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The Journals for the Senate are available at http://www.aph.gov.au/senate/work/journals/index.htm

Proof and Official Hansards for the House of Representatives, the Senate and committee hearings are available at http://www.aph.gov.au/hansard

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

SITTING DAYS—2012

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RADIO BROADCASTS
Broadcasts of proceedings of the Parliament can be heard on ABC NewsRadio in the capital cities on:

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For information regarding frequencies in other locations please visit http://www.abc.net.au/newsradio/listen/frequencies.htm
FORTY-THIRD PARLIAMENT
FIRST SESSION—SIXTH PERIOD

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

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

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

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.

**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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<tr>
<td><strong>Prime Minister</strong></td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Digital Productivity</strong></td>
<td>Senator the Hon Stephen Conroy</td>
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<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Mental Health Reform</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister for the Public Service and Integrity</strong></td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on the Centenary of ANZAC</strong></td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td><strong>Cabinet Secretary</strong></td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Prime Minister</strong></td>
<td>Senator the Hon Jan McLucas</td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
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<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<td><strong>Assistant Treasurer</strong></td>
<td>The Hon David Bradbury MP</td>
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<tr>
<td><strong>Parliamentary Secretary to the Treasurer</strong></td>
<td>The Hon Bernie Ripoll MP</td>
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<td>(Leader of the Government in the Senate)</td>
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<tr>
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<td><strong>Parliamentary Secretary for Higher Education and Skills</strong></td>
<td>The Hon Sharon Bird MP</td>
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<td>Senator the Hon Bob Carr</td>
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Wednesday, 20 June 2012

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

COMMITTEES

Economics Legislation Committee Meeting

Senator McEwen (South Australia—Government Whip in the Senate) (09:31): by leave—At the request of the Chair of the Economics Legislation Committee, Senator Bishop, I move:

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

Question agreed to.

BILLS

Corporations Amendment (Future of Financial Advice) Bill 2012

Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

to which the following amendment was moved:

At the end of the motion, add "but, that further consideration of these bills be an order of the day for the first sitting day after the Government has tabled for these bills a regulatory impact statement which has been assessed by the Office of Best Practice Regulation as compliant with its requirements".

Senator Fierravanti-Wells (New South Wales) (09:32): I rise to speak on the Corporations Amendment (Future of Financial Advice) Bill 2012 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012. The coalition will not be supporting the Future of Financial Advice bills in their current form. As has been outlined by other speakers, this legislation could have been significantly improved if the government had accepted a series of amendments that will be moved by the coalition. Certainly with those amendments there would be a strong case for this legislation to be worth supporting.

The FoFA package of legislation in its current form suffers from a number of deficiencies. It is certainly unnecessarily complex and, in large parts, very unclear. It is expected to increase levels of unemployment in the sector and it legislates to enshrine, regrettably, an unlevel playing field amongst advice providers, inappropriately favouring a government-friendly business model. Most importantly, it is likely to cost about $700 million to implement and a further $350 million per annum to comply with, according to conservative industry estimates.

As I have indicated, as it currently stands, this legislation will lead to increased costs and, most importantly, will reduce choice for Australians seeking financial advice, and in that category are many older Australians, for whom I have a particular interest in my shadow Ageing portfolio. As I have indicated, the coalition will be moving a series of amendments, the most important of which are as follows: that the government be required by parliament to table a regulatory impact statement on FoFA, assessed as compliant by the government's Office of Best Practice Regulation; that the opt-in provisions be removed from FoFA; that the retrospective application of the additional annual fee disclosure requirements also be removed from the legislation; that the drafting of the best interest duty provisions be improved; that the ban on commissions on risk insurance inside superannuation be
further refined; and that the implementation of the FoFA legislation be delayed until 1 July 2013 to align it with MySuper.

These recommendations were part of the amendments suggested by coalition members of the Parliamentary Joint Committee on Corporations and Financial Services. Crossbench senators should seriously consider these amendments and support them. These are important and sensible coalition amendments and, if they are not supported by the government, the coalition, if it is successful at the next federal election, will fix both bills by implementing these amendments. In particular we would completely remove the opt-in provisions, simplify and streamline the additional annual fee disclosure requirements, improve the best interest duty, provide certainty around the provision and accessibility of scaled advice and refine the ban on commissions on risk insurance inside superannuation.

These bills, of course, received examination by the economics committee, and I would like to go to their report of March 2012 to pick up some of the points and some of the concerns raised, particularly in the dissenting report by coalition senators. In making their comments, coalition senators recognised that the financial services and advice industry provides an important service in helping Australians with their financial health and wellbeing, and, as I indicated earlier, many of those are older Australians. Of course, financial advisers help Australians to better manage their financial risks and maximise their financial opportunities. They are dealing with other people's money, and that is why it is important that the regulatory framework that regulates their activities not only is an effective one but also balances the need for effective consumer protection with the need to ensure that the financial advice and the financial services that are provided are of high quality and that that high-quality advice remains accessible, remains available and also remains affordable. Certainly when you look at the financial reforms and particularly the financial reforms that were legislated by the coalition when we were in government in 2001, they did provide a solid regulatory foundation for our financial services industry. I think that that solid foundation and framework stood us in good stead in relation to the global financial crisis. But, as coalition senators indicated, there is always room for improvement.

Any change that should be considered is not about making things more complex; it is about making things better. Therefore, in any change—and this is really where the concern from the coalition side is in relation to these proposed changes—we need to avoid more regulation or avoid regulation overreach, as coalition senators indicated in their dissenting report, where this leads to increased red tape and in turn results in increased costs for business and consumers without in the end affording them any greater consumer protection.

As we know, in the wake of the global financial crisis there were a number of high-profile collapses of financial service providers across Australia, such as Storm Financial, Trio and Westpoint. After those collapses it is very important to look at what went wrong, and I will come to some of those issues, in particular in relation to Trio, where I want to highlight in particular the work that is currently being done by the victims of financial fraud. Many of those who suffered are from the Illawarra, which is where my electorate office is, and I have had representations from those people. In the Illawarra it certainly led to a lot of very sad stories in relation to the consequences of those investments and the financial collapse. It may be said that this legislation could have avoided the Trio collapse, but, as Senator
Cormann and other senators have indicated, it would not have done so.

Can I now look at February 2009, when this parliament asked the Parliamentary Joint Committee on Corporations and Financial Services to conduct a comprehensive inquiry into Australian financial products. That inquiry has become known as the Ripoll inquiry, after its chair, Bernie—

Senator Conroy: You're just jealous. It should be the Ripoll-Fierravanti-Wells—

Senator Fierravanti-Wells: One is French; one's antecedents are from another area of Europe. There is always rivalry there, Senator Conroy! That inquiry made a number of very important recommendations. I will come to those in a moment, but I want to highlight, to go back to the previous point I made, that it makes particular reference to the Trio collapse, which raised distinct and—as the committee executive summary notes—in some ways more troubling issues than those raised as a consequence of the Storm and Westpoint collapses. Trio in itself involved fraud. As I have indicated, nearly 6,000 Australians, many of whom are in the Illawarra, invested in Trio and suffered as a consequence of that.

The Ripoll inquiry made 14 recommendations. Certainly the coalition supports those recommendations. If you look at some of those—and I will not delve into many of them—one of those recommendations goes to encouraging greater partnerships between regulators and experts in the private sector. It recommends that the Australian Taxation Office include clear, understandable, large-print warnings on its website that self-managed superannuation funds trustees are not covered in the event of theft and fraud and make sure that greater warnings are there. Those recommendations set out a whole range of other things in relation to compliance plans, regulatory arrangements relating to custodians, roles of ASIC, funding, involvement of the Australian Federal Police and cooperation with ASIC and APRA to pursue criminal investigations—and, as I said, a range of different matters which that committee dealt with very, very comprehensively. As the coalition senators indicated, the centrepiece of the Ripoll inquiry report was the recommendation to introduce a fiduciary duty for financial advisers requiring them to place their clients' interests ahead of their own.

The report's recommendations, as coalition senators have indicated, provide a blueprint that the government could have adopted in a bipartisan way to make important improvements to the regulatory framework of our financial services, and that certainly has been a position that the coalition has wanted and has advocated. Instead of implementing very sensible and widely supported recommendations—or those recommendations of the Ripoll inquiry—regrettably, the government, as coalition senators indicated, allowed its Future of Financial Advice reform package to be 'hijacked by vested interests, creating more than two years of unnecessary regulatory uncertainty and upheaval in our financial services industry'.

The concern is that the government's decision to make the processes around FoFA in the past two years leaves, to say the least, much to be desired. There were constant—and, as coalition senators indicated, at times completely unexpected—changes to the proposed regulatory arrangements under FoFA, which did very little to properly appreciate or assess the costs involved and of course any unintended consequences or other implications, which have now led to this legislation.
The important reforms that were recommended by the Ripoll inquiry have been delayed for more than two years while the government pressed ahead with a number of additional measures, contentious as they have been, such as the costly Industry Super Network initiated proposal that would force Australians to re-sign contracts with their financial advisers to a timetable imposed by the government and not chosen by consumers—the so-called 'opt-in' proposal.

In the time available to me, I will make some general observations. Financial services are a very important sector. Financial services help us all to make better decisions, but it is very important that, in ensuring that financial advice is available to the broader community—and, as I have indicated, most especially to older Australians, who are increasingly finding it difficult to manage their financial pressures, particularly with the increasing cost-of-living pressures—as we have indicated, there is always room for improvement.

Let me go to some of the specifics of this legislation and some concerns and criticisms that the coalition have. Firstly, the bills do not meet the government's own standards. In pursuing any regulatory changes it is important that the government must itself rigorously assess, as I have said, increasing costs and red tape for both business and consumers. And it is incumbent on the government to conduct a proper regulatory impact assessment to a standard which is at least consistent with its own practice regulation requirements. According to the government's own Office of Best Practice Regulation, the government did not have adequate information before it to assess the impact of the FoFA package on business and consumers or to assess the costs/benefits of the proposed changes. Of course, this is highly unsatisfactory, given the complexity of this legislation and the costs associated with these bills, particularly the more contentious parts of the proposed changes.

There is also an unrealistic implementation time frame. The current time frame of 1 July 2012 is completely unrealistic, given the proposed commencement date being imminent. As I have indicated earlier, and other speakers have indicated, it would have made sense to have implemented this package at the same time as MySuper was implemented.

Also, there are components of this package which require significant changes to the same financial service provider IT systems. It is in many ways symptomatic of the chaotic approach that this government has adopted in this area, as we have seen in so many other areas. And it is that lack of practical business understanding—understanding the practicalities of business realities, in that it is seeking to impose two different implementation dates involving significant and very expensive changes in relatively quick succession. For this reason, the coalition believes that these bills, if amended, should not commence until 1 July next year.

Another contentious issue is the opt-in provisions. They impose a mandatory requirement on consumers to re-sign contracts with their financial advisers on a regular basis. This will mean a significant increase in red tape and costs, not just for the planners but most importantly for the consumers. It would certainly put us right up there leading the world in terms of financial services red tape. Opt-in, most importantly, was not one of the recommendations of the Ripoll inquiry. In this context it is very important to remember that Industry Super Network provided the only submission to the original Ripoll inquiry arguing in favour of opt-in—so one really questions why this opt-in provision has been pushed.
In conclusion, as I said, the coalition will not be supporting these bills— (Time expired)

Senator IAN MACDONALD (Queensland) (09:52): What a wonderful speech by Senator Fierravanti-Wells! It is a pity there was not someone in the chamber from the government side to listen to that. In fact, talking about that, I note that there does not seem to be a quorum in the chamber. Mr Deputy President, I draw your attention to the state of the chamber. (Quorum formed)

Thank you, Mr Deputy President. I am pleased that all the Labor senators came in to hear my speech; it is well worth listening to. This is a truncated debate, and I know that a lot of my colleagues want to speak on this, so I will be briefer than I would normally be. Perhaps I could start off by talking about the truncated debate because of the guillotine imposed by the Labor Party and the Greens. I will start off with a quote:

What is more, the Labor Party is going to support the whole of this legislation when the guillotine falls in about an hour from now.

I might just interpose by saying 'an hour from now' is much more time for debate than the Labor Party and the Greens have given for many of the pieces of legislation that are being guillotined through this parliament. The quote continued:

This is a tawdry exercise in taking democracy out of this place—

this place being the Senate chamber. And who said that? The then Leader of the Australian Greens, Senator Bob Brown. He was railing against the guillotining of any legislation. I might ask Senator Ludlam, when he makes his contribution to these bills: why is it that when the Howard government apparently had a guillotine in place it was 'a tawdry exercise in taking democracy out of this place', and yet nowadays the Greens support the Labor Party in guillotining 36 bills in this fortnight of sitting?

Madam Acting Deputy President, can I just dwell on that for a moment: 36 bills are being guillotined by the Greens political party and the Australian Labor Party in the next two weeks. In the whole three years of the last term of the Howard government, how many bills were guillotined? Thirty-six. So the Labor Party and the Greens political party are guillotining, in this fortnight, more bills than the Howard government guillotined in three years—at a time, I might add, when the Howard government had control, entirely, of this chamber. So what hypocrisy from the Greens, that they would in those days label this guillotining as a 'tawdry exercise in taking democracy out of this place' but nowadays, because the Greens and the Labor Party are one and the same, it seems okay.

I do want to move on to the bills, which I do have an interest in—mainly because they sort of had their origins in the Storm Financial collapse. It is with some embarrassment that I have to say that the Storm Financial fiasco originated in the city of Townsville, in North Queensland, where I have my office. It became an entity which, in the end, took a lot of people's money, and put a lot of people I know personally in a very difficult financial situation, because of the lack of proper regulation, and proper enforcement of the existing regulations in the financial services industry. It was as a result of that fiasco with Storm Financial that these bills, the Corporations Amendment (Future of Financial Advice) Bill 2012 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012, are before us today.

As a result of the Storm Financial crisis, the Ripoll inquiry was set up by this parliament to investigate all aspects of
financial advice in the investment and retirement investment fields. This committee, comprising obviously members of all parties in the parliament, deliberated and brought forward a series of recommendations. While I did not agree wholeheartedly with every single one of the recommendations, by and large the recommendations were appropriate and I would have hoped they might have gone from recommendations into legislation. But this government with its typical arrogance and with its typical lack of understanding of what really is best—an understanding which should have been there if they had properly looked at the whole report—have brought in a bill which again, as with most of its legislation, is off the mark. The coalition will be attempting today to fix obvious errors in this bill with amendments. But should those amendments not be supported then, as our leader in this debate, Senator Cormann, has said, we will be opposing the bill. So I do urge the Greens and the Labor Party to actually adopt the amendments.

I am pleased to say I note that just yesterday—after this debate had started, and this is typical of the way the Labor Party runs this chamber and it is the same as the way they run the government—the government brought in some amendments—and I do note this was after the debate had started—late last night. I am pleased that one of those amendments, however, is an adoption, an acceptance, by the government of one of the amendments that Senator Cormann was going to move, and that was the proposal by the coalition to at least start this bad legislation at the latest by 1 July 2013, rather than, as the Labor Party had originally proposed, by 1 July 2012. What the Labor Party wanted us to do was to debate this bill today so it could be introduced in 14 days time. One wonders why a country is in such a mess that we have this sort of legislation being dealt with today to start in 14 days time. I am pleased that the coalition’s amendment has been accepted and so it will now be delayed with a final date of 1 July 2013.

But that is obviously why we have these guillotines in place. As of yesterday morning the Labor Party brings in that resolution, with the support of the Australian Greens political party, to guillotine 36 bills—and this was one of them, and you can understand why they wanted to deal with this bill in record short time today, because as it stood this time yesterday morning it was to start in 14 days time. That is just incredible! So one does wonder, although I do not think most Australians do wonder anymore and they shake their heads in shame and embarrassment at the way this country is being governed, and the way this bill has been dealt with in the chamber is typical of that mismanagement.

The package of bills in its current form is, I submit, unnecessarily complex and in large part quite unclear. It is expected to increase unemployment. It is legislating to enshrine what we see and what the industry sees as an unlevel playing field amongst advice providers. It seems to me that it inappropriately favours a government-friendly business model. It is likely to cost about $700 million to implement and a further $350 million per annum to comply with—and they are conservative estimates given by industry at various inquiries that have been held. As people in this chamber would know, for the Labor Party with a $700 million cost who cares? It is a drop in the ocean to them. I would venture to say I suspect that, unlike most financial advisers who are their own bosses and who are small businessmen, nobody in the Labor Party, particularly in this chamber, has ever had to worry about making money or making losses or spending someone else’s money.
Most of the Labor Party senators in this chamber—although there is one exception perhaps—have always worked for the trade union movement or the Australian Labor Party or for other politicians. None of them have had ever had their own businesses and their own houses on the line. So when they just spend $700 million it does not matter to any of the ministers in this government, as they do not know what it is like to waste $700 million. They do not have to pay for it and their pay cheques will come in at the end of the month, as they have always done with most of the ministers in this government. So it is just burdening these small businessman who are financial advisers with a $700 million cost upfront and $350 million per annum and it is only a drop in the ocean. To Labor Party ministers it is only a drop in the ocean. When you can convert a Howard government $60 billion surplus into a current Gillard government deficit of almost $150 billion, and increasing rapidly to over $200 billion, you can understand that Labor Party politicians just treat debt as pigs treat lying in the mud: they relish it. They think debt is pretty good. They do not seem to understand, because none of them have ever been in business, that if you borrow money, sometime the lender is going to want their money back, so it will have to be paid back. You do not need an economics degree to understand that. Of course, the lenders only give it to you because it is their business. They actually charge you a cost for lending you the $200 billion that the Labor Party has racked up. That is called interest. As all of us know—as any of us who have any understanding of business would know—with the interest that we are going to pay on the Labor Party's $200 billion debt we could have another new hospital in Townsville or we could actually fix the Bruce Highway between Brisbane and Cape York. That is just with the interest that the Labor Party is causing the Australian taxpayers to pay.

**Senator Conroy interjecting—**

**Senator IAN MACDONALD:** Senator Conroy is prattling away in the chamber. The greatest financial mismanagement this country has ever seen is the $55 billion of wasted investment in the National Broadband Network. But, Australians, do not despair: our good friend Senator Conroy—lovely guy though he is—is in charge. Senator Conroy has never before run any sort of business in Australia, yet he is now in charge of Australia's biggest spending business, a business which he originally told us would make a profit and would be privatised. Senator Conroy, as I have often said and will continue to repeat, neither you nor I will be in this chamber—I suspect not even you will be alive—when the NBN makes a profit and when anyone in the private sector will want to buy it. It will eventually be got rid of at a written down, fire sale price.

The bills before us need improvement. I am delighted that Senator Cormann's amendments insist that the government is required to table a regulatory impact statement as assessed as compliant by the government's Office of Best Practice Regulation. The amendments also propose that the opt-in be removed completely from the legislation, that the retrospective application of additional annual fee disclosure requirements be removed and that the drafting of the best-interest duty will also be improved. We believe and our amendments will try to implement that the ban on commissions on risk insurance inside super should be further refined. Also we are going to move for a delay in the start of this legislation—fortuitously the Labor Party have picked up this amendment.
Many of my colleagues want to debate this truncated legislation, so I will finish in this way. The financial advice industry is a very good one. There have been some rogues, as there are in any business, in any parliament, in any walk of life. By and large financial advisers are a great asset to Australia and offer real help and assistance to many people, particularly to older people who are looking towards retirement and their retirement income. They do a fabulous job. To a certain extent the Labor government have reviled these people, accusing all in the industry of being as bad as the one bad egg in the nest. By and large this industry is made up of good, honest, capable, intelligent and very well educated and learned people. I wish their industry the best. I say to the industry that while this government is trying to continue to penalise you to the cost of $700 million this year and $350 million every following year, a coalition government will understand the worth of the financial advice industry and will be supportive of the industry in the future.

Senator PAYNE (New South Wales) (10:11): As other senators on this side of the chamber have indicated, the coalition is not able to support the Corporations Amendment (Future of Financial Advice) Bill 2012 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012 in their current form. It is extraordinary that these bills are subject to the guillotine agreed to by the Australian Greens in this chamber. They have been the subject of much discussion and debate among the professionals of the financial services sector and I would have thought merited far more engaged and extended consideration by this chamber than they are being given by the government. It is profoundly disappointing to see the government treat such an important sector in this dismissive fashion.

This legislation is vital to so many people, not just to people working in the sector but to those who are recipients of advice. In my work across Western Sydney in particular and more broadly concerns have been raised about this legislation. To see it guillotined in the way it is being done this week is profoundly disappointing. We have indicated through our shadow assistant Treasurer, Senator Cormann, that we believe this legislation can be significantly improved if a series of amendments, which we intend to move in this debate, are accepted by the government.

I am not speaking from no background on this issue, although most senators would be aware that the financial services sector is not one in which I have had a professional involvement, but with the support and assistance of Senator Cormann I have made some effort in recent times to meet with financial planners in key centres in Western Sydney, in Parramatta and in Penrith. We held a series of roundtable discussions with participants in the industry. The view of those forums was universal. The financial planners and members of their staff were most concerned that the reforms in their current form would be detrimental to the industry and also to clients of the industry. They were very concerned that the government is pursuing changes that will unnecessarily increase red tape in this industry. We are at great pains—and I know Senator Sinodinos has made a number of comments in relation to this—to look at parts of the economy where we can reduce the impact of red tape on small business, which drives up their costs and therefore drives up costs to consumers. These sorts of changes—for example, forcing consumers to re-signed contracts with their advisers every two years—are examples of going in entirely the wrong direction. In both Penrith and Parramatta, these are the sorts of issues which have been raised with us.

Senator Cormann said after the roundtable discussions that we are very much aware that...
there needs to be robust regulation protecting consumers, but this government is imposing so much red tape and regulatory burden that it is making financial advice unaffordable and unnecessarily complex. In our view, the package in its current form is legislation that will make life most unclear and unnecessarily complex. It is expected that financial planners will not be able to maintain their current staff levels, and this is not a time at which we need to see people losing their jobs, frankly.

We are also very concerned about this legislation locking in an unlevel playing field amongst advisers that will favour a business model that is more government friendly than private-sector friendly. These are points I know other senators have made, both last night and today. The concerns also extend to the cost of compliance with and implementation of the new requirements of this legislation. The industry estimates on that are quite significant—quite overwhelming, in fact. It seems to me that if you were wanting to impose such significant burdens on an industry then you would think that the Senate would be more minded to discuss the legislation in proper form, not in guillotined form, and that is particularly disappointing.

In our amendments, which I know have also been addressed by Senator Cormann, we will be advancing the case that the government should be required by parliament to table a regulatory impact statement on the FoFA assessed as compliant by the government's Office of Best Practice Regulation, that we will remove the opt-in provisions from this legislation, that we will also move to remove the retrospective application of the additional annual fee disclosure requirement and that we seriously think the best-interest-duty drafting can be improved and will be making some suggestions in that regard. A constructive government that wishes to engage in proper parliamentary debate would, in our view, consider those seriously and undertake to look properly at those amendments. It remains to be seen whether, given the way the guillotine has been imposed on this legislation, that will actually be done. We also are of the view that the ban on commissions on risk insurance inside superannuation should be further refined. As Senator Macdonald and other senators have pointed out, we were very concerned about the timing of the implementation and actively called for an implementation date not of 1 July 2012—in less than a couple of weeks time—but of 1 July 2013, and other senators have indicated the change in that regard.

The sorts of amendments we are advancing in this debate have been carefully considered by the coalition members of the Parliamentary Joint Committee on Corporations and Financial Services, and that is not a consideration they have taken lightly. The government, the Australian Greens and those senators on the crossbenches who are considering this legislation should, I think, be able to have a proper opportunity to give those amendments serious consideration and, one would hope, to support them. In fact, it will be ironic in the extreme if the two fora I held in Western Sydney—in Parramatta and Penrith—were longer than will the actual consideration of the serious aspects of this legislation, given the nature of the government's approach. I do not think this legislation warrants execution by the guillotine, and I think it is most unfortunate that the choice was for it to be treated like that.

We have also indicated that if the changes we advocate, to which I have referred and which will be put before the chamber, are not supported by the government and the Australian Greens then we will undertake—
and I know Senator Cormann has already—to fix the FoFA by implementing these amendments if we are in a position to win government at a future date. In our view it will be an unsustainable proposition for it to continue in its current form if it is adopted in that form by the government and by the Australian Greens in this chamber. Our improvements to the system would include the following measures. We would completely remove the opt-in provision, which I have referred to; we would simplify and streamline the additional annual fee disclosure requirements; we would improve the best-interest-duty aspect; we would redraft to provide greater certainty around the provision and accessibility of scaled advice; and we would refine the ban on commissions on risk insurance inside superannuation. Those are points we are very concerned about. They are exactly the sorts of points that small business owners, financial planners in suburban Sydney—in Western Sydney, in Parramatta and Penrith—raised directly with us. This is feedback from professionals who are working in the area—feedback that they have also received from their clients as they have discussed the development of this legislation.

As I saw in those particular fora, and as I see regularly in organisations like chambers of commerce and in women’s organisations in the community—where women who are involved in the financial services sector offer help and support to other women who are working in small businesses, either in start-up or just sustaining themselves in the current economy—the financial services industry provides a very important service. It is about helping Australians to build wealth and to plan for their future. There is no argument from us, for example, that financial planners are dealing with other people’s money, and so there is a need for a robust regulatory framework. That is not the case we are arguing here today. The goals should be to protect consumers—which is perfectly appropriate and perfectly reasonable and something that we enthusiastically advocate—and to enable access to high-quality financial services that are both affordable and understandable. Our concern with this legislation is that it will make the whole financial services environment unnecessarily complex and completely unclear. How does that assist consumers? How does that enable financial services professionals to deliver the sort of high-quality service they need? It does not help in any way. It is another effort by this government to cloud a professional environment and to make life harder for the recipients of service and for the deliverers of the service.

We are talking about a financial services industry. The Financial Services Council had a function here in Parliament House just last night, with its chair and CEO, which both Mr Shorten and Senator Cormann attended and at which they both spoke. We know we are talking about an industry that performed quite well given the stress following the GFC. It is an industry that goes to the core of the operation of small business in so many parts of Australia. So when we legislated in 2001, in the period of the Howard government, we provided a solid regulatory foundation for the industry. There is no denying that we are always able to improve in that regard, but what we should be focusing on is making business simpler—not gratuitously more complex and not gratuitously overregulated. We should not be making regulation for its own sake. We should not be trying to make the system more complex and costly without adding anything useful to what is already a robust regulatory framework. That is the concern which has been raised by many of the
participants in the industry with whom I have met and to whom I speak.

I heard Senator Macdonald, at the beginning of his remarks today, acknowledging a number of issues concerning the collapse, in the wake of the GFC, of companies such as Storm Financial, Westpoint and so on. It was particularly important for our policymakers to be able to assess what went wrong and what could be done to improve the system. It was therefore timely that parliament, in February 2009, asked the Parliamentary Joint Committee on Corporations and Financial Services to conduct a comprehensive inquiry into Australian financial products and services. I know that, over time, a number of my colleagues here have been members of this very important parliamentary committee. The Ripoll inquiry, as it became known—after its chair, Mr Ripoll—reported back in November 2009 and made a number of prudent recommendations. A number of those have been raised in discussions with professionals in the industry.

The centrepiece of the report was the recommendation to introduce a fiduciary duty for financial planners, requiring them to place the interests of their clients ahead of their own. It also provided a good blueprint, a blueprint the government could well have adopted. If it had done so, it would have had bipartisan support. We are all aware that that is not always the case for reports tabled in this chamber and in the other place. But, for this report, it was the case that it would have had bipartisan support. The key observation of the report was:

The committee is of the general view that situations where investors lose their entire savings because of poor financial advice are more often a problem of enforcing existing regulations, rather than being due to regulatory inadequacy. Where financial advisers are operating outside regulatory parameters, the consequences of those actions should not necessarily be attributed to the content of the regulations.

I think that is an important point for this chamber to note. But, instead of pursuing the recommendations of the Ripoll inquiry report, it seems to us that the government has basically allowed this particular package of legislation to be hijacked by what could only be described as vested interests—and I say that with some disappointment.

Over the past couple of years, the industry have also experienced frequent unexpected changes to the proposed regulatory arrangements under FoFA right up until, literally, the introduction of the current legislation. It has been a very difficult path for them to tread—to try to work out for themselves what the impacts on their own businesses are going to be and what the impacts on their clients are going to be. That sort of uncertainty does nothing whatsoever to support the operation of a business. It makes it hard for the industry to work out what the costs of compliance will be, what the costs of implementation will be and what the impact on the people receiving their services will be. And those changes to the proposed regulatory arrangements have occurred without any proper assessment of the costs involved or any real consideration of the unintended consequences. We have also seen quite important financial advice reforms delayed by up to two years to allow the government to press ahead with the sorts of contentious issues it has decided to pursue.

We have before us today a very important piece of legislation. We have a piece of legislation which impacts upon the business operations of the financial services industry, an industry which employs thousands and thousands of Australians. Just as importantly, and some might even say more importantly, we have a piece of legislation which will impact on the consumers of the financial
services industry product—the advice the industry provides. We are not persuaded that the government have done this the correct way. We are not persuaded that the government's legislation responds to the real and legitimate concerns which it should have addressed—they appear to have been diverted by the pursuit of other interests. We are not persuaded that the government's legislation responds to the real and legitimate concerns which it should have addressed—they appear to have been diverted by the pursuit of other interests. We are not persuaded that the legislation as it stands will adequately deal with those issues and, to redress that, the coalition will be proposing, as Senator Cormann has flagged, a significant number of amendments.

Most importantly, though, we are not persuaded that this is an appropriate way for this chamber to deal with such important legislation. It is not right that important legislation is subjected to the type of guillotine that the government and the Australian Greens have agreed on to push this and numerous other bills through this chamber in a relatively short period of time, this week and next. The participants in the industry deserve better, their clients deserve better and the Australian people deserve better.

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (10:27): I rise today to also speak on the Corporations Amendment (Future of Financial Advice) Bill 2012 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012, which together represent a flawed package for change in this sector that is likely to lead to increased costs and reduced choice for Australians seeking advice to improve their financial future. Before I get into the details of the bills, I will put a quote to the Senate and make a few comments about it:

The government's new found power has also led to an arrogant disregard for the democratic institutions of our parliament. I talked before about the role of the Senate in tempering executive excess and in holding governments to account. Given the radical path that this government has embarked upon, that function should be more important than ever. Unfortunately, though, the job of the Senate will also become more difficult. The government has shown that it is not interested in maintaining the institutions of the Senate. Just as it wishes to silence student organisations and just as it wants fewer people to vote, so it wishes to silence the Senate. That is why the number of sitting days for 2005 has been slashed. That is why there is talk of changing the procedures of the chamber, introducing stronger time limits, increasing the use of the guillotine and changing the activities of Senate committees. The government's contempt for the Senate is clear. Removing parliamentary impediments to the passage of its legislation is gathering what I think is unhealthy momentum in the government.

Many people might think that the quote I have just read sounds as if it may have come from Senator Eric Abetz or Senator Brandis, or perhaps as if it were Senator Fifield or Senator Macdonald railing against the excesses of this government undermining the democratic institutions of this place. Certainly those senators and others have railed against the government's approach to truncating the Senate's proper scrutiny of legislation that the government is trying to put through. But, no, that quote did not come from any of those senators or indeed any coalition senator—it was delivered by the Leader of the Opposition in the Senate at that time, Senator Chris Evans, in his contribution to the debate on the address-in-reply to the Governor-General's speech on 17 November 2004. It highlights the fact that this government is at best inconsistent in its approach to the examination of legislation and the need for proper scrutiny and transparency and at worst potentially hypocritical.

I now turn to the bills themselves. The coalition will be moving a number of amendments that, if passed, will address most of the flaws in this package and render
it worthy of support. The most important of these amendments will require the government to table a regulatory impact statement on the full Future of Financial Advice package—or FoFA—that has been assessed as compliant by the government's Office of Best Practice Regulation. It will remove the opt-in requirements and it will remove the retrospective application of the additional fee disclosure requirements. The amendments will improve the drafting of the best interest duty and they will refine the ban on risk insurance commissions payable within super and delay the implementation of the package until 1 July 2013.

The financial services and advice industry provides an extremely important service for Australians. Financial advisers assist Australians to better manage financial risk and mitigate against unexpected life events and generally increase their wealth and prosperity. Many people who engage financial advisers do so because they acknowledge they have a need for assistance to successfully manage their own financial affairs or they are looking for ways to grow or maximise their wealth. In the process, a significant degree of trust is placed in financial advisers and planners to act in the best interests of their clients. Because of the good faith with which consumers engage financial services providers, the potential for that trust to be breached and the possible dire financial consequences, the coalition supports a robust regulatory framework for the financial services industry to ensure that there is effective consumer protection. There can be no doubt that Australia's strong regulatory framework, legislated during the Howard years, helped the financial services industry get through the global financial crisis, and the events that unfolded as a result, largely unscathed.

However, there is always room for improvement. The report of the Parliamentary Joint Committee on Corporations and Financial Services, which was chaired by Mr Ripoll, a government MP—a committee that maintains a government majority—set out a blueprint that could have received bipartisan support if it had been adopted by Labor. The catalyst for that inquiry was of course the high-profile collapse of a number of financial service providers, particularly Westpoint, Storm Financial and Trio. It was felt, given the extremely severe financial consequences suffered by investors in those schemes, that it was wise to examine the regulatory system applying to financial advisory services to see what went wrong and if regulation could be improved to minimise future risks of similar collapses. The main proposal of the report of the Ripoll inquiry, as it became known, was the need for a fiduciary duty to be placed on advisers that would mean that they were obliged to put their clients' interests ahead of their own. The recommendations of the report were well considered and they were reasonable. But the government decided yet again to corrupt an essentially good idea by incorporating aspects intended to deliver an agenda other than good policy outcomes, an agenda that incorporated the wishes of vested interests, an agenda that has led to a number of unexpected, unexplored and certainly not recommended changes to the FoFA proposals, with many unintended—and possibly intended—consequences for the industry.

This was generally done with little or no consultation, no apparent understanding of the consequences and even a reckless disregard of those consequences. The important positive aspects of this reform package could have been implemented almost two years ago with bipartisan support if the government had chosen to follow the recommendations of the Ripoll report. Instead, these reforms have been delayed and
corrupted. These bills as they now stand will place an inordinate amount of regulatory burden and cost on the financial services industry—costs that will flow through to retirees in the form of lower retirement incomes. They have been poorly drafted, with little meaningful consultation and a near total disregard for the impacts the legislation will have on the sector.

As is so typical of this Labor government, these bills will increase red tape, regulation and costs for both businesses and consumers for little or no additional consumer benefit or protection. In fact, the government's approach to this legislation was so bad that, embarrassingly, it failed the government's own Office of Best Practice Regulation testing requirements. That is right—on 8 August 2011 the Office of Best Practice Regulation noted that an adequate RIS was prepared for only part of the proposed FoFA changes. Labor has not conducted a satisfactory regulatory impact statement for the whole package and therefore there is not adequate information to assess the impact of FoFA on business and consumers or to assess the costs and benefits of the proposed changes. This has not stopped the government trying to plough this legislation through the parliament today. It is no wonder that submission after submission to the Senate Economics Legislation Committee that examined these bills, and witness after witness at the inquiry, raised issues about the lack of rigorous analysis of the impact of this legislation as a major concern.

In addition to their failure to conduct an adequate regulatory impact statement, the government also did not see fit to listen to the key stakeholders who urged them to rethink aspects of this disastrous legislation. I have been contacted by a huge number of affected stakeholders who are simply flabbergasted by Labor's approach to this legislation, stating that their concerns have fallen on the deaf ears of a government intent on rushing through this package and determined to ignore those concerns. The first of many concerns I will raise is the immense cost to industry that these bills will impose. John Brogden, from the Financial Services Council of Australia, told the Senate economics committee inquiry that conservative estimations demonstrate that the legislation will initially cost the financial services industry $700 million to implement and $350 million every year thereafter—$700 million of regulatory burden and red tape on one industry in one year, and $350 million every year thereafter.

In the end, who will pay for this regulatory cost? Inevitably, retirees will pay out of their retirement incomes. The government is now highly skilled at drafting industry-destroying pieces of legislation. If a business in Australia is not particularly badly impacted by the great big mining tax or the carbon tax that we would never have under this government, the Gillard Labor government will devise a policy to cripple free enterprise with regulatory burden and cost blow-outs instead. It is little wonder that so many in the financial services industry from my home state of Tasmania have contacted me out of their grave concern that they will be unable to remain in business if the FoFA package is passed. That brings me to my next point, that the legislation will cause a significant number of job losses. Industry participants told the Economics Committee that forecasts project that there will be in excess of 3,000 job losses should this legislation be passed. The committee heard that already individual operators who can see the writing on the wall are closing their doors and seeking shelter under the umbrellas of larger financial services firms who can better absorb some of the administrative burden that is being imposed by FoFA. The closure or failure of small
businesses has significant economic impacts, particularly in rural and regional areas of Australia, where, the committee was told, financial services providers are shutting up shop or leaving in droves in response to the FoFA proposal. Naturally, there is a fallout for the communities that these closures leave behind and for the clients that they served. The reality of this legislation is that it will inhibit ordinary Australians—mums and dads, grandparents and retirees and young professionals just starting out—from accessing basic financial advice by making it too difficult and too costly for the average Australian to obtain.

I will return to the practical operational issues that this package will impose on the industry. Another issue raised time and time again throughout the inquiry was the opt-in process, which requires consumers to re-sign contracts with their financial advisers on a regular basis. As drafted, the opt-in requirement will add unnecessary red tape and additional costs. Not only that, it defies basic common sense: there is no precedent for this sort of government red tape in the financial services and advice relationships industry anywhere in the world. That claim was backed up by Treasury, whose officials were unable to point to any examples despite repeated requests to provide such information on many occasions over a long period of time. I recall requesting that at estimates on a number of occasions. Additionally, and not surprisingly, studies of human behaviour have shown that opt-in does not work nearly as well as opt-out. Why would it? If I engage a financial planner and I am not satisfied with their advice then I would quickly seek to terminate the professional relationship and go elsewhere to obtain advice that was more satisfactory to me. But why, if I engage the services of a financial planner and I am satisfied with the services he or she provides, do I need the government to legislate for me to reaffirm that relationship every two years? Why should I not be able to enter freely into a contract that suits me and that does not require me to re-enter it every two years?

My own constituents in Tasmania pointed to the issue of cost in relation to the opt-in requirement. I know of financial advisers in Hobart who have clients in all sorts of far-flung places across the globe, including Defence Force personnel who are serving overseas. The administrative difficulty and cost of contacting these clients, simply to reaffirm a professional relationship that both parties are amenable to is not only preposterous, it also jeopardises the financial planner's ability to provide sound advice in the event that clients cannot be located to renew the contract. One adviser in Hobart that I was speaking to has a client in Kazakhstan; he can get in touch with him once a month, at best.

The committee heard evidence expressing concern about the negative consequences which may flow for consumers who do not opt in within the required time frame. There is a strong likelihood that by virtue of nothing but default a client will no longer be considered an 'advice client' if the planner does not receive the client's opt-in renewal notice within the required time period. Clients who fail to understand this may experience significant ramifications at a later date when they attempt to seek compensation from their planner for not advising them of changes to the law, of market movements that may have affected their financial position or of decisions that they needed to make. Similarly, I have heard from many financial planners who tell me that they only hear from some clients when things go wrong, whether it be a death in the family, a severe medical condition or circumstances resulting in an insurance claim. Advisers are concerned that if the opt-in requirement has
not been met, they are going to be faced with the unenviable task of informing people who thought they were clients that they actually are not—and at a time when they most need the assistance of their financial adviser.

