 million in cooperative aviation marketing which including partner contributions gives a total investment of $31.01 million with the following airlines: Qantas, Emirates, Jetstar, Singapore Airlines, China Southern, Virgin Australia, Air New Zealand, Malaysia Airlines, Etihad, Air Asia X, Air Canada, Delta Airlines, United Airlines, Cathay Pacific, China Airlines, Silk Air, Korean Air, Scoot, Garuda and Sichuan Airlines.

Tourism Australia currently has six global Memorandums of Understanding (MoU) in place, with Etihad, Emirates, Singapore Airlines, China Southern, China Eastern and Virgin Australia. The MoUs outline a long term spirit of cooperation and matched investment in multiple international markets and these relationships are managed by Tourism Australia and airlines' head offices.

The measured benefits are a stronger Brand Australia message with consumers being able to connect Brand Australia with competitive airfares and further reach of Tourism Australia's marketing dollars.

(40) The Australian Tourism Investment Guide and Investment Opportunities list was released in May 2012, with each of the state and territory tourism investment agencies inputting investment ready and proposed projects seeking investment. This list showcases some of the tourism opportunities that are available in Australia and is an invaluable tool when dealing with current and potential investors, both internationally and domestically. The list of investment opportunities was updated in November 2012 with a total of approximately 70 projects including a number of new investment opportunities. Since May 2012, 9 projects from the initial list have progressed to the next stage of the investment process.

To measure success, key performance indicators include the number of investment list properties that progress to the next investment stage; the number of transactions that have increased due to an increase in awareness of investment opportunities; the maintaining or upgrading of product to world standards, and the number of investment attraction meetings facilitated.

(41) The Sustainable Tourism Cooperative Research Centre (STCRC) developed a comprehensive set of key performance indicators that helps inform TRA's research and reporting. As a key priority of TRA is to further enhance its engagement with the broader tourism industry by producing more accessible outputs, TRA has simplified the performance framework into a Scorecard that was included in the State of the Industry Report released in 2012. It is intended that this Scorecard be expanded over time as industry become more comfortable with the measures to incorporate a wider range of indicators including the sustainability dimension. This will further draw upon the STCRC framework.

(42) As part of Tourism 2020, The Best Practice Guide to Destination Management Planning was completed by the ARTN under contract to the Department for a total of $79,500 and released at the ARTN Convention on 22 October 2012. Copies of the guide are available at www.tourism.gov.au.

(43) The Australian Government is working across agencies and jurisdictions through a new strategic partnership between the Department, Tourism Australia and Austrade to promote tourism investment opportunities across Australia. These agencies work closely with state and territory tourism organisations and state investment facilitation bodies to compile a regularly updated Australian Tourism Investment Opportunities List to highlight tourism investment opportunities to foreign and local investors. As a national investment priority, Austrade is using its global resources to promote these and
other tourism investment opportunities around the world. To complement this, the Government recently announced a Tourism Major Project Facilitation Service which will 'case manage' projects at the Australian Government level with the aim of saving investors time and money by streamlining interactions with Australian Government approval agencies.


(45) Tourism Australia's Investment Attraction team has successfully targeted several investors to take up opportunities in Australian tourism. As mentioned in response to Question 40 above, 9 out of the 80 projects initially listed in the prospectus have now progressed to the next stage in the investment process.

Tourism Australia has also played an active role in facilitating meetings at the Ministerial level with potential international investors. Together with Austrade and the Department, Tourism Australia held six Ministerial Roundtables with a major focus on the Asia Pacific. To date Ministerial roundtables include:

- Bangkok – May 2012
- Shanghai – June 2012
- Toronto – July 2012
- Tokyo – September 2012
- Singapore – October 2012
- New Delhi – December 2012

Tourism Australia sponsored the 'Hotel Investment Conference Asia Pacific' (HICAP) in Hong Kong, October 2012, where many industry decision makers were in attendance, considerably raising the profile of Australia as an investment opportunity.

Domestically, Tourism Australia has been successful in galvanising state and territory tourism investment agencies to convene the Investment Attraction Partnership Group (IAPG). This group meets regularly to ensure a team Australia approach to attracting foreign and domestic investment. This provides a forum for identifying relevant investment opportunities, as well as ensuring a commonality of strategy and process.

Traditional Credit Union

(Question No. 2642)

Senator Scullion asked the Minister representing the Minister for Families, Community Services and Indigenous Affairs and the Minister for Disability Reform, upon notice, on 29 November 2012:

With reference to the grant of $14 million from the Aboriginals Benefit Account that was approved for the Traditional Credit Union (TCU) in June 2011 and the following issues, which are having an impact on the ability of TCU to effectively deliver, compete and expand its financial services into remote Indigenous communities in the Northern Territory:

(1) Why is TCU required to cover upfront costs and then claim reimbursement, rather than being paid on an advance and acquittal basis.
(2) Why is TCU required to use the money of its members for the expansion of services and then claim reimbursement, given that this has not been a requirement of other grant recipients in the Northern Territory, including other large Aboriginal Development Corporations.

(3) Why is the TCU prevented from investing the grant funds, which would allow it to obtain and retain interest monies to assist with meeting the operational costs associated with the expansion of services to remote locations.

Senator Kim Carr: The Minister for Families, Community Services and Indigenous Affairs and the Minister for Disability Reform provides the following answer to the honourable senator's question:

(1) The Traditional Credit Union (TCU) is not required to cover up front costs and then claim reimbursement. The funding agreement between the Department of Families, Housing, Community Services and Indigenous Affairs specifies that payments to TCU will be made in accordance with the projected cash flow contained in the approved costed work plan provided to the Department by the TCU.

(2) Refer to the answer at (1) above.

(3) Funds for this project are to be expended over four financial years from 2010-2014 and in accordance with the Financial Management and Accountability Act 1997 and the Australian National Audit Office Implementing Better Practice Grants Administration guide which does not support payment for projects in advance of need.

Eucla Weather Station

(Question Nos 2643 and 2644)

Senator Siewert asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 29 November 2012:

(1) Is the Minister aware of the closure of the Eucla weather station in Western Australia.

(2) Why was the Eucla weather station closed.

(3) Has any account been taken of the effect of this closure on the quality of services to the local community.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) The Bureau informed Eucla community leaders of the changes during September-October 2012. The service announcement formally advising of the changes was placed on the Bureau's website in early October 2012.

(2) The Bureau of Meteorology's weather forecasts and warnings for all regions, including Eucla, are based on a combination of various observing systems, including satellite, radar, lightning, upper air and surface observations together with predictions from advanced computer-based models. The Bureau is continuously reviewing its observations networks to ensure that these services are delivered in the most efficient and effective way possible.

At Eucla, the radar, primarily installed to track weather balloons, is no longer required as satellites and other observation sources provides the Bureau with information to support the Bureau's forecast, climate and warning services. Streamlining and automation of other equipment at the meteorological office has also reduced the requirement to retain staff on the station. The full time observer based at Eucla has been relocated to another site.

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In close conjunction with implementing these changes, the Western Australia Regional Forecast Centre switched to the Next Generation Forecast and Warning System (NexGenFWS) on 31 October this year, providing seven-day forecasts for Eucla and extended district and coastal waters forecasts.

(3) The weather and warning service for Eucla was expanded to include 7 day forecasts for Eucla and District from 31 October 2012.

Coastal Waters forecasts for the adjacent Eucla coast have also been extended to 4 days and with the introduction of the Bureau’s new information portal "MetEye" in 2013, coastal wind and weather information will be available out to 7 days.

The Bureau will continue to issue Severe Thunderstorm Warnings and Severe Weather Warnings for the Eucla District.

Members of the community can continue to obtain current weather, forecast and warning information from the Bureau’s website, radio and television, as well as by phoning the Bureau’s Telephone Weather Service on 1900 926 113.

Robert Brennan and Associates
(Question No. 2651)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 19 December 2012:

(1) What process was undertaken to employ Robert Brennan and Associates to investigate the bullying, harassment and national security issues in the Defence Security Association (DSA)?

(2) What were the terms of reference?

(3) What issues concerning national security were found and reported by Robert Brennan and Associates?

(4) What action was taken by DSA following the report by Robert Brennan and Associates?

(5) What level of security clearance was held by Mr Robert Brennan and his associate Ms Julie Trent?

(6) Were the necessary checks made to ensure that vetting processes were completed before awarding Robert Brennan and Associates the contract for this task?

(7) How much was the contract that was awarded to Robert Brennan and Associates for the purpose of this investigation?

(8) What additional work by Robert Brennan and Associates has been commissioned by DSA or the department since June 2010, to provide what has been described as 'The Brennan Reports' within the reports of Mr Brennan and Ms Trent?

(9) For each set of investigations and/or work that Robert Brennan and Associates has been contracted to perform, what were the: (a) terms of reference; (b) costs and; (c) resulting reports.