Coalition senators strongly oppose this push by the government to require people to re-sign contracts with their advisers on a regular basis. It does nothing except further feed the nanny-state agenda of this government. We see no benefit to opt-in and, in fact, can only identify significant issues that are likely to arise, with the high probability that many individuals will fall through the cracks and only realise too late that their financial affairs are not being managed as they thought. With the new best-interest duty in place, appropriate transparency of fees charged and an ongoing capacity for clients of financial advisers to opt out of any advice relationship at any stage, it is clear that there will be adequate consumer protection without the need to impose further regulatory burden and red tape on industry. Interestingly, the only submission to the Ripoll inquiry that did argue for opt-in was that submitted by the Industry Super Network, which represents the union super funds. Its argument was not accepted by the Ripoll inquiry. These opt-in requirements would not have had any impact on preventing the high profile collapse of financial services providers such as WestPoint, Storm or Trio. Opt-in is nothing more than an over-the-top knee-jerk reaction from a government that clearly does not understand the real issues behind these high-profile cases.

The retrospective fee disclosure statements are another operational issue raised by many of the witnesses at the inquiry. The committee received strong evidence that it was the industry's understanding that the government's proposal to impose an additional annual fee disclosure statement would be prospective. But the introduction at the eleventh hour, after more than two years of consultations by the government on FoFA, of a requirement for retrospective annual fee disclosure statements took the industry by surprise when it appeared in the legislation in October last year. The committee was told that this new, late change would double the workload required by industry to implement the changes and would drive up costs and increase red tape even further. The Financial Services Council has calculated that implementation of the fee disclosure requirements will cost approximately $54 per client for new clients and $98 for existing clients—that is, for the retrospective part of it. I have also received representations recently that the practical implementation is not proving as easy as expected, because the information required to be included needs to come from different sources—part of what needs to be on the disclosure statement is in the hands of the advisers and part of it is in the hands of product providers—and the IT costs of getting this to work accurately are much larger than expected; so the cost per client is likely to be larger than that which was originally calculated. It is another example of this government's inability to effectively consult and liaise with industry when drafting legislation.

Yet another concern that industry highlighted at the committee hearings is the provisions that relate to scalable advice. Concerns were raised before the committee that the ambiguous wording of the best-interest provisions in the legislation do not allow for the provision of scaled advice. Scaled advice makes sense. The practice of allowing clients to identify which areas of their financial affairs they need advice for and which areas they do not and then pay their adviser accordingly should not require government intervention or further
regulation. But again, just like opt-in requirements, this Labor government thinks it knows better than individual Australians about how to manage their individual financial affairs—which is a bit rich when you look at this government's total inability to manage the finances of the country. Just like the increase in costs, the removal of scalable advice will deter Australians from seeking professional financial advice.

The committee heard from many financial advisers who told of mum and dad clients who only wanted income protection insurance or a life insurance policy but did not necessarily want a root and branch review of every facet of their financial situation. By removing the capacity for financial advisers and their clients to decide on the scope of advice required, the government is removing access to professional financial advice for many Australians who do not need or want, nor have the means to afford, to undertake an extensive review of their financial situation.

Another example of the government's chaotic approach to this legislation is their confusing position on risk insurance inside superannuation. We support the banning of conflicted remuneration structures such as product commissions within the financial services industry and we note that the industry has moved proactively over the last few years to abolish these structures, and we commend them for that decision. But we do not consider the commissions paid on advised risk insurance, be they group policies or individual policies, inside or outside superannuation, are conflicted remuneration structures. Like so many other aspects of this legislation, banning commissions on risk insurance will increase costs and remove choice for consumers. Government and industry super funds may argue that Australians who receive automatic risk insurance within their super fund without accessing any advice should not be required to pay commissions, but Australians who require and seek advice to guarantee adequate risk cover should have the same opportunity to choose the most appropriate remuneration arrangement for them. We already have a problem of underinsurance in Australia and, if anything, the government should be legislating to make it easier to obtain. However, the proposals in the FoFA package will instead increase the upfront cost of taking out risk insurance.

The financial services industry is also concerned about the proposed implementation date of 1 July 2012—less than two weeks away. The coalition believe that these bills, if amended, should at the very least be delayed until 1 July 2013 to coincide with the implementation of MySuper. The committee heard that the implementation of FoFA and MySuper will require significant IT changes and it would be preferable to implement both these changes at the same time. The government has indicated that it will move the implementation date to 2013, but the bills before the Senate still retain the 2012 date.

The best way the government can give effect to its stated intention is to support our amendments. If the government fail to adopt this approach then it will only serve to further demonstrate how completely out of touch they are with their stakeholders. These bills can be fixed with the support of our amendments. If they are fixed, they should be supported; if not, they should be rejected.
the financial services sector is one that needs strong legislation, as was recognised back in 2000-01 by the Howard government, which provided a strong regulatory foundation for the sector. But over time there should be room for improvement and room for change. I, for one, at the commencement of this inquiry actually welcomed a process of review and upgrade, particularly in light of events that have occurred since 2001, including the downturn with the global financial crisis. In fact, when I started to closely study the FoFA advice that came through by way of this legislation I was greatly disappointed. Of course, it is no longer in draft form but in final form for consideration by the Senate.

As my colleagues before have indicated, there are elements and amendments to the legislation that should be supported. Unfortunately, as we see the legislation now, there are elements which are unnecessarily complex and areas that are unclear, not just for the financial services sector itself but, most importantly, for those people whom we in this place support and represent—that is, the actual consumers of these services. As we know, with an ageing population, it is becoming ever more important and critical that consumers are very, very clear about what they have before them, what options are available to them and what protections they have.

I was somewhat encouraged in reading some of the quotations of the Leader of the Government in the Senate, Senator Evans, in this place when he said, 'It is our responsibility to provide an alternative view for legislation, to speak out when we think things are wrong and to fight for those people whose interests we represent.' I applaud that and I look forward today for a lengthened opportunity for all of us to debate this legislation through to its conclusion, where I hope we might be able to undo some of the faults and errors of the legislation as it currently stands before us.

As others have said, we know that this legislation in its current form will cause increased unemployment, particularly in the financial services sector. Surely there is nobody in this country who wants to add to unemployment in any sector, including the financial services sector, where of course there are already additions being made to unemployment levels as the banking industry and kindred industries are shedding staff. The last thing we need is to be adding to unemployment.

The point is being made by my colleagues, and I will also make it, that the legislation as it is proposed will enshrine an unlevel playing field amongst providers. This will provide inappropriate levels of support for some sectors, particularly those friendly to government, and it will disadvantage those who are not. In other words, it is anti-competitive and nobody wants to see a lack of competition in the financial services sector because it is competition that is going to drive value for the end consumer, the very people whom we represent. As has been said by my colleague Senator Bushby, estimates have been made within the industry that it will cost some $700 million to implement and, even worse than that, $350 million on an annual ongoing basis to comply with. Those are conservative estimates and I, for one, believe that we need to address them. The coalition will be moving some amendments aimed at improving the legislation. Senator Evans is a great person to stand up and give us guidance for the future, as he did back in 2007, when he said that Labor in government or opposition supports the Senate as a strong house of review, scrutiny and accountability. I am looking forward today in this place to being able to honour, along with my colleagues on both sides of the chamber,
those fine points made by Senator Evans that the Senate will be a strong house of review, scrutiny and accountability of this legislation.

There are several areas in which the coalition, through Senator Cormann, will be moving amendments. They relate to a regulatory impact statement on FoFA, assessed as compliant by the government's own Office of Best Practice Regulation. There should be no opposition to being able to undertake that sort of review, which the government itself wants scrutinised through its Office of Best Practice Regulation.

The totally illogical and nanny-state based opt-in on FoFA must be removed. We do not see it in other sectors. We know very well we are insulting people to say to them on an annual basis, 'You must sign a document because every year you must make the decision with your financial services adviser to opt in.' In banking and in any other area of business or social life, it logically follows that, whilst we have trust in the people who are offering us products and services, we continue to use them. Thank God in a free country like ours, where there is alternative opportunity for service and product, if we do not like the service or the product, we opt out. We do not have to wait for somebody to put a piece of paper in front of us on an annual basis. This is ample evidence of a flaw in the legislation as it is currently proposed that must be addressed.

Retrospectivity is something that is an absolute anathema. The retrospective application of the additional annual fee disclosure requirement must be removed. We cannot predict the past; we can only deal with the present and predict and plan for the future. Retrospectivity has no place in this legislation.

We support best-interest duty, but the way in which it is presented in this legislation must be improved upon, and the coalition's amendments will be aimed at doing that. There should be no reason why that is not the subject of robust debate in this place today. If the government can indicate why the best-interest duty as proposed in the legislation is best, let them argue that case. Let us have that robust discussion. The ban of commission on risk insurance inside super must be further refined, and I want to come back to that if I can.

Finally, the implementation of this legislation, currently planned for no fewer than 10 days from today, 1 July 2012, must surely be delayed to 1 July 2013 so that it can be aligned with the government's own legislation relating to MySuper. If amendments are discussed and debated, if there is the opportunity for robust exchange of views across the chamber, we will end up with a better form of legislation. There is no doubt at all that everybody in this chamber should be encouraging financial advisers to help Australians better manage their financial risks, to maximise their financial opportunities and to align their investments and the value of their assets for their best advantage and their families' best advantage into the future.

The goals of the legislation are to be applauded: firstly, to balance effective consumer protection; secondly, to have access to high-quality financial services; and, thirdly, the availability and accessibility of services that are affordable for all members of the community. We all want to see those things and they are well-placed objectives. But in this instance we have seen a failure of the Labor government that is so typical. There has been an inability to genuinely consult with those affected and to listen. Consultation is actually about listening; it is not about telling and then ignoring. We have to ensure that the consultation process is reflected in such a way that we do not add to
the red tape burden. So many of us have learnt, as a result of representation from those in the sector, that this is going to add immeasurably to the burden of red tape, and we all know that that adds costs not only to the business but, inevitably, those costs are passed on to the end consumer.

As I said at the beginning of my address, there were a number of high-profile collapses during the global financial crisis. It is entirely appropriate that the government and the industry should examine the cause of those collapses and that we should move, either by industry practice or legislation, or a mixture of both, to minimise the risk of those collapses occurring in the future. That was what the Ripoll inquiry report was all about.

The inquiry, led by Mr Bernie Ripoll from the other place, was well supported by everybody who participated and it came up with very reasonable recommendations. The centrepiece of the Ripoll inquiry report was the recommendation to introduce a fiduciary duty for financial advisers, requiring them to place their clients' interests ahead of their own. To me, as a person who gained a profession, as many others have done, I was disappointed that it was seen to be necessary to make a key recommendation that a group of professionals should put the interests of their clients ahead of their own. To me, as a person who gained a profession, as many others have done, I was disappointed that it was seen to be necessary to make a key recommendation that a group of professionals should put the interests of their clients ahead of their own. It led to the question of why that was necessary and whether there had been failure in the past. Nevertheless, that was the key recommendation and it must be supported. A key observation of the Ripoll inquiry in 2009 was:

The committee is of the general view that situations where investors lose their entire savings because of poor financial advice are more often a problem of enforcing existing regulations, rather than being due to regulatory inadequacy. Where financial advisers are operating outside regulatory parameters, the consequences of those actions should not necessarily be attributed to the content of the regulations.

That is a wise statement, but unfortunately this package has been hijacked by vested interests, and the recommendations of the Ripoll inquiry have not found their way into the legislation as it is before us today.

As I indicated earlier, these bills do not meet the government's own standards. According to the Office of Best Practice Regulation, the government did not have adequate information before it to assess the impact of FoFA on business and on consumers or to assess the cost-benefit of the proposed changes. Armed with that knowledge, it becomes almost compulsory for us in this place to deal with this matter in a way that is reasonable, reasoned and can lead to a better outcome.

Senator Conroy, now Minister Conroy, made this statement in this place when speaking to a trade practices bill in 2006:

You do not just need to be here in this chamber to realise how arrogant and out of touch this government has become, with the ramming through of legislation, ridiculously tight deadlines for legislation, changing the sitting pattern all the time and using the guillotine. It is turning this chamber, which for 30 or 40 years has been a chamber of accountability and scrutiny, into a farce.

I look forward today to the opportunity of honouring the sentiments expressed by Senator Conroy. A hope that we will not see this chamber turned into a farce by, to use his words, 'the ramming through of legislation, ridiculously tight deadlines, changing the sitting pattern all the time and using the guillotine'. I applaud Senator Conroy for those sentiments, and I look forward to his support today to ensure that such actions are not repeated.

The implementation time frame is unrealistic. It is now only 10 days before this legislation is due to be imposed upon Australia's financial consumers and the financial services sector. It would make
eminent good sense to delay this for 12 months, to implement it at the time that MySuper is being implemented, because both of them are going to have a profound impact on the sector. It is symptomatic, unfortunately, of this current Labor government's chaotic approach and its lack of understanding of practical business realities that it seeks to impose on the sector significant and costly system changes, with two different implementation dates, in relatively quick succession. It would be more logical, more sensible, more cost-effective, for the entire sector and for this parliament, if this were to be delayed for a 12-month period, if we were to get it right, if we were to debate the amendments that are proposed by the coalition and if we were then to go forward in a way in which the sector would understand and implement it and consumers would have their financial impact minimised. That is very important.

The coalition strongly opposes Labor's push to force people to re-sign contracts with their financial advisers on a regular basis. That is the impact of opt-in. I cannot think of any instance in which opt-in would be preferable to opt-out. It is in fact an insult to consumers of financial services. It is an insult to them that they have to expect a document every year from their adviser which says: 'I'm doing a good job. Sign here on the dotted line.' Surely we should empower them. We should say to the sector: 'You must be more competitive. You must be better with your services. You must appeal to the consumer.' The consumer themselves could in that way have a far more definite role in deciding who is going to provide those services for them.

I referred briefly earlier to the retrospective fee disclosure statements. The Ripoll inquiry made no recommendation at all to introduce an additional annual fee disclosure statement over and above the current regular statements that are already provided by financial services product providers to their clients. If the Ripoll inquiry, well supported by all sides politically, made no recommendation in this area, what is it doing in this legislation? What is the need for it? The opportunity should be available today in this place, when the coalition moves amendments in this area, for the government to explain why it is that retrospective fee disclosure statements have got to be introduced when no recommendation was made by an inquiry led by a member of the government.

The Financial Services Council has estimated that implementation of the fee disclosure requirements would cost approximately $54 per client for new clients and nearly double that figure, nearly $100 per client, retrospectively for existing clients. I ask: to what end; to what gain; who wins out of this retrospectivity; where is the value of that $100 to the existing clients? It is not evident to me and it is not evident in the explanatory memoranda. Let us learn when the amendments are moved by Senator Cormann so that the government can explain it.

This is a place of accountability, as Senator Evans himself said, supporting the Senate as a strong house of review, scrutiny and accountability. This is the opportunity for this government to be accountable. I refer to the statement of the Prime Minister in August 2010 when she said:

People do want to see us more open, more accountable, more transparent. I am going to be held to higher standards of accountability than any Prime Minister in the modern age.

I challenge the Prime Minister to pick up the telephone to her Leader of Government Business in the Senate or to the duty minister and to say to the duty minister, 'I demand'—

(Time expired)
Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (11:08): Mr Acting Deputy President, I draw your attention to the numbers in the chamber. I have a very important speech to make. (Quorum formed)

The ACTING DEPUTY PRESIDENT (Senator Marshall): A quorum is present and we are now ready for your important speech, Senator Williams.

Senator WILLIAMS: Thank you, Mr Acting Deputy President. I hope those senators remain in here to listen to this important speech.

Senator Moore interjecting—

Senator WILLIAMS: I will disregard the interjection by Senator Stephens, or was it Senator Moore?

Senator Johnston: It was Senator Moore.

Senator WILLIAMS: Senator Moore was the guilty one. In January 2009, a meeting was held in Redcliffe, which is just on the outskirts of Brisbane, and I was called to go to that meeting. We had seen the collapse of Storm Financial. I think it is the only time—no, I have been up to Redcliffe since, because I got a message that there was some search on about my explaining when I went to the Sunshine Coast and how much it cost the taxpayer. I have not been to the Sunshine Coast, but that is another issue we will address with Senator Sterle in a question on notice to the FPA later on.

That meeting was held in a hall packed with about 400 people—60, 65, 70 years of age—who did not know where to turn. Storm Financial had collapsed. What had they done through financial advice? They had mortgaged their homes. What they had worked for all their lives, everything, was on the line. What does a couple do at the age of 70 if they are put out of their home and they have nothing left? Live on the pension? Pay the rent? They were devastated. The one guarantee I gave them that night was that I would seek a Senate inquiry into the very issue of the collapse of Storm Financial.

There are two things I see were wrong then: one was the product and the other was the advice. Let us look at the product. What is a margin loan? For the many listening on their radios now and perhaps some around the Senate who are watching TV in their rooms, an example of a margin loan is that a couple might have a house worth $600,000. It is unencumbered because they have paid it off throughout their life and have reared their family. They are lent $300,000, which is 50 per cent of the value of the house, so it is a $600,000 house and they get a $300,000 loan. That $300,000 is then used as a deposit on a $3 million loan to buy shares. So with no income or very little income, perhaps a little bit of money, they get $3 million worth of shares. The bank or financial institution, whether it be Macquarie Margin Lending or whatever, holds those shares as security, and each week or each month that couple is given money from Storm Financial. They could just retire and live the life of Riley with money flowing in every month and have not a problem in the world—but that was until the stock market crashed. When those $3 million of assets become $1.5 million you have got a real problem. If you are the financial institution and for your $3 million loan those assets are now valued at $1.5 million you have got a real problem. So, of course, the banks called them in.

I will now talk about the product. We have regulations for our cars—and I know that you, Mr Acting Deputy President Marshall, being the very mechanically minded sort of chap you are, would know this—and if your car has power steering, as all cars have these days, the regulations in Australia say if the power-steering pump belt
breaks you must still be able to steer the vehicle. So these are regulations that we have in Australia for safety reasons. I question the safety reasons when it comes to financial products. I see ASIC as the corporate watchdog seeing that the products being sold out there in the market are not like the car whose brakes may fail due to a lack of safety regulations and standards in Australia so that if you are going down a hill you crash into a tree. We cannot have financial products on the market that, using the analogy I draw, see people crashing into a tree, especially in the later years of their life when, being frank, they are past the best of their working days and they do not have time to rebuild. It is a tragedy when the financial advice and the products are the two problems.

I was glad to be part of that parliamentary joint committee chaired by Mr Bernie Ripoll MP, a well-known bike rider around the place as he is very keen every morning to get out on his bike and ride with many others. The inquiry was about a bad product. Even during our inquiry the then boss of the Commonwealth Bank, Ralph Norris, said that the bank had done wrong and they would correct it, but I do not know if that has been the case and I think those kind words and sentiment put out by Mr Norris at the time have not been followed up with proper settlements. But, hopefully, most of those people are still in their houses. I have actually sat in a bank mediation meeting in Brisbane with a Storm Financial client and her husband, trying to sort things out for them. That was not the only bank mediation meeting I have sat in on in the last 12 months, I can assure you.

So here were these problems with the product and the advice and, as I said, the product was there whereby people could live the life of Riley, just simply retire and put their house up for mortgage—only to find that when the wheels fell off the cart with the stock market in 2008 their security went and they were in real financial trouble and it was all badly mismanaged. Storm Financial said it was up to the banks that were the lenders to notify the clients that a margin call was on, but the lenders said, 'No, it was Storm Financial managing that and it has nothing to do with us.' The buck-passing went on through the inquiry, but the fact was that the stock market crashed in the global financial crisis and thousands of people involved in Storm Financial were in serious difficulty. I think it was about $4.6 billion in total—a hell of a lot of money. So that was the end result.

Have we learned from that? From that inquiry the main recommendation was that financial advisers have the interests of their clients first and foremost as their fiduciary duty of care. Well, that is obvious; that is how it should be, but I do not know if it always has been like that. We hear of cases where financial advisers in selling their products were recommending products on which they might make better commission—the products from the bank or institution that they represent—even though the products might not perform as well as others. They were doing that because the particular salesman or saleswoman got the best commission. That is why that recommendation was there in the report, so that they must put the interests of their client first, not put first what is best for the person selling the product. That is obvious, and there are many other recommendations.

As I said, the problem was not only about the advice, with the Storm case, but about the product. The product was bad. It was leveraged too high. It was geared too high. It was just amazing that when the share market went up and the book value of those who invested in it went up they got a call from the bank or from Storm: 'We can lend you
another couple of hundred thousand dollars. You can buy more shares. We will gear you up more. That is what the people did as they followed the advice. Of course, when it all crashed it crashed in a big way, putting tremendous financial pressure on those people. Many of those people are in the later years of their life. They are mainly 65 to 75 years old. Some are even a lot older than that. It was a tragedy.

Given the PJC recommendations, it was a good inquiry. It was a learning experience for me. I will quote from the committee report:

The committee is firmly of the opinion that, for at least a subset of Storm's investment clients—namely, clients on average incomes at or near the end of their working lives—the advice to engage in an aggressive leveraged investment strategy was clearly inappropriate. ... Some of Storm's clients did not understand, or fully understand, that by borrowing against the equity they had in their family home they were, effectively, putting their ownership of that home at risk.

The committee worked very hard and came up with very strong recommendations. As I said, the key one was that financial advisers must put their client's interests ahead of their own. The government was asleep at the wheel—again, surprise, surprise! Instead of implementing these very good recommendations, its reform package has been a mish-mash. Over the past couple of years there have been many changes to the proposed regulatory arrangements under FoFA to the point where everyone is confused and uncertain as to what the government's plans actually are.

Let us talk about upfront fees. Take seeking financial advice. I am one of those people who usually learn the hard way. I remember that a couple of years ago I was concerned about the market in considering my little bit of superannuation so I said I would put it on fixed interest. So I got in touch with AGEST, who handle our superannuation, and to me 'fixed interest' was fixed interest in the bank so you eliminated the risk of the market. But I found out only afterwards that 'fixed interest' was actually to do with the bond market and when interest rates went up you lost money, so that would be another experience. Luckily, I did go into the bond market about eight weeks ago with my little bit of super, and we have seen interest rates falling so it is probably the first time in my life that I have picked it right.

If we are going to have upfront fees I hope that does not scare people away from financial advice. We all do our own job. You do not expect people running small businesses, working on machinery, working on farms or working in supermarkets to be experts on where to invest their money when they get a little nest egg set aside. Those people who self-manage retirement funds, who have taken out their superannuation and manage their own money, need good, strong advice; otherwise, it can all turn sour. As I said, this happens too often when people are in their later years. My concern is the upfront fees. If you seek some advice from someone and say, 'I've got $200,000. Where will I invest it?' they can say, 'Hang on. First of all, your fees are $2,500.' You say, 'What?' and they say, 'Yes, it's $2,500 to spend a day with me and draw up your plan et cetera.' I am concerned that people will walk away and say, 'I'm not paying $2,500 to seek some financial advice,' when in fact it could be the best advice they ever get in their lives. That is concerning; however, that is the situation.

There is no doubt that people will leave the financial advice industry. The unemployment stack will grow. I want to bring up a few points for you, Mr Acting Deputy President Marshall, because I know you are very interested in this topic. In meetings I have had with industry
stakeholders the biggest concern was the opt-in provision, which is a mandatory requirement on consumers to re-sign contracts with the financial adviser on a regular basis, every couple of years. This will lead to more red tape for financial planners and consumers. Does it surprise anyone that the Labor government is introducing more red tape? That would not shock anyone—people listening on the radio, people watching on television. It would not shock anyone that this government is introducing more red tape.

The coalition supports the introduction of the best-interest duty for financial advisers into the Corporations Act. Unfortunately, this government, as in many of its programs, cannot seem to get the definition correct. We support the banning of conflicted payment structures, such as a product commission, within the financial services industry, but the Ripoll inquiry did not make any recommendation to ban commissions paid for risk insurance products. Banning commissions on risk insurance products will increase costs for consumers, remove choice and leave many people worse off, particularly small business people who self-manage their super. We agree that Australians who receive automatic risk insurance within their super fund without accessing any advice should not be required to pay commissions, but we do believe that those who require and seek advice about risk cover inside or outside the super fund should have the same opportunity to choose the arrangement that is most appropriate for them.

The legislation as it currently stands needs a lot of improvement, and the coalition will be moving amendments to make it better for Australians. It is too late for those people who were devastated by the collapse of Storm Financial and others, but we are committed to making it better for all Australians. Amendments will be moved by my colleague Senator Cormann, who I think has done a magnificent job in this sector. He has met with industry, he has been with the stakeholders, he has listened. He has learnt so much and he is all over the subject. No doubt Senator Cormann will be putting forward amendments which will make this legislation better. If it is not made better, no doubt the coalition will not support it. We talk about debating and making legislation better in the Senate. That is what this place is for. I hope the guillotine does not drop on this very important bill. Let me quote something that Senator Chris Evans said. It is a very important quote, I feel. On 14 June 2005 Senator Chris Evans, Leader of the Government in the Senate, said:

... the Senate has both a right and a responsibility to debate and review legislation—this legislation and all other legislation that comes before the parliament. That is what Australians expect from this chamber.

They were the magic words of Senator Evans. I will give quote something else from Senator Evans. On 14 June 2005 he said:

It is our responsibility to provide an alternative view of legislation, to speak out when we think things are wrong and to fight for those people whose interests we represent.

Let us hope that Senator Evans sticks to those words today.

I was reading in the paper how the Prime Minister, Ms Gillard, has been over in Mexico at the G20 giving financial advice. What grounds does she have to advise other countries on how to run their country? Perhaps she should go to the website of the Australian Office of Financial Management and have a look at last Friday's $231.8 billion gross debt that this government has built at a rapid rate of knots. You must be concerned about where it is going to end up. In the budget the government has raised the ceiling to $300 billion. What is this about—mortgaging away our children's future? And
here we have the Prime Minister giving economic and financial advice to the G20 in Mexico. How ironic! Have a look at our financial management here as far as managing the money goes, which is the job of this place to do on behalf of the Australian people. There was a $231.8 billion deficit last Friday, growing at a rapid rate of knots.

This is important legislation. It needs to be debated. I hope the Greens look at the amendments that Senator Cormann will present to this chamber, which make this legislation better—a lot better. I will back Senator Cormann's knowledge on this issue way before anyone in the Greens when it comes to financial management and regulation, and I hope the Greens show some common sense when these amendments come before this place so we can make this legislation better for the millions of Australians for a long time ahead. If not, no doubt we will tell Australians what the Greens actually think about making bad legislation better.

**Senator KROGER** (Victoria—Chief Opposition Whip in the Senate) (11:28): I rise to join my colleagues in voicing their concerns about the inadequacies of this legislation, the Corporations Amendment (Future of Financial Advice) Bill 2012. The coalition appreciates that the financial services and advice industry plays a vital role and that in fact many Australians, many families and indeed many small businesses rely on this industry to help them realise their individual aspirations. They rely on this industry to help them look after their financial health and wellbeing.

Financial advisers, dare I say, are integral to assisting and guiding people to avoid pitfalls and to maximising financial opportunity. I know as a former small business owner how helpful this advice can be at times—when you need a second opinion or guidance through the paperwork. Most small business owners and operators do not have the time to do the due diligence and they do not have the time to do the necessary research to look at various options and what is in their fiduciary best interests. Their focus is on keeping the doors open and on supporting the staff and the families that work for them. This industry is of particular import to them.

The financial services reforms legislated in 2001 put in place a solid regulatory foundation for our financial services industry. Of that there can be little doubt. Financial services providers deal with other people's money, making it vital that a robust regulatory framework is in place. The coalition appreciates this and it is why we made those financial services reforms in 2001. We will always support legislation that improves regulation, that makes the industry more simple and cost effective for everyone. The government's legislation in its current form, however, does not achieve that. Our role in this place is to enact legislation that will improve the lives of those that we represent. We are not here to provide more hurdles or to introduce further layers of bureaucracy and more red tape. We are here to cut the red tape and regulatory overreach that hinders Australians in their everyday aspirations, including financial aspirations. We are here to help Australia's financial services industry to achieve a balance between providing consumer protection and providing access to high quality financial services. This government's legislation, in its current form, does not achieve that either.

As colleagues have already outlined, the coalition cannot support this legislation without a series of significant amendments. But this did not have to be the case. Indeed, if the government had accepted the reasonable reform recommendations advised by the Parliamentary Joint Committee on
Corporations and Financial Services, then it would have been a very different story here today. Instead, Australians will be weighed down by yet another piece of legislation that yet again makes life more expensive and more complicated. The government should be helping to develop an industry that supports citizens to realise their financial goals, rather than blocking them. But this government have never understood that. Every day since they have been in government, they have made it more difficult and tougher for the average Australian.

The global financial crisis made it clear, here and around the world, that policy makers need to take a closer look at this industry to see what can be done to protect against similar crises in the future. As we know, Australia did fare better than other nations, but financial service providers such as Storm Financial, Trio and Westpoint collapsed. We were all in agreement that a serious review was needed, which is why in February 2009 the parliament asked the Parliamentary Joint Committee on Corporations and Financial Services to conduct an inquiry. The inquiry, as we have heard, was tasked with undertaking a thorough examination of Australian financial products and services, which it did, reporting back nine months later in November 2009, after an exhaustive consultative and comprehensive process.

The recommendations that came out of that inquiry, the Ripoll inquiry, were considered and had the support of the coalition. As I said earlier, if the government had proceeded with legislation enacting those recommendations, there would have been bipartisan support and backing today. The inquiry's report observed that

… situations where investors lose their entire saving because of poor financial advice are more often a problem of enforcing existing regulations, rather than being due to regulatory inadequacy.

The report recommended the introduction of fiduciary duty for financial advisers that required them to place their clients' interests ahead of their own. We did not actually see a demand for more and more layers of red tape and bureaucracy here; rather, the better and more effective implementation of the regulations that currently exist.

That report and the recommendations were received, as I said earlier, by the government back in 2009. Yet here we are, some two years later and the legislation that we have before us does not reflect the recommendations of that report. It begs the question: why is it that we are dealing with this only days before 30 June. What we have before us in the Senate is yet another example of gross government incompetence. The government has let vested interests hijack its Future of Financial Advice package. We have witnessed two years of the government taking what could have been strong and effective legislation and slowly tearing it apart piece by piece. There has been a steady stream of unexpected and unnecessary changes to create the flawed legislation that we have before us today. Right up until the introduction of the legislation, the government was making changes, trashing the legislation and the corresponding improvements to the financial services industry that could have flowed from it. On this side of the Senate, we have watched, I have to say, with absolute dismay. We are completely baffled by the constant changes—changes carried out with no clear appreciation of their costs or their implications.

The legislation in its current form is not for Australians seeking financial advice. I say it is not for them because it will lead to increased costs and reduced choice for people who look to the financial services industry to assist them in reaching their financial goals—and, as we know, that is a
lot of people. They are families, small businesses and individuals who are all working hard to build their assets and who are being asked by the government, yet again, to cough up more money and for less choice. This is of huge concern to us on this side of the chamber, particularly at a time when we know that Australians are under significant pressure from the high cost of living pressures that will only be exacerbated after the introduction of the carbon tax on 1 July.

If all this was not enough, it is predicted that increased unemployment will stem from the FoFA package. With this legislation, which is unnecessarily complex, the government is enshrining, yet again, an unlevel playing field among advice providers. It is favouring a government-friendly business model—hardly surprising, given the track record of those on the opposite side. Of course the government favours its friends, as we know. And the public have thrown up their hands in frustration at the government's special treatment of its union buddies. Yes, once again, we are not surprised. Are we disappointed? Absolutely, damn right, we are disappointed, but it is for us to demonstrate that this legislation is not only inappropriate but that the government should come clean and allow amendments to it to be passed. The government should amend the FoFA package rather than pushing ahead with its implementation, which, according to conservative industry estimates, will cost $700 million and an additional $350 million per annum to be complied with.

Although important financial advice reforms have been delayed by more than two years, the government wants to implement this costly legislation on 1 July. Even the government sees that it is a ridiculous time frame, so now we are left with a 'soft' start date on 1 July. It begs the question: what is the definition of—to put it in their words—a 'soft start'? A soft start sounds to me like a perfect recipe for causing huge confusion among both consumers and advisers. The government still expects people to implement some changes stemming from this legislation in just over a week. But how can the government seriously expect people to change their business practices within that time frame? More importantly, how are consumers supposed to know which adviser is complying with which rules, old or new? There will be a so-called 'hard' start date on 1 July 2013—next year. So we have two start dates. We have a soft start date and we have a hard start date. It sounds to me like the first date will be nothing but a false stall date.

The government would be better off conceding that all its delays and changes have made it impossible to stick to the unrealistic time frame of 1 July 2012. The government should be practical, logical and sensible about this. It should take the common sense approach and implement this legislation properly and appropriately in the next financial year but in an amended form. The sensible approach would be to accept the coalition's amendments and work towards a realistic start date in 12 months time. This would most certainly remove the fear and uncertainty associated with this legislation, giving consumers and financial advisers the breathing space to understand and better prepare for the implementation of the necessary changes. As we know, that would be the sensible approach, the common sense approach, but we know that it is not the way that this government goes. We know that, time after time, it has not been their course of action.

Regrettably, the government prefers a chaotic antibusiness approach. This is engrained in absolutely everything it does and in every policy decision it makes. Another example of the government's
antibusiness approach is evidenced in its failure to conduct an appropriate regulatory impact assessment of these bills. When instigating regulatory changes, it is of paramount importance that a government thoroughly assess the resulting costs and red tape for both businesses and consumers. Not only is this assessment process of paramount importance but it is consistent with the government's own best practice regulation requirements.

The government's own Office of Best Practice Regulation found that the government had inadequate information to assess the impact of these FoFA bills on both businesses and consumers—which, I have to say, hardly inspires confidence. If the government does not understand how FoFA will impact on costs and red tape, how on earth are the financial services industry and its clients expected to do? The fact that the government is creating uncertainty and unnecessary headaches for the financial service providers should ring a very loud bell. The government had the opportunity here—and, in fact, still has the opportunity—to improve this and take on board the coalition amendments.

These are the amendments recommended by the coalition members of the Parliamentary Joint Committee on Corporations and Financial Services, the most important amendments including a requirement by parliament that the government table a regulatory impact statement on FoFA, assessed as compliant by the government's Office of Best Practice Regulation. I cannot stress enough the importance of the government's legislation complying with its own best practice. Why have an Office of Best Practice Regulation if the government does not look to its expertise to carefully assess legislation such as this? It just flies in the face of all common sense; it is beyond belief. The implementation of this should be delayed. A delay would not just allow financial service providers and their clients the time needed for implementation but also provide a great deal of surety for consumers as well. A delay would mean that the major changes associated with FoFA would align with the major changes to MySuper. Both MySuper and FoFA require significant changes to the same financial service provider IT systems.

The government is also wrapping up the financial services industry in more red tape with its mandatory requirement that consumers re-sign contracts with their financial advisers on a regular basis. The requirement is not one of the initial inquiry recommendations, and the government cannot give even one example of another country that imposes such a requirement. No other country is being factored in that has done this and demonstrated that it is a good thing today. Yet again we are seeing this government proceed with something that no other nation has considered as an effective and better way to provide regulatory oversight.

The coalition is confident that the best-interests duty, fee transparency and the client's ability to opt out of advice at any stage give adequate protection to clients. We would completely remove the opt-in requirement if returned to government. The coalition would also, as some colleagues have expanded on, simplify and streamline the additional annual fee disclosure requirements and improve the best-interests duty.

The government has missed a real opportunity here to provide clear and effective reform. Sadly, those who work in financial services and their hardworking clients will suffer the most from the government's incompetence and lack of judgment.
Senator BERNARDI (South Australia) (11:48): I have been following this legislation—the Corporations Amendment (Future of Financial Advice) Bill 2012 and the Corporations Amendment (Further Future of Financial Advice Measures) Bill 2012—with interest, because I spent some years in the financial services industry and have indeed been a financial adviser. So I have a very acute understanding of the benefits of strategic financial advice for Australian consumers and of the importance of that. This is an issue that I think is not understood by far too many people—perhaps even in this place.

But in saying that I will also say that these bills seek to allay some fears or to put forward the notion that the government is actually doing something to protect consumers from themselves or from some sort of rogue. In my view the government clearly has failed to understand that the overwhelming majority of financial advisers do the right thing by their clients. Whilst it may seek to make changes it thinks will be in the interests of consumers, the glaring holes, the lack of response and the lack of consideration of the joint inquiry into financial services—the Ripoll inquiry, which has been referred to recently—plus the overwhelming addition of bureaucratic red tape is ultimately going to disadvantage consumers trying to get timely, affordable and independent financial advice.

The financial services industry has performed very well throughout a number of very trying times—the global financial crisis. Certainly I have to acknowledge that there have been some problems. We have had some schemes that have not worked well. We have had some financial service providers that have clearly done the wrong thing and made presumptions. There have been cases of illegality. There have been cases of fraud and deception. But we have ASIC, we have the corporations regime and we have various other licensing regimes to deal with these failings. If the government is looking to penalise an entire industry for the failings and the rogue actions of only a few, then it would appear that this legislation is going that way. I say it is the wrong approach to take. The Ripoll inquiry, which looked into this bill and made a number of very reasonable recommendations, was about providing a framework for legislative change, a framework the government could have adopted with bipartisan support. Common sense and bipartisan support are not, however, what this government is seeking. This government, in typical Labor fashion, has chosen not to follow the common-sense path and not to look for something that could be supported by both the major parties—and indeed some of the Independents, I am sure. Instead, it has chosen to make things harder, it has chosen to make things more complex and it has been influenced by vested interests.

In striving to improve legislation, we should not be looking to make things more complex; we should be trying to simplify them. Simplifying them not only enables consumers to more readily understand what they are being presented with but allows advisers to provide straightforward advice, knowing that it is compliant, in the best interests of the client, without the fear of having to create a paper trail that goes on forever. Increasing red tape when there are more sensible options on the table does nothing to improve the situation. The FoFA package of bills, as it currently stands, will adversely impact the financial services industry. It will increase costs, it will ultimately reduce choice for Australians, and a number of sections of the legislation will, as I said, increase red tape and make things much more complex for the industry.
There is an expectation within the industry that the FoFA package of bills will increase unemployment and put many financial advisers out of business. In a submission to the parliamentary committee, the managing director of AMP Financial Services, Craig Mellor, forecast that up to 25,000 jobs could be lost in the next few years. The Association of Financial Advisers also predicted job losses of around 30,000 and said:

… FoFA, as it stands, will decimate the financial advice profession.

These people are not merely being harbingers of doom; they are expressing genuine concerns. If we add those concerns to the conservative industry estimate that the cost of implementing these bills is around $700 million and that there are going to be another $350 million worth of compliance costs annually, you have to ask: who is going to benefit from this?

This legislation is going to put up industry costs, and ultimately that increase in costs is going to be passed on to the consumer. It is going to be prohibitive for many consumers to get appropriate advice before making what can be life-changing decisions. That is why the coalition is seeking to improve this legislation. It is not that we are opposed to it; we are just opposed to it in its current form because it is not in the consumers' interests, it is not in the advisers' interests and it is not in the national interest. We cannot support the bills in their current state. I say to the government and to the minister that, if you accept our amendments, we can significantly improve this legislation—which would then be worth supporting.

I remind members of the government of the words of the Minister for Finance and Deregulation, Senator Wong. Back in 2010, she spoke about the Office of Best Practice Regulation:

Well designed regulation is of critical importance to the Australian economy. Good regulation can encourage innovation and minimise compliance costs for business, including small business, and the not-for-profit sector. Poorly designed regulation, however, can cause frustration and impose unnecessary costs on all sectors of the community.

I agree with Senator Wong. It is one of the things we do agree on. Poorly designed regulation can increase compliance costs and cause frustration for members of the community. If Minister Wong and her colleagues truly believed these words, they would support our amendment which would require the government to table a regulatory impact statement on FoFA assessed as compliant by the Office of Best Practice Regulation. They will not do that. They will not live up to their own best practice regulation requirements, which are aimed at avoiding higher costs and avoiding red tape for business.

Why will they not do it? Because they are belligerent in their approach to legislation. They think they know best. They think the industry knows nothing, that the industry has no common sense. This attitude is apparent not just in this package of bills but in a whole raft of areas where this government has refused to listen to the wisdom of those who actually know what they are doing. I do not know how many on the other side of the chamber have worked in this industry. I do not know how many have actually worked in private enterprise at all, quite frankly. We cannot get to the bottom of that, but it may only be a handful of them. Have that handful had any input into this? I would suggest not.

I will summarise some of the many issues attached to these bills in the very brief time I have left. We have said that the package of bills is unnecessarily complex and that in many parts it is unclear. That has been made very clear by members of the industry
themselves. As I have mentioned, it is expected to cause an increase in unemployment. We think the legislation actually enshrines an uneven playing field amongst financial advice providers—it inappropriately favours a government-friendly business model. If we took financial advice that was along the same lines as the approach this government takes to managing the nation's finances, this country and every individual within it would be on the way to going broke. The FoFA package of bills is going to increase costs—$700 million to implement it, then $350 million a year.

That is why we want to amend this legislation. We want the opt-in provision to be removed so that people do not have to go back and sign a new contract with their financial adviser every year—they can honour the commitments they have entered into knowing that this is going to be in their best interests. We want the drafting of the best-interests duty to be improved. We want the ban on commissions for risk insurance inside super to be further refined. We could go on and on.

Most importantly, we need to delay the implementation of these reforms until 2013 so that it can align with MySuper. We need to make sure the government's legislation reflects the concerns of the coalition—which are the longstanding concerns of the community and the industry—and implements our amendments. As has been said, the coalition members on the Parliamentary Joint Committee on Corporations and Financial Services agree with many of the recommendations made by the Ripoll inquiry. It is shameful that this government not only ignores a worthwhile inquiry by a joint committee of both houses of parliament but has ignored the recommendations of its own members.

The DEPUTY PRESIDENT: Order! The time allotted for the debate has expired.

Senator CORMANN (Western Australia) (12:00): Pursuant to contingent notice of motion, I move:

That so much of standing order 142 be suspended as would prevent further consideration of the bills without limitation of time.

The reason I move this motion and strongly encourage the Australian Greens to give serious consideration to it is that the Senate has not had enough time to debate these Future of Financial Advice bills. The government is obviously desperate to avoid scrutiny by the Senate of this deeply flawed, deeply conflicted, job-destroying FoFA package. Some 63 amendments to the legislation have been circulated—18 amendments from the government itself. The government, with the arrogant process it is imposing—by the look of it with the complicit aiding and abetting of the Greens political party—wants to ram this bad, conflicted, job-destroying piece of legislation through the Senate without the Senate having any opportunity to debate the merits or otherwise of any of the amendments. That is not good enough. We certainly urge the Greens not to make themselves complicit yet again with this bad, dysfunctional and incompetent government as it tries to avoid the scrutiny of the parliament by ramming through bad legislation.

These bills impose significant additional red tape, significant additional complexity and significant additional costs on small business, financial advisers and consumers. These bills reduce choice, reduce competition and reduce the diversity in the financial services industry that consumers across Australia are looking for. The government took more than two years to put this legislation together. There was constant chopping and changing. Every time Minister Shorten tried to pursue the vested interests
agenda of his friends in the financial services market, the rest of the industry and consumer groups and others were able to point out the deep flaws in his preferred policy approach. We had his foray into doing the bidding of his friends and then we had the backdown. We had the foray; we had the backdown—one after the other. There has been chopping and changing every step of the way for two years.

The legislation was introduced into the Senate only very recently and we only started debating it last night. There are 63 amendments listed for consideration—and these bills are supposed to come into effect on 1 July 2012, 10 days from now. These bills impose a significant additional burden on the financial services industry—a very important industry for Australia, a very important industry for our economy and a very important industry for those Australians who are working hard to achieve self-funded retirement. This is a set of bills which, according to the government's own explanatory memorandum, will cost 6,800 jobs in the financial services industry and which, according to industry estimates, will cost $700 million to implement and $350 million to $375 million to comply with per annum from there on in. It is a piece of legislation that did not even go through the government's own best practice regulation processes. By not conducting a proper and genuine regulatory impact assessment the government did not comply with its own most basic process requirements.

You would have thought that if any bill required a proper regulatory impact assessment it would be the sort of bill that would cause 6,800 jobs to be lost in the financial services industry; it would be the sort of bill that would impose an additional cost of $700 million to implement; it would be the sort of bill that would impose an additional $375 million worth of compliance costs per annum. But not with this government or this minister. Minister Shorten is pursuing the vested interests agenda of the super industry network. He is throwing process overboard. This arrogant, divided, dysfunctional, incompetent government cannot bear to have these bills properly aired, properly scrutinised, properly debated in the Senate, and the Senate should not stand for that. The Australian Greens should not be aiding and abetting a deeply divided, dysfunctional and incompetent government that is trying to push bad legislation through the parliament.

Even though this legislation is supposed to come into effect on 1 July 2012, the regulations are not finalised, the ASIC guidance on a big part of this legislation apparently will not be finalised until the end of the year and the code of conduct which is going to be important for the operation of this legislation will not be finalised until next year. There is an amendment on the books that says the government will make it a soft start. These are the sorts of things that the Senate should be able to debate, because a soft start will not work—we need to defer implementation until 1 July 2013. *(Time expired)*

**Senator JACINTA COLLINS** (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (12:05): I move:

That the question be now put.

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

The Senate divided. [12:10]

(The President—Senator Hogg)

Ayes .....................34  
Noes .....................29  
Majority.................5
AYES
Bilyk, CL  
Brown, CL (teller)  
Carr, KJ  
Conroy, SM  
Di Natale, R  
Faulkner, J  
Furner, ML  
Hanson-Young, SC  
Ludlam, S  
Lundy, KA  
McEwen, A  
Polley, H  
Rhiannon, L  
Stephens, U  
Thistlethwaite, M  
Wong, P  
Bishop, TM  
Cameron, DN  
Collins, JMA  
Crossin, P  
Farrell, D  
Feeney, D  
Gallacher, AM  
Hogg, JJ  
Ludwig, JW  
McLucas, J  
Moore, CM  
Pratt, LC  
Singh, LM  
Sterle, G  
Urquhart, AE  
Wright, PL

NOES
Abetz, E  
Bernardi, C  
Birmingham, SJ  
Brandis, GH  
Bushby, DC  
Cash, MC  
Colbeck, R  
Cormann, M  
Edwards, S  
Eggleston, A  
Fawcett, DJ  
Fierravanti-Wells, C  
Fifield, MP  
Heffernan, W  
Humphries, G  
Kroger, H  
Macdonald, ID  
Madigan, JJ  
Mason, B  
McKenzie, B  
Payne, MA  
Payne, MA  
Ronaldson, M  
Ryan, SM  
Sinodinos, A  
Smith, D  
Williams, JR (teller)

The PRESIDENT (12:14): The question now is that the motion moved by Senator Cormann be agreed to.

The Senate divided. [12:14]

(The President—Senator Hogg)

Ayes ...................... 29
Noes ...................... 34
Majority ................... 5

AYES
Abetz, E  
Birmingham, SJ  
Boyce, SK  
Brandis, GH  
Bushby, DC  
Cash, MC  
Colbeck, R  
Cormann, M  
Edwards, S  
Eggleston, A  
Fawcett, DJ  
Fierravanti-Wells, C  
Fifield, MP  
Heffernan, W  
Humphries, G  
Kroger, H  
Macdonald, ID  
Madigan, JJ  
Mason, B  
McKenzie, B  
Parry, S  
Ryan, SM  
Ronaldson, M  
Smith, D  
Williams, JR (teller)

NOES
Bilyk, CL  
Brown, CL (teller)  
Carr, KJ  
Conroy, SM  
Di Natale, R  
Faulkner, J  
Furner, ML  
Hanson-Young, SC  
Ludlam, S  
Lundy, KA  
McEwen, A  
Milne, C  
Polley, H  
Rhiannon, L  
Stephens, U  
Thistlethwaite, M  
Wong, P  
Bishop, TM  
Cameron, DN  
Collins, JMA  
Crossin, P  
Farrell, D  
Feeney, D  
Gallacher, AM  
Hogg, JJ  
Ludwig, JW  
McLucas, J  
Moore, CM  
Pratt, LC  
Singh, LM  
Sterle, G  
Urquhart, AE  
Wright, PL

PAIRS
Carr, RJ  
Evans, C  
Siewert, R  
Waters, LJ  
Johnston, D  
Joyce, B  
Nash, F

Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Scullion did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question agreed to.
Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Scullion did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question negatived.

The PRESIDENT (12:18): The question now is that the second reading amendment moved by Senator Cormann.

The Senate divided. [12:18]

(The President—Senator Hogg)

Ayes ...................... 29
Noes ...................... 34
Majority ................ 5

AYES

Abetz, E
Birmingham, SJ
Boyce, SK
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Humphries, G
Macdonald, ID
Mason, B
Parry, S
Ronaldson, M
Sinodinos, A
Williams, JR (teller)

Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Ferravanti-Wells, C
Heffernan, W
Kroger, H
Madigan, JJ
McKenzie, B
Payne, MA
Ryan, SM
Smith, D

NOES

Bilyk, CL
Brown, CL (teller)
Carr, KJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Milne, C

Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM

Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL

Back, CJ
Evans, C
Johnston, D
Carr, RJ
Joyce, B
Siewert, R
Nash, F
Waters, LJ

The question now is that these bills be read a second time.

The Senate divided. [12:21]

(The President—Senator Hogg)

Ayes ...................... 34
Noes ...................... 29
Majority ................ 5

AYES

Bilyk, CL
Brown, CL (teller)
Carr, KJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Milne, C

Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM

Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL
Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Scullion did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question agreed to.

Bills read a second time.

The PRESIDENT (12:25): In respect of the Corporations Amendment (Future of Financial Advice) Bill 2012 the question is that amendment Nos (1) to (8) on sheet ZA285 circulated by the government be agreed to.

The amendments read as follows—

(1) Schedule 1, item 10, page 9 (line 5), omit "the commencing day", substitute "the application day".

(2) Schedule 1, item 10, page 9 (line 8), omit "a representative", substitute "a person acting as a representative".

(3) Schedule 1, item 10, page 9 (line 11), omit "a representative", substitute "a person acting as a representative".

(4) Schedule 1, item 10, page 9 (line 15), omit "the commencing day", substitute "the application day".

(5) Schedule 1, item 10, page 9 (lines 16 and 17), omit subsection 962D(2), substitute:

(2) In this section:

application day means:

(a) where:

(i) the client enters into the ongoing fee arrangement with a financial services licensee, or a person acting as a representative of a financial services licensee; and

(ii) the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions under this Part are to apply to the licensee and persons acting as representatives of the licensee, on and from a day specified in the notice;

the day specified in the notice; or

(b) in any other case—1 July 2013.

(6) Schedule 1, item 10, page 13 (line 24), omit "This Subdivision applies", substitute "(1) This Subdivision applies, on and from the application day,".

(7) Schedule 1, item 10, page 13 (after line 25), at the end of section 962R, add:

(2) In this section:

application day means:

(a) where:

(i) the client has entered into the ongoing fee arrangement with a financial services licensee, or a person acting as a representative of a financial services licensee; and

(ii) that licensee or representative is the fee recipient in relation to the arrangement on 1 July 2012; and

(iii) the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions under this Part are to apply to the licensee and persons acting as representatives of the licensee, on and from a day specified in the notice;

the day specified in the notice; or
(b) where:

(i) the client has entered into the ongoing fee arrangement with a financial services licensee, or a person acting as a representative of a financial services licensee; and

(ii) because the rights of the licensee or representative under the arrangement have been assigned, another person is the fee recipient in relation to the arrangement on 1 July 2012; and

(iii) a notice has been lodged with ASIC in accordance with subsection 967(1) or (3) that the obligations and prohibitions under this Part are to apply to the other person, on and from a day specified in the notice;

the day specified in the notice; or

(c) in any other case—1 July 2013.

(8) Schedule 1, item 10, page 14 (after line 23), at the end of Part 7.7A, add:

Division 7—Transition

966 Transition period

In this Division:

transition period means the period beginning on 1 July 2012 and ending on 30 June 2013.

967 Best interests obligations and remuneration provisions to apply during transition period

(1) A financial services licensee may, during the transition period, lodge notice in the prescribed form with ASIC that the obligations and prohibitions imposed under this Part are to apply to the licensee, and any person acting as a representative of the licensee, on and from a day that:

(a) falls on or after the day on which the notice is lodged with ASIC; and

(b) is specified in the notice.

(2) If a notice is lodged with ASIC in accordance with subsection (1), ASIC must, on its website:

(a) publish the name of the financial services licensee who lodged the notice; and

(b) include a statement that the obligations and prohibitions imposed under this Part are to apply to the licensee, and any person acting as a representative of the licensee; and

(c) state the day on and from which those obligations and prohibitions are to apply.

(3) A person:

(a) who would be subject to an obligation or prohibition under this Part, if it applied; and

(b) who would not be subject to the obligation or prohibition as a financial services licensee, or a person acting as a representative of a financial services licensee;

may, during the transition period, lodge notice in the prescribed form with ASIC that the obligations and prohibitions imposed under this Part are to apply to the person on and from a day that:

(c) falls on or after the day on which the notice is lodged with ASIC; and

(d) is specified in the notice.

(4) If a notice is lodged with ASIC in accordance with subsection (3), ASIC must, on its website:

(a) publish the name of the person who lodged the notice; and

(b) include a statement that the obligations and prohibitions imposed under this Part are to apply to the person; and

(c) state the day on and from which those obligations and prohibitions are to apply.

968 Notice to clients in transition period

(1) A financial services licensee who lodges a notice with ASIC in accordance with subsection 967(1) must ensure that any person in relation to whom the licensee, or a person acting as a representative of the licensee, has an obligation or is subject to a prohibition under this Part during the transition period (the client) is given a notice that complies with this section.

(2) The notice:

(a) must be in writing; and

(b) must be given to the client on or before the notice day for the client; and

(c) must state that the obligations and prohibitions imposed under this Part begin to apply to the licensee, and any person acting as a representative of the licensee, on a day specified in the notice given to the client.
(3) The day specified in the notice given to the client must be the same as the day specified in the notice lodged with ASIC in accordance with subsection 967(1).

(4) The notice day for a person to whom the licensee, or a person acting as a representative of the licensee, is obliged to give a fee disclosure statement during the transition period is:

(a) unless paragraph (b) applies—the disclosure day for the arrangement in relation to which the fee disclosure statement is to be given that falls within the transition period; and

(b) if a fee disclosure statement is given before the end of a period of 30 days beginning on that disclosure day—the day on which it is given.

The Senate divided. [12:25]

(The President—Senator Hogg)

Ayes..........................34
Noes..........................28
Majority......................6

AYES

Bilyk, CL
Brown, CL (teller)
Conroy, SM
DI Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Milne, C
Polley, H
Rhiannon, L
Stephens, U
Thistlethwaite, M
Wong, P

Bishop, TM
Cameron, DN
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Singh, LM
Sterle, G
Urqhart, AE
Wright, PL

NOES

Humphries, G
Macdonald, ID
Mason, B
Parry, S
Ronaldson, M
Smith, D

Kroger, H
Madigan, JJ
McKenzie, B
Payne, MA
Ryan, SM
Williams, JR (teller)

PAIRS

Carr, RJ
Evans, C
Siewert, R
Waters, LJ

Johnston, D
Back, CJ
Joyce, B
Nash, F

Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Scullion did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question agreed to.

The PRESIDENT (12:29): The question now is that amendments Nos (1) to (4), (6) to (9) and (12) to (16) on sheet 7237, circulated by the opposition, be agreed to.

The amendments read as follows:

(1) Clause 2, page 2 (table item 2), omit the item, substitute:

2. Schedule 1 1 July 2013.

(2) Schedule 1, item 10, page 5 (line 14), omit the definition of renewal notice.

(3) Schedule 1, item 10, page 5 (line 15), omit the definition of renewal notice day.

(4) Schedule 1, item 10, page 5 (line 16), omit the definition of renewal period.

(5) Schedule 1, item 10, page 8 (lines 20 to 35), section 962CA TO BE OPPOSED.

(6) Schedule 1, item 10, page 9 (line 1), omit "Termination, disclosure and renewal", substitute "Termination and disclosure".

(7) Schedule 1, item 10, page 9 (line 32), omit "or section 962K (the renewal notice obligation)".

(8) Schedule 1, item 10, page 10 (lines 4 and 5), omit "or section 962K".
(9) Schedule 1, item 10, page 10 (line 7), omit "or section 962K".

(10) Schedule 1, item 10, page 11 (line 27) to page 13 (line 8), sections 962K to 962N TO BE OPPOSED.

(11) Schedule 1, item 10, page 13 (line 21) to page 14 (line 2), Subdivision C TO BE OPPOSED.

(12) Schedule 1, item 10, page 14 (line 5), omit "subsection (2)", substitute "subsections (2) and (3)".

(13) Schedule 1, item 10, page 14 (after line 23), at the end of section 965, add:

(3) Subsection (1) does not apply to a scheme if any part of the scheme was entered into, begun to be carried out, or carried out, before the day on which this Part commences.

(14) Schedule 1, item 11, page 14 (lines 28 and 29), omit paragraph (jaad).

(15) Schedule 1, item 12, page 15 (lines 9 and 10), omit subparagraph (1E)(b)(ii).

(16) Schedule 1, item 12, page 15 (line 14), omit "(or (ii))".

The Senate divided. [12:29]

(The President—Senator Hogg)

Ayes......................28  
Noes......................34  
Majority..............6  

AYES  
Abetz, E  
Birmingham, SJ  
Boyce, SK  
Bushby, DC  
Colbeck, R  
Edwards, S  
Fawcett, DJ  
Fifield, MP  
Humphries, G  
Macdonald, ID  
Mason, B  
Parry, S  
Ronaldson, M  
Smith, D  

Bernardi, C  
Boiswell, RLD  
Brandis, GH  
Cash, MC  
Cormann, M  
Eggleston, A  
Ferravanti-Wells, C  
Heffernan, W  
Kroger, H  
Madigan, JJ  
McKenzie, B  
Payne, MA  
Ryan, SM  
Williams, JR (teller)

NOES  
Bilyk, CL  
Bishop, TM  
Brown, CL (teller)  
Collins, JMA  
Carr, KJ  
Crossin, P  
Conroy, SM  
Farrell, D  
Di Natale, R  
Feeney, D  
Faulkner, J  
Gallacher, AM

Question negatived.  

The PRESIDENT (12:33): The question now is that schedule 1, section 962CA, sections 962K to 962N, and subdivision C, as amended, stand as printed.

The Senate divided. [12:33]

(The President—Senator Hogg)

Ayes .................34  
Noes .................29  
Majority............5  

AYES  
Bilyk, CL  
Brown, CL (teller)  
Carr, KJ  
Conroy, SM  
Di Natale, R  
Faulkner, J  
Furner, ML  

Bishop, TM  
Cameron, DN  
Collins, JMA  
Crossin, P  
Farrell, D  
Feeney, D  
Gallacher, AM
The amendments read as follows—

(1) Schedule 1, page 25 (after line 10), after item 25, insert:

25A Subsection 968(4)
Repeal the subsection, substitute:

(4) The notice day is:

(a) for a person (the client) in relation to whom the licensee, or a person acting as a representative of the licensee, has an obligation or is subject to a prohibition under Division 2 of this Part in relation to personal advice provided on or after a day that falls in the transition period—the first day on which personal advice is provided to the client during the transition period; and

(b) for a person to whom the licensee, or a person acting as a representative of the licensee, is obliged to give a fee disclosure statement during the transition period:

(i) unless subparagraph (ii) applies—the disclosure day for the arrangement in relation to which the fee disclosure statement is to be given that falls within the transition period; and

(ii) if a fee disclosure statement is given before the end of a period of 30 days beginning on that disclosure day—the day on which it is given; and

(c) for a person (the client) in relation to whom the licensee, or a person acting as a representative of the licensee, has an obligation or is subject to a prohibition under Subdivision B of Division 5 of this Part in relation to the charging of an asset-based fee during the transition period—the first day on which the client is charged an asset-based fee during the transition period; and

(d) for a person in relation to whom more than one of paragraphs (a), (b) and (c) is satisfied—the earliest of the days specified as the notice day under the paragraphs that are satisfied for that person.

(2) Schedule 1, item 33, page 29 (lines 5 to 10), omit section 1527, substitute:

1527 Application of best interests obligations

(1) The following apply in relation to the provision of personal advice to a person as a retail
client on or after the application day (whether or not the advice was sought before that day):

(a) Division 2 of Part 7.7A, as inserted by item 23 of Schedule 1 to the amending Act;

(b) the amendments made by items 6, 7, 8, 9 and 34 of Schedule 1 to the amending Act.

2 In this section:

application day, in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:

(a) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from the day specified in the notice—the day specified in the notice; or

(b) if the person has not lodged such a notice—1 July 2013.

3 Schedule 1, item 33, page 29 (line 17), omit "the day on which that item commences", substitute "the application day".

4 Schedule 1, item 33, page 29 (after line 28), at the end of section 1528, add:

4 In this section:

application day:

(a) in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:

(i) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from a day specified in the notice—the day specified in the notice; or

(ii) in any other case—1 July 2013; and

(b) in relation to any other person who would be subject to an obligation or prohibition under Subdivision A of Division 5 of Part 7.7A if it applied, means:

(i) if a notice has been lodged with ASIC in accordance with subsection 967(3) that the obligations and prohibitions imposed under Part 7.7A are to apply to the person on and from the day specified in the notice—the day specified in the notice; or

(ii) in any other case—1 July 2013; and

(c) in relation to any other person who would be subject to an obligation or prohibition under Division 4 of Part 7.7A if it applied, means:

(i) if a notice has been lodged with ASIC in accordance with subsection 967(3) that the obligations and prohibitions imposed under Part 7.7A are to apply to the person on and from a day specified in the notice—the day specified in the notice; or

(ii) in any other case—1 July 2013.

5 Schedule 1, item 33, page 30 (line 2), omit "the day on which that item commences", substitute "the application day".

6 Schedule 1, item 33, page 30 (line 6), omit "the day on which that item commences", substitute "the application day".

7 Schedule 1, item 33, page 30 (after line 6), at the end of section 1529, add:

3 In this section:

application day:

(a) in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:

(i) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the person on and from the day specified in the notice—the day specified in the notice; or

(ii) in any other case—1 July 2013.

8 Schedule 1, item 33, page 30 (line 19), omit "the day on which that item commences", substitute "the application day".

9 Schedule 1, item 33, page 30 (lines 23 and 24), omit "the day on which that item commences", substitute "the application day".

10 Schedule 1, item 33, page 30 (after line 28), at the end of section 1531, add:

3 In this section:
application day, in relation to a financial services licensee or a person acting as a representative of a financial services licensee, means:

(a) if the financial services licensee has lodged notice with ASIC in accordance with subsection 967(1) that the obligations and prohibitions imposed under Part 7.7A are to apply to the licensee and persons acting as representatives of the licensee on and from the day specified in the notice—the day specified in the notice; or

(b) if the person has not lodged such a notice—1 July 2013.

The Senate divided. [12:38]

(The President—Senator Hogg)

Ayes.................33
Noes..................28
Majority...............5

AYES

Bilyk, CL
Brown, CL (teller)
Carr, KJ
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucus, J
Moore, CM
Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL

Bishop, TM
Collins, JMA
Di Natale, R
Faulkner, J
Turner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Milne, C
Polley, H
Rhiannon, L
Stephens, U
Thistlethwaite, M
Wong, P

NOES

McKenzie, B
Payne, MA
Ryan, SM
Smith, D
Parry, S
Ronaldson, M
Sinodinos, A
Williams, JR (teller)

PAIRS

Carr, RJ
Conroy, SM
Evans, C
Siewert, R
Waters, LJ

Johnston, D
Heffernan, W
Back, CJ
Joyce, B
Nash, F

Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Scullion did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question agreed to.

The PRESIDENT (12:42): The question now is that amendments Nos (1) to (6), (8) to (19), (21), (23) and (26) to (29) on sheet 7238, circulated by the opposition, be agreed to.

The amendments read as follows—

(1) Schedule 1, items 14 and 15, page 4 (lines 14 to 21), omit the items, substitute:

14  Section 960
Insert:
life risk insurance superannuation product has the meaning given by subsection 963B(2).

15  Section 960
Insert:
MySuper product has the meaning given by subsection 963B(2).

(2) Schedule 1, page 4 (after line 21), after item 15, insert:

15A  Section 960
Insert:
personal intra-fund superannuation advice has the meaning given by section 964N.

(3) Schedule 1, item 21, page 5 (lines 18 and 19), omit “a meaning affected by section 964A”,
substitute "the meaning given by subsection 964A(2)".

(4) Schedule 1, item 23, page 7 (line 6), after "identified", insert "through instructions, so far as is reasonably possible in the circumstances".

(5) Schedule 1, item 23, page 7 (line 30), omit "circumstances;", substitute "circumstances.".

(6) Schedule 1, item 23, page 7 (lines 31 to 33), omit paragraph 961B(2)(g).

(7) Schedule 1, item 23, page 9 (lines 15 to 22), section 961E TO BE OPPOSED.

(8) Schedule 1, item 24, page 16 (after line 10), before paragraph 963B(1)(a), insert:

(aa) the benefit is given to the licensee or representative solely in relation to the provision of general advice;

(9) Schedule 1, item 24, page 16 (lines 13 to 18), omit paragraph 963B(1)(b), substitute:

(b) the benefit is given to the licensee or representative solely in relation to a life risk insurance product, other than a life risk insurance superannuation product (see subsection (2));

(ba) each of the following is satisfied:

(i) the benefit is given to the licensee or representative solely in relation to a life risk insurance superannuation product;

(ii) the product is not issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, for the benefit of a class of members of the entity or for one or more members of the entity.

(10) Schedule 1, item 24, page 16 (lines 23 to 26), omit subparagraph 963B(1)(c)(ii), substitute:

(ii) the benefit is not for financial product advice in relation to the product, or products of that class, given to the person as a retail client by that licensee or representative;

(11) Schedule 1, item 24, page 16 (after line 32), after paragraph 963B(1)(d), insert:

(da) the benefit is given to the licensee or representative by an authorised representative of the licensee (the purchaser) in relation to the sale of a financial services business by the licensee to the purchaser;

(12) Schedule 1, item 24, page 16 (line 35) to page 17 (line 18), omit subsections 963B(2) and (3), substitute:

(2) A life risk insurance product is a life risk insurance superannuation product if the product is issued to an RSE licensee of a registrable superannuation entity, or a custodian in relation to a registrable superannuation entity, for the benefit of a class of members of the entity or for one or more members of the entity.

(3) MySuper product has the same meaning as in the Superannuation Industry (Supervision) Act 1993, as in force on and after the commencement of item 6 of Schedule 1 to the Superannuation Legislation Amendment (MySuper Core Provisions) Act 2012.

(13) Schedule 1, item 24, page 17 (lines 34 and 35), omit "the provision of financial product advice to persons as retail clients", substitute "carrying on a financial services business".

(14) Schedule 1, item 24, page 17 (line 37), at the end of subparagraph 963C(c)(iii), add ", which must not require the benefit, or the education or training, to be provided in Australia".

(15) Schedule 1, item 24, page 18 (lines 4 to 6), omit all the words from and including "in relation to" to the end of subparagraph 963C(d)(ii).

(16) Schedule 1, item 24, page 18 (after line 14), after paragraph 963C(e), insert:

(ea) the benefit provider is the employer of the licensee or representative;

(17) Schedule 1, item 24, page 21 (line 21), omit "a financial services licensee or an RSE licensee", substitute "the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product".

(18) Schedule 1, item 24, page 22 (lines 11 to 29), omit subsections 964A(2) and (3), substitute:

(2) A volume-based shelf-space fee is a monetary product access payment which is not administrative in nature paid by a funds manager to the platform operator.

(3) To the extent that the benefit is not a volume-based shelf-space fee, a platform operator
may accept an investment management fee scale
discount on an amount payable or a rebate of an
amount paid to the funds manager.

(19) Schedule 1, item 24, page 25 (after line 7),
at the end of Division 5, add:

Subdivision C—Fees for personal intra-fund superannuation advice

964J Application to a financial services
licensee acting as an authorised representative

If a financial services licensee is acting as
an authorised representative of another financial
services licensee in relation to the provision of
personal intra-fund superannuation advice, this
Subdivision applies to the first licensee in relation
to the advice in that licensee's capacity as an
authorised representative (rather than in the
capacity of licensee).

964K Financial services licensees must not
accept fees for personal intra-fund superannuation
advice other than from member to whom advice
provided

(1) A financial services licensee that is a
trustee of a regulated superannuation fund must
not accept a fee in relation to the provision of
personal intra-fund superannuation advice to a
member of the fund, other than from that member.

Note: This subsection is a civil penalty
provision (see section 1317E).

(2) A financial services licensee contravenes
this subsection if:

(a) the licensee is a trustee of a regulated
superannuation fund; and

(b) a representative, other than an
authorised representative, of the licensee accepts
a fee in relation to the provision of personal intra-
fund superannuation advice to a member of the
fund, other than from that member; and

(c) the licensee is the, or a, responsible
licensee in relation to the contravention.

Note: This subsection is a civil penalty
provision (see section 1317E).

(3) The regulations may provide that
subsections (1) and (2) do not apply in prescribed
circumstances.

964L Licensee must ensure compliance

A financial services licensee that is a
trustee of a regulated superannuation fund must
take reasonable steps to ensure that
representatives of the licensee do not accept a fee
in relation to the provision of personal intra-fund
superannuation advice to a member of the fund,
other than from that member.

Note: This subsection is a civil penalty
provision (see section 1317E).

964M Authorised representatives must not
accept fees for personal intra-fund superannuation
advice other than from member to whom advice
provided

(1) An authorised representative, of a
financial services licensee that is a trustee of a
regulated superannuation fund, must not accept a
fee in relation to the provision of personal intra-
fund superannuation advice to a member of the
fund, other than from that member.

Note: This subsection is a civil penalty
provision (see section 1317E).

(2) The regulations may provide that
subsection (1) does not apply in prescribed
circumstances.

964N What is personal intra-fund
superannuation advice?

(1) Advice is personal intra-fund
superannuation advice if:

(a) the advice is personal advice; and

(b) the advice is provided by a trustee of a
regulated superannuation fund, or an authorised
representative of the trustee, to a member of the
fund as a retail client; and

(c) the trustee holds an Australian financial
services licence that covers the provision of
personal advice in relation to superannuation
products; and

(d) the advice relates to the member's
interest in the fund and does not also relate to:

(i) any other financial product (except
eligible insurance (see subsection (2)) in relation
to the member's interest in the fund); or

(ii) anything mentioned in subsection
765A(1) that would be a financial product but for
that subsection (except eligible insurance in
relation to the member's interest in the fund); or

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(iii) any other matter specified in the regulations for the purposes of this subparagraph; and

e the fund is not a self-managed superannuation fund (within the meaning of section 17A of the Superannuation Industry (Supervision) Act 1993).

(2) For the purposes of subparagraphs (1)(d)(i) and (ii), eligible insurance is insurance of a kind that the trustee maintains in relation to the members of the fund for the purpose of financing benefits to the members that are within the scope of the Superannuation Industry (Supervision) Act 1993.

964P Meaning of trustee and member of a regulated superannuation fund

The following expressions have the same meaning when used in this Subdivision as they have in the Superannuation Industry (Supervision) Act 1993:

(a) member;
(b) regulated superannuation fund;
(c) trustee.

Schedule 1, item 28, page 26 (lines 7 and 8), omit paragraph (iaah).

Schedule 1, item 28, page 26 (after line 26), after paragraph (jaap), insert:

(jaapa) subsections 964K(1) and (2) (financial services licensee responsible for breach of fees accepted for personal intra-fund superannuation advice);

(jaapb) section 964L (financial services licensee to ensure compliance with duty about accepting fees for personal intra-fund superannuation advice);

(jaapc) subsection 964M(1) (authorised representative must not accept fee for personal intra-fund superannuation advice other than from relevant member);

Schedule 1, item 30, page 27 (after line 30), after subparagraph (1E)(b)(xiii), insert:

(xiiia) subsections 964K(1) and (2) (financial services licensee responsible for breach of fees accepted for personal intra-fund superannuation advice);

(xiiib) section 964L (financial services licensee to ensure compliance with duty about accepting fees for personal intra-fund superannuation advice other than from relevant member);

(24) Schedule 1, item 30, page 27 (after line 34), omit "or (v)".

(25) Schedule 1, item 30, page 28 (line 3), omit "or (v)".

(26) Schedule 1, item 33, page 29 (lines 15 to 18), omit all the words from and including "if:" to the end of subsection 1528(1), substitute "if the benefit is given under an arrangement entered into before the day on which that item commences".

(27) Schedule 1, item 33, page 29 (line 33) to page 30 (line 1), omit "a financial services licensee, or an RSE licensee", substitute "the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product".

(28) Schedule 1, item 33, page 30 (lines 4 and 5), omit "a financial services licensee, or an RSE licensee", substitute "the responsible entity of a registered scheme, an RSE licensee or the issuer of a managed investment product".

(29) Schedule 1, item 33, page 30 (after line 28), at the end of Part 10.18, add:

1532 Application of ban on other remuneration—fees for personal intra-fund superannuation advice

(1) Subdivision C of Division 5 of Part 7.7A, as inserted by item 24 of Schedule 1 to the amending Act, applies in relation to the provision of personal intra-fund superannuation advice on or after the day on which that item commences (whether or not the advice was sought before that day).
(2) Despite subsection (1), that Subdivision does not apply in relation to the provision of personal intra-fund superannuation advice to the extent that the operation of that Subdivision would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph of the Constitution).

The Senate divided. [12:42]

(The President—Senator Hogg)

Ayes.....................28
Noes.....................33
Majority..............5

AYES

Abetz, E
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Kroger, H
Madigan, JJ
McKenzie, B
Payne, MA
Ryan, SM
Smith, D
Bernardi, C
Boswell, RLD
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Humphries, G
Mason, B
Parry, S
Ronaldson, M
Sinodinos, A
Williams, JR (teller)

NOES

Bilyk, CL
Brown, CL (teller)
Carr, KJ
Crossin, P
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLachlan, J
Moore, CM
Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL
Bishop, TM
Cameron, DN
Collins, JMA
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Milne, C
Polley, H
Rhiannon, L
Stephens, U
Thistlethwaite, M
Wong, P

Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Scullion did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question negatived.

The PRESIDENT (12:45): We come to opposition amendment (7). The question now is that schedule 1, section 961E stand as printed.

The Senate divided. [12:46]

(The President—Senator Hogg)

Ayes......................33
Noes......................28
Majority..............5

AYES

Bilyk, CL
Brown, CL (teller)
Carr, KJ
Crossin, P
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLachlan, J
Moore, CM
Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL
Bishop, TM
Cameron, DN
Collins, JMA
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A
Milne, C
Polley, H
Rhiannon, L
Stephens, U
Thistlethwaite, M
Wong, P

NOES

Abetz, E
Birmingham, SJ
Boyce, SK
Bushby, DC
Colbeck, R
Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Cormann, M
Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Scullion did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question agreed to.

Bills, as amended, agreed to.

Third Reading

The PRESIDENT (12:48): The question now is that the remaining stages of these bills be agreed to and these bills, as amended, be now passed.

Senator CORMANN (Western Australia) (12:49): Mr President, I seek leave to make a 30-second statement.

The PRESIDENT: Leave is granted for 30 seconds.

Senator CORMANN: This is just to put on the record that the coalition remains strongly opposed to these deeply flawed and conflicted bills. In the interests of assisting the Senate we will not be calling another division. This is to place on record that this legislation will unnecessarily increase red tape and costs for consumers and small business, which is why we are recording our opposition to it and our vote against it.

Question agreed to.

Bills read a third time.

Tax Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (12:50): Mr President, I seek leave to make a 30-second statement.

Leave granted.

Senator CORMANN: I am rising to observe that this is a piece of legislation which the Senate is asked to pass judgment on without a single minute of debate. It is an absolute disgrace. That the Greens political party would make themselves complicit in this absolutely outrageous attack on the job that the Senate has got to do in the interests of all Australians is just outrageous.

The PRESIDENT: The question is that this bill be now read a second time.

Question agreed to.

Bill read a second time.

Third Reading

The PRESIDENT (12:51): The question now is that the remaining stages of this bill be agreed to and this bill be now passed.

Question agreed to.

Bill read a third time.

Matters of Public Interest

The PRESIDENT (12:51): Order! It being 12.45 pm, I call on matters of public interest.

Workplace Relations

Senator THISTLETHWAITE (New South Wales) (12:52): My grandfather was a
wharfie and in 1972, whilst he was working on the Hungry Mile docks in Sydney, he was seriously injured when he fell from a container on a ship that he was unloading. He suffered numerous injuries. He fractured his pelvis, broke his arm, injured his back and suffered internal injuries. As a result of those injuries, he would never work again as a wharfie, he would never earn the same level of income and he and his wife would never own their own home. He was hospitalised for five weeks. His rehabilitation took six months. During that time of rehabilitation he received no support from the company that he had been proud to work for for more than 30 years. Not once did a member of the company come to check on his welfare or the welfare of his family.

At that time the family was struggling and they wondered how they would make do, particularly in an era when workers compensation and occupational health and safety laws in the state of New South Wales and nationally were not to the levels that they are today. But he did survive. He survived for one single reason: he was a member of his union, the Waterside Workers Federation. Each week the union organiser, Tas Bull, would visit him in hospital and make sure that the family never went without. Whilst his income was reduced, his mates on the wharves put the hat around and ensured that the family had enough income to survive. My grandmother regularly tells me that the family would not have survived financially without the support of their union.

Since that time in this country, we have come to gradually realise that as a society we need to protect a person's regular income when they are injured in the service of another through an employment contract. We have realised that this is not just a workplace right but a basic human right, so throughout the rest of world, and in Australia, governments have progressively enacted laws that support workers whilst they are injured, that prioritise rehabilitation and prioritise ensuring that people can get back to work, that protect a person's reasonable income whilst they are injured in the employment of another and that provide ongoing support for seriously injured workers in this country. These are important human rights in the great egalitarian democracy of Australia, and it has been Australia that has led the way in ensuring workers and their families have access to adequate protections when workers are, unfortunately, injured at work.

Historically, New South Wales—the premier state, the great state of New South Wales—led Australia in the development of adequate workers compensation and occupational health and safety laws—until now, unfortunately. With the election of the O'Farrell government in New South Wales, the new government have sought to attack the most vulnerable in our society. We have all heard the stories of disabled schoolkids being left abandoned on the first day of the school term this year because the contract for bus services was not renegotiated by the O'Farrell government. We have seen them reduce payments to foster parents, who are providing support for vulnerable children in New South Wales. We have seen them attack workers' rights through the removal of conciliation and arbitration for workplace disputes, through caps on public sector wage increases and through the systematic redundancy and riddance of 10,000 public sector workers in New South Wales. This will result in a reduction in the welfare and living standards of the people of New South Wales.

What is the latest attack on workers in New South Wales by the O'Farrell government? It is a massive reduction in workers compensation protection and rights
for workers in New South Wales. They are dramatically reducing the coverage of and payments to workers injured at work in New South Wales. New South Wales will go from having one of the best, most comprehensive workers compensation systems in this country to, arguably, the worst workers compensation system in this country—part of a conservative campaign to ensure that New South Wales is as unattractive as possible as a place to live and raise a family. 