Senator Bob Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

(1) Robert Brennan and Associates were one of the service providers on a Defence Intelligence and Security Group Standing Offer Panel established for the provision of human resource management consultancy services – this included specialist advice in diagnosis of business problems and goals, and delivering solutions to overcome such problems.

The DSA engaged Robert Brennan and Associates under this panel arrangement to investigate issues within the National Coordination Centre of the DSA.

(2) The statement of work for the contract required Robert Brennan and Associates to investigate:

(i) the 'complaint to the Minister' of alleged breaches in the management of the contractor workforce (ie. harassment and bullying)
(ii) the staff complaints of alleged poor APS management work practices (ie. systemic management issues).

(3) The scope of the work undertaken by Robert Brennan and Associates was to investigate alleged breaches in the management of the contractor workforce and complaints of poor APS management.

During the investigation into these issues, concerns about security processes were raised by two persons interviewed. As this was outside of the scope of the investigation, the investigators only made reference to these concerns in their final reports. The investigators did not pass the specific details of these concerns to Defence.

(4) The DSA adopted all of the recommendations made by Robert Brennan and Associates.

(5) Mr Brennan and Ms Trent held RESTRICTED level security clearances at the time they performed the contracted work for the DSA. This security clearance satisfied the requirements of the contract let to Robert Brennan and Associates.

(6) Robert Brennan and Associates was awarded a position on the Defence Intelligence and Security Group standing offer panel after a full tender evaluation encompassing its technical capacity and tender compliance in 2008. The security vetting processes for the company were completed in 2009, prior to awarding Robert Brennan and Associates the contract for this task in 2010.

(7) The total cost was $32,625.67 excluding GST.

(8) Only one contract was let by the DSA to Robert Brennan and Associates to provide the work described as 'The Brennan Reports'. No additional work has been commissioned by the DSA since June 2010.

A review found no evidence that any other business unit within Defence, had any contractual involvement with Robert Brennan and Associates in relation to the work described as 'The Brennan Reports'.

In relation to what has been described as the 'The Brennan Reports', there have been no other investigations and/or work undertaken by Brennan and Associates on behalf of the DSA.

**Sexual and Reproductive Health Services**

(Question No. 2655)

Senator Rhiannon asked the Minister representing the Minister for Health, upon notice, on 12 December 2012:

Can a list be provided detailing which organisations over the past 4 years have received grants or money from the department for sexual and reproductive health services, including the dollar amount of funding and the purpose of the grant.

Senator Ludwig: The Minister for Health has provided the following answer to the honourable senator's question:

The Department of Health and Ageing provides funding to several organisations working in the area of sexual and reproductive health promotion to support public education, research and professional development, and to support advocacy for people affected by blood borne viruses and sexually transmissible infections.

The Department does not provide any funding to organisations to directly provide sexual and reproductive health services. Australian Government funding for these services is provided only through the Medicare Benefits Schedule and Pharmaceutical Benefits Scheme. Some funding to organisations is provided by state and territory governments.
Defence Projects
(Question No. 2664)

Senator Johnston asked the Minister representing the Minister for Defence Materiel, upon notice, on 19 December 2012:

With reference to questions on notice nos 1634 to 1683, dated 5 March 2012, and questions on notice nos 2570 to 2619, dated 26 November 2012, and given that this is the third occasion on which this information has been sought:

(1) Can full and detailed information be provided, including:
   (a) the date of the first date for first pass approval;
   (b) the date of the first estimated date, time period, for second pass approval;
   (c) the date of first pass approval;
   (d) the date of second pass approval;
   (e) the estimated acquisition cost when first proposed to Government;
   (f) the current estimated acquisition cost;
   (g) the date of estimated initial operational capability when first proposed to Government;
   (h) the current date of estimated initial operational capability; and
   (i) the reason(s) for the delay in this project, if applicable; in relation to each of the following major projects:
   • Tactical Information Exchange Domain JP 2089;
   • Active Missile Decoy SEA 1229 Phase 1, 2 and 3;
   • Anzac Ships SEA 1348 Phase 2;
   • Anzac Ship Project-Underwater and Surface War Fighting
   • Upgrade Program-SEA 1348 Phase 3;
   • Guided Missile Frigate Upgrade Implementation SEA 1390 Phase 2.1;
   • Standard Missile Replacement SEA 1390 Phase 4;
   • Nulka SEA 1397;
   • Forward Looking Infra Red and Electronic Support Measures for S-70B-2 Helicopters SEA 1405;
   • Evolved SEASPARROW SEA 1428;
   • Replacement Heavyweight Torpedo SEA 1429;
   • COLLINS Class Replacement Combat System SEA 1439 Phase 4A;
   • Maritime Communications Modernisation SEA 1442;
   • Armidale Class Patrol Boat Project SEA 1444;
   • ANZAC Anti-Ship Missile Defence SEA 1448;
   • Replacement of Afloat Support Capability SEA 1654;
   • Air Warfare Destroyer SEA 4000;
   • Airborne Early Warning and Control Aircraft AIR 5077;
   • New Air Defence Command and Control Systems for Control Units 2 and 3 AIR 5333;
   • Bridging Air Combat Capability AIR 5349 Phase 2;
   • Bridging Air Combat Capability AIR 5349 Phase 1;
F/A-18 Hornet Upgrade AIR 5376;
Air to Air Refuelling Capability AIR 5402;
Project Echidna Electronic Warfare Self Protection for ADF Aircraft AIR 5416;
Follow-on Stand off Weapon AIR 5418;
Joint Strike Fighter Aircraft AIR 6000;
Air 7000: Phases 1B and 2B AIR 7000;
C-17 Globemaster III AIR 8000;
Armed Reconnaissance Helicopter AIR 87;
Multi Role Helicopter AIR 9000 Phase 2;
MH-60R Seahawk Romeo AIR 9000 Phase 8;
Airborne Surveillance for Land Operations JP 129;
Establishment of Special Operations Command JP 199;
Next Generation Satellite Communications System JP 2008 Phase 4;
Ultra High Frequency Satellite Communications JP 2008 Phase 5A;
ADF SATCOM Capability Terrestrial Upgrade JP 2008 Phase 3F;
Jindalee Operational Radar Network JP 2025;
Joint Command Support Environment JP 2030 Phase 8;
High Frequency Modernisation JP 2043;
Amphibious Watercraft Replacement JP 2048 Phase 3;
Amphibious Deployment and Sustainment JP 2048 Phase 4 A/B;
Bulk Liquid Distribution JP 2059;
Geospatial Information Infrastructure and Services JP 2064 Phase 2;
Lightweight Torpedo Replacement Phase 3 JP 2070;
Lightweight Torpedo Replacement Phase 2 JP 2070;
Battlespace Communications Systems (LAND) JP 2072;
Logistics for the Warfighter JP 2077;
ADF Deployable Logistics Systems JP 2077 Phase 2B.2;
Mulwala Redevelopment Project JP 2086;
Air Defence Target System JP 66 Phase 1; and
Establishment of Tactical Assault Group (East) JP 2088 Phase 1.

Can a full and private briefing on these major projects be provided as a matter of urgency.

Senator Bob Carr: The Minister for Defence has provided the following answer to the honourable senator's question:

The information you are seeking would require considerable research into historical Defence Capability Plans and project approval/management documents, and as such, is considered an unjustified diversion of resources. A full and private briefing on the projects listed is also considered an unreasonable diversion of resources.

**Defence: Naval Vessels**

(Question No. 2665)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 19 December 2012:

What is the: (a) hourly; (b) daily; (c) monthly; and (d) yearly cost to the department for each of the following Royal Australian Navy platforms: Adelaide Class Frigate; Anzac Class Frigate; Armidale Class Patrol Boat; Collins Class Submarine; Huon Class Mine Hunter; HMAS Choules; HMAS Tobruk; HMAS Success; HMAS Sirius; Balikpapan Class Landing Craft Heavy; Leeuwin Class Surveying; Paluma Class Coastal Surveying; and Helicopters?

Senator Bob Carr: The Minister for Defence has provided the following answer to the honourable senator's question of the (a) hourly; (b) daily; (c) monthly; and (d) yearly cost to the Department for each platform is outlined in the Table below.

The daily and hourly cost of each Navy vessel is based on actual direct costs for financial year 2011-12, which includes sustainment, fuel, salaries, allowances and superannuation.

The average monthly cost is calculated by dividing the annual cost for each Platform Class by 12 and then by the number of vessels.

The average daily cost per vessel has been calculated by dividing the annual cost for each Platform Class by the number of vessels, and then dividing that cost by 365 days (except for HMAS Choules).

The average hourly cost per vessel has been calculated by dividing the average daily cost by 24.

Included in the cost of Anzac Class Frigates are the costs of three ships in Extended Readiness (HMAS Anzac from July 2011 to September 2011; HMAS Arunta from July 2011 to June 2012; and HMAS Stuart from September 2011 to June 2012).

Included in the cost of Huon Class Mine Hunters is the cost of maintaining two vessels at Extended Readiness throughout 2012.