The changes that are being introduced into the New South Wales parliament today will dramatically reduce the rights of workers when they are injured at work. These changes include the abolition of journey claims. Think of this. A nurse has just had a couple of kids and is working part time, and that part-time wage is important in ensuring that that family can meet their mortgage payments and survive. She is on her way to work one morning in her car and through no fault of her own she is injured in a car accident and cannot work for three or four months because of those injuries. Under the new regime which is being introduced by Barry O'Farrell and his government, a nurse in that situation receives no payments. She has no coverage for her injuries by workers compensation. That is an absolute disgrace!

A reduction of weekly benefits to injured workers is also part of the reforms. Injured workers will be reduced to 95 per cent of average weekly earnings for the first 13 weeks and after 13 weeks they reduce further to 80 per cent of average weekly earnings. Medical payments for expenses will be restricted to one year after a person's weekly payments cease. There will be changes to the impairment levels for which injuries are compensatable in New South Wales, and the threshold for 'severely injured' will increase quite dramatically to 30 per cent of whole-of-body impairment. They will change the definition of injury as it relates to a workplace disease, and employment will now have to be the main contributing factor, rather than simply a contributing factor to the contraction or exacerbation of a workplace disease. They are abolishing the payment of death benefits where a person is killed and has no dependents. Unfortunately, they have indicated that more cuts are planned to workers compensation protections in New South Wales.

This is a systematic dismantling of the rights of workers and, importantly, their families and their ability to maintain a reasonable income when they are injured at work. It is a disgraceful attack on the human rights of the people of New South Wales. This will have savage social consequences and economic costs not only for New South Wales but also for the federal budget, because when these people are not able to access adequate payments and reasonable support in the wake of an injury at work they will seek that assistance elsewhere. And that assistance will have to be provided through Medicare, through the health system and the hospital system—importantly, through the mental health system—and, no doubt, through social security. That will put extra pressure on the federal budget.

In a time when we talk about the importance of social inclusion as an economic and social goal for governments in this country, here we have a state government pushing social exclusion. Workers will not be able to maintain their living standards because they will not have access to a reasonable income as a result of injury in the workplace in New South Wales. I have no doubt that we will see an increase in poverty rates in New South Wales. We will see an increase in mental illness associated with people who are injured at work and are unfairly compensated for their injuries. We will see an increase in stress and pressure in the family situation—the
complete antithesis of what all governments have been trying to achieve in the area of social inclusion.

One may ask why the O’Farrell government is bringing in these changes. Why are they cutting benefits to a group of the most vulnerable in our society—-injured workers? They claim it is to reduce a deficit in the system, but they ignore the fact that the deficit in the system is predominantly a result of bad investments from insurers during the global financial crisis and a downturn in the investment market in the wake of the global financial crisis. It has nothing to do with the performance of the scheme or with the benefits that are paid to workers to get them back to work. They claim that there has been rotting of the system. That is a completely unjustified argument, and I challenge anyone to say that a worker who gets injured wants to stay on a measly $432.50 payment per week as a regular income whilst they are injured. Nobody wants to have to live off a payment of $432.50 per week whilst they are on workers compensation.

Think of the nurse who does her back lifting a patient at work. Think of the firepersons who injure themselves risking their lives to save others. Think of the police officers who injure themselves as a result of an assault occasioned in the line of duty. Think of all of those people who work in social services in the state of New South Wales who are about to have their benefits and their access to a reasonable incomes when they are injured at work reduced because of an ideological obsession by the conservatives in New South Wales to restrict and cut the rights of workers in that great state.

I am pleased to say that the union movement in New South Wales is not standing idly by and allowing this to happen. They are campaigning to oppose these reforms. I was pleased to join 5,000 workers in very inclement weather in Macquarie Street in Sydney last week on 13 June to protest the insidious reforms that the Howard government—-sorry, the O’Farrell government—are introducing to workers compensation in New South Wales.

Opposition senators interjecting—

Senator THISTLETHWAITE: They are taking their lead from John Howard. I encourage citizens of the state to go to the website that the union movement has set up—nswforall.org.au—and have a look at the facts about the operation of the workers compensation scheme and occupational health and safety laws in New South Wales. Get the facts—that the scheme is aimed at insuring safety is paramount, that occupational health and safety laws protect workers and that when someone is injured the aim of the scheme should be to provide a reasonable income but at the same time to progress and prioritise rehabilitation to get someone back to work. I ask people to email or to write a letter to their local MP and express their opposition to these reforms, to sign the petition that is available on the website and to take to social media and express their outrage at what the O’Farrell government is doing to workers rights in New South Wales.

In conclusion, I wish to highlight one of the comments that was made by a worker in New South Wales on the website. They said: On December 16th 2011 a car ran up the back of my car while I was stopped in response to a red traffic light. My car was written off. The back of the car had been pushed in to within 4 inches of the back seat. I sustained a whip lash and back injury and have been having physio as a result of this injury.

If physio had not been paid for through workers compensation, I would have had to take time off and cause the school the expense of replacing me
on those days. As an assistant principal this would have also caused disruption to the school. The cost of the injury would have been greater for the students, teachers, parents and community.

(Time expired)

Same-Sex Relationships

Senator BOSWELL (Queensland) (13:07): I rise today to speak on an issue that is dear to my heart: the family. Without it I would be nothing and nor would most of the population on the planet. I do not mean to delve into cliches, but there is no other way to put it: the family is the cornerstone of society. Since ancient times it has been the main institution to which all individuals have looked for guidance, protection, discipline and a sense of belonging. And the root of most of these families is the social institution of marriage—that is, the marriage between a man and a woman. This union has a specific purpose in that it is designed to bring children into the world and to nurture and form those children into responsible, well-adjusted adults who can make a valuable contribution to society. This is how it has been for thousands of years—for our parents and our grandparents through the generations.

Yes, it is true that sometimes marriages do not work out. And, yes, it is true that marriage is rather debased today. Sometimes children do not grow up as well adjusted as we would want. But, for as long as we have known, the family unit has been based on the convention of marriage between a man and a woman—the only relationship that of itself can produce children. It is the ideal and, as a society, we must always struggle to obtain the ideal.

We know from experience that, on the whole, the family and a marriage between a man and woman allows children to live in a safe, protected environment where they are allowed to grow into adults who pass on strong values to their children. The family is a continuum. We know this from experience and, therefore, we cling to that continuous ideal and look to uphold it. If we abandon that ideal then what we are in effect saying is, 'We do not care; we do not care about others; we do not care about our children,' and, therefore, we will debase society, develop a 'near enough is good enough' mentality and become a society that is far more concerned with the rights of a few individuals than it is with the rights of society as whole.

In Australia we now stand at the brink. We have to make a decision. Do we as a society turn away from everything we know, everything that our society is based on—the ideal of the family as it has been for thousands of years? Or do we go the other way, down the 'near enough is good enough' route, and allow gay marriage and just give up on the ideal?

It is a cliche that Australian citizens in general are apathetic about moral issues. We live in such a wonderful society that we are rarely fazed by potential change in legislation or policy. Only until it actually happens do we really think about the repercussions of changes to certain legislation. But this issue touches all of us and, although the polls are supposedly in favour of this change, the polls are inconsistent. Indeed, some polling shows that people are beginning to change their minds.

Two polls come to mind. A Galaxy poll taken earlier this year showed over 60 per cent in favour of gay marriage, but another poll about one month ago showed 50 per cent in favour of it and an increase in the undecided vote. As senators, ministers and members of parliament, we should not be following polls or trends on issues as important as marriage. Following polls is a cop out. We are opinion makers, not opinion followers. This is not an issue about the way
popular opinions trend; rather, it is an issue about what we as a society should be encouraging and what we should be discouraging. The risk is our indifference to issues that we do not see as affecting us directly but that slowly and surely harm our society.

With gay marriage we have to ask ourselves the question: what does this mean to the society in which we live and for which, as Australian law makers, we are responsible? From a distance, the issue of gay marriage looks like a lot of other issues to the Australian voter. From the outside, it does not look as though it harms anybody. It does not seem to affect other individuals who do not engage in it. It does not seem to harbour any cost to the taxpayer or to organisations. It seems a relatively harmless relaxation of the laws and conventions. However, the problem lies in what happens after the conventions have been relaxed.

The reason marriage is between a man and a woman is in order to have children. Two men or two women cannot conceive without some outside assistance. Marriage is not just a convention or a mere formality. It is a mechanism that was created by society to bring the two sexes together to create a foundation of moral, social and legal protection and stability. Without this foundation, we are risking a lot. Like all things that have a foundation, society also has a base, a floor, a foundation. That foundation has to be and always will be the family. The family plays an integral part in society.

A society cannot function properly without a proper family providing a base and functioning in the way that it should—that is, as a safe, secure and caring institution. It is important to bring children up with a mother and a father who, with love and care, tell their children right from wrong. Once those children have grown up, there is a unit and a support network in place, through grandparents, aunts and uncles. They all contribute to creating a larger, stronger base that holds up society as a whole. This all starts with the marriage between a man and a woman, who both have unique qualities and who complement one another when they engage in the process of raising children.

Allowing gay marriage is not about letting people into some exclusive club; nor is it a sign of love. One would assume that if a gay couple had been living together for a long time they would already love one another. Relaxing the laws on the exclusivity of marriage would be like saying that this sexual bond between men and women is no longer fundamentally important to our society. But the very fact of this difference is important because children can be conceived and within that union those children should flourish. If we adopt gay marriage, it means that we adopt the 'near enough is good enough' mantra. We deny that difference which is part of nature itself. We are saying that any two people are as good as a mother and father. Well, if that is the case, why do we have marriage at all?

Marriage is not just a sign of love or a piece of paper; it is a bond society has created between the sexes to ensure that the only relationship that of itself can produce children remains apart, different and, yes, exclusive from all other types of relationships—and, yes, superior to those relationships. Marriage has, even in the debased atmosphere of today's social milieu, a sort of sacredness. Witness the couples who live together, sometimes for many years, then marry when they want to have children. Some may argue that without marriage the legal rights of a gay couple are severely compromised. This is not the case, as most gay couples—or most de facto couples, for that matter—have just as many
legal rights as married couples. All forms of discrimination against different couples have been removed.

One consistent element in marriage in cultures all over the world is that it has always been exclusively between a man and a woman. There has always been a recognition that the bond of marriage is between a man and a woman—and for a reason: it brings the two genders together, which creates a base to raise children in, which in turn allows societies or communities to flourish. Without this bond or convention that base breaks down, as does the community base.

It is understandable that gay people want to marry. It is entirely understandable for people to want some legal recognition of their relationship. But this has not happened because there is a great upsurge among the general population in favour of gay marriage. Rather, as the gay activist, journalist and supporter of gay marriage Andrew Sullivan has said, this would never have happened if heterosexual marriage had not become debased. I deplore that fact, but we must continue to defend marriage between a man and a woman, because we must continue to defend the family that comes from it and put it front and centre in the social edifice. If we break the nexus between marriage and the only type of sexual relationship that can produce children—the one between a man and a woman—we will have broken the nexus between marriage and the family and society and have made it no more than 'near enough is good enough'—an empty piece of paper. In that case we might as well not have marriage at all.

**West Papua**

_Senator DI NATALE (Victoria) (13:17):_ I rise today to express my grave concerns about a tragic situation that is unfolding on Australia's doorstep at this very moment. I speak of the issue of West Papua, where alarming abuses of human and democratic rights are occurring. It appears that there has been a significant escalation in politically motivated violence over the past month. So it is timely to reflect on what is happening in a place that is one of our closest neighbours and the role we can play in ending the conflict and protecting the rights of the people who live there.

West Papua presents a challenge for Australian diplomacy and for the global community. It is a challenge that this nation and indeed the world is yet to meet. Although it is the world's second largest island, New Guinea is a part of the world that rarely makes the nightly news. The western half of the island is West Papua. The situation faced by its people is something that deserves our urgent attention.

West Papua was one of the last parts of Asia to be decolonised. The Dutch retained control of the region when Indonesia gained its independence in 1949. The Netherlands took steps to prepare the territory for independence, which included the development of a national anthem and a national flag, called the Morning Star. Sadly, this independence was not to be. Indonesia had always claimed the province, and conflict between the Netherlands and Indonesia over West Papua resulted in armed conflict in 1961. In 1963 the New York agreement passed administration of West Papua over to Indonesia. West Papua was formally annexed to Indonesia in 1969, following what was then called the Act of Free Choice. Papuans call this the 'Act of No Choice'. A true act of self-determination should have occurred, but it did not. The Papuans were denied their chance to vote on their future. Instead, there was an atmosphere of violence and intimidation, with 1,022 hand-picked Papuans assembled,
cajoled, bribed and threatened into voting to become part of the Republic of Indonesia.

I am sorry to say that the people of West Papua have been waiting ever since for the chance to express their desires to chart their own future. Self-determination, a right belonging to all people, was denied to them. Indonesia fought long and hard for its own independence, so the Indonesians do understand the desire for self-determination. Indeed, they would consider themselves as the liberators of West Papua from colonial rule, which in my view is a sad irony, when we consider what has happened there since 1969.

The people of West Papua are Melanesian. They are ethnically, linguistically and culturally distinct from the majority of Indonesians. They are ruled from Jakarta by a government that often seems more interested in their resources and in what can be gained from the region than in their welfare. They have had to endure a new form of colonisation, and Melanesian Papuans are already a minority in some parts of West Papua. In fact, they may soon be a minority in the province as a whole if current trends continue. Papuans now face the outrage of being discriminated against in their own land, with the public service, business elites and security forces now dominated by non-indigenous Papuans.

The Papuans must watch powerlessly as their land is exploited. The Grasberg gold and copper mine, the world’s largest, is an environmental disaster but provides very few benefits to the people of West Papua. The Papuans have to watch as their land is patrolled by the Indonesian army. They are nominally Indonesian citizens, yet the army is not there to defend their rights—in fact, in many cases quite the opposite occurs. The results are as predictable as they are tragic. Tension grows daily, ethnic division is rife, oppression leads to violence and the Papuan desire for the right to choose their own future has never been stronger.

In October last year, the Third Papuan People’s Congress was held in Jayapura. Five thousand Papuans attended to have a say on their future, and it was a peaceful gathering. The right to gather and discuss their future is guaranteed by the Indonesian constitution, yet the meeting was disrupted by a military crackdown. At least three people were killed. Five leaders were arrested and have since been jailed for three years. There was not a word of protest from the Australian government.

Since then, the situation has worsened. In the past two to three weeks, there have been shootings, killings and military violence in Jayapura. There have been a number of separate attacks, with several people having been shot or stabbed. The accounts filtering through indicate that no arrests have been made. Police and the military blame Papuan separatists, but human rights defenders in Papua point the finger squarely at Indonesian security forces. The perpetrators of this violence must be identified through a transparent process.

We have also heard reports of Indonesian security forces sweeping the Papuan highland town of Wamena. They have caused at least two deaths, injured at least 11 people and torched at least 70 houses. This was apparently retaliatory action—police were retaliating for the killing of one of their officers by Papuans. The killing of the police officer, however, was prompted by his killing, on his motorbike, of a Papuan child. Unless those inflicting violence are held accountable, this cycle of violence will continue and worsen.

We have now heard news of Papuan leader Mako Tabuni being shot and killed by police on Thursday last week. He was
walking on the street near a housing complex in a suburb of Jayapura. Mako Tabuni was the deputy of the KNPB, a group which has called for a referendum on Papuan self-determination and a movement which has publicly identified itself as a peaceful one. The Australian Greens are deeply saddened to hear of the killing of Mako Tabuni. We extend our condolences to Mako Tabuni's family and we confirm our solidarity with the people of West Papua whose human and democratic rights continue to be violated.

Police say Mako Tabuni was resisting arrest and armed with a weapon he had taken from his arresters, but eyewitness accounts say that Tabuni, as he walked by alone, was suddenly and unexpectedly shot by a gunman in one of several cars on the street. Tabuni's killing prompted angry scenes in Jayapura as Papuans protested his death. All of this has been taking place while many Papuans languish as political prisoners in Indonesian prisons, charged with treason for raising their flag, singing their traditional songs or expressing their political views. One example is Filep Karma, who has been in prison for over a decade for doing nothing more than peacefully protesting. I again call on the government to urge our Indonesian neighbours to take action to ensure that democracy and human rights are upheld in this region.

It has been a bloody few weeks in West Papua, adding to the horror experienced by the West Papuan people over many decades of Indonesian rule over their lands. Australians are now becoming more aware of these atrocities being committed on their doorstep. They know what happened in East Timor under Indonesian rule and they know that we, as a nation, cannot sit idly by while it occurs again in West Papua.

There is a petition due to be tabled next week in the House of Representatives, brought to the parliament by a community activist group based in my home state of Victoria and signed by more than 3,000 Australians. It calls on the Australian government to request that the United Nations review the New York agreement of 1962 and the 1969 Act of Free Choice and conduct a genuine, UN monitored referendum on self-determination in which all adult West Papuans are allowed to vote without duress. The petition also calls on the House of Representatives to stop all Australian financial support to and training of Indonesian military and security personnel until human rights abuses by military and security personnel in West Papua cease. It asks elected representatives to request the Indonesian government to remove the media blockade and allow international journalists free access to West Papua.

I have spoken before in the parliament about the desire of the Greens to see West Papuans free to express their political views without fear of persecution. But this freedom will not be realised until there is more international scrutiny. It is absolutely paramount that the region is opened up to journalists, who must be free to visit and report on the situation on the ground. The story of the West Papuans must be told. The truth must be told. Human rights organisations must also be allowed into the region. Until this scrutiny is applied, all we have to assure us that illegal acts are not occurring are the assertions of local authorities. It would not be wise, given the history, to take these assertions at face value.

I will continue to advocate for the human rights of one of our nearest neighbours until we see this important change. People should never feel the threat of violence or death simply for expressing their political views. We must advocate for a new dialogue between the Indonesian government and the representatives of the Papuan people. While
in theory West Papua has special autonomy, this has failed the West Papuan people. It is time to start discussions afresh.

It is worth noting that Indonesia recently underwent its UN periodic review, a human rights review which occurs for UN member states every four years. This was an opportunity for fellow UN member states to make observations and recommendations about the human rights record of Indonesia. The review was held on 23 May and the Indonesian government accepted 180 recommendations from 74 countries. Indonesia adopted 144 of these, with the remainder to be brought back to Indonesia to be considered and decided upon in September 2012 during the 21st session of the UN Human Rights Council. Of the recommendations yet to be adopted, it remains to be seen whether Indonesia will address those relating to the protection of human rights defenders. It has been called on to free those people detained for peaceful political protests. It is unacceptable that someone like Filep Karma be detained for decades simply for expressing a right that all of us should be granted.

Among the remaining items that Indonesia has taken home to discuss, it has also recommended that they address issues of impunity and immediately take action on reports of human rights violations committed by the military and by police, particularly in Papua. I will be watching those responses with interest.

Beyond the UN periodic review, the world will be watching West Papua. There is new scrutiny on this region, with new technologies now enabling Papuans to convey messages, photos and video to the outside world. They are sharing their experiences of brutality and conflict despite the restrictions that prevent outside journalists from reporting in the region.

Here in Australia a group of young West Papuan activists are using online media and music to create awareness of the oppression their families are experiencing back home. I have met with many members of this group. In fact, I enjoyed their music. A group called the Rize of the Morning Star deserve to be commended for their advocacy and activism on this hugely important issue. It is a project that is capturing the hearts and minds of many Australians through music, telling the traditional stories of West Papua and asking us all to sit up and listen to what is happening in the region.

The petition that will be tabled next week is a notice to this parliament that thousands of Australians are outraged at the human rights abuses occurring in West Papua. I urge the foreign minister, Minister Carr, to take the concerns of these Australians to his Indonesian counterpart. I am also pleased that with several of my colleagues I will be inviting all members of this 43rd Parliament to join us in establishing a parliamentary friends of West Papua group. It will be an opportunity for us to collaborate across party lines on the complex issues facing our neighbours.

West Papua is a chance for Australia to show real leadership. It is a chance for us to show that we will stand up for the values of peace and democracy we so readily espouse. We can argue for a peaceful and optimistic future for Papua and remain a good friend of Indonesia. But it starts with facing the truth. We must face this truth before more blood is spilt.

**Defence Procurement**

*Senator MARK BISHOP* (Western Australia) (13:32): Earlier this week I tabled report No. 429 from the Joint Committee on Public Accounts and Audit on the 2011 *Major projects report* by the Australian National Audit Office. Included within that
report was a dissent by me on one reporting matter I did not agree with. That matter is the committee's recommendation on price indexation reporting.

By way of background, the parliament has long been concerned with the accountability and acquittal of taxpayers' money by defence in its procurement budget. The defence budget for procurement, as managed by the Defence Materiel Organisation, is currently $9.1 billion per annum. This comprises $3.4 billion for new equipment and $4.7 billion for sustainment—that is, new purchases, running costs and maintenance. This is 40 per cent of the total defence budget and includes 268 projects, 188 of which are very large, averaging $400 million apiece. In fact, DMO spends $38 million every day of every week of every year. So the nature and scale of this task and the scrutiny of it by the parliament should not be underestimated. By general government standards, this massive amount of money on capital projects has no equal.

Projects in other portfolios, of much lesser value, attract much more scrutiny. As an example, there is the Refresh program in Centrelink where $200 million was spent on new computer infrastructure. Here a steering committee, chaired by a departmental head with other high powered outsiders, rode shotgun. The reason was the then government had little faith in the ability of Centrelink to deliver. With the number of projects averaging $400 million in defence, nothing like this level of scrutiny exists. Perhaps it should.

There are encouraging signs with newly instituted gate reviews that a semblance of similar rigour is emerging. However, the record over the years has been appalling, the waste being counted in recurrent billions of dollars. That is notwithstanding many reviews and reports urging reform and new organisational arrangements. One of those was a report by the Senate Foreign Affairs, Defence and Trade References Committee in 2003, of which I am a longstanding member, noting that the committee is currently finalising another inquiry into defence procurement.

In its 2003 report the committee recommended that defence issue an annual report on the progress of major projects against the criteria of cost, timeliness and technical performance. As a result, in 2006, the public accounts committee recommended that the Howard government provide funding to ANAO so this could occur. The ANAO reports directly to the parliament and the public accounts committee is the forum in which those reports are considered. Funding was provided and this report on the 2010-11 ANAO audit of major projects in defence is the fourth to date.

I will not reiterate the recommendations of the ANAO or the JCPAA's report, except to say progress is being made by defence and the Defence Materiel Organisation, albeit slowly. The ANAO report covered 28 major projects with a total lifetime value of $46 billion in current figures. The most damning finding was that time slippage had increased by 31 per cent, which is simply unacceptable. Firstly, planned capability falls way short. Secondly, additional costs of $295 million in price indexation are paid by the taxpayer. That is the price of delayed production. To be fair to defence, I know they are trying very hard to make a new road in this area, as demonstrated by recent public evidence. In its own defence, it claims that almost 90 per cent of this time lost is on pre-2005 projects. I can only say that the challenge to defence is that the proof of the pudding will be in the eating. That excuse will slowly disappear over time. I sincerely hope all the current expressions of hope and determination to do better will in fact be
realised. The ANAO reports to the public accounts committee will tell us in time, and this brings me to the point of my dissenting report. In reporting to the parliament on these top 28 projects, ANAO uses a number of devices. These include standard project data summary sheets where standard technical and performance details of the progress of each project is recorded and updated annually. Originally, these were poorly done but have gradually improved to provide increasingly useful insights.

ANAO has also reported financially against standard criteria. These include original project budgets, indexation increases, real increases for subsequent project alterations as approved by government and foreign exchange variations. As an example of the significance of these reporting lines, in 2010-11 the approved budget increase for the 28 projects totalled $7.8 billion—an enormous amount of money; in fact, more than the total annual budget for many government agencies. That $7.8 billion was comprised of increases approved for changed project specifications of $3.6 billion; a foreign exchange decrease of $3.4 billion; and price increases—that is, indexation—of $7.6 billion. With neutral foreign exchange, that is no windfall. The extra funding would have been $11.2 billion—a huge amount. These are amazing figures but all legitimate as things stand and go to explain budgetary increases year on year.

The reporting format enables the parliament to understand those increases. As I mentioned, the only aberration in this format is that, while delays are tolerated and funds are indirectly indexed throughout that delay, unnecessary costs are of course incurred. I should note, however, a new discipline has been imposed whereby indexation will no longer be provided for time slippage for post-2010 projects; henceforth Defence will have to absorb the costs of its poor time performance.

The obvious question is: given the enormity of the time delay in the past, how will that cost be absorbed in the future, especially by DMO, remembering we are discussing billions in indexation costs annually? In considering these matters in the last two years, the public accounts committee has spent some time on financial reporting criteria as well as the very vexed question of meaningful handover dates from the supplier, DMO, to clients—that is, the service chiefs.

The committee has agreed to some changes in financial reporting following discussions between the Auditor-General and DMO. One of these is to move away from historic cash reporting with separate indexation to what are called out-turn prices. That reflects current prices in real terms. Increases for changed project specifications as approved and for foreign exchange will remain. Pre-2010 projects will also continue to have price indexation identified.

Together these reporting criteria enable the parliament to quickly establish poor project management and financial shortcomings. My problem is this: the public accounts committee, as advised by the Auditor-General, has agreed price indexation should no longer be included as a separate measure for post-2010 projects, the argument being that out-turn prices are sufficient. The argument is that to identify separate indexation elements for each project is too onerous and time consuming. I simply do not accept that as I believe this is a significant dilution of accountability in this process. Furthermore, if it can be done for pre-2010 projects, why stop? The claim it is too onerous does not wash simply because in contractual terms indexation is provided for—that is, indexation is contained in the
project contracts. It must be calculated separately to pay accounts as well as derive the out-turn price.

In some contracts it is understood there may be a wide range of indices used. This is especially the case for overseas projects such as shipbuilding where there can be and are many variables. They could include windfall gains and losses—and that makes sense in these turbulent economic times. My concerns go to the natural tendency of the bureaucracy to obtain funding and acquit in global terms only—that is, they say, 'Trust us, stop micromanaging and judge us by our outcomes, not our outputs. In other words, let the managers manage and don't worry about the money.' In an environment like Defence, with an annual budget of $25 billion, I understand the attraction of such an attitude. Likewise, for the Department of Finance and Administration, I do not envy them their task of getting full acquittal of money spent. I understand that is why provision for indexation and contingency funding are simply capped as line items.

The task in knowing where all the money goes in Defence is frightening. However, that does not mean that we slacken off in our demands for full accountability; hence my fear about the agreement to abandon reporting on indexation in the major projects report. I accept that many Defence procurement projects are complex. I accept in many cases where there is leading technology there are risks, some unknowns and that specifications will change. But none of this is an excuse to slacken the reins and thereby return to the past.

There is already generous provision for some of this in contingency funding—it is simply built into the initial approved price. I understand that is a very large sum of money; however, having had indexation separately identified for so long, for it now to be removed I can only see as a serious diminution of accountability. After all, last year indexation amounted to additional costs of $1.16 billion—now lost to parliamentary scrutiny for post-2010 projects.

Funding of Defence procurement projects is already very liberal and has escaped detailed scrutiny for a long time. The record is clear evidence of the need for the disciplinary task the parliament has embarked upon both through ANAO and Senate estimates and inquiry. In my view, the public accounts committee has been too liberal and hence my dissent.

**Foreign Investment**

Senator IAN MACDONALD (Queensland) (13:45): I have been an advocate for the interests of Northern Australia for my entire parliamentary career. For 23 years I have been drawing the attention of this chamber, the media and the people of Australia to the diversity and abundance offered by the north. My colleagues and I have been labelled alarmist when we have suggested that if Australia does not develop the natural abundances in the north then somebody else will. Recent talk has suggested that these concerns may not be entirely fanciful.

It may come as no surprise that I am encouraged to hear about the government's reported engagement with Chinese interests in investigating infrastructure and agricultural developments in the Ord River in Western Australia, through various regions of the Northern Territory and also on the Atherton Tablelands in Queensland. I will always welcome any action that encourages development in the north; however, I would inject a note of caution. The current joint Australian-Chinese study of the north is expected to report over the next few months but the government is yet to indicate the exact terms of reference for the
review. The expected controversy over foreign ownership is perhaps also a distraction from the more critical logistic challenges that are faced by any development program for Australia's north.

The attractiveness of the idea of opening up Northern Australia to development is self-evident, but any actual action that is taken must be managed with great care to ensure that the results we seek are achieved and that the results are sustainable. The Farm Institute of Australia's executive director, Mick Keogh, recently drew attention to the developing view that Australia is being reckless with its agricultural assets and that future generations may not be appreciative of this cavalier approach.

Australia's agricultural abundance allows farmers currently to export approximately 60 per cent of their production. This does not automatically mean that Australia is geared to become the food bowl of Asia. Only a thoroughly planned and meticulously executed strategy will yield the best case results that all parties seek. The challenges that have economically marginalised production in Northern Australia must be acknowledged and addressed.

The trade minister, Mr Emerson, may see Chinese hunger for Australian agricultural assets as an opportunity. However, it remains to be clarified whether it is the Chinese seeking to invest for their own food security reasons or if it is the Australian government seeking to secure billions of dollars of Chinese investment in order to deliver on infrastructure promises that it cannot possibly honour and to simply balance their current account.

The population of China was estimated at over 1.343 billion people in July 2011. To put this in perspective, Australia's population is just 1.6 per cent of this vast figure. Hunger remains a widespread problem in China. As recently as 2007, 130 million Chinese people, or 10 per cent of the population, were judged to be suffering from the effects of malnutrition. These startling statistics are perhaps simply an indication of the challenges that are faced when attempting to administer and feed such a large population. Economic development, however, has led to an increasingly affluent Chinese society with expanding dietary aspirations. These aspirations and the need to overcome hunger are placing increasing pressure on Chinese officials to deliver food safety and food security to the population. They are issues along with the elimination of hunger that are key imperatives for Beijing at the moment.

Not surprisingly, the same economic development that is currently increasing pressure for food security is also creating conditions that are making food security more difficult to deliver. Rapid urbanisation is consuming vast tracts of accessible arable land in China, and since 1990 China has lost around 8.3 million hectares of food-producing land to the needs of urban growth. Inevitably, Chinese officials are seeking alternatives to producing foods of sufficient quantity and quality within its own borders. At this stage the exact nature of how the Australian government seeks to engage with Chinese state owned industries in the north of Australia remains to be clarified. In 2010-11 the Foreign Investment Review Board approved more than 5,000 Chinese investment applications, with a total value of $15 billion.

Chinese investment in Australia is of course nothing new. I mention as an aside to the Senate that the early gold rush populations of Northern Australia in the mid-19th century were fed often by Chinese market gardeners. It is common knowledge that the imperatives of providing safe and secure food to the populace of China in the long term far outweigh any financial or
environmental considerations for Beijing. The priority for Beijing is to maintain social stability by providing safe and sufficiently abundant food sources for its population. The intent of the current study has been expressed by Dr Emerson as augmenting Australia’s food production delivery to world markets. This intent remains to be tested. Indeed, the information provided thus far suggests that Beijing would provide substantial investment to allow the development of agricultural infrastructure and then allow the food that is produced to be raised for sale on the world market. Once on the open market, the Chinese, along with other customers, would compete for the purchase of these food stuffs. This sounds ideal for Australia; however, it does raise questions.

Principal amongst those questions raised by this insufficiently defined investment model are: who will own and operate the farms; will operational ownership be freehold or leasehold; who will own the produce; who will own the infrastructure; and how will Australia, through the Australian Taxation Office and the collection of tax, benefit from this activity?

If the means of production and the food that is produced are both owned by foreign government entities, how does the Australian government propose to enforce an agreement that such activity should provide benefits for Australia as well as for China? Any clear advantage to Australian interests in this scenario remain to be clarified. The trade minister is reported as advocating increased productivity to take advantage of the burgeoning demand in the developing world. This may make good economic sense but it is little more than empty rhetoric when there are no concrete plans to be presented on how this can be achieved.

Carefully managed investment can produce benefits like decently privately funded or encouraged public infrastructure. Clearly, suggestions of thousands of lowly paid Chinese workers crossing the borders and putting Australians out of work is scaremongering nonsense. All people working in Australia, even those foreign workers being encouraged by the Gillard government for the Roy Hill Iron Ore project in Western Australia, must be subject to Australian wages and Australian working conditions.

Whether or not a parcel of agricultural land is able to sustain production will largely be determined by effective water management. A substantial interest has already been shown by Chinese investors in acquiring land for agricultural development in the north of Australia. It has been widely reported that the Shanghai Zhongfu group, a company with a close association to former Prime Minister Bob Hawke, has shown an interest in 30,000 hectares of land by the Ord River in Western Australia. The Ord River scheme is a useful example for us today of the challenges that exist in water management and agricultural development in northern and remote regions of the Australian continent.

My support for the Ord scheme is well known but political will alone is sometimes not enough to overcome the challenges presented to us by Mother Nature. But these are challenges that science, good will and political leadership can overcome. Water catchments in the north are currently inadequate for the kinds of agricultural production that is being discussed. Most of the rain that falls simply drains off to the sea rather than being harnessed in any functional way. Any catchments that are developed must, by necessity, consider local ecosystems, coastal biodiversity and down-stream consequences. The prevailing weather conditions in the north also pose evaporation issues.
The major capital projects required to make northern development proposals a reality extend far beyond the construction of transport corridors and the installation of utilities. Before we can turn a sod we must first turn our minds to the construction of dams and water management systems. The work that has been done by my colleagues and I on the federal Coalition’s Dams and Water Management Task Group has engaged with these very issues. Some important work has also been done by a company called MWH in the area of recharged aquifers. Their work in the Pilbara and in the Sierra Nevada in California show promising results. If these results prove to be open to duplication in the challenging northern environments then they may be able to be utilised to address water management challenges in the north.

Storage of water underground may prove an advantageous approach to water management in the climate of Northern Australia. The use of recharged aquifers for crop irrigation has been the norm for some time in my home town of Ayr in the Burdekin delta of North Queensland. Cane farmers in Ayr have used this system to great effect for more than half a century now. Good water management is supporting the expansion of the cane industry in the Burdekin and also enabling new interest in rice and cassava crops in the Burdekin delta.

Any proposals to develop Northern Australia will naturally be heavily reliant on overcoming the challenges of water management, and it is clear that the water management models that are employed to meet these challenges must be sympathetic to the environment, to the needs of industry and to the needs of a growing population. The coalition has been providing leadership and serious debate on developing Northern Australia for some time. Currently, I and my colleague Andrew Robb have a policy in development for the expansion of Northern Australia which builds upon the coalition’s Northern Australia policy taken to the last election. Developing the north of Australia will take far more than foreign investment in agriculture. The potential of Northern Australia is vast. As well as agricultural opportunities, there are vast opportunities in mining and resources and in value adding to manufacturing and processing. There are opportunities in tourism, health and education services. With the development of infrastructure and industry will come increasing population and the cycle of redevelopment will commence.

Population growth in the north will be critical to the success of any developmental proposals for remote and northern regions. A recent Newspoll survey indicated that 63 per cent of Australians believe that increasing the population in the north is a good thing. I have never hesitated in reminding this chamber that despite creating more than 40 per cent of Australia’s export earnings the north of Australia is home to a mere five per cent of Australia’s population. A substantial increase in this population coupled with improved infrastructure, improved transport and more efficient water management may also mean that Northern Australia will become not only the food bowl of the world but also an increasing element in Australia’s overall growth. Achieving these goals and becoming the significant global citizen that Australia is well placed to become will, however, take more than a single agricultural study and a single engagement with foreign investment.

The north of Australia has been my home for more than half a century. I am proud to be part of a team that seeks to address the challenges of utilising the resources of the north. Development of Northern Australia is inevitable. The abundance of natural resources, the availability of land and the
proximity of our trading partners make it a matter of common sense and urgency to apply ourselves to northern expansion. The development of Northern Australia is a goal that the coalition supports. To achieve a best-case outcome for all Australians, however, the development of the north must occur as part of a wide-ranging, inclusive and comprehensive plan. The coalition does have such a plan. Regrettably, the Gillard government does not.

QUESTIONS WITHOUT NOTICE
Carbon Pricing

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:00): Mr President, my question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer the minister to her answer in Senate question time yesterday where, in response to a question from Senator Cormann on whether the government is negotiating any last-minute changes to its carbon tax legislation, she replied:

The last time I looked, the clean energy future package, including the carbon price mechanism, had passed the Senate. If Senator Cormann is aware of a way that we could retrospectively amend a bill after it has passed the Senate … I am sure he could tell me about that.

I seek clarification from you, Minister, that your answer is still correct and no further changes will be made to the government's carbon tax legislation.

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:00): The government laid out its plans in its clean energy package, which was announced some time ago. The government has brought forward legislation reflecting the clean energy package. That legislation has passed the parliament. That remains the position of the government. There are obviously other aspects of the clean energy package which are yet to pass the parliament, which I mentioned yesterday in the answer to which the senator is referring. I think there is legislation in relation to the Clean Energy Finance Corporation and other aspects of the clean energy package which obviously have to be legislated.

But the government has made its position clear. The reason the government's position is clear is that what we have put forward is an economically sensible package—a package which recognises that we want to shift to a lower polluting economy, a clean energy economy, but we want to do it at lowest cost to Australians. I again remind the chamber that those opposite, including the senator who asked me a question, support a five per cent reduction by 2020. That is what Mr Abbott has signed up for—the same emissions reduction as the government. The difference is your plan will cost more. The difference is you will impose more tax—$1,300 per household every year—in order to fund your policy, which will not work. We have a policy which will cost the economy less and which is connected with a tax reform package which will deliver a tax cut for every Australian earning under $80,000 a year, a tripling of the tax-free threshold. It is of itself a worthy reform. As I have said, it is good for second income earners, good for workforce participation and a good economic policy in its own right, and one of the key mechanisms by which the government will deliver assistance under its package, which is opposed by those opposite.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:02): Mr President, I ask a supplementary question. I refer the minister to reports today that the government has bowed to pressure from the member for New England, Mr Tony Windsor, for last-minute changes on LPG and the costs of landfills that affect local
councils and their ratepayers. Will the minister confirm that there will be no changes, and will there be any change in relation to regulations which will not require changes to legislation if Mr Windsor is to have it his way?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:03): First, in relation to landfill, which is one of the issues that was raised, I would make the point that, despite the scare campaign of those opposite, the vast majority of landfills in the majority of local councils in Australia will have no liability under the carbon price. It is the case that the Clean Energy Regulator has found that, based upon current information, about 34 out of 559 local governments will be liable. Those landfills big enough to be liable will never have to pay for emissions for waste deposited prior to 1 July 2012 and those—

Senator Brandis: Mr President, I rise on a point of order that goes to direct relevance. The question was carefully phrased to ask whether there were changes not requiring legislation in relation to landfills. All the minister has done is recite the existing policy in relation to landfills. The question was about whether there were to be changes to that policy. That is what Senator Williams is interested in knowing and it is the only aspect of this issue to which the question was directed.

The PRESIDENT: I believe the minister is answering the question, and the minister has 22 seconds remaining.

Senator WONG: I was asked about two issues and I am responding in relation to one of them. I was going to go on to say that in relation to landfill the government has made rules deeming landfill emissions in 2012-13 to be zero. So there will be no obligation to buy and surrender carbon permits in the 2012-13 year. In relation to LPG and LNG—

(Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:05): Mr President, I ask a further supplementary question. Given that at the last federal election the member for New England, Mr Windsor, gained a 62 per cent primary vote, and given that the ReachTEL poll conducted overnight in New England found that Mr Windsor's primary vote is currently at 24 per cent, isn't this just a blatant political decision to prop up Mr Windsor and nothing to do with correcting the gaping flaws in this toxic carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:06): I know that Senator Joyce must be very upset that someone else has got preselection from the seat of New England despite the fact he is such a genius that he should have been parachuted into the lower house—

Senator Brandis: Mr President, I rise on a point of order. I know you were distracted, Mr President, but all parts of an answer are required to be directly relevant. The opposition entirely accepts that a minister may provide context. The opposition entirely accepts that the early part of an answer may—

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

Senator Brandis: The opposition entirely accepts that a minister may build up to an answer by addressing the topic in the broad. We acknowledge that that does not breach the direct relevance principle. However, for a minister to address the question that was asked by Senator Williams by talking about another senator's disappointment at allegedly missing out on preselection...
for a seat cannot possibly have even a contextual bearing on the question asked.