The cost of HMAS Choules is for the period from 13 December 2011 to 30 June 2012 (200 calendar days only) and has therefore been extrapolated to provide an annual cost.

It should be noted that this method of calculating a rate per vessel does not differentiate between a vessel at sea or a vessel is alongside in harbour – it is an average. Of course, in reality, a fully crewed vessel at sea costs Navy substantially more per hour than those alongside in harbour.

MRH-90 helicopter costs are not included as these aircraft did not incur Navy operational costs in the financial year 2011-12.

<table>
<thead>
<tr>
<th>No.</th>
<th>Platform Class</th>
<th>Av. Hourly Cost per Vessel $</th>
<th>Av. Daily Cost per Vessel $</th>
<th>Av. Monthly Cost per Vessel $</th>
<th>Av. Annual Cost per Vessel $</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i)</td>
<td>Adelaide Class Frigate</td>
<td>11,639</td>
<td>279,325</td>
<td>8,496,132</td>
<td>101,953,582</td>
<td>Included in the cost of Anzac Class Frigates are the costs of three ships in Extended Readiness (HMAS Anzac from July 2011 to September 2011; HMAS Arunta from July 2011 to June 2012; and HMAS Stuart from September 2011 to June 2012).</td>
</tr>
<tr>
<td>(ii)</td>
<td>Anzac Class Frigate</td>
<td>8,594</td>
<td>206,247</td>
<td>6,273,359</td>
<td>75,280,313</td>
<td></td>
</tr>
<tr>
<td>No.</td>
<td>Platform Class</td>
<td>Av. Hourly Cost per Vessel $</td>
<td>Av. Daily Cost per Vessel $</td>
<td>Av. Monthly Cost per Vessel $</td>
<td>Av. Annual Cost per Vessel $</td>
<td>Comment</td>
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<td>--------------------------------------------------------------------------</td>
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<tr>
<td>(iii)</td>
<td>Collins Class Submarine</td>
<td>12,179</td>
<td>292,291</td>
<td>8,890,517</td>
<td>106,686,204</td>
<td>June 2012; and HMAS Stuart from September 2011 to June 2012.</td>
</tr>
<tr>
<td>(iv)</td>
<td>Armidale Class Patrol Boat</td>
<td>1,655</td>
<td>39,717</td>
<td>1,208,068</td>
<td>14,496,813</td>
<td></td>
</tr>
<tr>
<td>(v)</td>
<td>Huon Class Mine Hunter</td>
<td>2,395</td>
<td>57,491</td>
<td>1,748,685</td>
<td>20,984,224</td>
<td>Included in the cost of Huon Class Mine Hunters is the cost of maintaining two vessels at Extended Readiness throughout 2011-12. The cost of HMAS Choules is for the period from 13 December 2011 to 30 June 2012 (200 calendar days only), which has been extrapolated to provide an average annual cost.</td>
</tr>
<tr>
<td>(vi)</td>
<td>HMAS Choules</td>
<td>8,401</td>
<td>201,621</td>
<td>6,132,648</td>
<td>73,591,772</td>
<td></td>
</tr>
<tr>
<td>(vii)</td>
<td>HMAS Tobruk</td>
<td>10,578</td>
<td>253,865</td>
<td>7,721,721</td>
<td>92,660,652</td>
<td></td>
</tr>
<tr>
<td>(viii)</td>
<td>HMAS Success</td>
<td>12,253</td>
<td>294,064</td>
<td>8,944,451</td>
<td>107,333,416</td>
<td></td>
</tr>
<tr>
<td>(ix)</td>
<td>HMAS Sirius</td>
<td>4,931</td>
<td>118,339</td>
<td>3,599,490</td>
<td>43,193,883</td>
<td></td>
</tr>
<tr>
<td>(x)</td>
<td>Balikpapan Class Landing Craft Heavy</td>
<td>955</td>
<td>22,920</td>
<td>697,137</td>
<td>8,365,643</td>
<td></td>
</tr>
<tr>
<td>(xi)</td>
<td>Leeuwin Class Surveying Ship</td>
<td>4,704</td>
<td>112,904</td>
<td>3,434,165</td>
<td>41,209,982</td>
<td></td>
</tr>
<tr>
<td>(xii)</td>
<td>Paluma Class Coastal Surveying Ship</td>
<td>1,116</td>
<td>26,772</td>
<td>814,321</td>
<td>9,771,848</td>
<td></td>
</tr>
<tr>
<td>(xiii)</td>
<td>Seahawk helicopter</td>
<td>1,228</td>
<td>29,477</td>
<td>896,603</td>
<td>10,759,241</td>
<td></td>
</tr>
<tr>
<td>(xiv)</td>
<td>Squirrel helicopter</td>
<td>756</td>
<td>18,150</td>
<td>552,057</td>
<td>6,624,685</td>
<td></td>
</tr>
</tbody>
</table>

**Government Funding: Animal Health Australia and Plant Health Australia**

*(Question No. 2668)*

**Senator Milne** asked the Minister for Agriculture, Fisheries and Forestry, upon notice, on 14 January 2013:

With reference to funding for Animal Health Australia and Plant Health Australia:

1. In each of the past 5 years, how much funding has the Federal Government contributed to Animal Health Australia in the form of: (a) membership subscription; and (b) funding for particular projects.
2. In each of the past 5 years, how much funding has the Federal Government contributed to Plant Health Australia in the form of: (a) membership subscription; and (b) funding for particular projects.
3. What is the total amount paid collectively by the states and territories for membership subscriptions for: (a) Animal Health Australia; and (b) Plant Health Australia.

**Senator Ludwig:** The answer to the senator’s question is as follows:

1. The membership subscription and total government project funding for particular projects the Australian Government has provided to Animal Health Australia from 2008–09 to 2012–13 are outlined in Enclosure 1, Table 1.
(2) The membership subscription and total government project funding for particular projects the Australian Government has provided to Plant Health Australia from 2008–09 to 2012–13 are outlined in Enclosure 1, Table 2.

(3) (a) Animal Health Australia's annual membership is equally shared between its three groups of stakeholders. The Australian government; states and territories; and industry groups each provide a third of the total subscription funding per annum. For the financial year 2012–13, the total annual subscription for states and territories is $1.3 million (exc GST).

(b) Plant Health Australia's annual membership is equally shared between its three groups of stakeholders. The Australian government; states and territories; and industry groups each provide a third of the total subscription funding per annum. For the financial year 2012–13, the total annual subscription for states and territories is $0.78 million (exc GST).

Enclosure 1: Funding for Animal Health Australia and Plant Health Australia

Table 1: Animal Health Australia Commonwealth membership and project funding 2008–09 to 2012–13.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Membership subscription funding ($ million, exc GST)</th>
<th>Project funding ($ million, exc GST)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13*</td>
<td>1.30</td>
<td>0.88</td>
</tr>
<tr>
<td>2011–12</td>
<td>1.30</td>
<td>0.99</td>
</tr>
<tr>
<td>2010–11</td>
<td>1.24</td>
<td>1.14</td>
</tr>
<tr>
<td>2009–10</td>
<td>1.27</td>
<td>2.08</td>
</tr>
<tr>
<td>2008–09</td>
<td>1.27</td>
<td>1.09</td>
</tr>
</tbody>
</table>

Table 2: Plant Health Australia Commonwealth membership and project funding 2008–09 to 2012–13.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Membership subscription funding (exc GST)*</th>
<th>Project funding (exc GST)**</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012–13</td>
<td>0.78</td>
<td>1.96</td>
</tr>
<tr>
<td>2011–12</td>
<td>0.75</td>
<td>3.76</td>
</tr>
<tr>
<td>2010–11</td>
<td>0.75</td>
<td>0.23</td>
</tr>
<tr>
<td>2009–10</td>
<td>0.75</td>
<td>0.12</td>
</tr>
<tr>
<td>2008–09</td>
<td>0.75</td>
<td>0.22</td>
</tr>
</tbody>
</table>

*Projected full year funding

Australian Government Authorised Officers

(Question No. 2672 amended)

Senator Milne asked the Minister for Agriculture, Fisheries and Forestry, upon notice, on 14 January 2013:

With reference to the establishment of Australian Government Authorised Officers (AAO) in export businesses for biosecurity/quarantine purposes, approximately 2 years ago:

(1) Which trading partner countries have subsequently accepted the use of AAOs.

(2) Which trading partner countries have refused to accept AAOs, and what action is the department taking to change this position.

(3) Can a list be provided detailing which countries are in negotiation with Australia over the acceptance of AAOs, including the timeframes for the completion of negotiations and implementation of the AAO system.
(4) Has the use of AAOs been raised with countries that have import protocols with Australia relating to horticultural produce.

(5) Will Australian horticultural industry exports have access to AAOs in protocol countries in the next 12 months; if not, what is the timeframe.