Senator Chris Evans: Mr President, on the point of order. I would have thought it was questionable whether or not the supplementary question was in order, but the senator went directly to the question of polling, political activity in the seat and the chances of Mr Windsor in the next election. Effectively, it was an attack on Mr Windsor—a member of the other house. Quite frankly, the senator answering the question, Minister Wong, responded in kind, which was in a political context about the issues involved in the primary question. If you ask a political question, you get a political answer. It is a bit hard to then squeal if you do not like the answer.

The PRESIDENT: You did note correctly that I was, unfortunately, distracted by something that needed to be raised with me. I was not therefore completely listening to everything that was proceeding. The minister has 48 seconds remaining. I draw the minister's attention to the question and I will now listen closely to the answer that the minister is giving.

Senator WONG: Thank you, Mr President. I am certainly not offended by the fact that you were not listening to me with your full attention. I understand.

The PRESIDENT: I did not say I was not listening.

Senator WONG: I accept that maybe it did not merit it. But I make this point: the entire point of the question was a political point about the member for New England. The National Party should be upfront about that and not pretend that there was any point to this question other than a political point. There is a bit of sour grapes over the fact that Senator Joyce, who is demanding a lower house seat, does not have one.

DISTINGUISHED VISITORS

The PRESIDENT (14:09): Order! I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from Thailand led by the President of the Thailand-Australia Parliamentary Friendship Group, the Hon. Khunying Kalaya Sophonpanich, MP. On behalf of all senators I wish you a warm welcome to the parliament and in particular to the Australian Senate.

Honourable senators: Hear, hear!

The delegation was then seated accordingly.

QUESTIONS WITHOUT NOTICE

Pensions and Benefits

Senator FURNER (Queensland) (14:10): My question is to the Minister representing the Prime Minister, the Leader of the Government in the Senate, Senator Evans. Can the minister advise the Senate on how the government is helping families meet cost-of-living pressures?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:10): I thank Senator Furner for his question and for his ongoing interest in jobs and the support provided to families in this country. Labor is very much focused on the pressure on the family budget to meet the costs associated with daily living and particularly for raising kids and supporting them in their activities. That is why we have been focused on delivering additional support to Australian families.

As senators would be aware, eligible families have already received an initial payment to help with their utility bills. Through the household assistance package the government is delivering payments to more than 1½ million Australian families.
Eligible families have already received payments totalling $325 million to assist them with their budgets. We know this is welcome news for them; it is assistance that makes a direct difference to their family budgets. Families who receive family tax benefit A are receiving payments of $110 per child while those families eligible for family tax benefit part B are receiving $69 per child.

The government is determined to do more to help families with the costs associated with sending their kids to school. This week 1.3 million Australian families have started receiving additional financial support through the schoolkids bonus. That bonus has replaced the education tax rebate to make sure that all families who are eligible get assistance. It is a shame that the Liberal opposition has got itself into such a negative position that when the government seeks to assist families with the costs of sending their children to school Senator Abetz and Mr Abbott refuse to support measures designed to directly assist those families. That is where the priorities of those opposite are; they oppose assistance to families to help them meet the costs of sending their kids to school.

**Senator FURNER** (Queensland) (14:12): Mr President, I ask a supplementary question. Can the minister advise the Senate of how the government is also supporting pensioners with their cost-of-living pressures, especially utility bills?

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:12): After 12 years of the Liberal Party ruling this country this government got in and helped pensioners with a record increase in support. In addition to that, this government through the household assistance package is providing single pensioners with $388 extra a year and couples with $510 a year in increased payments. On top of the record increase we provided, these payments will assist pensioners because we know the increases in their bills mean that they need this assistance. This assistance will be put directly into their bank accounts. It is about making sure that those pensioners do not have a reduction in their standing of living and that they get continued assistance to help them meet the rising costs of living they are facing. This is a government focused on continuing to assist those pensioners.

**Senator FURNER** (Queensland) (14:13): Mr President, I ask a second supplementary question. Is the minister aware of any risks to the budgets of pensioners?

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:13): I am aware of risks, and I wonder whether the senators opposite are aware of those risks. The Premier of New South Wales announced last week that he would take away the additional support this government is delivering to 84,000 New South Wales pensioners who live in public housing. We have given them additional support to meet the increased costs they will be facing and New South Wales is saying it is going to take 25 per cent of that assistance away as rent. It is going to rip off those pensioners in public housing and grab the assistance we are providing to them. It is not interested in the welfare of those pensioners. New South Wales senators have to say to us whether they support that. We know the WA Premier tried it on and within two days he walked away because he knew it was unfair and the Western Australian community was not going to cop it. But where are the New South Wales Liberal senators while Barry O’Farrell is ripping money off pensioners that is designed to support them?
DISTINGUISHED VISITORS

The PRESIDENT (14:14): I draw to the attention of honourable senators the presence in the gallery of members of the Senate Committee on Foreign Affairs, Defence and Armed Forces from France led by Senator Didier Boulaud. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

I also draw to the attention of honourable senators the presence in the gallery of a parliamentary delegation from the United Kingdom, led by the Rt Hon. Jim Murphy MP. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Budget

Senator CORMANN (Western Australia) (14:15): My question is to the Minister representing the Treasurer, Senator Wong. I refer the minister to the government's decision to abandon two of its key budget measures—its plan to automatically index the passenger movement charge regardless of economic conditions facing the tourism industry and its plan to double the withholding tax on managed investment trusts. Is this further evidence that two weeks before these measures are due to begin, on 1 July, Labor's budget is in complete chaos? Isn't this just another example of a government that has lost control of its own budget?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:16): The only party in chaos when it comes to its budget position is the opposition. The only party that is unable to make its budget position add up is the coalition. The only party that would be in deficit in 2012-13 is the coalition.

Opposition senators interjecting—

Senator WONG: I am sorry, I do not include the Greens—but they were not actually a party of government last time I looked.

The PRESIDENT: Senator Wong, come to the question, please.

Senator WONG: Mr President, I was asked about chaos and I am making the point that we have a budget and we have laid out our plans. It is interesting that the coalition pretend to want a surplus but in relation to the two issues about which I am asked they come in here and say they do not want to support them but they want a surplus. We have been transparent and have said to the Australian people that these are the changes we require to ensure the budget returns to surplus. We have done that.

The coalition's leader has confirmed that $70 billion worth of cuts is what you have to make, but he will not tell any Australians what those cuts will be. Will you not pay the age pension for a couple of years? Will you not pay family tax benefit? Will you cut back on Medicare? You will not tell people. You hide your costings and then you have the temerity to come in here and criticise the government's budget.

The reality is that we have laid out our plans to bring the budget back to surplus. That includes a range of decisions. We would welcome in the passage of budget bills an opposition that was actually prepared to show its economic credibility to the Australian people, but those opposite will not. This is an opposition that used a catering company to do its immigration costings, an opposition that will not be upfront with the Australian people about what it will cut.

Senator CORMANN (Western Australia) (14:18): Mr President, I ask a supplementary question. Has the government backed down on these budget measures because it realises
the error of its ways, and that the doubling of
the withholding tax on managed investment
trusts, for example, was bad for the
economy, or because the Greens and others
told the government they would not vote for
them?

Senator WONG (South Australia—
Minister for Finance and Deregulation)
(14:19): I am very happy to talk about
managed investment trusts. I am asked
whether or not the proposal was bad for the
economy. When Mr Costello opposed our
dropping the managed investment trust tax
rate, was that bad for the economy too? I
notice the opposition's position now is 180
degrees opposite. Mr Costello said that it
was a bad thing for us to change the
managed investment trust position because
that was a tax cut for foreigners. That is
completely opposite to the position that
Senator Corman is now advocating. So who
is right—Peter Costello or Senator
Cormann?

Senator Abetz: Both are.

Senator WONG: Both are? Given that
they have opposite positions, I think that is
completely problematic. The reality is the
government is intent on ensuring the budget
returns to surplus.

Senator CORMANN (Western Australia)
(14:20): Mr President, I ask a further
supplementary question. If government
budget measures like these do not survive for
six weeks, how can anyone believe that the
government's promise of a wafer-thin $1.5
billion surplus will survive the next 15
months?

Senator WONG (South Australia—
Minister for Finance and Deregulation)
(14:20): I invite those in the chamber to
consider the hypocrisy of what I have just
been asked. The opposition, which opposes
certain savings measures, is now criticising
the government for having to deal with the
reality that the opposition and the Greens
may combine to stop a savings measure.
That is what is occurring. The opposition is
saying they will vote with the Greens in
order to stop this government budget
measure going through. For all of the
complaints by Senator Cormann and all of
the criticisms about how the Greens are the
arch enemy of economic growth, Senator
Cormann is coming in here and advocating a
position that is the same as the position of
Senator Christine Milne. I am not critical of
Senator Milne on this issue—she is not in a
party of government; you are, Senator
Cormann, and you are an economic
spokesperson. You are lining up with the
Greens to stop a budget savings measure and
that says volumes for your lack of economic
credibility.

Media Ownership

Senator MILNE (Tasmania—Leader of
the Australian Greens) (14:21): My question
is to the Minister for Broadband,
Communications and the Digital Economy,
Senator Conroy. Given today's announce-
ment of further media concentration with
News Limited's reported acquisitions and the
potential for Gina Rinehart to launch a full
takeover of Fairfax Media, is the minister
happy to stand by and do nothing to protect
media diversity in Australia? If not, when
will the government move to legislate for a
public interest test for significant media
transactions as recommended by the
convergence review?

Senator CONROY (Victoria—Minister
for Broadband, Communications and the
Digital Economy, Deputy Leader of the
Government in the Senate and Minister
Assisting the Prime Minister on Digital
Productivity) (14:22): I thank Senator Milne
for her question. As I mentioned yesterday in
answer to a question from one of her
colleagues, we put the Convergence Review
in place nearly two years ago. We recognised that changes were going to come sweeping through the media sector because of the internet—something those on the other side have not yet discovered, as Senator Brandis proved the other day. We are considering the recommendations that came from former Justice Finkelstein’s report—again, something we put in place—which included a reference about low-cost but high-quality journalism. We have put in place a number of inquiries to get ourselves the best possible advice and the best possible evidence to make some sensible, coherent decisions. The cabinet is considering those.

I have long been on the public record as advocating a public interest test, which is one of the recommendations that have been made. We are considering that at the moment and I suspect that we will have some news in the not too distant future about a range of these recommendations. But we are not going to respond to individual share market movements; we are not going to respond to somebody setting up a 100 per cent digital newspaper, as Mr Wood recently did, any more than we are to Ms Rinehart, who is legally entitled to buy shares. We have also been very clear on the question of whether or not Ms Rinehart should agree to the editorial independence charter. It is a brand-trashing decision that Ms Rinehart may be making.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:24): Mr President, I ask a supplementary question. The issue is: what are you going to do about it and when? Given that Gina Rinehart already has a stake in the Ten Network and that Fairfax media already owns radio stations, has the government assessed whether Gina Rinehart could be close to breaching current cross-media ownership laws? If she is not yet breaching the cross-media ownership laws, will the government consider tightening those laws in the interim?

**Honourable senators interjecting—**

**The PRESIDENT:** Order! When there is silence we will proceed.

**Senator CONROY** (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:25): Ms Rinehart at this point is not breaching the cross-media ownership laws. As I have said previously, these are the watered down laws that do not include a public interest test. But let me be very clear: Ms Rinehart at the moment is not breaching the former government’s media concentration—cross-media—laws. She is not in breach of the current laws and she is not in breach of the past laws. The question that is vital, and that goes to the heart of democracy and diversity of opinion, is whether or not Ms Rinehart is willing to sign the charter of independence for the editorial position. She has been very clear that she wants the right to hire and fire the editors. That will cause the readership a crisis of confidence. It will seriously impact on the

**Opposition senators interjecting—**

**The PRESIDENT:** Order! Senator Conroy, resume your seat; you are entitled to be heard in silence. When people settle down we will continue.

**Senator CONROY:** I think my second is up. (Time expired)

**The PRESIDENT:** It is.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:26): Mr President, I ask a further supplementary question.

**Honourable senators interjecting—**
The PRESIDENT: If senators wish to have a discussion they are quite welcome to go outside and have that discussion but not during question time. The questioner is entitled to be heard in silence.

Senator MILNE: Minister, if you are not going to legislate for the public interest test in the foreseeable future, if you are not moving for any change to the cross-media ownership laws and if the government continues to refuse to legislate in respect of charters of editorial independence for media companies, what will the government do to address this matter, because it is now happening?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:27): The question is based on a false premise. You have actually just seriously verbaled me, Senator Milne. That is one of the problems with pre-writing your question. I did not at all say that we would be doing nothing. Do not come into this chamber and claim we are going to do nothing. I have indicated for some time that we are considering a number of matters and I said we would have a number of announcements. Let me just make the point that the Constitution of Australia does not allow you unilaterally to reach back and make people un-invest. Any law change would be prospective, so the argument that we should somehow reach back and undo what Ms Rinehart has legally done is not going to fly in this chamber, it is not going to fly in the other chamber and it will not fly in the broader community. We will make some announcements after we have given considered—(Time expired)

Housing Affordability
Carbon Pricing

Senator PAYNE (New South Wales) (14:28): My question is to the Minister representing the Minister for Housing, Senator Evans. Given that the national housing shortage has increased by 14 per cent to 228,000 dwellings as at June 2011, according to the National Housing Supply Council’s report Housing Supply and Affordability - Key Indicators, 2012, why is the government introducing a carbon tax that, according to the Housing Industry Association, will increase the cost of building an average new home by $5,200 after compensation?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:29): I suppose the first thing to say is that this parliament passed the carbon price legislation. This is legislation carried and enacted by the parliament that will come into force on 1 July. So the arguments about why we are doing it et cetera have been canvassed at great length in this place and we have successfully argued in the parliament that a price on carbon is a necessary economic reform for this country. Part of that is a package that we have introduced which has sought to provide assistance to families, pensioners and other members of the community to protect them against a rise in the price of things like electricity caused by the carbon price. That is the housing assistance package that the opposition opposed and they threaten to wind back.

We have focused very much on Australian families and the costs that they bear, including their housing costs, as part of the climate change assistance packages that we have put in place. Those assistance packages have been directed at middle- and low-
income families, and those on fixed incomes like pensioners, to meet the costs of any flow-on effect from the introduction of a carbon price. But it is also true to say that this government have been absolutely focused on the housing challenge. We are the first government to have a housing minister in many years. As we know, the opposition when in government not only did not have a housing minister but cut public housing support by $3.1 billion. (Time expired)

Senator PAYNE (New South Wales) (14:31): Mr President, I ask a supplementary question. In addition to the $5,200, can the minister explain to prospective new home builders why the government is persisting with a carbon tax that will penalise them for building new homes, which by law also have to be more energy efficient than existing homes?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:34): The government never claimed that the carbon price was designed to address issues of housing affordability in this country. Nor is it credible for the opposition to attempt to say every issue in Australian society or every issue that exists in the economy is a result of the introduction of a carbon price. Earlier this week we had Senator Brandis saying that digitalisation and the impact that that is having on the newspaper industry was not the driving factor behind the changes at Fairfax; it was in fact the fear of the introduction of a carbon price. Now, apparently, it is housing affordability! Where on earth does the opposition gets its economic analysis from? You have painted yourself into a corner. You know you will never remove the price on carbon. You know you will have an embarrassing backflip at some stage in the future and you ought to get real. (Time expired)

Marine Sanctuaries

Senator CROSSIN (Northern Territory) (14:35): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig.

Senator Ian Macdonald interjecting—

Senator CROSSIN: I did actually think Senator Macdonald was interested in fisheries, but obviously he is not.
Honourable senators interjecting—

The PRESIDENT: Order! Resume your seat, Senator Crossin. When there is silence on both sides, we will proceed.

Senator CROSSIN: My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Given the government has announced a national system of marine reserves, can the minister outline to the Senate how the commercial fishing industry will be assisted and what the next steps are for the industry, now that the final plans have been released?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:37): I thank Senator Crossin for her question. It does bring me to addressing the important question for the marine bioregional planning process. The government has now announced the location of the proposed protected ocean regions, which does provide certainty for industry. It means that the job for government is now to join with industry to build an assistance package that meets their needs. It also means that we will now join with industry to develop the management plan arrangements for these new regions. These new marine reserves will not come into effect until the management plans are in place and the assistance package is flowing to fishers. We have designed the reserves to avoid impacts on fishers and regional communities as much as possible.

The fact is that these reserves are estimated to displace around one per cent of the annual value of wild-catch fishery production in Australia. To help industry manage this, the government will deliver an assistance package in the vicinity of $100 million that will be worked through on a case-by-case basis, and this adjustment will flow before the reserves are activated. The government will build with industry a tailored package to meet the needs of industry. We are going to work with those who want and are able to change their business model. They will also have an opportunity of changing where they fish, how they fish and the type of fish they catch. They may also want to exit the industry. We will build individual packages suited to the needs of those businesses. We will provide direct business assistance to those that will find that most of value and the Gillard Labor government will work with those impacted workers as well.

For those getting help, there will be extra research so that they can continue to fish but in more innovative and productive ways, and they will benefit from that research. We will work through those options with industry. (Time expired)

Senator CROSSIN (Northern Territory) (14:39): I have a supplementary question and it goes to whether the minister can outline to the Senate what the impact of these new marine reserves will be for recreational fishing. Is the minister aware of any comments from recreational fishers on this new proposal?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:39): I thank Senator Crossin for her question. The network of marine parks will have—unlike what the coalition have cried foul of—little to no impact on recreational fishing, while securing our ocean environments for the future. The bottom line is that, for 96 per cent of the ocean, 100 kilometres offshore, access for recreational fishing remains unchanged. What that means in practice is that, if a fisher could travel 100 kilometres offshore at Cape York, continue down the east coast past Brisbane, Sydney, Melbourne,
around Tasmania and all the way to Kangaroo Island in South Australia, they would experience no change to recreational fishing access—no change. That is, from the Torres Strait straight to the Bass Strait, there is no change to the waters 100 kilometres offshore for recreational fishers. What is more, in two-thirds of the announced reserve areas there are restrictions for other sectors while recreational fishing is unimpeded. It is good news for— (Time expired)

Senator CROSSIN (Northern Territory) (14:41): Mr President, my second supplementary question is: can the minister explain any risks to the support for recreational or commercial fishing in Australia following the announcement of the marine bioregional plans?

Opposition senators interjecting—

The PRESIDENT: Order!

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:41): I thank Senator Crossin for her second supplementary question. Senator Boswell and Senator Joyce are modern-day doomsday preachers, peddlers of misery. They love doom and gloom stories. They love telling the public that the world will end. Like the doomsayers, they will come unstuck on the facts. They will come unstuck because the facts speak for themselves. There is only a small amount of displaced GDP, and commercial fishers will be assisted to adjust.

The reserves will not stop recreational fishers from dropping a line on the weekend, like I will be doing. The Liberals and Nationals appear to be happy only when they are saying the sky is falling in, when they are saying towns are being wiped off the map and when they are saying Australians are up against the wall. No good news comes from those opposite. They only want to peddle misery. The Liberals and Nationals continue to carry on with gloom and doom. (Time expired)

Carbon Pricing

Senator BERNARDI (South Australia) (14:42): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Has the government taken any steps to monitor or assess the number of jobs that have already been lost or not created in anticipation of the introduction of the carbon tax? If so, how many jobs and job opportunities has the carbon tax already cost the Australian people?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:43): I thank Senator Bernardi for the question. I was anticipating a question as to whether or not the recent announcement from News Limited was also as a result of the carbon price, but I am happy as always to answer a question about employment. I would make two points. The first is that the Treasury modelling has been demonstrated to be correct in its analysis of projected electricity impacts; given where the price rises have come in, they are broadly consistent with the Treasury modelling. The Treasury modelling shows very clearly that we can put in place a carbon price, we can grow our economy, we can increase the number of jobs and we can reduce our emissions from what they would otherwise be. We know that we can continue to increase employment, our incomes and the economy with a carbon price. Indeed, that was why, when you were in government, your government actually committed to a carbon price. I would also make this point. When it comes to jobs, this government, since it was elected, has seen the creation of over 800,000 jobs in Australia. We have an unemployment rate with a '5' in front of it. I
know Senator Bernardi and those opposite want to come in and trash-talk the economy, talk down the economy, inspire fear and dent confidence, because you are always more interested in your own political position than the success of the nation, more interested in your own political position than the success of the Australian economy, and your conduct demonstrates that day after day. So, if you want to come in here, Senator Bernardi, and say that an unemployment rate with a '5' in front of it is a bad thing, you do that. If you want to come in here and say 800,000 jobs have been created since you came to government, then you do that. But the facts speak for themselves. *(Time expired)*

**Senator BERNARDI** (South Australia) *(14:45)*: Mr President, I ask a supplementary question. I note the minister did not come anywhere near to an answer to my question, but I will try again. I refer to the government's and the Greens' claims that the introduction of a carbon tax and putting a price on carbon dioxide will create many thousands of new green jobs. Will the minister tell the Senate how many new green jobs the carbon tax and pricing carbon dioxide are expected to create, and how does the government define a 'green job'?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) *(14:46)*: I again refer to the Treasury modelling, which the senator may dismiss, but it was one of the most extensive and robust economic modelling exercises ever performed in Australia. What it shows is that, with a carbon price, we can continue to have growth and, as importantly, we can decouple growth from carbon pollution. The modelling not only projects income growth and strong economic growth, with GNI—gross national income—projected to grow at 1.1 per cent per year to 2050; it also sees 1.6 million new jobs created by 2020. That is the Treasury modelling prediction. I understand that Senator Bernardi believes that climate change is some sort of left-wing conspiracy. I understand that he does not believe it is real; he thinks it is a left-wing conspiracy. We actually agree with former Prime Minister Howard: a price on carbon is the most sensible way to reduce pollution. *(Time expired)*

**Senator BERNARDI** (South Australia) *(14:47)*: Mr President, I ask a further supplementary question. Is the minister aware of reports from the United States that the administration's definition of green jobs includes college professors teaching classes on environmental studies, clerks at bicycle repair shops, antique dealer employees, Salvation Army workers who sell used clothing, garbage disposal workers and even oil lobbyists if they are engaged in advocacy related to environmental issues? Once again I ask: will the minister advise the Senate what the government's definition of a 'green job' is?

**Senator WONG** (South Australia—Minister for Finance and Deregulation) *(14:48)*: I know that Senator Bernardi has a great deal of affinity with the Tea Party in the United States, but I suggest that if he wants to ask a question of the US administration—

**The PRESIDENT**: Senator, come to the question.

**Senator WONG**: he should maybe send an email to the President of the United States. What I would say to the senator is what I have said before: we see, with the Treasury modelling, increases in employment with a carbon price.

**Senator Bernardi**: Mr President, I rise on a point of order on relevance. I have asked the minister whether she will advise the Senate what the government's definition of a 'green job' is. I do not need a rambling preamble.
The PRESIDENT: I draw the minister's attention to the question. The minister has 25 seconds remaining to answer the question.

Senator WONG: The reality is we already see clean energy jobs in this country and we anticipate more. We already see increased investment in renewables, in the wind sector and in solar energy generation, all of which have increased as a result of the policies of this government and all of which are projected to increase in the future.

WikiLeaks

Senator LUDLAM (Western Australia) (14:49): My question is to the Minister representing the Prime Minister, Senator Evans. On what basis have grossly irresponsible statements been made by lawyers within our cabinet: the Prime Minister saying that the work of WikiLeaks was illegal, the Attorney-General saying that Mr Julian Assange had fled Sweden, and the former Attorney-General even threatening to cancel this Australian citizen's passport?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:50): I thank the senator for his question, which I got advised was on Twitter. So thank you for giving us pre-warning of the question. It does not make answering it any easier, but I do appreciate that at least my staff are on it. I personally have not yet mastered Twitter, and I am of the view that anyone over 20 should not play with it, but anyway. I neither tweet nor twitter.

But the question obviously goes to the issue of Mr Julian Assange. As the senator would be aware, there have been some developments in matters concerning him today, where he has sought, as I understand, protection in a consulate in London. I understand that is designed to have him be considered for asylum in Ecuador.

Senator Ludlam: Mr President, I rise on a point of order. My point of order is one of relevance. I did not mention Twitter in my question. I also did not ask for an exposition of what has occurred in London overnight. I am interested in the minister justifying the statements by senior members of the Australian government about the illegality of the work of WikiLeaks, and I ask you to draw the minister to that question.

The PRESIDENT: I draw the minister's attention to the question. The minister has 46 seconds remaining to answer the question.

Senator CHRIS EVANS: I was not trying to be unhelpful, but the senator did ask questions about this some time ago. This matter has been debated in the Senate previously by him and questions have been asked. I am not sure how seeking to again debate with the government or ask questions of the government about those issues, which I think are probably six months or a year old now, is particularly helpful. The government has continued to support Mr Assange by making sure he has proper consular assistance. What occurs in terms of the laws in other countries is obviously a question for them, but we continue to provide whatever assistance we can. (Time expired)

Senator LUDLAM (Western Australia) (14:53): Mr President, I ask a supplementary question. With friends like the Australian government, who needs enemies, hey?

Senator Ronaldson: You're part of it. You are in government, you fool. You're a complete and utter goose.

Senator LUDLAM: I am pretty sure shrieking is—

Honourable senators interjecting—

The PRESIDENT: I remind senators that making comments at the start of questions is out of order.

Honourable senators interjecting—
The PRESIDENT: Order! Just a moment, Senator Ludlam. You are entitled to silence.

Senator LUDLAM: Will the government apologise for these comments and withdraw these prejudicial statements made against an Australian citizen who has not been charged with any crime in any country?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:54): I am not sure that I have anything to add to what both the Prime Minister and the Attorney-General have said in relation to these matters previously. As I understand it, Mr Assange's legal proceedings relate to a request by Sweden for his extradition from the UK for investigation in relation to alleged sexual offences. Those matters have been proceeding in England according to British law, as they should. As I say, this government continues to provide Mr Assange with any consular assistance we can or that he seeks. The decision about how he responds to these matters, including seeking asylum in the Ecuadorian consulate, is obviously a question for him. Quite frankly, Senator, it does not matter whether I am a friend or not of Mr Assange; he has the full rights of an Australian citizen and he has received the full support that any other Australian would receive from our consular services.

Senator LUDLAM (Western Australia) (14:55): Mr President, I ask a further supplementary question. Given that Australian citizen Julian Assange feels that he has been effectively abandoned by his government and has indeed sought asylum in Ecuador—

Senator Brandis: Precious possum!

Senator Ronaldson: Spare me.

Senator LUDLAM: Mr President, there is a great deal of shrieking going on.

The PRESIDENT: Order! Senator Ludlam is entitled to be heard in silence.

Senator LUDLAM: Thank you, Mr President. Will this government seek assurances from the United States government that they will not prosecute this Australian citizen for his journalism and his publishing work?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:56): As I understand it, the current proceedings Mr Assange is dealing with is seeking asylum in the Ecuadorian embassy in London. I am not sure why our response would be directed at the United States of America. What we have made clear in previous advice to the Senate is that we have no advice from US officials of any indictment against Mr Assange or that the US has decided to seek his extradition. I think that has been repeated by US officials. As I say, Mr Assange is being sought by the Swedish authorities for extradition from the UK. Legal proceedings have taken place in recent months. The question of how he responds to that is clearly a matter for him, but the Australian government continues to provide the same consular services to him as we would provide to any other citizen.

Carbon Pricing

Senator COLBECK (Tasmania) (14:57): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. Given that there are only 11 days until the carbon tax is introduced, can the minister explain why the government has not undertaken any specific study or analysis into the effects of this tax on Australia's horticultural sector? How does the minister respond to findings in the report commissioned by Horticulture Australia that
the impact of the carbon tax on horticultural producers is likely to represent a significant reduction in farm profits?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:58): It is the case that the carbon price will commence very soon and it is the case that, when it does, I think you will see that some of the more extraordinary and outlandish claims made by the Leader of the Opposition will be shown to be untrue. Some might recall that the Leader of the Opposition suggested that towns would be wiped off the face of the map and that whole industries would be shut down.

Senator Colbeck: Mr President, I raise a point of order on relevance. My question was about a response to the Horticulture Australia report, not comments by anybody else.

The PRESIDENT: Order! The minister has one minute and 35 seconds remaining in which to answer the question. I draw the minister's attention to the question.

Senator WONG: In relation to the last part of the question, the senator is referring to the assistance package—I think it is called the food and foundry assistance package. So I am pleased that he is referencing the fact that the government is putting in place assistance for those sectors to recognise that there is merit in transitional assistance. But I again make the point the proposition seems to be that growers would have to absorb all the costs all of the time. The government's modelling does assume there would be a small impact on prices, as I outlined, and that has been taken into account in the assistance to families and to households which the government is putting in place. So I would suggest to the senator that perhaps he should have a look at the assistance that the government is providing to the industries.
that I have outlined and also to households. 

(Time expired)

Senator COLBECK (Tasmania) (15:02): Mr President, I have a second supplementary question. How does the minister explain why industry was left to establish that the horticultural sector was overlooked in ABARES' and other studies already conducted by the government into the impact of the carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:02): If the question is about the conduct of ABARES, that would probably be a question to be directed to Senator Ludwig as the relevant minister.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Migration

Senator LUNDY (Australian Capital Territory—Minister Assisting for Industry and Innovation, Minister for Multicultural Affairs and Minister for Sport) (15:03): On 19 June 2012 I took a question on notice from Senator Hanson-Young regarding migration. I now seek leave to have the answer incorporated into Hansard.

Leave granted.

The answer read as follows—

QUESTIONS TAKEN ON NOTICE
SENATE QUESTION TIME: 19 JUNE 2012

Migration

Senator Hanson-Young asked the following questions:

1. When did any official from the Department of Immigration and Citizenship, or indeed the Ministers office, first become aware of the arrival of Adani's foreign workers on incorrect visas?

Answer:

There is no evidence to suggest that Adani workers entered Australia on incorrect visas. Subclass 456 visa holders are permitted to undertake highly specialised short-term work in Australia. A visa holder's circumstances may change after arrival, resulting in an application for a further visa such as a subclass 457.

The cases referred to in the Australian newspaper on 18 June 2012 occurred over 12 months ago. They involved staff from Adani's head office coming to Australia on subclass 456 visas to undertake feasibility work. Some decided to remain in Australia and applied for a subclass 457 visa.

Subclass 456 holders are legally able to apply for a subclass 457 visa in Australia. To be granted a subclass 457 visa, the applicant and their sponsor must meet a range of criteria relating to skill level, salary and training requirements.

2. When was the Department first made aware and, if indeed there were meetings with Adani, when did they first happen and why was it that Adani was able to shortcut the visa requirements for those workers at that particular time?

As indicated above, subclass 456 holders are legally able to apply for a subclass 457 visa in Australia.

The Department of Immigration and Citizenship (DIAC) has met with representatives of Adani on a number of occasions to discuss appropriate visa options.

In June 2011, senior departmental officials met with Adani in New Delhi to discuss the subclass 457 framework and visa requirements. The Enterprise Migration Agreement (EMA) program, which was announced in the 2011-12 Budget, was discussed.

It would appear the department's advice to Adani in that meeting prompted it to commission the Ernst & Young audit and review its business practices.

3. Can the Minister advise the Senate whether Adani, which has indeed said that they need up to 5 000 workers for the expansion of their Queensland mining project, has applied or indicated an intent to apply for
approval of an Enterprise Migration Agreement? If so, is it currently on a positive pathway for approval?

Answer:
Adani has not sought an Enterprise Migration Agreement (EMA), although they remain free to do so. Departmental officials have met with Adani on a number of occasions to discuss the subclass 457 visa program, including providing information concerning the requirements of the EMA program. This same information has been provided publicly, as well as to a number of other companies.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Housing Affordability

Senator PAYNE (New South Wales) (15:03): I move:

That the Senate take note of the answer given by the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) to a question without notice asked by Senator Payne today relating to housing. The words of the minister this afternoon in relation to housing seem to me to be more than slightly delusional, because we have a housing shortage which continues without abate to grow out of control. We learnt only today, from the Australian Bureau of Statistics, that dwelling commencements fell again. They fell this time by 12.6 per cent in seasonally adjusted terms in the March 2012 quarter, which is actually a drop of 24.5 per cent in the past year—a drop of almost 25 per cent in dwelling commencements. If that is not a serious issue for concern in relation to housing in this country, then in fact nothing is.

Those on the other side can talk all they like about previous investments in housing, but there is a complete lack of priority applied in this area currently and certainly they outlined no vision to improve supply and affordability in the recent budget. That is even so under existing programs, so let us look at the National Rental Affordability Scheme, known as NRAS. Just 16 homes out of an allocation of 1,186 homes in the Northern Territory will have been completed before the 1 July 2012 deadline—16 out of 1,186! That occurred in the third round of the scheme after no dwellings at all were allocated in rounds 1 and 2.

What the National Housing Supply Council report shows is that the Northern Territory already has the largest estimated shortfall relative to the number of households, at 15 per cent—and the latest failure in NRAS will only increase that shortage. The situation is not much better in New South Wales, nor in Queensland. As I outlined, in trying to get answers from the minister in my question, the carbon tax is only going to increase building costs and provide a disincentive to build a new home at a time when we can least afford it. As my colleague Senator Cash said during question time, the great Australian dream is fading rapidly into the distance under this government and particularly in relation to housing supply. If you are a resident of Western Sydney and you are looking at a $208 a year increase in your electricity bill from 1 July, why would you be looking at building a new home? You would not be.

Senator Conroy: Fact: you support the carbon tax.

Senator PAYNE: Senator Conroy, $5,200 for people who are not in the privileged position that we enjoy is the difference between signing on the bottom line and not. It is pretty simple: $5,200, as the Housing Industry Association estimates after compensation, will make the difference in people signing up to build their own new home.

Senator Conroy: You support it; that is pretty simple.
**Senator PAYNE:** You might think that is a joke, but it most certainly is not. After compensation, a sum of $5,200 is really going to focus the attention of those people, and it is not particularly easy to find an extra $5,200 out of mid air. Even today, we have had further releases from organisations like the Housing Industry Association commenting on the decline in commencements. They have highlighted the urgency of the need for investment and reform to boost new housing supply. That is hardly rocket science; it actually is not. Nevertheless, we have the government still refusing to take serious note of this, as far as I can tell. The Chief Executive Officer of the Master Builders Association of Australia, Wilhelm Harnisch, today issued a statement saying:

A new survey of the building and construction industry has found a massive 88 per cent of those polled believed the carbon tax will hurt their business over the next 12 months. These are not the sorts of people that those opposite love to attack every day. These are not people you can gratuitously slam, as those opposite slam Gina Rinehart or Mr Palmer. These are small business operators. They are subbies; they are people who are plumbers and tilers—the sorts of people you would hope Labor would find some capacity to defend and support. But apparently not. We also see, as the MBA says:

... homebuyers are delaying their decisions as they assess the impact of the carbon tax. The carbon tax will have such a regressive, catastrophic result on the housing industry and new home building that it should not be proceeded with.

**Senator THISTLETHWAITE** (New South Wales) (15:09): I was fortunate a couple of months ago to visit the Matthew Talbot Hostel in Sydney. The hostel, and its work, is well known in the community for supporting and providing assistance to those who find themselves in the unfortunate circumstance of homelessness and living on the streets in Sydney. It is a wonderful organisation. It does fantastic work in assisting people who have fallen on hard times and who find themselves homeless. But I was struck by the conversation I had with one of the youth workers who was working at Matthew Talbot that day. I pushed him on the point of providing access to public housing for people who find themselves homeless, and his comment stuck with me. He said that at this point in time access to public housing has never been more opportune and that from the perspective of Matthew Talbot Hostel there have been no problems in getting people into public housing. There are always a host of other issues, such as mental illness, associated with providing people with homes, but I was struck by his comment that the stock of public housing has been increasing. That is a simple fact and correlates with this government’s massive investment in public housing in the wake of the global financial crisis, increasing the housing stock to ensure that more is available for people who are accessing public housing not only in New South Wales but throughout the country.

Senator Payne makes comment about the housing shortage in New South Wales. She is right: there is a housing shortage when it comes to the mid to upper levels of housing in New South Wales. There is one reason for that—that is, the O’Farrell government has made a complete mess of the planning system in New South Wales. Talk to any developer in New South Wales at the moment and they will tell you that the system has been shut down by the planning minister, Brad Hazzard, in New South Wales. There is a complete shutdown of the system. What are they doing? They are undertaking a review. They have been doing this review since they came to government.
For the last 12 months they have been undertaking a review of the housing system. If you talk to the people who are attempting to build and supply the housing stock they will tell you it is in complete shutdown. There is no incentive at all to invest in housing in that mid to upper range of housing in the housing market. So here we have a contrast: housing is being provided through the public system as a result of our investment in public housing, but the private sector incentive has been removed because the O'Farrell government has made a complete joke of the planning system. People are waiting to find out.

Senator Payne: Would you rather the Eddie Obeid system of planning?

Senator THISTLETHWAITE: Tell us, Senator Payne: what is the planning system in New South Wales? How does it work? What are the results of the review? On top of that, those who are living in public housing and who have received the government's compensation associated with the carbon price have been compensated for the cost of the carbon price—an increase in pension to the value of $338 per year if they are single and $510 per year if they are a pensioner couple. But what does Barry O'Farrell do? As the money comes into one pocket, Barry O'Farrell puts his hand in the other and takes half of it out. Twenty-five per cent of the income of a pensioner will go in rent because of Barry O'Farrell.

The facts about the carbon price are well understood. There will be a 0.7 per cent increase in the GST. That is what is being modelled by the Treasury and that is what the result will be. To cushion the effects of that transition, households and families, in particular those on fixed incomes—pensioners, people living on Newstart and people living on single parent allowances—will get compensation to make that transition to a clean energy future. But, unfortunately, Barry O'Farrell is putting his hand in their pockets unjustifiably and taking out some of that increase.

The DEPUTY PRESIDENT: Can I remind senators to address people by their correct titles, especially members of other parliaments.

Question agreed to.

**Carbon Pricing**

Senator BERNARDI (South Australia) (15:14): I move:

That the Senate take note of the answers given by the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by Opposition senators today relating to the carbon tax.

I put to Senator Wong a very direct and straightforward question. It was about the definition of green jobs and whether the government could say exactly what a green job is. It is clear from her garbled, tangled, mangled and disingenuous response that she does not have a clue about what a green job is. Indeed, she invited me to contact the President of the United States, Barack Obama, to see what his definition of a green job is. And yet I had given it to her. I had provided it and I asked a very straight-forward question. I asked, 'Will your definition of green jobs include such things as college professors teaching classes on environmental studies, oil industry lobbyists engaged in advocacy related to environmental issues or the humble clerk at the bicycle repair shop who is apparently assisting in renewable transport?'

The broader public knows that it is the most misleading and deceptive definition of a green job anywhere. It is not the myths peddled by people like Tim Flannery and the spruikers paid by this government, including Senator Wong herself. The simple fact is that Senator Wong would not rule out that jobs...
such as those would be categorised as green jobs. That shows me and says to the Australian people that this government is all about sophistry. It is all about putting anything out there into the public domain in the hope that some people will believe anything they are told.