Senator Ludwig: The answer to the senator's question is as follows:

1) Australian Government Authorised Officers (AOs) may conduct a range of duties, depending on the commodity, and are accepted by all major trading partners, except for horticulture products exported to the protocol markets listed below.

<table>
<thead>
<tr>
<th>Country</th>
<th>Commodity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Japan</td>
<td>Apples, Cherries, Citrus, Mangoes</td>
</tr>
<tr>
<td>Thailand</td>
<td>Citrus, Seed potatoes and Grapes</td>
</tr>
<tr>
<td>New Zealand</td>
<td>Strawberries, Pears, Rockmelons, Watermelons, Honeydew melons, Grapes,</td>
</tr>
<tr>
<td></td>
<td>Avocado, Scallopini, Zucchini, Pumpkins, Citrus</td>
</tr>
<tr>
<td>USA</td>
<td>Citrus</td>
</tr>
<tr>
<td>Taiwan</td>
<td>Apples, Kiwifruit, Citrus, Cherries, Plums, Nectarines, Peaches, Grapes</td>
</tr>
<tr>
<td></td>
<td>and Carrots</td>
</tr>
<tr>
<td>China</td>
<td>Apples, Citrus, Mangoes, Grapes and Cherries</td>
</tr>
<tr>
<td>Republic of Korea</td>
<td>Cherries, Citrus, Potatoes and Mangoes</td>
</tr>
</tbody>
</table>

(2) None, ongoing discussions for horticulture protocol markets will occur in 2013.

(3) The Department has commenced preliminary discussions on the plant export service delivery model with horticulture protocol countries such as the Republic of Korea and Japan, through the bilateral plant meetings over the last 24 months. The department has undertaken a trial on horticulture AOs to demonstrate the equivalence of industry AOs to DAFF AOs. The trial is part of a broader market access strategy to have key horticulture protocol markets accept the use of industry AOs in order to reduce departmental costs for exporters. This strategy includes a DVD outlining the horticulture export certification and AO process and has been translated into Korean, Chinese and Japanese. Further discussions will be held throughout 2013.

(4) As above

(5) No definitive timelines can be given at the moment, but it is likely within the next 12 months that Australia will receive acceptance of AOs into some of these protocol markets.

Foreign Affairs; and Trade and Competitiveness: Redundancies (Question Nos 2701 and 2708)

Senator Abetz asked the Minister for Foreign Affairs and the Minister for Trade and Competitiveness, upon notice, on 6 February 2013:

With reference to the department and all agencies within the Minister's portfolio, how many:

(a) voluntary; and

(b) involuntary redundancies were there in each of the 2009-10, 2010-11, 2011-13 (to date) financial years.

Senator Bob Carr: On behalf of the Minister for Trade and Competitiveness and myself, the answer to the honourable senator's question is as follows:

(a) Voluntary redundancies
(b) Involuntary redundancies - nil

**Agriculture, Fisheries and Forestry: Redundancies**

(Question No. 2705)

**Senator Abetz** asked the Minister for Agriculture, Fisheries and Forestry, upon notice, on 6 February 2013:

With reference to the department and all agencies within the Minister's portfolio, how many: (a) voluntary; and (b) involuntary redundancies were there in each of the 2009-10, 2010-11, 2011-12 and 2012-13 (to 31 January 2013) financial years.

**Senator Ludwig:** The answer to the senator's question is as follows:

<table>
<thead>
<tr>
<th>2009-10</th>
<th>2010-11</th>
<th>2011-12</th>
<th>2012-13 (as at 13 February 2013)</th>
</tr>
</thead>
<tbody>
<tr>
<td>VR</td>
<td>IVR</td>
<td>VR</td>
<td>IVR</td>
</tr>
<tr>
<td>80</td>
<td>0</td>
<td>0</td>
<td>207</td>
</tr>
<tr>
<td>0</td>
<td>0</td>
<td>44</td>
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<tr>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>80</td>
<td>5</td>
<td>44</td>
<td>6</td>
</tr>
</tbody>
</table>

**Pesticides**

(Question No. 2738)

**Senator Milne** asked the Minister for Agriculture, Fisheries and Forestry, upon notice, on 5 February 2013:

(1) How many neonicotinoid pesticides are registered for use in Australia, and can a list be provided detailing on which crops each is registered for use.

(2) Is the department aware of the finding by the European Food Safety Authority (EFSA) that the neonicotinoid pesticide Imidacloprid poses an 'unacceptable danger to bees feeding on flowering crops'.

(3) In light of this ruling, will the department review the registered uses for Imidacloprid in Australia; if not, why not.