This government is increasingly discredited amongst the public because they know that what it says cannot be believed. It starts at the top with Ms Gillard, but it continues right down. We had almost three years of Senator Wong, when she was peddling the climate change alarmist propaganda, repeatedly telling us all sorts of bunkum and nonsense, regurgitating the lines that she had been force-fed by Mr Rudd and his crew. They were all discredited, all found to be alarmist and all found to be deceptive and disingenuous, and yet she still has the hide to stand up there and peddle them today and say that we are the catastrophists. The government has been peddling catastrophic climate change to scare and alarm the people into a radical change of our economy. Senator Wong hid behind Treasury estimates and figures about jobs and growth going forward. She hid behind them as if it were some sort of plea to authority that would sway the Australian people that what she was telling us was true.

Let me spell out a couple of inconvenient truths for Senator Wong and those who have bought into her propaganda. The Treasury modelling in the budget of 2011-12 said that 500,000 new jobs would be created. We were told that Treasury was right and that Treasury would guide us into the future and that we could bank on its blessings and endorsements until 2050 or thereabouts. It will come as no surprise that Treasury was not quite accurate in that figure of 500,000 jobs.

Senator Abetz: Tell us more.

Senator BERNARDI: Indeed, Senator Abetz, I will, because you have asked. In the most recent budget, the 2012-13 budget, which Senator Wong herself apparently put together—no-one can believe for a moment that Wayne Swan could cobble together a budget—Senator Wong applied all the skills and credibility which she developed and built up in selling the carbon tax and the emissions trading scheme. For this next 12 months Treasury has apparently revised its estimates of the green jobs because the carbon tax is actually coming in. Sadly, it has revised it downwards to 300,000 new jobs. That is probably 300,000 bicycle repairmen, oil industry lobbyists and professors of ecology or whatever they want to call it in some of the universities out there. It is 300,000 invisible jobs. They are jobs that are not going to exist. Go to a wind farm and see how many industrious, busy workers there are strolling around. The people you will see are the protesters who do not want it and who realise it is giving them expensive electricity and that it has been put forward and sold by a government that is as fake and disingenuous as any we have seen in this country.

The great tragedy is that it is going to be 12 or 18 months before the damage that is done by this government can begin to be redressed. It will take 10 years to undo this mindless, spendthrift government's impact on the Australian economy.

Senator PRATT (Western Australia) (15:19): It is a bit rich to have the Liberal Party lecturing us today on housing affordability because, quite simply, they do not take this issue seriously. They had no housing minister for their whole 12 years in government.

The DEPUTY PRESIDENT: Senator Pratt, I point out that the first motion was to do with housing in response to questions of
Senator Evans. This is now in response to questions asked of Senator Wong in relation to the matters just addressed by Senator Bernardi.

Senator Bernardi: You do not know anything about it, do you? Perhaps I can help you out.

The DEPUTY PRESIDENT: Order, Senator Bernardi. While Senator Pratt is coming to her feet, could I remind senators to address members of the other place by their correct title.

Senator PRATT: Housing affordability and green jobs do go together. One of the important sets of green jobs that goes hand in hand with housing affordability has been helped by the funding that has gone to green communities so that people can lower their household carbon footprint.

Opposition senators interjecting—

Senator PRATT: That is just one of many, many different types of green jobs that exist in our community. Green jobs in this country are very much part of our future because we know that without a carbon price we will be leaving ourselves behind the technological change that is happening in the most advanced economies in the world. You need only to look at countries like Germany to know how far they have come in green jobs because they have put a price on carbon. In this country we know that jobs will be left far behind without pricing carbon. Why do we know that? We know that it will become more expensive to transition in the future if we fail to do so now. That is why in pricing carbon we are setting up the economy for the future. We are creating the jobs of the future, because we know that we will lose jobs in the future if we do not make this transition. The clean energy future plan is one of the most significant innovation funds that this nation has ever seen. It is all about jobs for the future—jobs in my home state of Western Australia, jobs in wind farms, jobs in industries like Alcoa. When we talk about green jobs, we mean the kinds of changes that big industry needs to make to adjust to the price of carbon. These jobs exist everywhere. They exist in accounting. They exist not only in carbon accounting but also in accounting that looks at how you change your emissions profile throughout a plant. They exist in engineering. They exist in making everything we do smarter and better. Indeed, they exist in plumbing. They exist in electrical and other trades.

We know that if we do not take these steps to move forward on carbon, if we do not price carbon in this nation, we will destroy jobs in this country. When we talk about green jobs, we are talking about jobs that are embedded in every part of the economy. We are indeed talking about environmental educators and we are also talking about plumbers and electricians. We are talking about everyone who is about helping this nation manage its environmental footprint. There are jobs in agriculture. There are jobs in working out how we sequester carbon into our soils right around this country. I have heard those opposite talk about this many times. They are actually quite interested in it.

It is really quite a cheeky question to ask: ‘Where are these jobs?’ And it can only come from someone like Senator Bernardi, who does not believe in climate change at all. He is completely cynical about it. Why would he think that such jobs need to exist in this country? He would have no idea why they would need to exist, because to him they are made-up and irrelevant jobs. But I can tell you that these jobs are very, very real. These are the kinds of jobs that we must create. Frankly, we need to get the whole of the planet working on creating these jobs. These are the jobs of the future that will help us reduce the globe's greenhouse emissions.
These are the kinds of jobs that will help us save our future and our planet. Be it on Senator Bernardi's head if he thinks that these are just made-up jobs and not real, if he does not know what they are and if he asks such a simple and, in my opinion, stupid question. Green jobs are at the very heart of our nation's future and our nation's economy.

Senator FAWCETT (South Australia) (15:25): I rise to take note of answers by Senator Wong, particularly in light of that contribution by Senator Pratt. Baghdad Bob is back. Who could forget the Iraqi information minister standing outside the gates of Baghdad saying: 'The Americans will never be here. We are invincible.' And in the background two M1 Abrams tanks were rolling through while the destruction of that regime was occurring in sight of the reporters who were interviewing him. Day after day, Baghdad Bob was up there, just like the Greens and this government are, talking about all the things that their modelling and ideology are going to do.

As to setting up the economy for the future, well, most people do not like the thought of being set up. I have got to tell you, Mr Deputy President, as I look at the future, this government is indeed setting up our economy. Unfortunately, it is setting up our economy to fail. There are a couple of facts that the Labor Party might want to think about—and people in their electorates might want to think about this as well when they hear these promises being rattled out by the ALP's Baghdad Bobs day after day—concerning green jobs. Senator Pratt talks about Europe. If you look at the study done by King Juan Carlos University in Spain, 2.2 real jobs were demolished for every green job created, and many of those green jobs were only temporary in nature during the establishment phase of programs; there were far fewer ongoing ones. The 2.2 jobs that were scrapped represent families who no longer have work. When it comes to the issue of housing and housing affordability, what kind of setting up is the Labor Party doing for families and for housing in this country?

The modelling that the government relies on has already proved to be wrong—just like Baghdad Bob's assumptions were proved to be wrong and merely rhetoric. The government said that the cost of groceries would increase for each family by only about $40. But the Australian Food and Grocery Council has done the modelling and said that it is more like $120—three times the cost. Let us look at petrol. The Prime Minister has come out and stated that there will be no impact on petrol. Yet people dealing in the industry have issued reports highlighting that, because of all the input costs, such as the increasing cost of electricity, there will be price pressures—over $9 million to the four main refineries—and they are going to flow down to consumers.

There will be cost pressures coming through in every area of life. The government keeps on talking about its modelling. What does its modelling actually say about this tax? The government's modelling says that, whilst the tax starts at $23 a tonne, into the future, by 2050—which is its target area—it will be $350 a tonne. If companies here are already saying that, on top of the high dollar and on top of low demand, this structural impediment to their competitiveness on a global scale will start to drive industry offshore, imagine what $350 per tonne will do, given that other countries are not moving to implement these economy-wide programs. The more industries that are driven offshore, the fewer jobs there will be in our economy. If people are concerned about jobs, housing and budgets, spare a thought for our children. What jobs will they have in the future? This government's own modelling says that this tax is going to rise to
$350 per tonne in the future. Talk about setting up our economy for the future! Setting it up for a fail is what they are doing. And for what purpose? Again, Senator Pratt talked about Europe. I draw the Senate's attention to the report issued by UBS, the second-largest bank in Switzerland and one of the most highly regarded institutions in the world, looking at the European trading scheme that this Prime Minister loves to quote as an example of what we should be following and why we should be going down this path—the 'right' thing to do—for this carbon tax that would never occur under her government! UBS has said that this tax has been a complete failure, has done almost nothing to help the environment and has wasted, on the back of all kinds of rorts, some €210 billion. This government should be ashamed.

Question agreed to.

WikiLeaks

Senator LUDLAM: There was a noise; thank you, Mr Deputy President. They are insisting that they have provided full consular assistance for Julian Assange. Now, if consular assistance extends to pronouncing Mr Assange as having broken laws and the work of WikiLeaks as illegal, that is the kind of consular assistance you could do without. If it extends to the Attorney-General threatening to rip up Mr Assange's passport, that is also the kind of consular assistance you could probably do without if you were in the circumstances that Mr Assange is in. Our present Attorney-General saying that Mr Assange had fled Sweden was really not a helpful form of consular assistance and probably best done without.

I did not get to engage with Senator Evans on the substance of the question of why apologies have not been rendered to this Australian citizen, who is facing quite possibly extremely serious charges should the United States move to prosecute him. And there is evidence on the record that a grand jury was empanelled in late 2010 and then spent at least a year working on prosecutions potentially for espionage, for treason and for computer-hacking offences that could potentially lead to Mr Assange spending his life in a supermax prison in the United States. You would not have thought the situation was so serious from the strange shrieks and howls of derision that were echoing across the chamber when I put entirely sensible questions to Senator Evans earlier this afternoon.

What we are seeking—and let me be completely clear—is not consular assistance as though this were some form of regular case. We are seeking for the Australian government to establish whether such a prosecution and extradition to the United States is afoot or not. It is deadly simple. It is an unambiguous ask for the Australian government to simply establish whether
there will be a prosecution or not and, if it turns out that there is, to stick up for the guy. For once, can we look after one of our own and not leave him exposed to the kinds of danger that he clearly is exposed to? I am not sure that it is well understood in Australia just how toxic the media and political culture has become in the United States, a country still, I think, traumatised—and perhaps rightly so—by the horrific attacks of September 11, 2001. Accusing an individual of terrorism in the United States carries a very severe resonance, and you do not throw around accusations of terrorism lightly in the media and political context in the United States at the moment. But of course, from the Vice President of the US down, that is exactly what has been occurring. These are not simply fringe voices from the far right, although quite clearly they are all over it, from former US vice presidential candidate Sarah Palin, who said that he should be targeted like the Taliban—that is helpful!—to Thomas Flanagan, former adviser to Canadian Prime Minister Stephen Harper, who said, 'I think Assange should be assassinated.' FOXNews commentator Eric Bolling said: Assange should be put underground … He should be put in jail or worse, hanged in a public forum. A Washington Times columnist, Jeffrey Kuhner—'Assassinate Assange' was the headline of this helpful and constructive piece—said that Assange 'poses a clear and present danger to American national security'.

These are extremely serious charges that are potentially about to be levelled by the US government against an Australian citizen. He is not, I believe—given the enormously prejudicial comments that have permeated the media environment in the United States—guaranteed of anything like a fair trial or even fair incarceration. Look at what alleged whistleblower Bradley Manning has been treated to for well over a year now, and for a long period of that time he was incarcerated in solitary confinement. That is what the WikiLeaks legal team believes Mr Assange will be exposed to if he is deported or extradited to the United States. Against the seriousness and gravity of doing that to a publishing organisation, the kinds of responses we received to what I think were entirely sensible questions during question time this afternoon and over preceding weeks are unhelpful and contemptuous. I invite the government to take another look at the side of history on which it is choosing to stand as it considers how to deal with the matter of Julian Assange and the WikiLeaks publishing organisation. I thank the Senate.

Question agreed to.

NOTICES
Presentation

Senator Bishop to move:
That the Joint Committee of Public Accounts and Audit be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate as follows:

(a) on Wednesday, 15 August 2012, from 11 am to 11.45 am, followed by a private briefing till 1 pm; and

(b) on Wednesday, 22 August 2012, from 11 am to 11.30 am, followed by private briefings till 1 pm.

Senator Cameron to move:
That the Environment and Communications Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 21 June 2012, from 1 pm.

Senator Marshall to move:
That the Education, Employment and Workplace Relations Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Friday, 22 June 2012, from 9.30 am to 1 pm, to take evidence for the
committee's inquiry into the provisions of the Fair Work (Registered Organisations) Amendment Bill 2012.

Senator Moore to move:
That the Community Affairs Legislation Committee and the Community Affairs References Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 26 June 2012, from 12.30 pm.

Senator Stephens to move:
That the Parliamentary Joint Committee on Human Rights be authorised to hold a public meeting during the sitting of the Senate on Thursday, 21 June 2012, from 5 pm to 7 pm.

Senator Boyce to move:
That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 28 June 2012, from 10 am.

Senator Boyce to move:
That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Friday, 22 June 2012, from 9.30 am.

Senator Colbeck to move:
That the Select Committee on Australia's Food Processing Sector be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Monday, 25 June 2012, from 4 pm, and on Wednesday, 27 June 2012, from 11.30 am.

Senator Heffernan to move:
That the time for the presentation of reports of the Rural and Regional Affairs and Transport References Committee be extended to 12 September 2012, as follows:
(a) management of the Murray-Darling Basin; and
(b) Foreign Investment Review Board national interest test.

Senators Boswell and Furner to move:
That the Senate—
(a) notes that:
(i) since 2002, Australia and the Socialist Republic of Vietnam (SRV) has held nine rounds of the Australia-Vietnam Human Rights Dialogue, and
(ii) the Australian Government, through the Department of Foreign Affairs and Trade, considers the improvements in human rights in SRV 'a high priority of the Australian government'; and
(b) calls on the Australian Government to:
(i) encourage the Minister for Foreign Affairs to ensure parliamentary supervision of the Australia-Vietnam Human Rights Dialogue by appointing Members to take part in the Dialogue,
(ii) encourage more active community awareness of the work of the Dialogue,
(iii) ensure Australia's overseas development aid to SRV includes a focus on promoting human rights, and
(iv) improve the effectiveness of the initiative by encouraging a more whole of government approach.

Senator Wright to move:
That the Senate—
(a) notes that:
(i) 2012 marks the 40th anniversary of Community Legal Centres, which started with the establishment of the Fitzroy Legal Service in Melbourne, and
(ii) there are over 200 Community Legal Centres currently operating throughout Australia;
(b) recognises that:
(i) Community Legal Centres, and the passionate and committed lawyers and advocates working for them, provide essential legal assistance services and advocacy to some of the most marginalised and disadvantaged members of our community, and
(ii) Community Legal Centres remain under-resourced and continue to struggle to meet the rising demand for affordable and effective access to justice; and
(c) calls on the Government to conduct a comprehensive investigation of levels of demand and supply of legal assistance services, unmet need and gaps in service delivery, with a view to directing the improved use and funding of legal assistance services and consequently advancing access to justice.

_Senators Rhiannon and Wright_ to move:

That the Senate—

(a) notes that:

(i) uniform gun laws were introduced across all states and territories following the ground-breaking work undertaken by the former Prime Minister, Mr Howard, in the aftermath of the Port Arthur massacre,

(ii) the New South Wales Government has sponsored a two-day 'Shot Expo' that promotes guns, knives and pistols, in conjunction with firearm manufacturers, including Beretta, a weapons supplier to the former Gaddafi regime, and

(iii) the New South Wales Government has given its support to a longstanding Shooter and Fishers Party plan to allow recreational hunting with firearms in designated New South Wales national parks;

(b) condemns the New South Wales Government’s plans to allow recreational hunting with firearms in its national parks; and

(c) calls on:

(i) the Federal Government to support the adoption of a global arms trade treaty at the United Nations, and

(ii) the Attorney-General (Ms Roxon) to take the steps required to strengthen uniformity of Australian gun laws.

_Senators Rhiannon and Moore_ to move:

That the Senate—

(a) notes that 2013 is:

(i) the 110th anniversary of women winning the right to vote and the right to stand in elections in Australia, and

(ii) the 70th anniversary of the election of the first women to the Federal Parliament; and

(b) encourages responsible agencies, including the Office for Women, the parliamentary departments and the Museum of Australian Democracy, to mark these anniversaries with suitable events such as displays, lectures, seminars and the updating of existing exhibitions.

_Senator Cormann_ to move:

That the Senate condemns the Labor Government for imposing the world’s biggest carbon tax on the Australian economy at the worst possible time, when the Prime Minister (Ms Gillard) promised before the 2010 election that there would be no carbon tax under a government she leads and when it will:

(a) push up the cost of living;

(b) push up the cost of doing business;

(c) make Australia less competitive internationally;

(d) cost jobs;

(e) result in lower real wages and cause a cumulative reduction in Australia’s gross domestic product in the order of $1 trillion between now and 2050, according to the Government’s own Treasury modelling; and

(f) shift economic activity and emissions overseas, therefore doing nothing to help reduce global emissions.

_Senator Ludlam_ to move:

That the Senate—

(a) notes that inconsistent or selective application of the Consular Services Charter leaves Australian citizens in doubt about the level of assistance they may receive if facing difficulties overseas; and

(b) calls on the Prime Minister (Ms Gillard) to:

(i) ensure that the Government’s efforts and engagement on behalf of Mr Julian Assange are consistent with the highest level of support provided to other Australians in difficulty overseas, and

(ii) retract prejudicial statements regarding the illegality of Wikileaks’ publishing endeavours, found to be groundless by the Australian Federal Police, which have the
potential to seriously jeopardise the potential for any fair trial or hearing for Mr Assange.

Senator Milne to move:
That the Senate—
(a) notes that:
(i) more than a million people have signed a petition to governments convening at the Rio + 20 summit calling on them to end fossil fuel subsidies,
(ii) the Rudd Government agreed at the G20 meeting in Pittsburgh in 2009 to phase-out inefficient fossil fuel subsidies that cause wasteful consumption,
(iii) similar language is being inserted into negotiating text at the Rio conference, and
(iv) the Government has acknowledged that fossil fuel producers benefit from economy or sector-wide concessions; and
(b) calls on the Government to explain how providing concessions to fossil fuel producers is consistent with pricing greenhouse gas pollution, efforts to tackle global warming, the G20 agreement, the intent of the Rio + 20 negotiating text, and measures to build a clean energy economy.

Senators Hanson-Young and Moore to move:
That the Senate—
(a) notes that international trade in arms, when undertaken irresponsibly, or diverted to illicit markets, contributes to unlawful armed violence, violations of international human rights law and international humanitarian law, acts of genocide and other crimes against humanity, forced displacement, terrorist attacks, patterns of organised and violent crime and corrupt practices;
(b) affirms that an effective arms trade treaty would strengthen the rule of law, peace and peace-building processes, human security, poverty reduction initiatives and prospects for sustainable socio-economic development;
(c) acknowledges:
(i) that a robust arms trade treaty would assist to reduce the extensive loss of human life and livelihoods caused by illegal weapons while at the same time not impeding the operation of the legitimate global arms trade as carried out with full respect for the rule of law and international legal obligations and standards, and
(ii) the important role that Australia has played as a co-author of every United Nations resolution on an arms trade treaty since 2006 and can continue to play as a champion of a robust, comprehensive and legally binding instrument;
(d) calls on states to adopt a treaty:
(i) at the United Nations in July 2012, whereby international transfers of arms will not be authorised if there is a substantial risk that the weapons will be used to commit or facilitate serious violations of international human rights law or international humanitarian law, or will seriously impair poverty reduction or socio-economic development,
(ii) that covers a comprehensive scope of conventional arms, including ammunition, small arms and light weapons, as well as a wide range of trade activities, including transfers and transhipments, and
(iii) that includes mechanisms to ensure full implementation, including transparent reporting, international cooperation, compliance and accountability; and
(e) notes the important contribution of non-government organisations, including Amnesty International, Oxfam and the International Committee of the Red Cross, in working towards the achievement of an effective and robust global arms trade treaty.

COMMITTEES
National Broadband Network Committee
Meeting
Senator McEWEN (South Australia—Government Whip in the Senate) (15:36): At the request of Senator Cameron, I move:
That the Joint Standing Committee on the National Broadband Network be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 26 June 2012, from 6 pm to 8 pm, to take evidence for the committee’s inquiry into the review of the rollout of the NBN.
Question agreed to.
Gambling Reform Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:36): At the request of Senator Crossin, I move:

That the Joint Select Committee on Gambling Reform be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 26 June 2012, from 4 pm, to take evidence for the committee’s inquiry into the prevention and treatment of problem gambling, followed by a private meeting otherwise than in accordance with standing order 33(1).

Question agreed to.

National Capital and External Territories Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:36): At the request of Senator Pratt, I move:

That the Joint Standing Committee on the National Capital and External Territories be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 27 June 2012, from 12.30 pm to 1.45 pm, to take evidence for the committee’s inquiry into the review of the Department of Sustainability, Environment, Water, Population and Communities annual report 2010-11.

Question agreed to.

MOTIONS

Queen Elizabeth II: Diamond Jubilee

Senator SMITH (Western Australia) (15:37): I move:

That the Senate notes that:

(a) the coronation of Queen Elizabeth II occurred on 2 June 1953;

(b) the Diamond Jubilee of Queen Elizabeth II was celebrated between 2 June and 5 June 2012;

(c) during this period, Australians expressed their respect and affection for Her Majesty and their thanks for the longevity of her reign as Queen of Australia; and

(d) 3 February 2014 will mark the 60th anniversary of the first arrival of Queen Elizabeth II in Australia.

Question agreed to.

World Refugee Day

Senator HANSON-YOUNG (South Australia) (15:37): I, and also on behalf of Senator Lundy, move:

That the Senate—

(a) notes that Wednesday, 20 June 2012 is World Refugee Day, recognising the importance of international commitment to worldwide protection of refugees under the 1951 Convention and 1967 Protocol Relating to the Status of Refugees;

(b) notes that the 2012 theme of World Refugee Day is ‘Refugees Have No Choice: You Do’, which acknowledges the tragic conflicts and deadly persecution that lead people to seek protection in countries that are not their own, leaving behind their history, property and loved ones in search of a safe new life; and

(c) calls on the Government to reaffirm Australia’s commitments under the 1951 Convention.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Reference

Senator BOSWELL (Queensland) (15:37): I seek leave to amend business of the Senate notice of motion No. 2 standing in my name in the terms circulated in the chamber.

Leave granted.

Senator BOSWELL: I move the motion as amended:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee:

[Further discussion and motions-related content, if any, would follow here.]
References Committee for inquiry and report by 10 October 2012:

The effect on Australian pineapple growers of importing fresh pineapple from Malaysia, including:

(a) the scientific basis on which the provisional final import risk analysis report regarding the importation of fresh, decrowned pineapple has been developed;

(b) the risk and consequences of the importation possibly resulting in the introduction of pest species;

(c) the adequacy of the quarantine conditions recommended by the Department of Agriculture, Fisheries and Forestry; and

(d) any other related matter.

Question agreed to.

Reference

Senator BOSWELL (Queensland) (15:38): I seek leave to amend business of the Senate notice of motion No. 1 standing in my name in the terms circulated in the chamber.

Leave granted.

Senator BOSWELL: I move the motion as amended:

That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 19 July 2012:

The effect of the implementation of the marine park protected areas and marine bio-regional plans on recreational and commercial fishing trawling, and associated industries, including:

(a) the scientific basis on which the marine bio-regions have been developed, including the location of closures, and the development of a management policy for these parks;

(b) the policy underpinning the restrictions on fishing trawlers in the green, multiple-use, general purpose and special purpose zones, and the subsequent impact on fishing licences;

(c) the cost of buying out existing fishing licences, as a result of the Marine Bio-regional Parks policy, and the development of a compensation framework for fishermen, allied seafood businesses (such as processors, wholesalers and retailers) and tourism operators who have been adversely affected by the Marine Bio-regional Parks policy; and

(d) any other related matter.

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

The Senate divided. [15:43]

AYES

Abetz, E
Bernardi, C
Birmingham, SJ
Boswell, RLD
Boyce, SK
Bushby, DC
Cash, MC
Colbeck, R
Cormann, M
Edwards, S
Eggleston, A
Fawcett, DJ
Fierravanti-Wells, C
Fifield, MP
Heffernan, W
Humphries, G
Kroger, H (teller)
Macdonald, ID
Madigan, JJ
Mason, B
McKenzie, B
Nash, F
Parry, S
Payne, MA
Ronaldson, M
Ryan, SM
Scullion, NG
Smith, D

NOES

Bilyk, CL
Bishop, TM
Brown, CL
Cameron, DN
Carr, KJ
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
Marshall, GM
McEwen, A (teller)
McLucas, J
Milne, C
Moore, CM
Polley, H
Pratt, LC
Rhiannon, L
Singh, LM
Stephens, U
Sterle, G
Thistlethwaite, M
Urquhart, AE
Wong, P
Wright, PL

CHAMBER
PAIRS

Back, CJ  Siewert, R
Brandis, GH  Conroy, SM
Johnston, D  Waters, LJ
Sinodinos, A  Carr, RJ
Williams, JR  Evans, C

Senator Joyce did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Marine Sanctuaries

The DEPUTY PRESIDENT (15:46): A letter has been received from Senator Fifield:

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

The failure of the Gillard Government to properly consider the level of risk to Australia’s marine environment from the commercial, charter and recreational fishing sectors when establishing boundaries and zones for proposed marine parks and the capacity to manage those risks by methods other than just huge closures and lock outs.

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 clocks accordingly.

Senator BOSWELL (Queensland) (15:47): The last division was all about the Labor Party and the Greens joining together to oppose a Senate inquiry that would allow the commercial and amateur fishing industries, the boatbuilding industry and the charter boat industry to come to the table and present their concerns to the parliament. That proposal was rejected. Every associated industry that is affected by these closures wants to have a say. The maps have been laid down and in 60 days the declarations will be made. No-one, whether they be in the commercial fishing industry or the amateur fishing industry or the charter boat industry, knows what is happening. They do not know what adjustment is going to be paid—are they going to be paid for their boats or their licences or their nets or are they just going to receive a proportion of the fish that is caught? No-one knows? No-one knows whether the processing industry is going to be supported. I do not think it will be. Mr Jeffriess from the Commonwealth Fisheries Association comes out and says the government is proposing $100 million. They have to be joking. No-one has a clue about what this government proposes for the 3.1 million square mile closure right around Australia and the 1.3 million square mile Coral Sea closure that adjoins the Great Barrier Reef.

If the Labor Party and the Greens believed they had produced the best marine park around the world and if they had the courage of their convictions they would be proud to have a Senate inquiry. But, no, they are frightened to let anyone have their say. Mr Burke has travelled around and he has provided selective briefings to some of the people but all he has ever said is that when the final maps are done he will tell us what is going to happen. The final maps are done and dusted and still no-one knows what is going to happen. The government is playing with people’s lives—fishermen’s lives. The maps had not been out two days and the first casualty was the Port Douglas charter
company Bianca, which lost $120,000 due to cancellations.

That is just one company—there are 60 boats operating in Cairns; 60 boats that are now frozen out of the Coral Sea, where they have a fantastic catch-and-release industry. They do not take fish; they just catch them and release them. People pay a huge premium to participate in that fishery. They are frozen out and the commercial fishermen are frozen out. Every day we hear that we should not worry about it because the reef is so far out and amateur fishermen will not be affected. I wish someone from the Labor Party or the Greens—although I would not advise that the Greens go up there—would talk to Mr Hansard of the Australian Recreational Fishing Foundation. He is saying that five million recreational anglers will be locked out of vast areas of Australia's oceans and many iconic fishing spots. He has said that Mum, Dad and the kids will be 'banned' from trying to catch a fish. He has asked why the government is doing this—why is it shutting up some fishing industries while bringing in the biggest trawler from Holland to fish in the southern zone?

That is not Ron Boswell or some other senator, such as Ian Macdonald, who is a former fishing minister, saying that; it is the amateur fishermen.

Labor has fallen back on the position it traditionally takes when it gets stuck—when it gets dumped—and is saying, 'It's scary, Henny Penny! The world is going to fall in!'

It is not Ron Boswell saying this and it is not Barnaby Joyce; it is the fishing industry. It is the amateur fishing industry who put out that press release. The commercial industry has said, '$100 million? You've got to be joking. What is going to happen to our licences?'

Then there is the charter industry—the maps have been down two days and already they are getting cancellations. Why do we need this? Why does a country the size of Australia have to have 70 per cent of the world's national parks? Why do we have to have everyone else's conscience inflicted on us? It is because Pew, the American green group, has come over here and is leading the government by the nose. All Pew has to do is go to the Greens, tell them what it is proposing and the Greens will sell it to the Labor Party, saying, 'This is part of the conditions we have for government. If you want us on board you will put these closures in.' As a result, five million amateur fishermen have been frozen out, as have probably 6,000 or 7,000 professional fishermen, the charter boat industry and the trawlers. Why?

I inform the Senate that the country with the highest ocean catch by kilogram per square kilometre is Bangladesh, with 21,085 kilograms per square kilometre. After that come China, Peru, Korea and Vietnam. Then there is the United States, which takes about 372 kilograms per square kilometre. Mr Deputy President, I know that you are fishermen and that you are interested in this. Do you know that the country with the very lowest catch is Australia, with 28 kilograms per square kilometre? So what do we do? We race in, turn 3.2 million square kilometres right around Australia into marine bioregional parks, all because the Labor Party could not give a damn about blue-collar workers. They could not give a damn about the processors and the people who work in the processing industries in Bundaberg and Cairns. They could not care less, as long as they get the green vote. I can never understand it: if you do the most stupid things you will get the most stupid results. That is what happened in Queensland and it is going to happen federally. Why does the Labor Party keep putting its hand in the fan, lose five fingers and then line up to put the other hand in? (Time expired)
When it comes to protecting the environment, I think it is best that the opposition, and the National Party, leave the job to the experts. I think it is best that they leave it to a party with a strong commitment to and a far better record of protecting and maintaining our unique environment for current and future generations of Australians. How can we possibly believe that the coalition has any commitment to the environmental protection of our marine parks when we hear the dithering and confused statements they have made about marine parks? On the one hand, we have the Deputy Leader of the Opposition, Ms Bishop, strongly supporting marine parks in her local area; meanwhile we have the Leader of the Opposition, Mr Abbott, seeking a review of marine parks; and, finally, we have the absolute absurdity of Senator Boswell making statements that are disappointing and clownish, even for him, claiming: 'The Battle of the Coral Sea is just about to be started.'

The development of a national system of marine reserves has been underway in Australia for 20 years, since the signing of the Intergovernmental Agreement on the Environment in 1992. When I was environment minister in this country, during the mid-1990s, I had responsibility for these issues. The current government is trying to finish the job by delivering a national network of marine reserves that strikes a balance between sustainable marine economies and protecting our marine environment. As an island nation we have a strong connection to the ocean. We are blessed with a diverse and unique arrangement of coral reefs and marine life. Our marine environments are increasingly being threatened by industry, pollution and the effects of climate change; we have a very heavy responsibility to protect our marine environment. Our marine economy is worth more than $44 billion each year. We are a vast island continent with the third-largest marine estate in the world covering an area of 16 million square kilometres, most of which is the sole responsibility of the Australian government. It is an area greater than our landmass and ranges from tropical seas in the north to sub-Antarctic seas in the south. Its protection is critical, hence these discussions about adding 44 large-scale marine reserves to existing areas. Of course the government has consulted with those who have concerns. I think there have been 250-odd meetings in coastal areas around the country. Let us be clear: wherever it is possible, wherever it can, the government has sought to avoid impacting on any local jobs or, of course, recreational fishing. But where it could occur, the government will be delivering an adjustment package of around $100 million, provided for on a case-by-case basis. And the new protected marine parks will only be activated when the management plans and assistance package are in place. Of course we all want our fishing industry to continue to remain well managed with a bright and positive future. I suggest we would also like to protect our unique and diverse environment for future generations. That is the responsibility a government of any political persuasion has in this country and I believe this plan will get that balance right.

I rise to make a contribution to this debate because I cannot stay silent in the face of the scaremongering and hysteria being peddled by some unscrupulous elements of the fishing sector, fanned by equally unscrupulous and opportunistic claims from some members of the coalition of the Liberal and National parties. The recent announcement by the environment minister of a national network of marine reserves is certainly a substantial and major
step forward for marine conservation in Australia and globally. The announcement has been a long time in the making and it will benefit both current and future generations. That said, it could certainly have gone further in many respects and it almost totally leaves the field clear for oil and gas exploration in some of our most precious environments. What is clear is that this marine reserves announcement will not see the end of recreational or commercial fishing as we know it, as some doomsayers would have us believe.

The Australian Greens have always supported a science based approach to marine sanctuaries and the science increasingly indicates a need for urgent action on a national and global scale if our children's children are to know oceans that support the marine life that we have known, and why would we wish any less for them? In 2011, an international panel of marine scientists associated with the International Program on the State of the Ocean met to review the science at Oxford University and issued a stark warning that we would be foolish not to heed: 'The world's oceans are at risk of entering a phase of extinction of marine species unprecedented in human history.' World scientific opinion is that 20 per cent of the oceans need to be fully protected from fishing, and here in Australia today we are whipping ourselves into a frenzy over a proposal to declare less than one per cent off limits from fishing.

Let us step back from the hyperbole and remember that in the end those concerned about conservation, those of us who wish to ensure that we have species with us into the future, and the fishing industry, who must share the same goal, surely, do have a common objective—namely, healthy and resilient ecosystems that support the sustainable marine industries and thriving regional communities. Surely that is what we would all be wanting. Last week's announcement will start us on the path to this goal. There is clear world evidence that marine parks are effective to achieve this. The science shows that protecting areas of oceans works. Not only do marine sanctuaries play a vital role in protecting fish stocks for the future by protecting critical feeding areas; they also insure fishing against the increasing threat posed by rampant oil and gas exploration and production. It is in this area where the minister's announcement is sadly lacking.

But, first, let me turn to my home state of South Australia and look at the effects on fishers there. The vast bulk of recreational fishing in South Australia is conducted in Gulf St Vincent and Spencer Gulf. These gulfs are part of the state waters and not covered by the recent announcement of Commonwealth marine parks. Elsewhere in South Australia, Commonwealth waters are more than three nautical miles offshore, again outside where most recreational fishing takes place. In terms of the no-take zones, these are few and far between off the South Australian coast and mostly more than 100 kilometres offshore. It is certainly a keen recreational fisher who would take his or her tinny out beyond the 100-kilometre boundary to drop a line. Again, in terms of the impact on commercial fishing, this will also be minimal in South Australia. Many of the targeted species such as the critically endangered southern bluefin tuna, which is listed by the IUCN, are also migratory. That means they do not observe neat boundaries on a map but will continue to be caught outside the small protection zones in the Great Australian Bight.

All that said, I recognise that fishers are understandably concerned about the future. But it is important that those concerns are based on the facts and can then be ameliorated by appropriate measures such as
reasonable compensation. We have always had to make difficult decisions where we have become aware that industries that we have become used to are no longer sustainable, and whaling is a good example. If you visit Albany in Western Australia, you will see the remnants of what occurred when whaling was phased out. Obviously, some people are disproportionately affected by decisions made for the benefit of the entire community and they need to be looked after. In this climate of fear, it is important that we ensure that the truth does get in the way of the bad news story that some are determined, against logic, to propound.

The big cause for alarm with this announcement, as I foreshadowed, is the inexplicable failure of the minister to adequately protect some of our most precious places from the risks associated with gas and oil exploration. The Australian Greens are seriously concerned about the outcomes for the south-west, north-west and north when it comes to oil and gas. I am particularly concerned about the magnificent and highly significant marine region to the west and south of Kangaroo Island. This area has been designated a special purpose zone, which will allow recreational but not commercial fishing, but will also allow mining, oil and gas activities. The Montara oil spill and the Gulf of Mexico oil spills, still very, very fresh in our minds, show that the risks of oil and gas exploration are unacceptably high in important marine environments. But, effectively, with this announcement, oil and gas have been given a free ride. That is something that the fishing sector should get seriously angry about. We know that oil and gas fields do not abide by boundaries. Despite a small zone that excludes oil and gas from a section of the Margaret River coast, the area right next door still remains vulnerable to the risk of spills. We also know that activities associated with oil and gas exploration threaten marine species. Activities like seismic testing affect whales, causing physical injury, organ and hearing damage and haemorrhaging, which can ultimately result in death. Unfortunately, we have seen the influence of the oil, gas and resources lobby and I think the influence of the resources minister, in relation to this omission in the announcement made by the minister for the environment. The short-term gain of the resources boom has won out over long-term protection and responsible and sustainable industries. Fishing can be a sustainable industry if handled well, as well as tourism.

So what we feared has come true. The Kangaroo Island canyons will not be protected from the risk of oil and gas exploration and production. The Kangaroo Island Council, along with the rest of the community, are extremely worried. There is a rich environmental heritage on Kangaroo Island and in its surrounds and there is a thriving tourism industry. People come from far and wide to visit Kangaroo Island; this will be at risk through this exploration and ultimately production.

An oil spill would have the potential to devastate marine life in the Kangaroo Island canyons. They are a biodiversity hotspot. They are the life force of SA's marine productivity and biodiversity, with nutrient rich upwellings in the region that enhance the production of plankton communities, which are at the base of the food chain supporting seasonal aggregations of krill, small fish and squid, which in turn attracts sharks, medium and large predatory fish of commercial importance, marine mammals such as whales, dolphins and New Zealand fur seals, and seabirds. So an oil spill in that area would be absolutely devastating. The Kangaroo Island canyons are also one of the three recognised blue whale feeding grounds.
in Australia, but they are now open to the threat of an oil spill. As well as that, an oil spill would be devastating for Kangaroo Island in its social impacts. It would mean the loss of livelihoods of generational fishing families who fished and harvested oysters along the shoreline. They would have to ultimately leave the island as there would not be other work for them, and of course that would have an ongoing ripple effect throughout the community, affecting schools, businesses and community activities.

So at this point we have the job of deciding in this second decade of the 21st century what damage we are willing to do to our planet and what the future holds. We are still relying heavily on fossil fuels, which obviously the Greens say we should move away from, and unfortunately this is seeing us doing and being prepared to do more and more deepwater drilling in more and more hard-to-reach and pristine places. Ultimately we have to decide that there are some places on this planet that are just too precious to risk losing. So, just as we expect planning and development controls to protect our prime agricultural land from mining activities, marine bioregional planning should protect those areas which are the life force of Australia's marine productivity and biodiversity. The minister's announcement is a good start, but there is still a long way to go.

**Senator IAN MACDONALD (Queensland) (16:10):** I hope to bring back a little bit of realism and truth into this debate. The last two speakers simply repeated the propaganda of Greenpeace. For some reason, Greenpeace seem to want to shut Australia down completely, and one wonders why that might be. Apart from the rhetoric and spin and buzzwords of the *Green Left Weekly*, the reality is, as the previous speaker said, the impact on commercial fishing in the Coral Sea will be absolutely minimal. I agree with that. Why then go to the extent of shutting down a fishery that was profitable, that was one of the best managed fisheries in the world—a fishery that the Australian Fisheries Management Authority had carefully monitored over many years and a fishery that had delivered some fresh seafood to Australian tables?

This is the problem with the Labor-Greens alliance. An international environmental group like Pew, which is an offshoot of Greenpeace, come in and want to shut Australia down. But where is the science? The science on the Coral Sea has been with us for decades and it is called the Australian Fisheries Management Authority. It has been very carefully managed. There has never been any problem with the fish stock there and, I suggest, right around Australia. Yet here we are shutting this down to any sort of commercial fishing. Currently 70 per cent of our seafood is imported from some place in the world that does not have the Australian Fisheries Management Authority's careful management. I am told that within 10 short years 82 per cent of seafood consumed in Australia will come from overseas.

We are not a productive fishing nation. Our waters, not being all that cold, are not the best for fisheries, but we made our own way. We have had the most careful fisheries management for decades. We have had the Fisheries Research and Development Corporation doing the research, the science, into this. It was not necessary to embark upon this sledgehammer approach to shut down not just the commercial fishing industry but a big swathe of recreational fishing as well.

Senator Cameron, who follows me in this debate, will be an expert on this no doubt, coming down from the ivory towers of the tall buildings in Sydney and Melbourne.
where he sat as a director on one of the big insurance companies in the Australian superannuation scene. He will be able to tell us how the government is going to police these marine parks. All the Australian fishermen will abide by the law because, much as they hate it, it is the law and they are law-abiding. But it will open the doors for pillaging by those pirates that we know are out there. There will be no-one left to observe them because the ones that used to observe them were the Australian fishermen when they were out in those distant waters. Now there will be no-one to observe them. Even if they were observed, any Australian fishing vessel that may have been able to police those boundaries is currently stuck out north-west of the country, in the fruitless task of trying to peg those porous borders that Ms Gillard has created with her immigration policy and her inability to stem the flow of illegal immigrants into Australia. Perhaps the Labor Party is going to accept the offer of Sea Shepherd to go out and police the marine park. Sea Shepherd has the vessel that is out there committing piracy on the high seas, whose captain is currently on an extradition order to South America to face marine criminal charges. The Sea Shepherd organisation have offered to help the Labor government get out of their quandary on who is going to police the marine park. Of course, why wouldn't Sea Shepherd—promoted by Pew and the Greenpeace organisation—try to help the Labor government fill in what is a clear gap in this whole proposal?

I want to briefly respond to Senator Faulkner, who was saying that the only people that do any good in the environment are the Labor Party and the Greens. This whole policy of marine reserves comes from the coalition's oceans policy, the first oceans policy anywhere in the world, which did provide for marine bioregions. In the time I was minister, we introduced the first one, in the south-east of Australia, but the difference is: the marine reserve in the south-east of Australia is a multipurpose reserve. It was introduced in close consultation with fishermen, transport operators and any other stakeholders. And it was a good outcome. There is careful management, but there is also an ability to fish there, both commercially and recreationally. The Labor Party simply do not understand.

I remind Senator Faulkner as well that it was the coalition who brought in the green zones for the Great Barrier Reef. We did that knowing there would be some disruption to fishing, and we said we would set aside $10 million for compensation. We are currently $250 million into the compensation packet and it is nowhere near finished. And yet the Labor Party tell us that $100 million—which they have not budgeted for, I might add—is there to pay off those people affected. Well, $100 million will not go anywhere. It is not budgeted for in the budget that is barely a month old, and who knows what that might do to the so-called surplus? This is another example of the Labor Party's complete inability to manage anything properly.

If I had three hours, I could tell you of the good environmental legislation and management that the coalition have done, but we are opposed to this stupidity, which impacts on mums and dads and impacts on so many businesses, including small businesses in Cairns and Port Douglas, up my way, and small businesses in the Gulf of Carpentaria, in the northern prawn fishery region. There are marlin boats out of Cairns, recreational fishermen, who do go out that far, to the other side of the reef. As Senator Boswell mentioned, already one business is in trouble, having lost a $120,000 charter fee since the Labor Party brought in this regime. This is typical of the Labor Party. They cannot tell the truth before the election and then, when they get into power, they cannot
manage anything they touch. It is the Midas touch in reverse, yet again. (Time expired)

Senator CAMERON (New South Wales) (16:18): Following Senator Boswell and Senator Macdonald is always good fun. Responding to the claptrap that goes on in relation to their position, when they try to argue points that have no scientific basis, no basis in fact, is always pretty easy. Senator Macdonald talks about realism and truth. I have not heard that from the coalition since I have been in this place. They are not realistic about what is happening to the climate. They are not realistic about what is happening to our oceans. They are not realistic about the need to take steps to protect our ocean, the same way as we protect our forests and our biodiversity. There is no absolutely no realism from the coalition. And, when it comes to truth, I think the truth and you guys are big strangers. The extremists in the coalition have got control, and the extremists in the coalition are arguing that there is no climate change, that we should just ignore what is happening, ignore what the scientists tell us and not worry if the scientific community around the world says there is grave danger from global warming and climate change. The coalition just ignore it and they go for the bottom line—low shots and no long-term vision for this country, absolutely none.

So do not come here talking to us about realism and truth, saying that the Pew foundation and Greenpeace are going to close down Australia. Give us a break! How about getting some of the realism that you talk about into the claptrap that comes from you lot over there? The Sun Oil Company set up the Pew foundation—not exactly the Red Guard. The Sun Oil Company took the view that they had to protect the environment. What do they say? They say that they actually base their analysis on facts, not like the coalition, as we have seen from Senator Boswell and Senator Macdonald. You run fear campaigns on every issue. If there is an issue or a policy, out comes the coalition fear campaign. There is a fear campaign on the pricing of carbon. Who cares about what this is going to do to future generations? Just run the fear campaign, run the opposition position, run the big no. On refugees, again the fear campaign comes out of the back pocket. Simply fear is what the coalition run on. On the economy, out comes the fear campaign. We have got the most robust economy in the world, and yet they run a fear campaign. I always like reminding the coalition about Sir Robert Menzies and what he said on 24 July 1942. He was talking about his liberal creed, something I do not think too many across there know much about. I know that there are some who think they are experts on the history of the coalition. On 24 July 1942, Robert Menzies said:

Nothing could be worse for democracy than to adopt the practice of permitting knowledge to be overthrown by ignorance.

We have seen an example of ignorance trying to overthrow knowledge from Senator Macdonald, although he is in the LNP, but I am not sure what that means—whether he is in the Liberal Party or not. He has been showing ignorance. Senator Boswell—ignorance in terms of the facts. Sir Robert Menzies went on to say:

Fear can never be a proper or useful ingredient in those mutual relations of respect and good-will which ought to exist between the elector and the elected.

You are the elected and you use fear continually to drive an ideological position in support of the rich and powerful in this country. He went on to say:

And so, as we think about it we shall find more and more how disfiguring a thing fear is in our own political and social life.
It is pretty disfiguring when you watch it in action from the coalition. Do not worry about the scientists and do not worry about the facts, just go with the fear campaign. He further went on to say:

It is the fear of knowledge which prevents so many of us from really using our minds, and which makes so many of us ready slaves to cheap and silly slogans and catch-cries.

We heard the cheap and silly slogans from Senator Boswell and Senator Macdonald. We heard the catchcries from Senator Boswell and Senator Macdonald, and they were pretty silly and pretty cheap. They were just not substantive at all. Menzies also said:

In brief, Australian Liberalism must present itself as the party of action, and the party of the future. We are not the ANTI party, but the PRO party.

Tell that to your leader. Tell that to the people who are in there saying no on every issue. Tell that to the people who are out there on the fear campaigns. I can tell you someone who has actually picked up a bit of that creed—

The DEPUTY PRESIDENT: Order!

Senator Cameron, you are just starting to stray away from the substance of the motion before the chair. I draw your attention back to the motion.

Senator CAMERON: I thought it was bang on, Mr Deputy President.

The DEPUTY PRESIDENT: Senator Cameron, I just draw your attention to the motion.

Senator CAMERON: Thank you, Mr Deputy President. When you have coalition MPs standing up and using fear in the debate you are entitled to deal with it, in my view. I accept what you have said. I just want to come to someone who must have understood what Robert Menzies was saying, and that is Peter Lindsay, the former Liberal MP for Herbert. I am sure you will all know the Hon. Peter Lindsay. He was the member for Herbert from 1993 to 2007. He served as Parliamentary Secretary to the Minister for Defence, he was a Deputy Speaker and he was a councillor for the Townsville City Council for 11 years, so I think he knows a little bit about what is happening up in the north of this country. He wrote an article in the Courier-Mail on 29 May in which he was talking about the establishment of the Coral Sea National Park. He said:

This singular act would be a fitting addition to Australia’s long history of setting aside national parks to safeguard our natural wonders and unique wildlife.

… … …

The enormous show of support includes school children, recreational fishers, divers and tourism businesses.

More than 300 marine scientists from 21 countries have endorsed the need for a stronger plan.

Senator Macdonald would know the Hon. Peter Lindsay well. Mr Lindsay is actually dealing with the reality, not the nonsense we have seen from Senator Boswell.

The Labor government is determined to look after our oceans; it is determined to look after our environment. You hear about the lockout of recreational fishermen, and Senator Boswell talked about this being an attack on blue-collar workers. I do not know too many blue-collar workers that would be putting in their little tinnie with a five-horsepower motor on the back at Bundaberg and heading out 492 kilometres to find their first national marine park.

Let me tell you what this is about: it is about protecting the big end of town. It is about the big luxury cruisers with the multimillionaires and the billionaires and the marlin fishers getting out into these proposed marine parks. Nobody should be under any illusion about what this is: it is typical Liberal and coalition policy. Look after the big end of town. The little dinghies are not
getting pushed out from Cairns to go 210 kilometres before they find a marine park. The boilermaker finishing work in the workshop is not going home and saying to the wife and kids, 'Let's go out on the weekend and do a bit of fishing; we'll head out to this marine park and we'll go 492 kilometres in the tinnie.' Give us a break. It is an absolute load of nonsense that these people are going on with. They are anti-science, they are environmental vandals and they are economic incompetents, and they have the cheek to stand up here and talk to us about protecting the environment. You are an absolute disgrace when it comes to the environment. John Howard knew what had to be done; he was prepared to do it, and you have knocked that whole policy position off. You should get on with this and look after our environment.

Senator COLBECK (Tasmania) (16:28): It is an absolute pleasure to follow Senator Cameron, who has just demonstrated from the ivory tower in central Sydney his complete lack of understanding of the marine environment and the natural environment. He talked about demonstration of knowledge. Mr Deputy President, you have just seen the perfect example of a complete demonstration of a lack of knowledge. His insult to the recreational fishing sector by characterising the fishers as fishermen in tinnies with five-horsepower engines is just that: a complete insult, given the sophistication of recreational fishing as it exists here in Australia, particularly in some areas around Queenstown. Senator, you go to a boat ramp on a Saturday morning and see the vessels that go well outside the three-mile limit.

Senator Cameron: Three miles?

Senator COLBECK: They go well outside the three-mile limit into Commonwealth waters. You look at the sophistication of the charter boat industry that works around Cairns and brings millions of dollars of tourist funding into that area. One in 10 bed-nights around the Australian coastline is directly related to recreational fishing. In fact, it is something of the order of a $10 billion a year industry when you add up all the components of it.

Let us come back to the matter before the chair, which is talking about the risk to Australia's marine environment from the process that the government has put in place. That is the critical thing: what is the risk that is being posed to the marine environment particularly by the commercial, charter and recreational fishing sectors? That is the thing that this government has not considered as part of the process and it is certainly the thing that the government has set aside as part of its decision-making process as to this development of marine protected areas around the Australian coastline. Just like Tony Burke did in Tasmania with the intergovernmental forestry agreement—where the industry sat down with Tony Burke on the Thursday night before the agreement was signed and there was the signing of the agreement by the Prime Minister and the Premier of Tasmania on the Sunday morning—Tony Burke has shafted the fishing industry in Australia, just like he shafted the forest industry in Tasmania.

The fishing industry thought they had some semblance of understanding of what Minister Burke was going to do when they had their final meetings with him. They thought that they had been able to agree on some changes, but what happened when the maps were finally released? Exactly the same thing that happened in Tasmania when the intergovernmental agreement got released: there were special things put back in for the Greens and the environmental movement between the time of the final meeting that was held with the industry...
groups and the time of the release of the maps. So an industry was shafted in Tasmania by Tony Burke and, again, this industry was shafted when these maps around the marine environment were released. So there was no concern about what the risks might be, no measure of what the risks might be and no consideration of the relationship.

We talk about consultation through this process. I note government members have talked about 'consultation'. It was not a consultation process. It was a show-and-tell process. Tony Burke turned up with maps. He put them on the table and said, 'This is what you're going to get.' They thought they were getting a deal and they thought there was some negotiation but, as I have said, at the final meeting, after the influence of the Greens and the environmental groups, an industry was shafted yet again—just like happened in Tasmania.

Senator Cameron comes in here and talks about 'their record'—and he is leaving the chamber as I speak—but the record is just like before the last election when Julia Gillard said, 'There will be no carbon tax under a government I lead.' Industry in Tasmania thought they had a deal with Tony Burke but they were shafted in the three days between then and the signing of the intergovernmental agreement on forestry. And, again, the industry were shafted here, proving again that you cannot trust the Labor Party at their word and you cannot trust their promises and you cannot trust what they say.

They characterise these marine parks as being well offshore so they will not impact on the recreational fishing sector. That is a big characterisation and the members opposite have made a big deal of this. But what they neglect to tell the community is that, by closing those areas out deep right out towards the outside extent of Australia's economic zone, they are taking that area away from the commercial fishing sector. So where is that sector going to fish? They cannot fish out in the grounds where they would be normally fishing, so they have to come in and fish on top of the recreational fishing sector area. So the government tell a lie when they say to the recreational fishing sector, 'This will not affect you.' Of course, it is going to affect them because the commercial guys are then pushed back inshore, they have to fish closer in and they have to fish on top of the other area, so effectively they are all fishing for the same fish stock. So the suggestion that there is no impact on the recreational fishing sector, because everything is out wide and away from the little tinnie with the five-horsepower motor, is a complete insult to the recreational fishing sector. Those in it are much more technologically minded than a lot of people on the other side of this chamber who are talking in last-century language. In the Greens' world if it is not locked up it is not protected. They do not recognise the strength of Australia's fisheries management, which has been globally benchmarked as amongst the best in the world.

So how can we manage our economic zone in other ways other than just locking it up, which is what the Greens would like to do and a large chunk of the Labor Party would like to do? We have strong fisheries management. We assess the risk. We have gear restrictions. We have total allowable catches. So we have all those restrictions. The coalition is not saying that we should not have marine parks, but you do not have to lock up huge swaths of Australia's marine environment, so locking ourselves out of potential future fisheries. Tony Burke talks about how they are going to compensate the industry. He is not looking forward at all in relation to this except for locking stuff up. What about the future demand for seafood
here in Australia, which is going to grow by about 850,000 tonnes by 2012? That is double what we consume now, and we already import 70-plus per cent of what we consume. Where is that seafood going to come from? It will not come from well-managed and sustainable fisheries like we have here in Australia. It is going to be imported. Go and have a look at the map as to where most of our seafood comes from and then overlay on that the map of fisheries management in most of those areas. You go and have a look at that information and you will find that all we are doing by locking our oceans up is exporting our problem. We are not dealing responsibly with our own situation.

So the Greens just say 'lock it up', the Labor Party go along with that and Tony Burke sits down with industry, makes out he has got a deal and then shafts them in the next few days. It would be really nice if just one member opposite—and I notice Senator Singh has come into the chamber now—would be prepared to address the matter. What is the risk? Could Senator Singh tell us what the risk is to Australia's marine environment from our commercial, recreational and charter fishing sectors? It would be really nice for those opposite to demonstrate what that is.

Senator Faulkner talks about the environmental record of the coalition. He said he started this process back in the nineties but, of course, it was the coalition that put in the EPBC Act and it is the coalition that has been a strong partner—certainly through Senator Macdonald and after him Senator Abetz—in ensuring the strength of our fisheries management, one of the things that ensure that our fish stocks are sustainable. Look at the annual report on our fish stocks which came in under a coalition government and is printed every year and gives a clear demonstration of the sustainability of Australia's fish stocks. The government members are not prepared to accept any of those sorts of things. Of course, every seafood species that is exported out of Australia has to be assessed as sustainable under the EPBC Act.

So there are a whole range of protections that were put into place by the coalition when we were in government, and yet this government has still failed all throughout this process—all throughout its show-and-tell consultations process; not genuine consultation but 'show and tell, turn up, deliver the maps and this is what we are going to do'—as it has not yet put on the table a demonstration of the risk. All it wants to do is appease the Pew foundation and other groups like that and lock Australians out of Australian waters. (Time expired)

Senator SINGH (Tasmania) (16:37): I am pleased to rise today to speak to this motion brought on by the opposition, because the government's announcement establishing the largest network of marine parks in the world is worthy of discussion in this chamber, and in the community in general. Indeed, it is a topic that is worthy of discussion also at an event like the United Nations Conference on Sustainable Development. That is a discussion that would have happened over the last few days if the opposition not allowed their negative and petty politics to override parliamentary courtesy and the national interest but had allowed the minister to attend one of the most significant environmental gatherings in recent decades. And of course it would have allowed for Australia's key events at the conference, the Indigenous Peoples and Local Communities Land and Sea Management side event, to have been attended by the minister responsible for it.

It would have been only common courtesy towards our organising partners and those
involved in the launch of the International Network of Indigenous Rangers program at the event to have their minister there. But, in their political wisdom, the opposition have decided that the national interest should play second fiddle to their own political, petty tactics. Why? They said they denied the minister a pair so that he could answer questions on today’s topic, Labor’s network of marine parks, in parliament on Monday, but they could not rouse themselves to ask those questions until more than halfway through question time. In fact, the government had to start them off on those questions. We had to drag them away from the preposterous, fear-mongering tactics they were using in this place. They claimed, against all evidence, that the workers facing possible retrenchment by Fairfax somehow had the carbon price to blame and they exploited that claim against every sense of compassion and good taste. That is the kind of rubbish the opposition would prefer to talk about. They prefer that kind of scare-mongering and frothing at the mouth to actually facing up to what we as a nation need to do to protect our crucial economic and environmental assets in our oceans. That is exactly what they should have been talking about. At least we have the opportunity to do so now in this debate, even if the opposition’s motion goes to a shadow of the substance of this laudable policy.

The 44 large-scale marine reserves that will be established through this policy are the areas that the science says we ought to protect. The discovery of that scientific knowledge began more than 15 years ago on the initiative of the Keating Labor government, and it was then embraced by the Howard government. The marine bioregionalisation of Australia, out of which most of the existing marine reserves are based—including those in the south-east of the country and around my home state of Tasmania—is drawn from integrating multidisciplinary data into a picture of how biodiversity is structured across all of Australia’s oceans. That understanding allows us to know what we need to do to protect it and where the areas most at risk are if we do not act soon, including areas about which we know relatively little except that they are pivotal in linking together ecosystems and that unregulated activity is as likely to destroy their values as it is to discover them. They are areas like the Diamantina Fracture Zone, located in the south-west corner. This rugged deepwater environment has many underwater mountains and ridges greater than 6,000 metres, including the deepest waters in Australia. In the same area is the Perth Canyon, Australia’s largest ocean canyon. Its deep ocean currents create a nutrient-rich cold water habitat that supports small fish, krill and squid, which feed fish and whales, including the blue whale. Whales, including the humpback whale, also migrate through the waters off the north-west coast. Many of the reserves in the north-west region, from the Kimberley reserve in the north down to the Shark Bay reserve, will provide important protection for this crucial migration path.

Over on the other side of the country, the Coral Sea region is home to some 15,000 square kilometres of reef area. The proposed marine reserve includes more than 60 per cent of this reef area either in marine national park zones, which are approximately 40 per cent, or conservation park zones, which are approximately 25 per cent. A further 30 per cent is within the habitat protection zones, and that also provides significant protection to these reefs. In the north-west of the Coral Sea, the largest fish species in the world, the whale shark, swims through Osprey Reef and Shark Reef. Osprey Reef is known as one of the world's
top dive spots, primarily due to these impressive shark populations, while the Coral Sea generally is a critical habitat for black marlin as they undergo seasonal movements through the Queensland Plateau. The slow-growing loggerhead turtle begins, and sometimes ends, its amazing journey in Australia's Coral Sea after a long sojourn through international waters.

Those are just some of the incredible and unique environmental values that will be protected under the government's network of marine reserves. That is why people with an interest and background in these marine environments, who have a connection with our oceans and the amazing life that inhabits them, are lining up to commend the government's announcement. For example, Col McKenzie, from the Association of Marine Park Tourism Operators, reckons that the reserves are likely to boost tourism and save jobs. In the Australian Financial Review on 15 June he said:

... it will actually improve tourism generally from the fact it will increase Australia's profile overseas, particularly among high-end tourists who have high environmental awareness.

David Geshwind, from the Queensland Tourism Industry Council, said that most concerns on better protection of reefs, dive sites and game boat access have been met and that this was welcome. These people and many others understand that Australia's custodianship of its oceans in our region is not just a great responsibility, but it is a terrific opportunity for people to make a living off the reefs, the fish and the crystal clear waters that attract so many people from all over the world. There are plenty of Australians who make their livings—and even more who make their lifestyle—by using the extraordinary food resources of our waters. That is why it is important to protect this environment and this resource for future generations, so that our grandchildren can take their grandchildren out to fish with a fair chance that they will catch a feed.

These reserves have been designed to avoid impacts on fishers and regional communities as much as possible. They have been designed to preserve the coastal lifestyle that so many Australians have grown up with; to make sure that what is special about Australia can continue into the future. We have an incredible opportunity to turn the tide on protection of the oceans and Australia can lead the world in marine protection. These marine reserves are the most comprehensive network of marine protected areas in the world and represent the largest addition to the conservation estate in Australia's history.

We need to recognise how important this conservation effort in the oceans is, just as we do when we are talking about managing agricultural and pastoral land and just as we do when we are protecting unique forest environments, like those of Tasmania that Senator Colbeck alluded to earlier. That is why in Tasmania we have embarked on supporting the forestry industry in a transition phase into other areas of industry so that jobs can be protected as well as protecting the environment. It is a win for those people transitioning out of a forestry industry who need government support to do so and for bringing to an end a very long debate in Tasmania to do with its forests.

We need to recognise how important this conservation effort is when we are talking about our marine parks. This new network of marine reserves will help ensure that Australia's diverse marine environment, and the life it supports, remains healthy, productive and resilient for future generations. As I said, it is important that we recognise that well beyond our time in this place, we are ensuring that we are creating an environment, whether it be on land or in
marine reserves, such as those I have described today, that can be protected so that we can ensure that we leave this place in a better and more sustainable way than those who have come before us. That is exactly what the science has told us and that is why this government is willing to act and is doing so through the creation of these marine reserves.

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

COMMITTEES
Human Rights Committee: Joint Report
Senator STEPHENS (New South Wales) (16:47): On behalf of the Parliamentary Joint Committee on Human Rights, I present a statement on the work of the committee and move:

That the Senate take note of the report.
I seek leave to make a short statement.
Leave granted.

Senator STEPHENS: This statement has been presented as well in the House of Representatives this morning by the Chair of the committee, Mr Harry Jenkins. Senators will recall that the committee was established under the Human Rights (Parliamentary Scrutiny) Act 2011 as part of a concerted effort to enhance the understanding of, and respect for, human rights issues. It is the intention of the committee to report regularly to the parliament on its work. Today I want to draw the attention of senators to two pieces of work that are currently before the committee. They are in reference to the role of the committee in examining and reporting to parliament on the compatibility of bills and legislative instruments with Australia’s human rights obligations under the seven core human rights treaties specified in section 3 of the act. In accordance with that responsibility the committee has received two pieces of correspondence, asking it to examine particular bills currently before the parliament.

The first is correspondence from the Australian Council of Social Service, together with a number of co-signatories, asking the committee to examine the Social Security Legislation Amendment (Fair Incentives to Work) Bill 2012. The committee has decided, as a first step, to invite ACOSS and the Department of Education, Employment and Workplace Relations to attend a hearing to provide evidence in relation to the concerns raised by ACOSS and, following that hearing, the committee will meet to consider the evidence raised and determine its next steps.

The second piece of correspondence is from the National Congress of Australia’s First Peoples, asking the committee to examine the stronger futures in the Northern Territory bills. Before determining how the committee will proceed with this request, the committee has written to the Minister for Families, Housing, Community Services and Indigenous Affairs seeking her advice on the compatibility of the bills with human rights. Although the bills were introduced prior to the requirement for a statement of compatibility, the committee would like to afford the minister the opportunity to provide her assessment of the policy objectives of the bills against Australia’s human rights obligations and clarify for the committee the justification for any limitations on rights that the bills will impose.

I commend this report to senators, and, as I say, it is the intention of the committee to regularly report to both houses of parliament on its work.
Scrutiny of Bills Committee

Report


Ordered that the report be printed.

Legal and Constitutional Affairs Legislation Committee

Additional Information


DOCSUMENTS

Responses to Senate Resolutions

Tabling

The ACTING DEPUTY PRESIDENT (Senator Boyce) (16:52): I present a response from the Special Minister of State (Mr Gray) to a resolution of the Senate of 22 March 2012 concerning the Constituents' Request Program.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:52): At the request of Senator Ronaldson, I move:

That the Senate take note of the response.

Question agreed to.

Senator WILLIAMS: I seek leave to continue my remarks.

Leave granted.

AUDITOR-GENERAL'S REPORTS

Report Nos 45 and 46 of 2011-12

The ACTING DEPUTY PRESIDENT (Senator Boyce) (16:53): In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the Auditor-General:

No. 45—Administration of health and hospitals fund: Department of Health and Ageing

No. 46—Administration of the northern Australia quarantine strategy: Department of Agriculture, Fisheries and Forestry

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:52): At the request of Senator Fierravanti-Wells and Senator Macdonald, I move:

That the Senate take note of the documents.

Question agreed to.

Senator WILLIAMS: I seek leave to continue my remarks.

Leave granted.

DOCUMENTS

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.

BILLS

Australian Citizenship Amendment (Defence Families) Bill 2012

Financial Framework Legislation Amendment Bill (No. 2) 2012

Tax Laws Amendment (Cross-Border Transfer Pricing) Bill (No. 1) 2012
Water Efficiency Labelling and Standards Amendment (Scheme Enhancements) Bill 2012

First Reading

Bills received from the House of Representatives.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (16:55): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed on the Notice Paper as indicated on today’s Order of Business. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (16:56): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

AUSTRALIAN CITIZENSHIP AMENDMENT (DEFENCE FAMILIES) BILL 2012

The Australian Citizenship Amendment (Defence Families) Bill 2012 provides a pathway for certain family members of current and future overseas lateral recruits to the Australian Defence Force (ADF) to satisfy the residence requirements in order to be eligible for Australian citizenship at the same time as the ADF member.

Generally, most permanent residents who wish to apply for Australian citizenship by conferral must satisfy a general resident requirement of 'four years lawful stay', with the last 12 months as a permanent resident immediately before the day the person applied for Australian citizenship. This is an objective way of demonstrating that applicants for Australian citizenship have a commitment to our society, a society in which they are seeking to be a full and formal member.

However, it has long been recognised, both in policy and in legislation, that there is more than one way to demonstrate a commitment to Australia.

One of these other ways is to undertake military service in the ADF, in defence of our nation.

This is an honourable and often dangerous vocation.

In recognition of the danger and degree of sacrifice, Australian citizenship law has had specific arrangements to acknowledge that service in the Australian military demonstrates an extraordinary commitment to Australia. These arrangements have been in place since the then Government decided that 'aliens' could join the Australian Army in 1952.

Currently, under section 23 of the Australian Citizenship Act 2007, for the purposes of section 21, a person has completed 'relevant defence service' if the person has completed:

- at least 90 days service in the permanent forces of the Commonwealth; or
- at least six months service in the Naval Reserve, the Army Reserve or the Air Force Reserve; or
- was discharged from that service as medically unfit for that service and who became so unfit because of that service.

However, there are three issues that the Government considers must be addressed and this bill addresses these issues.

Firstly, the Australian Defence Forces recruit certain highly proficient technical specialists, so called 'overseas lateral recruits', who have previous experience in other defence forces to maintain the operational status of our military forces and to train other ADF personnel.

These specialists often migrate with their families, to begin a new life in Australia.
As currently structured, the arrangements offer a reduced residence requirement to become eligible for citizenship by conferral to the permanent resident ADF recruit and their permanent resident children under the age of 16 years.

Their permanent resident children aged 16 and 17 should meet the general residence requirement of 'four years lawful' or be refused under the Minister's discretionary power in subsection 24(2), unless refusal would cause 'significant hardship or disadvantage'.

However, their permanent resident spouse and any children 18 years and over must fulfil the general residence requirement, in order to be eligible for citizenship by conferral.

We do not believe these arrangements are fair and show due respect to families.

As the law stands, members of the same family unit are treated differently – for example, a father who serves in the ADF and a 15 year old child will become eligible to become citizens after his 90 days of service but the spouse and an 18 year old and a 21 year old child would have to wait up to 4 years – effectively splitting the legal status of the defence family in Australia into two.

It seems contrary to the ideals of fairness that our nation holds dear, to fracture a family, especially the children of that family.

The families of these 'overseas lateral recruits' have accompanied the ADF member to Australia – they too have uprooted their lives and they too have significant challenges in settling into a new life here, while continuing to provide support to the ADF member.

This bill seeks to provide a more consistent approach to eligibility arrangements, allowing an ADF family who migrates together and adjusts to life in Australia together, to be eligible for Australian citizenship together.

The bill will also assist the families of recruits in accessing employment opportunities and education assistance, and demonstrate that we welcome them to Australia, as a family.

Also – and very importantly – the bill provides a pathway for family members to access the relevant defence service eligibility in the tragic event that the ADF member dies while undertaking service. In this instance, the family will be treated as if the ADF member had completed their relevant defence service.

While the loss of their loved one can never be replaced, we as a nation can share that loss with them and assist them in rebuilding their lives.

The scope of this bill is confined to family members or 'relatives' who were members of the family unit of the defence person at the time the defence person was granted their visa to migrate to Australia to serve in the ADF, and those relatives hold the same kind visa because they are a member of the family unit of the defence person. These 'relatives' may include the spouse or de facto partner, dependent children of any age, and a dependent parent.

The new arrangements will apply to those overseas lateral recruits who were granted a visa prescribed in the Australian Citizenship Regulations on or after 1 July 2007, the day the Australian Citizenship Act 2007 came into effect.

Undecided applications now before the Department of Immigration and Citizenship, as well as new applications for Australian citizenship will be considered under these new arrangements.

This has been done in order to give substance to the policy intent. Therefore, it does not extend to those family members who subsequently decide to come to Australia on another visa or those people who migrate to Australia with their families for another purpose and then decide to join the ADF.

Also, these new arrangements do not change the application fee structures that currently apply to ADF members and their families.

The second issue the Government seeks to address here is to clarify what constitutes the relevant defence service requirement as it applies to members of the Reserve Forces.

As set out before, the current arrangements specify a member of the Naval, Army or Air Force Reserve has completed relevant defence service if the person has completed at least 6 months service. Supporting policy sets out that 'six months service' corresponded to 130 reserve force full day's attendance. The spirit of the current arrangements is to extend Australian
citizenship to reservists who are actively engaged in the ADF.

It was not intended to extend a preferential treatment to persons who join the reserves and who are not actively engaged in military service. For instance, the current arrangements were not intended to benefit a person who joined the reserves and only attended duty for, say, one day or one week across those six months.

A decision of the Administrative Appeals Tribunal has cast doubt on whether the current law reflects this intention clearly enough. The bill removes this doubt by specifying that service in the Australian Reserve Forces will be counted where the person has undertaken a total of at least 90 days service—a day being one which the person was required for, and attended and was entitled to be paid for, duty in one or more of the Reserves—whether or not that service was continuous.

The bill also clarifies that a person undertakes service in the Permanent Forces or the Reserves only if the person is appointed, enlisted or transferred into any of the Permanent or Reserve Forces. This is to make clear the Government's intent that these arrangements are for ADF members only and not persons who may enter into a contract with the ADF to provide other services, such as contracted interpreting and translating staff.

I am aware one of those opposite, the Member for Fadden, introduced a private member's bill on a similar subject on 21 May 2012.

I acknowledge and welcome the Member's support for improvements to the policy area. However, in addition to the technical amendments I explained earlier, the Government's bill provides broader and more equitable coverage than the private member's bill.

For instance, this bill will extend the reduced residence requirement to all migrating children of the ADF lateral recruit: not just those who are aged under 18 years or who are students aged under 25. Disabled children and children who are not students but who are wholly and substantially dependent on the ADF parent and who have migrated with their ADF parent will also be eligible to apply for Australian citizenship under the bill the Government is now introducing.

Also, the bill will cover a dependent parent, so families who migrate to Australia and who bring an elderly loved one who is dependent on the ADF lateral recruit can also enjoy the benefit of an earlier pathway to Australian citizenship.

Further, unlike the private member's bill, this legislation gives expression to the Government's clear intent to support the ADF families who migrate together and adjust to Australian life together, to apply for Australian citizenship together.

And very importantly, this bill will ensure that on the tragic occasion of the death of a serviceman or servicewoman, the responsibilities and privileges of citizenship can be extended to the family members.

I am pleased to acknowledge the role of Defence Families Australia in pressing for these important changes to the relevant defence service requirement and for their passionate advocacy on behalf of the families of ADF personnel.

This organisation has indeed blossomed from its beginnings as the 'National Consultative Group of Service Spouses', which the Hawke Labor Government established in 1986.

This bill will allow a key group of migrants—the families of those service men and women who have chosen to migrate to Australia to offer their skills and expertise in the defence of our nation—and ultimately their lives—to become full and formal members of our society at the same time. Not as a group of individuals, but as a family.

I look forward to welcoming these families to join the 4.5 million other people who have chosen to become an Australian citizen since 1949. I commend this bill to the Senate.

FINANCIAL FRAMEWORK LEGISLATION AMENDMENT BILL (NO. 2) 2012

The Financial Framework Legislation Amendment Bill (No. 2) 2012 would, if enacted, amend 21 acts across 6 portfolios to regularise Commonwealth payments supported by special appropriations (including Special Accounts) consistent with the legislative requirements and section 83 of the Constitution.
It is the tenth Financial Framework Legislation Amendment Bill since 2004. It forms part of an ongoing program to address financial framework issues as they are identified and assists in ensuring that specific provisions in existing legislation remain clear and up-to-date. This has been done in collaboration with the relevant Ministers and their Departments.

Specifically, this bill implements amendments that can be discussed thematically.

The bill would amend 9 acts to provide a mechanism, called a recoverable payment. These amendments permit agencies to make payments on the basis of information available at the time but require overpayments, including those made in error, to be recovered in line with section 47 of the Financial Management and Accountability Act 1997 (relating to the duty to pursue recovery of a debt).

The bill would also amend the Taxation Administration Act 1953 within the Treasury portfolio, to enable the Commissioner of Taxation to decide to make a recoverable advance. These advances would apply where the Commissioner, or delegate, decides to make payments because the likely cost of not making these payments would exceed the total of the advances. If a recoverable advance were made, then the amount of the overpayment would remain a debt due to the Commonwealth, and would need to be recovered.

The bill also amends 7 acts that operate in the area of public sector superannuation, to authorise the Commonwealth to make recoverable death payments. These amendments allow payments to be made to recipients until ComSuper or the relevant Departmental Secretary is notified of the recipient's death. Where payments have been made in the interim period, those amounts would be recoverable from the deceased's estate.

The bill provides that where the recoverable payment, recoverable advance or recoverable death payment provisions are used, the relevant Departmental Secretary or Chief Executive is to ensure that a report is published.

This means that Parliament would directly be requiring transparency on these issues in future.

The bill also amends 10 acts to better align current payment practices with the relevant legislation such as in the recovery of administrative costs.

The bill would also validate certain benefits under the Defence Force Retirement and Death Benefits Act 1973 to regularise the treatment of certain benefit recipients, consistent with existing practice.

The proposed acts being amended relate, largely, to routine activities of government and, if enacted, would allow the continued effective management of these activities, while having Parliament require appropriate levels of transparency and accountability.

This bill is, accordingly, another step to help ensure that specific areas of the Commonwealth's financial framework remain effective and up-to-date.

TAX LAWS AMENDMENT (CROSS-BORDER TRANSFER PRICING) BILL (NO. 1) 2012

This bill ensures the effectiveness of Australia's transfer pricing rules.

Transfer pricing rules are critical to the integrity of the tax system. This bill will play an important role in ensuring that an appropriate return, for the contribution of Australian operations to a multinational group, is taxed in Australia for the benefit of the broader community.

This is an important issue: in 2009 cross-border trade within multinational groups was valued at approximately $270 billion, or about 50 per cent of Australia's total trade flows.

Last November the government announced that it would reform Australia's transfer pricing rules. As part of these reforms, the government also announced it would move to end the uncertainty around whether or not the transfer pricing rules contained in our tax treaties could apply independently of the unilateral rules in division 13 of the Income Tax Assessment Act 1936.

The bill deals with the second announcement. It confirms transfer pricing rules contained in Australia's tax treaties and incorporated into
domestic law provide assessment authority in treaty cases.

These changes apply to income years commencing on or after 1 July 2004, being the first income year following the parliament's last statement, demonstrating the longstanding legislative intent that the law operated in this way.

There were a number of important issues in the forefront of the government's mind in developing these rules.

Firstly, the government is keen to ensure that the law is fully effective in the way parliament has clearly intended it to operate.

Secondly, we need to ensure the integrity of the tax system is not compromised. This particular measure is designed simply to protect Australia's existing revenue base—it was not designed as a revenue-raising exercise.

Thirdly, these amendments reflect the bargain we have struck in our treaties. They are consistent with internationally accepted transfer pricing rules.

Finally, the government noted the long-held view of the Commissioner of Taxation that, arguably, the current law already gives effect to the intent of parliament. In this context the government is clarifying the operation of the law.

The government was mindful of differing views on this point. A decision to change the law from a date before announcement is not taken lightly. It is generally only done, as in this case, where there is a significant risk to revenue that is inconsistent with the parliament's intention.

There is considerable evidence, across the decades, that parliament intended that the treaty transfer pricing rules operated in addition to our unilateral transfer pricing rules in division 13. This is fully described in the explanatory memorandum accompanying this bill.

In summary, Australia's current unilateral transfer pricing rules were introduced in 1982 in the form of division 13.

The treaty transfer pricing rules and the division 13 rules were intended to operate as alternatives in the event that one more effectively dealt with profit shifting than the other.

The explanatory memorandum circulated by former Prime Minister and the then Treasurer, John Howard, explained that specific amendments would operate that way and I quote:

"... the provisions of a double taxation agreement that deal with profit shifting, either under a 'business profits' article ..., or an 'associated enterprises' article ..., may have to be applied instead of Division 13.

Even in 1982, profit shifting through transfer pricing practices was seen as such a threat to the Australian tax base that there was clear bipartisan support for the measure.

The important role that treaties play in this regard was evident in the debate.

The then shadow Treasurer noted, and I again quote from the House of Representatives Hansard of 28 April 1982:

"Possibly the most significant aspect of our treaties, ... is the section modelled after Article 9 of the model OECD agreement which allows the reconstruction of profits of associated entities which have obviously been engaging in transfer pricing activities.

This provision has generally been regarded as a more effective weapon against transfer pricing than the current section 136—

which, of course, was the predecessor to division 13—

... because the provisions of the Income Tax (International Agreements) Act prevail over the ordinary provisions of the Income Tax Assessment Act.

The amendments contained in this bill confirm the way parliament intended the law to operate since at least 1982.

There are at least six subsequent statements in the parliament, as set out in the explanatory memorandum, which reflect a strong consistency across decades of parliament's intent in relation to the transfer pricing rules.

Further to parliament's previously stated intent, the amendments contained in this bill are also entirely consistent with the commissioner's long-held and publicly expressed view of the current law.
In light of this there are strong arguments for concluding that under the current income tax law, treaty transfer pricing rules apply as an alternative to division 13.

If this is the case, these amendments constitute a mere confirmation of these rules.

To the extent that there is any uncertainty in relation to the operation of the current law, these amendments ensure the law can operate as the parliament intended.

The potential impact on taxpayers has been carefully considered.

Importantly, these provisions only apply where a tax treaty is applicable and therefore any party that these measures apply to will be able to access the treaty mechanisms designed to relieve any double taxation that could arise. Further, settled cases will not be re-opened as a result of these amendments.