(4) Is the department aware of the growing body of peer-reviewed evidence demonstrating that neonicotinoid pesticides are significantly contributing to bee decline in Europe and the United States of America, and what steps has the department taken to review these studies.
(5) Has the department: (a) obtained; and (b) reviewed, studies by the companies producing neonicotinoid chemicals, who claim that they have research proving the safety of neonicotinoid products for bees, and has the department made any effort to make such research publically available.

(6) Given the EFSA findings that there is a widespread lack of information, and that current regulations contain 'major weaknesses', will the department review Australia's regulations in regard to neonicotinoid pesticides; if not, why not.

(7) Is the department aware of, or actively researching, effective and safe alternatives for the main neonicotinoid pesticides used in Australia.

Senator Ludwig: The answer to the senator's questions are as follows:

(1) Six neonicotinoid active ingredients are approved for use in Australia and of these, five are included in products registered for use on crops. The following table shows which crops each active is registered for use on.

<table>
<thead>
<tr>
<th>Active ingredient</th>
<th>Crops registered for use on</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acetamiprid</td>
<td>Cotton, potatoes, flowers and ornamental plants, shrubs and trees</td>
</tr>
<tr>
<td>Clothianidin</td>
<td>Bananas, cotton, grapes, pome fruit, stone fruit, sugarcane, turf and lawn</td>
</tr>
<tr>
<td>Imidaclorpid</td>
<td>Vegetables (including tomatoes, capsicum, zucchini, melons and other cucurbits, eggplant, potatoes), fruit (including peach, plum, nectarine, apricot), faba beans, field peas, lentils, lupins, fescue seed crops, canola, cereals, cotton, pasture (red clover, subterranean clover, strawberry clover, white clover, ryegrass, phalaris) and forage crops, and seed treatment (maize, sweet corn, lupin, sorghum, cereal, lucerne, medic, sunflower, cotton and pasture seed)</td>
</tr>
<tr>
<td>Nitenpyram</td>
<td>No crop uses</td>
</tr>
<tr>
<td>Thiacloprid</td>
<td>Cotton, pome fruit (including apples), maybush, roses, stone fruit, tea</td>
</tr>
<tr>
<td>Thiamethoxam</td>
<td>Citrus, tomatoes, brassicas (including broccoli, brussel sprouts, cabbage, cauliflower, brassica leafy vegetables), fruiting vegetables (excluding cucurbits, but including tomatoes, capsicum, eggplant), leafy vegetables (including lettuce, endive, silverbeet, spinach), turf and lawn, indoor plants, ornamentals, roses, shrubs, seed treatment (cotton, cereals, cotton, maize, sorghum, sunflower, sweet corn)</td>
</tr>
</tbody>
</table>

(2) No, the EFSA assessment of imidaclorpid, released on 16 January 2013, concluded that there were some risks but that others could not be assessed on the basis of the available information, and identified the data gaps that would need to be filled before regulatory action is considered.

(3) The APVMA is responsible for reviewing agvet chemicals. It monitors international developments in relation to imidaclorpid, including any reports from EFSA.

(4) The department is aware of studies on neonicotinoids and bees, and the APVMA has reviewed them in conjunction with the Australian Government Department of Sustainability, Environment, Water, Population and Communities.

(5) The department has obtained and the APVMA has reviewed studies by the companies producing neonicotinoid chemicals as part of the normal registration process. Summaries of such information are available in Public Release Summaries published on the APVMA website at: www.apvma.gov.au/registration/assessment/ public/index.php. In addition, anyone can request a technical assessment report for any product that the APVMA registers. If any new studies are received after registration, brief summaries are published in advice summaries, available at www.apvma.gov.au/registration/assessment/advice/index.php.
(6) There are no provisions in the Agricultural and Veterinary Chemicals Code Regulations 1995 specifically in regard to neonicotinoid pesticides. The current risk-based approach to assessing the hazard and exposure of non-target organisms to pesticides when used according to the mandatory label statements is appropriate and is consistent with world’s best practice. If a risk is identified after registration of a chemical product, the APVMA may review label instructions and conduct additional assessments of new studies as part of its review program. In addition, the government has introduced legislation that will require re-approval and re-registration of all agvet chemicals. Re-registration requires the APVMA to regularly look at chemicals available in the market and see if there are concerns about the chemical that need to be addressed with a formal review.

(7) The department is aware of the registered alternatives to neonicotinoids, which are all safe when used according to the mandatory label directions. Researching alternatives is an industry responsibility. In 2012-13, the department provided $235.9 million in matching payments to support rural research and development.