Settled cases would only be re-opened when the taxpayer breaches a term of the settlement, when the settlement has been entered into on the basis of a fraudulent misrepresentation or when re-opening the settlement would deliver a more favourable outcome to the taxpayer.

Penalties are another important issue when considering any law that has application to prior years.

A transitional rule is included in these amendments to ensure the penalty provisions of the income tax law apply as though this bill was never enacted.

The ATO’s ruling on how penalties generally apply in transfer pricing cases is to calculate the penalty based on the lesser of the amount determined under division 13 or the treaty.

This transitional rule ensures the practical operation of the penalty provisions is not disturbed.

This government has engaged extensively with the business community in relation to this measure. The measure is not wholly supported by multinationals and their advisors—and given this is a robust integrity measure—this is not altogether unexpected.

That said, the bill has greatly benefited from the inclusion of some important features following consultation.

The bill will essentially achieve three key objectives.

First, as explained, it will ensure the transfer pricing articles contained in Australia’s tax treaties are able to be applied and provide assessment authority independent of division 13.

This will be achieved through providing an express liability provision in the Income Tax Assessment Act 1997.

Secondly, it will require that the transfer pricing rules in this bill are interpreted as consistently as possible with the relevant OECD guidance.

The work of the OECD reflects the best international thinking on transfer pricing and has shaped transfer pricing regimes around the world. The OECD’s transfer pricing guidelines are widely used by tax administrations and multinational enterprises globally.

This provision will provide a clear legal pathway to the use of OECD guidance. It will avoid the costly necessity for users to get expert advice on whether the state parties to a particular treaty apply the guidance and will make it clear which set of guidelines is to be used.

Finally, as mentioned, the government has had many discussions with the business community in developing these rules. As a result of those talks we are moving to clarify the interaction between transfer pricing and the thin capitalisation rules.

Previously, this interaction was only dealt with through administrative arrangements.

Other provisions of the bill essentially support and enable these key features and ensure the provisions work and interact appropriately with the rest of the income tax law.

They ensure there can be no double taxation at a domestic level.

They ensure that the commissioner can make a determination and provide taxpayers with appropriate information for the ongoing management of their tax affairs; and they ensure that where an adjustment is made, consequential adjustments can also be made to ensure a
taxpayer is not unfairly disadvantaged (or subject to double taxation).

Lastly, I have mentioned the contribution of the business community in consulting on these rules. On the subject of consultation, I would like to note the involvement of the NGO community. I would like to thank the Justice and International Mission Unit of the Victorian and Tasmanian Synod of the Uniting Church for its ongoing contribution. Full details of the measures in this bill are contained in the explanatory memorandum.

WATER EFFICIENCY LABELLING AND STANDARDS AMENDMENT (SCHEME ENHANCEMENTS) BILL 2012

This Bill amends the Water Efficiency Labelling and Standards Act 2005. It implements the response of the Standing Council on Environment and Water, comprising Environment Ministers from Commonwealth, state and territory governments, to the 2010 independent review of the Water Efficiency Labelling and Standards scheme. This independent review, which considered the first five years of the scheme's operation, was a requirement under the Act.

The Water Efficiency Labelling and Standards, or 'WELS' scheme was established by the Water Efficiency Labelling and Standards Act 2005 as part of the Council of Australian Governments' National Water Initiative. The WELS scheme is also supported by complementary state and territory legislation to ensure comprehensive national coverage.

The WELS scheme's objectives are to conserve water supplies by reducing water consumption, to provide information for purchasers of water-use and water-saving products, and to promote the adoption of efficient and effective water-use and water-saving technologies.

Products currently in the scheme include clothes washing machines, dishwashers, flow controllers, showers, toilets and tap equipment. All of these products must be registered and labelled with a water efficiency rating. The rating is zero to six stars, with six stars indicating the most water efficient products. The labels inform consumer purchasing decisions in the same way as energy rating labels on electrical appliances. The scheme currently also sets minimum water efficiency standards for toilets and clothes washing machines.

A number of state and territory programs reference WELS water efficiency ratings, which provide a convenient and authoritative source for setting rebates and prescribing water efficiency requirements.

The independent review considered the appropriateness, effectiveness and efficiency of the scheme. Consultation was undertaken with state and territory governments, water utilities, industry and consumer representatives. The review concluded that the WELS scheme is a good policy and that its objectives are appropriate. The review cited research estimating that the scheme would reduce national water consumption by a total of eight hundred gigalitres by 2021.

The review made forty-one recommendations, including recommendations concerning governance, compliance, administration and funding arrangements.

In November 2011 the Standing Council on Environment and Water endorsed the bulk of the recommendations. It also approved a new three year strategic plan for the scheme and determined that eighty per cent of the scheme's costs between 2012 and 2015 should be recovered from industry, with the remaining twenty per cent to be provided by governments. As shown in the review, this level of cost recovery is consistent with the ratio set for the scheme at its commencement in 2005.

This Bill will provide the basis to implement the decisions by the Standing Council. It also makes some other refinements to the Bill to improve the scheme's efficiency and effectiveness.

The Bill will enable the Commonwealth Minister, through a disallowable Ministerial determination, to determine more of the detailed arrangements for the scheme than previously. This differs from the current position in that some aspects of the scheme, such as the five-year period for product registration, are entrenched in
the Act and corresponding state and territory legislation. Under the amended Act, it will be easier to adjust matters of this kind without the need to amend nine sets of legislation. Agreement from a majority of state and territory governments will be required before the determination can be made.

Once this Bill is enacted, a new Ministerial determination will be developed. It will include revised registration and fee arrangements, and other changes such as removing the requirement for gazettal of registration decisions and instead specifying that the decisions will be published on the WELS website. The changes will deliver improvements not only for the scheme's administration, but also for industry. The improvements include simplifying and streamlining product registration processes so that these are easier for registrants, and providing a common expiry date for all registrations so that retailers will know when the registrations of products they supply are due to expire.

The Bill will also introduce a broader range of compliance and enforcement options. Consistent with the recommendations from the 2010 independent review, it introduces civil penalties to match existing criminal offences and remakes some of the existing criminal offences for clarity.

The Bill also provides for orders to be given to persons that they remedy their non-compliance with the Act. An example would be to order the replacement of an inaccurate WELS rating label with the correct label. In this way the Act's objective of providing information for purchasers of water-using products can be better achieved.

WELS labelling plays an important role in consumer purchasing decisions. The scheme also receives widespread support from the industries affected by it. This Bill has been developed taking into account extensive consultations with stakeholders as to the nature of the changes proposed.

Debate adjourned.
As a result, the draft legislation was amended before it had even commenced to incorporate the safety recommendations that were internationally agreed following the disaster.

This vital piece of legislation has been the key legislative vehicle to give domestic effect to Australia's international port state control responsibilities and a range of international conventions.

But the Act is 100 years old.

On 5 June 2009, I announced that the Gillard Labor Government would rewrite the Navigation Act 1912.

After approximately three years of planning, public and whole of Government consultation, extensive drafting, and through the commitment and cooperation demonstrated by all stakeholders, it is with great pride that I introduce the Navigation Bill 2012 to the Australian Parliament.

We are in the middle of a once-in-a-generation resources boom.

Each year almost 4,000 ships transport goods to and from Australia, carrying ninety-nine per cent by volume of Australia's imports and exports.

This constitutes the world's fifth largest shipping task.

The increase in demand for Australia's exports and new resource developments means Australia's sea freight task is expected to double by 2025.

The safety and efficiency of the shipping industry is therefore critical to Australia's economic prosperity, maritime environment and security.

Australia's re-election last year to the Council of the International Maritime Organisation served to reinforce Australia's long standing tradition as an active participant, in a cooperative multilateral approach to the regulation of maritime safety and marine pollution prevention.

This Bill supports that approach.

This Navigation Bill 2012 is a comprehensive rewrite of the Navigation Act 1912.

The Bill is written in plain language, reflects contemporary maritime industry practice and provides clarity to domestic and international seafarers, vessel owners and operators on their regulatory responsibilities.

Gone are the archaic and redundant provisions that peppered the Navigation Act 1912.

Many of the 1912 Acts original provisions were taken from the British Merchant Shipping Act of 1894 which included laws that had been around since the 18th century.

You will be reassured to know that it is no longer an offence to take a lunatic to sea without telling the master.

Not only is the Navigation Bill clearer and more accessible to the reader it is more flexible allowing the regulatory framework to keep pace with changes in the domestic and global maritime sector today and in the future.

The Bill introduces a civil penalty regime which expands the range of regulatory options available to the regulator for breaches of the legislation.

The Bill also allows for the development of an infringement notice scheme in regulations.

Of primary importance, the Navigation Bill gives effect to our international obligations under various conventions to which Australia is a signatory, covering matters such as the safety of life at sea; training and certification of seafarers; prevention of collisions at sea; watertight integrity and reserve buoyancy of ships; pollution prevention standards for ships; safety of containers; salvage and regulations to determine gross and net tonnage of ships.

The Bill will also ensure Australia's compliance with the International Labour Organization's Maritime Labour Convention – which Australia has ratified and which will soon come into force internationally.

I have previously introduced legislation to establish an Australian International Shipping Register.

The employment provisions contained in the Navigation Bill will be a key part of the legislative framework that protects the rights of seafarers working on those vessels.

The Navigation Bill applies to Australian commercial vessels undertaking overseas voyages.
and where it is consistent with international law, to all foreign flagged vessels in Australian waters regardless of the voyage.

As such it provides a legislative framework within which the Australian Maritime Safety Authority (AMSA) can exercise its port state control responsibilities.

AMSA has an enviable reputation as the regulatory authority with responsibility for 'big' ships.

The Navigation Bill complements the Marine Safety (Domestic Commercial Vessel) National Law Bill, which I introduced today, that establishes AMSA as Australia's single national maritime regulator.

The Navigation Bill also incorporates the provisions of the Lighthouses Act 1911, one of the oldest laws on the Statute book and one that predates even the Navigation Act 1912.

Like the Navigation Act the Lighthouse Act has struggled to keep pace with changes to maritime industry practice and rapid technological change.

The recast provisions relating to aids to navigation have been modernised and are now sufficiently flexible to encompass a world where satellites and global positioning systems operate in company with traditional beacons and lights.

It is appropriate that the provisions of the Lighthouse Act are incorporated in the Navigation Bill as it will ensure that aids to navigation, which are so essential to safe navigation, are an integral element of Australia's primary maritime safety legislation.

The Lighthouse Act 1911 will be repealed once the Navigation Bill is enacted.

As the Transport Minister I have had the privilege to undertake the most comprehensive reform of the maritime sector in Australia's history.

This Bill, the shipping reform Bills and the National Maritime Regulator Bill position Australia to make the most of its future as a shipping nation while ensuring that safety of vessels and those who sail upon them as well as the protection of our treasured marine environment is paramount.

NAVIGATION (CONSEQUENTIAL AMENDMENTS) BILL 2012

I introduce to the House, the Navigation (Consequential Amendments) Bill 2012.

This Consequential Amendments Bill contains a number of amendments to existing Acts that are required to ensure the existing regulatory framework interacts properly.

The Bill makes those consequential changes to 29 other pieces of legislation and forms a part of the most comprehensive maritime reform in Australia’s history.

This number gives an idea of the complexity of the task that has been undertaken in the past three years.

MARINE SAFETY (DOMESTIC COMMERCIAL VESSEL) NATIONAL LAW BILL 2012

Today I introduced legislation which represents some of the biggest maritime reforms in Australia's history.

The Marine Safety (Domestic Commercial Vessel) National Law Bill 2012 creates a single national maritime regulator and a national safety system for domestic commercial vessels.

This legislation replaces eight existing federal, state and territory regulators with one National Marine Safety Regulator; the Australian Maritime Safety Authority (AMSA).

This Bill will replace 50 pieces of legislation in seven jurisdictions with a single national law, providing clarity and consistency for Australia's seafarers and commercial vessel owners.

In 2009 the Council of Australian Governments (COAG) agreed to a national approach in regulating the safety of domestic commercial vessels in Australia.

Three years of hard work, by all jurisdictions and industry stakeholders has delivered this Bill.

This Bill establishes AMSA as the National Maritime Regulator, with responsibility not only for the large commercial vessels that undertake overseas voyages, but now also for the domestic commercial vessels that work around our coast.

Importantly, this Bill establishes one single national system for marine safety regulation.
The impact of this in practical terms is that marine safety standards will be consistent and consistently applied across the country.

This means that people who rely on domestic commercial vessels for their livelihoods or as a means of transport can be confident that every commercial vessel, wherever it is in Australian waters, will be required to meet the same nationally agreed safety standards.

It means that people who design and build commercial vessels in one jurisdiction do not have to have that vessel re-certified each time they sail into a different jurisdiction's water.

This also means that companies who operate national businesses and have vessels in more than one state will not have to grapple with different regulatory and administrative requirements to manage their fleet and their crew.

There are no borders on the water – there is no reason our regulatory system needs to create artificial boundaries.

Fundamental to this reform and the benefits that it offers is that it is a cooperative reform.

All states and territories have actively participated in developing the legislation.

In the future, existing State and Territory regulators will deliver National Law functions under the delegation of AMSA.

The benefits of this approach are many.

The National Regulator will be able to draw on the extensive knowledge and experience that is housed in the state regulatory authorities; stakeholders will not lose the contacts they have come to rely on; there will be an opportunity to share knowledge and approaches across state and territory boundaries - but at the same time stakeholders will reap the benefits of national consistency and transparency.

National reform is not easy and this reform has been no different.

I would also like to thank the many parties who have given generously of their time, their knowledge and their experience.

Stakeholder support for this reform is very strong.

This is no surprise - the benefits it will offer to the Australian economy and to Australians who own, run, work or travel on domestic commercial vessels are undeniable.

As the Transport Minister I have had the privilege to undertake the most comprehensive reform of the maritime sector in Australia's history.

This Bill, the shipping reform Bills and the Navigation Bill position Australia to make the most of its future as a shipping nation while ensuring that safety of vessels and those who sail upon them as well as the protection of our treasured marine environment is paramount.

MARINE SAFETY (DOMESTIC COMMERCIAL VESSEL) NATIONAL LAW (CONSEQUENTIAL AMENDMENT) BILL 2012

I introduce to the Senate the Marine Safety (Domestic Commercial Vessel) National Law (Consequential Amendment) Bill of 2012.

This Bill was agreed at the Standing Council on Infrastructure and Transport Meeting of 18 May 2012.

This Bill complements the marine safety national law now before you and gives effect to agreements reached with the States and the Northern Territory on the national marine safety regulatory reform.

The Bill provides that the Australian Maritime Safety Authority (AMSA) Board will include a member with knowledge and experience in the construction or operation of domestic commercial vessels.

This is important to make certain that in the future AMSA, as the National Maritime Regulator, has available to it the necessary knowledge to inform and guide decision making.

This Bill amends the Australian Maritime Safety Authority Act 1990 to give this effect.

Jurisdictions have also agreed that the offences and penalties attached to the general safety provisions in the National Law should align with those in the Model Work Health and Safety legislation.

Some jurisdictions are yet to enact the Model Work Health and Safety legislation.
This alignment will therefore occur as a consequential amendment when all States and Territories have enacted work health and safety legislation which corresponds substantially with the Work Health and Safety Act 2011.

Debate adjourned.

COMMITTEES

Environment and Communications Legislation Committee

Report

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (16:59): On behalf of the Chair of the Environment and Communications Legislation Committee, Senator Cameron, I present the report of the committee on the provisions of the Environment Protection and Biodiversity Conservation Amendment (Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development) Bill 2012, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

BILLS

National Broadcasting Legislation Amendment Bill 2010

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator BIRMINGHAM (South Australia) (17:00): I want to commence my contribution to this debate with a quote:
You do not just need to be here in this chamber to realise how arrogant and out of touch this government has become, with the ramming through of legislation, ridiculously tight deadlines for legislation, changing the sitting pattern all the time and using the guillotine. It is turning this chamber, which for 30 or 40 years has been a chamber of accountability and scrutiny, into a farce.

These words were those of the minister responsible for the bill before us, Senator Conroy. They were uttered on 19 October 2006, when he was criticising the then government for its application of the guillotine—a guillotine that was applied by that government over the entire course of a term of the Senate on the same number of occasions that this government has decided to apply the guillotine just in this sitting fortnight. Such is the hypocrisy of the government and of Senator Conroy in this regard.

This bill before us—the National Broadcasting Legislation Amendment Bill 2010—is a classic shining example of total mismanagement by this government of proper parliamentary process. Let me dwell on the last part of the bill's title: 2010. This bill was first introduced into the Senate on 24 November 2010, more than 18 months ago. I rise to speak on it as the first contributor to this debate. In the entire period of time—more than 18 months—since this bill was first introduced, we have had the situation in which the government has not managed to find the time or the will to bring it on for debate. In more than 18 months the government has not managed to find time in the sitting calendar to bring it on for debate. Despite the bill's being able to languish there for 18 months, with zero action from the government, suddenly it is urgent. Suddenly it must be dealt with in this sitting fortnight. Suddenly it warrants not substantive debate, not decent debate, but guillotined debate in a ridiculously short period of time.

It is just turning this chamber into a farce. This bill has absolutely no budget implications; it is totally unrelated to the budget. Usually any urgent legislation we deal with in this sitting fortnight is relevant to the new financial year and the implementation of the budget. There is nothing in this bill that demands that it be...
dealt with today. There is nothing in this bill that says it could not wait until a sitting period in which there is less congestion. Equally, there is nothing to say that in the past 18 months the government could not have managed to find a sitting day on which to deal with this bill without the application of the guillotine. Yet here we have the government forcing the guillotine, totally unnecessarily, onto this piece of legislation.

This piece of legislation itself is unwise, it is unwarranted, it is unnecessary and it is unhelpful. There is nothing in this bill that is particularly worthwhile or that will add to the effective running of either the ABC or SBS. This bill is just a small collection of political point-scoring by Minister Conroy and the government. I strongly support both the ABC and SBS. They are important national institutions. Indeed, particularly through the ABC's news and current affairs arm, the ABC will become a more important national institution over the next few years as we see the changing dynamics in the media landscape.

But this bill does not enhance the ABC's operations or SBS's operations; it simply seeks to play with the construct of their boards—no more, no less. It seeks to amend the Australian Broadcasting Corporation Act 1983 and the Special Broadcasting Service Act 1991 to establish what the government calls a merit based appointments process for directors of the respective boards. It also seeks to put certain qualifications on who can serve on those boards and ban former members of parliament or former senior political staff from holding board positions, and it seeks to reinstate the staff elected director to the ABC board. That is all it does. That is all that is so urgent that it must be done today—just three things: a merit based appointments process, restricting members of parliament and former staff, and a staff elected director.

Let us look at those three things in sequence. First, regarding this idea of a merit based appointments process, the bill will establish a nomination panel to assist, through a legislated merit based selection process, the Prime Minister and minister to make their recommendations to the Governor-General for the appointment of the ABC and SBS chairpersons and of other non-executive directors. The nomination panel will consist of a chair and two or three other members to be appointed by the Secretary of the Department of the Prime Minister and Cabinet for terms no longer than three years.

I understand the intent behind this. Indeed, Minister Conroy has been applying this process voluntarily for the entire duration of his term as communications minister. That is his prerogative. He is able to decide to apply, as minister, whatever process to select who should be nominated to the ABC's or SBS's or any other boards however he wants to. But through this legislation he wants to tie the hands of all who come after him as well to the process that he chooses to use. That is totally inappropriate and totally unnecessary. Future ministers should, through the usual processes of government, be able to make appointments to the ABC and SBS boards in the same way that appointments are currently made to the Reserve Bank board and numerous other significant government institutions—without the type of process that Senator Conroy today seeks to enshrine in legislation.

It is not just that the process ties the hands of future ministers; it is also that the process is cumbersome, wasteful and expensive. To date, because Senator Conroy has voluntarily used this process, we know that up until 31 January this year it has cost $525,719.49, exclusive of GST, just to run the appointments process for ABC and SBS board directors. More than half a million
dollars has been spent—not on better programming by the ABC or SBS, not on keeping open their foreign bureaus in Afghanistan, not on better equipment or services, and not on anything that provides a better ABC or a better SBS—on appointments of people and on the appointment or recruitment of recruitment consultants to provide recommendations to Senator Conroy about who should serve on the ABC or SBS board.

The most high-profile position on these boards was filled recently. The costs of filling that position are incorporated in this tally of more than half a million dollars which has come about as a result of Senator Conroy’s appointments process. That position of course is that of the ABC chairman. The new chairman is Mr Jim Spigelman—a very good appointment, an appointment welcomed by both sides of politics and an appointment which was floated very early on in the process. Last year, in fact, when the process of appointing the ABC chairman began, there were newspaper reports identifying former New South Wales Chief Justice Jim Spigelman as the frontrunner for the position. What happened? Thousands of taxpayer dollars were spent to go through a process which eventually saw—guess what—Jim Spigelman appointed as chairman of the ABC.

Senator Conroy, if he had not been so wedded to a process which he now wants to tie future ministers to, could have said: 'My, that is a brilliant idea. Everybody seems to respect Jim Spigelman. He seems to be respected across the political divide. He would be an outstanding chairman. Why on earth would I go through this bureaucratic process, spending thousands of taxpayer dollars, to end up appointing the person who everybody recognised in the first place would be an outstanding appointment?' Instead he spent and wasted taxpayer money to get to that inevitable outcome. Worse still, through this legislation, he now wants to tie the hands of all future ministers—to make them undertake the same wasteful spending and the same bureaucratic process for making these types of appointments.

I move now to the second point of this legislation—the banning of serving members of the Commonwealth parliament, serving members of state or territory parliaments, serving senior political staff, former members of the Commonwealth parliament, former members of state and territory parliaments and former senior political staff from taking the office of chairperson or director of the ABC or SBS. Mr Spigelman is an interesting example again—because he was of course at one stage a senior political staffer. He worked for former Prime Minister Gough Whitlam. Under the legislation drafted by Senator Conroy and introduced into this place in 2010, Mr Spigelman would not have been eligible for appointment. That is how well thought through the process that Senator Conroy wants to undertake is. That is how much consideration was given. In the end, the one new chairperson for the ABC that Senator Conroy has appointed during his time as communications minister would, had the legislation he has introduced already been passed, have been ineligible for appointment.

Thankfully, I understand the government has the intention of accepting coalition amendments to put a sunset on such bans—they would only apply for 12 months.

Senator Ludlam: Shame!

Senator BIRMINGHAM: 'Shame,' says Senator Ludlam. Senator Ludlam does not think Mr Spigelman should be the chair of the ABC, apparently. A 12-month sunset would be a sensible thing because that at least would ensure that a Mr Spigelman...
could be appointed. The other irony of the approach of the original legislation to banning former MPs and former political staff is that it might knock out a Jim Spigelman and it might knock out a Kim Beazley but—you know what?—it would not knock out a Gina Rinehart. It would not even knock out a Michael Kroger, who has of course been a state president of the Liberal Party's Victorian division and was an ABC director—

 Senator Kroger: An outstanding one.

 Senator BIRMINGHAM: Indeed he was an outstanding ABC director, Senator Kroger—an appropriate time to enter the chamber. But Mr Kroger has never been a senior political staffer and therefore would not be knocked out by the definitions in the original legislation. That just goes to show you how ridiculous it is to try to do these things through legislation. That is the reason we have to trust the processes applied by ministers of the day and have to trust that they will exercise appropriate judgment in making these types of appointments. They will not always get it right, but they will always be open to public criticism when they get it wrong.

 Senator Conroy made reference to Christmas card lists in trying to define the Howard government's approach to appointments. That shows us that his motivations in bringing this legislation forward are political. He made his political points along the way, attacking the Howard government appointments. I note that it is the ABC Board, entirely appointed by the Howard government, that appointed the current managing director, Mr Mark Scott. He is widely recognised as doing a very good job. Senator Conroy seems to have significant faith in him. The appointment of Mr Kroger and others by the Howard government was clearly not so bad after all.

It led to the appointment of a very sound managing director in Mark Scott. It just goes to show that this legislation is purely politically motivated.

It is the last part of the legislation, the third component—the staff elected director—that is perhaps more politically motivated than all the others. It is about the Labor Party's need, as always, to appease the unions. In this case, no doubt, it is the MEAA. In June 2004, then ABC chairman Maurice Newman cited a gross breach of boardroom confidentiality and the refusal by the then staff elected director to adhere to the board's governance protocols. It was a serious concern. It left open the potential for further leaking of boardroom deliberations and papers. Mr Newman resigned. His resignation letter stated, in part:

You may be aware of the recent gross breach of boardroom confidentiality on the issue of independent monitoring of ABC broadcasts. This, and the inability to secure the agreement of the staff elected director to the board's governance protocols, leaves open the potential for further leaking of boardroom deliberations and papers should they be judged to be of concern.

Mr Newman was ultimately appointed ABC chairman, as this issue was eventually resolved. It was resolved because the staff elected director position was wisely removed from the ABC board.

It does not happen in any other organisation of this kind. Why on earth should it happen in the ABC? That is a fairly simple proposition. Why would you have the staff of the organisation electing one of their own to sit around the boardroom table, therefore potentially compromising either that person's position within the organisation or the confidentiality and approach of the board's deliberations?

The board has functioned perfectly well without a staff elected director since the position was removed, and indeed former
ABC chair Donald McDonald, in evidence to the Senate inquiry into this legislation, highlighted some of the pressures that could be faced by a staff elected director. He said:

They would be bombarded with emails from staff members about issues. I think the most burdensome part of it was that, in the arrangements then—and at least these provisions are an improvement, if they are passed—their term was for two years only and they could stand for another two years. But it meant that if they wanted to do another term they were in a position of campaigning or passively campaigning for a chunk of that time. So they had to deal with all these pressures, all these inquiries and all these bombardments.

There is no justifiable need to have the ABC staff elected director position put back in. There has been no demonstrable argument as to why the ABC is worse off because of it. Anybody who thinks rationally about it would know that it is inappropriate, in many cases, to have somebody representing the staff sitting in the boardroom while difficult decisions are made.

On all three flanks this legislation fails. It is unnecessary to have the staff elected director. It is unnecessary and foolish to go through this so-called merits based appointment process and it is overly expensive to do. It is ridiculous to define out certain categories of people from serving on these boards. In the end, you will simply create a ridiculous inequity where some very worthwhile people will be excluded. This legislation has come to this chamber to debate in a shameful way with a guillotine, but it is unwarranted legislation and really does not deserve the time of day of this chamber.

Senator LUDLAM (Western Australia) (17:20): I rise to raise the views of the Australian Greens on the National Broadcasting Legislation Amendment Bill 2010, and it will not surprise senators to hear that I have a very different view to Senator Birmingham—apart from the early part of his speech, which I quite enjoyed. He acknowledged the value of our national broadcaster to the Australian media landscape. If nothing else, the events at Fairfax early in the week and the announcement this afternoon about consolidation, restructuring and large-scale retrenchments sharpen the need for a well-resourced, independent national broadcaster. We will certainly hear more of that from news this afternoon.

The ABC provides local and international news as well as reliable information in times of crisis and calm. It provides critical analysis, cutting-edge culture and comedy. Some of it is pretty off the wall; some of it is extremely important. We believe the ABC has a vital role to play in Australian society. Of Australians, 88 per cent, according to a 2010 Newspoll, agree that it is a highly valued and trusted institution that provides a valuable service to the community. We have long advocated for more funds to fulfil its very ambitious mandate and reach its full potential in a digital multichannelled NBN world. I acknowledge the Australian government, in the budget before the one just handed down, for increasing the funding of the ABC to make up some of the ground that had been lost in previous years.

As well as funding and adequate resourcing there also needs to be a truly independent board. The board must be independent so that the ABC can fearlessly report on, expose and explore all issues, even those that make the government of the day and other powerful vested interests uncomfortable. The events of this week that have sent shockwaves through those working in the media and those who pay attention to these issues sharpen the importance of that independence. It is not only the reality of independence that is important but of course
the public perception of independence. If the Australian public are suspicious that the work of the ABC is being tailored to suit a partisan political agenda, they will be disinclined to trust its reporting and much of the value of the ABC will be lost. Senator Birmingham and I have both spent hours in budget estimates with Mr Scott where senators from all sides of politics will serve it up to the director for bias, the appearance of bias or how stacked the audience of Q&A has been on any given night. I think you can agree that those conversations are robust and that the independence of the ABC tends to shine through—at least in as much as you could say Mr Scott cops it from all sides.

Australians need, for example, Four Corners to continue to expose scandals, trigger inquiries, provoke debate and confront taboos. Australians need to know what is happening in Fukushima, which has long since disappeared from the pages of Australian newspapers. We are complicit, of course, given that Australian uranium burned in each of those destroyed reactors, and we have learnt a great deal from the fine reporting by Mark Willacy. He is simply one example of the reach of the national broadcaster and the ability that the national broadcaster has to go out and get these stories. We know more about what is happening in Europe, North Africa and the Middle East through having correspondents in those places. Those reporters need to know they can do their jobs as journalists without interference.

Unbiased journalism is one very important pillar of what a healthy and functional democracy relies upon. That is why we do not believe that the government should be allowed to arbitrarily appoint or influence in any way who sits on the board. The bill that we are debating tonight ensures that no government can seek to form, inform or influence the content on the board through the appointments process.

Senator Birmingham somewhat glibly remarked about the comments of Prime Minister Howard simply going through his Christmas card list. The concept was dismissed but, effectively, it is a process of tapping people on the shoulder to go and do more or less exactly what Ms Gina Rinehart is proposing to do to the people who work at Fairfax, which is twist the work of the organisation towards a particular editorial line. That is extraordinarily dangerous. It is dangerous in private media corporations—very difficult, obviously, for the parliament to get a grip on—but I propose that it is even more dangerous for that sort of influence to be sought within a national funded broadcaster.

The Greens welcome and support the bill. I have also long been on the record as supporting a staff appointed representative on the board and welcome the reinstatement of this position being included as part of this bill—and this is a reform that has been long in coming. When we get to the committee stage of the bill, Senator Xenophon will be proposing that SBS, our second, also very important, national broadcaster, be given a staff elected director to fulfil essentially the same role as the reforms proposed by these bills, and the Australian Greens will be supporting that amendment.

In the committee report I made some observations about the board nominations panel. The laudable aim of depoliticising ABC board appointments seemed to be somewhat casually dismissed by Senator Birmingham, who spoke of it in terms of tying the hands of the minister. We are simply proposing a process which distances the minister and political considerations from these extremely important positions. I do not
see how that can be made to sound controversial.

The extremely important aim of depoliticising the board is further advanced by ensuring that the nomination panel is not simply appointed at the open discretion of the Secretary of the Department of the Prime Minister and Cabinet. The inclusion of the Merit Protection Commissioner on the panel is a good idea, and I endorse it. However, I note that this still leaves the head of PM&C appointing potentially three of the four panel members. I recognise here that there is a limiting factor of independence. Sooner or later somebody needs to make the decision, and it is not something that can completely be outsourced; however, as I stated in the committee report into the bill, I believe that it should provide for a three-person nomination panel chaired by the Merit Protection Commissioner with the other two members being the Secretary of the Department of Broadband, Communications and the Digital Economy and the chair of the ABC board or his or her nominee. The panel would be chaired by someone with expertise in merit based decision making, and a minority of members—perhaps one—might be vulnerable to public perception of a predisposition for selection decisions that advance the political agenda of the incumbent government. These are extremely important considerations that should not just be chucked away lightly.

The Greens welcomed the initial iteration of the bill that saw no politician or staffer being able to serve on the board. Senator Birmingham raised these issues on the way through and then elbowed them aside and said, ‘If Michael Kroger can find his way onto the board, why not, for example, John Howard?’ My response to that is: for heaven’s sake; you have to start somewhere.

It is extremely disappointing to us that this amendment that I think the coalition have indicated has government support winds back the provisions of the bill. Why would we not want to see former serving politicians or senior staffers appear on the board of the ABC? Because, inevitably, people like us—and obviously addressing an audience in this chamber—have links, ties, memberships and investments in political parties or partisan positions that should not have a place on that board. We lament that the government therefore has backtracked from its initial position. I know that obviously very talented politicians interested in an unbiased media probably could serve admirably, but there is the impact and the perception of the impact that you are simply importing a partisan bias onto the board of the national broadcaster.

I acknowledge the CPSU’s argument that political appointments are not necessarily the same thing as appointments of politicians—and I think that is fair enough. While many former MPs and staffers may be capable of making a valuable contribution to the board, I think these arguments are outweighed by a couple of considerations and I will just spell them out. There are obvious reasons for suspecting former MPs and staffers of political partisanship, whether or not they have an exclusive claim to that dubious distinction. There is a significant problem of perception, however, with this cohort of people—that is, us—especially given that the proposed selection process leaves a certain degree of executive discretion intact and perhaps that was inevitable. The communications minister or Prime Minister would ultimately personally appoint these former parliamentarians, potentially from within their own party, all the while attempting to reassure the public that it was not politically motivated and had nothing to do with politics. And of course people are never going to believe that. The group—or
the talent pool—excluded by the provisions of the bill is small enough that there will be no difficulty recruiting appropriately qualified board members without us necessarily being in the mix. I urge the government to maintain an absolute ban on former MPs and senior staffers being appointed to the board of the ABC. However, should this appeal not succeed—and I have reason to believe that it will not—I foreshadow an amendment that ensures that at least former politicians and senior staffers must go through the nomination and merit based selection process. You cannot simply be imported sideways, leapfrogging the mechanisms that this bill quite painstakingly sets up to provide some kinds of arms-length situation. I hope to see support on both sides of the chamber when those amendments are moved. The minister must provide reasons for the assessment of a former politician or staffer against the selection criteria. Inasmuch as it is possible to prevent someone's mate from being dropped into a position of such importance, we are attempting to provide those protections.

The Greens are on the record in recent inquiries as having grave concerns about the ABC outsourcing too much due to inadequate funding. We want to see the ABC budget allowing it to maintain a healthy balance between in-house and external production. This was the subject obviously of a recent Senate inquiry which attracted quite a degree of interest both inside and outside the ABC. We want the ABC to maximise its potential in terms of education and creative opportunities provided by digital multichannelling. This is most important perhaps given what is happening with the NBN—so long as it is not destroyed sometime in the next term of government.

We will continue to argue for the ABC, our adored public broadcaster, which has such huge support across the Australian community and across the political divide. We will keep going into bat for our national broadcasters, both of them, helping them to receive more funding. The ABC needs adequate funding; it also needs an independent board. I commend this bill as addressing at least this latter need. I again congratulate the government for at least bringing it forward. This has been a long time in coming and, although I have dwelt mostly in my remarks on the aspects of the bill that I disagree with, I welcome the passage of this bill through the chamber.

Senator SINGH (Tasmania) (17:31): I rise to speak on the National Broadcasting Legislation Amendment Bill. The amendments to the Australian Broadcasting Corporation Act 1983 and the Special Broadcasting Service Act 1991 were part of the Australian Labor Party's election commitments to provide a new, transparent and democratic board appointment process in which non-executive directors are appointed on the basis of merit. The ALP also committed to restoring the appointment of the staff elected director to the ABC board.

Australians are rightly proud and protective of the ABC and SBS, and this bill will ensure all Australians will have an opportunity to nominate for a place on either of these boards. All future appointments will be made by an independent panel, which will consider applications based on their merits, resulting in boards of excellence for both the ABC and SBS. This independent nomination panel will be appointed by the Secretary of the Department of the Prime Minister and Cabinet. This panel will remain independent from government, and members of the nomination panel will have a statutory duty to disclose any conflicts of interest. I am sure future panels will follow in the footsteps of the current nomination panel, which has carried out its duties well.
Boards will be led by a chairperson and will consist of between four and six directors. The chairperson of each will be appointed by the Governor-General; however, in a new subsection of the bill, the Prime Minister must be satisfied that the chairperson has experience in connection with broadcasting, communications or management, or experience in financial or technical matters. Directors will be appointed on a merit based selection process, with specific selection criteria determined by the minister. Only those with the best suited skills, experience and competencies will be appointed.

The need for a merit based selection process has been long identified. In 2001, a Senate committee inquiry recommended the method of board appointments be altered to 'embrace a system characterised by the principles of merit and transparency'. The Howard government, however, disagreed and failed to act. I would like to take a moment to ponder why the coalition, then in government, would oppose the recommendations of a Senate committee inquiry. It was reported on 16 June 2006, by the Age, that:

John Howard has transformed the leadership of the national broadcaster in the past decade. There is now no one serving on the ABC board who has not been hand-picked by his cabinet.

... ... ...

Mr Howard's first step in changing the culture was to appoint his friend Donald McDonald as chairman in July 1996 ...

... ... ...

Mr Howard also shook things up early with the appointment of Victorian Liberal powerbroker Michael Kroger, who parted ways with the board in 2003. Other government appointees to raise eyebrows were pro-labour-market-deregulation academic Judith Sloane, selected for the board in 1999, and former Liberal MP Ross McLean. The board now includes commercial QC John Gallagher, appointed in 1999; Dr Ron Brunton, a former fellow of the Institute of Public Affairs, appointed in 2003; and Janet Albrechtsen, conservative columnist appointed in 2005.

I am certainly not the first person to wonder just how the then government felt it was appropriate to use the ABC board as a way to reward mates—the result being a board of known conservatives. This had quite an impact on Australia, and I refer to the 'culture wars' as an example of one of the problems created by such a board.

But times have thankfully changed under the Labor government, and the ABC board is once again serving the interests of the Australian community. The amendments to the Australian Broadcasting Corporation Act 1983 and the Special Broadcasting Service Act 1991 will ensure that all appointments to the ABC and SBS boards will be merit based and this will result in strong and independent broadcasters that will serve Australia and Australians well.

I would like to acknowledge the recent appointment of the Hon. James Spigelman AC QC, to the role of chairman of the ABC. Mr Spigelman brings with him a wealth of knowledge, having served as a chief justice, lieutenant-governor, barrister, QC and as a member of the Australian Law Reform Commission. He is an author, with an interest in government, nuclear energy and history—including medieval, Australian, British and Chinese history.

Mr Spigelman has also served on a range of boards, including as chair of the National Library of Australia, chair of the Australian Film Finance Corporation, deputy chair of the Art Gallery of New South Wales and president of the Museum of Applied Arts and Sciences. He has been awarded Companion of the Order of Australia for services to law and to the community in bringing about changes in attitudes to the administration of justice for a fair and equitable society, and to
the support of visual arts. This is exactly the
kind of person we want engaged with the
Australian Broadcasting Corporation, and I
look forward to his leadership and
contribution over the coming five years.
When it comes to the appointments of the
ABC board, I am particularly proud of
Tasmanian Jane Bennett, who began her
five-year term in June last year. She brings
not only a great business sense, with a
background in commerce and management,
but also a strong understanding of regional
communities and the provision of
communications services. Jane has made a
name for both herself and Tasmania over the
last decade. She is an award winning cheese
maker and has been heavily involved with
her family business, Ashgrove Cheese. She
has been ABC Radio Australian Rural
Woman of the Year and won the National
Regional Development Award at the Young
Australian of the Year Awards. She was
Tasmanian Telstra Business Woman of the
Year and was awarded a coveted Nuffield
scholarship in 2008. She sits on the Brand
Tasmania Council board. Jane has also
contributed to a range of government
inquiries, including the telecommunications
industry inquiry and the regional telecom-
munications inquiry.

When appointed, Jane told the Weekend
Australian that her commitment to the public
broadcaster and its role in the lives of rural
and regional Australia had driven her to offer
her services. She spoke of her strong belief
in the role of the arts in rural communities
and the fact that she views the ABC as our
country's most important cultural institution,
and one which is often a person's only
contact with art and culture. I know Jane's
contribution to the ABC board will be
extremely valuable.

I would also like to take this opportunity
to acknowledge the fact that my colleague
communications minister Senator Stephen
Conroy upheld a commitment to re-establish
a gender balance with regard to both the
ABC and SBS boards. This was a
commitment made by the federal Labor
government to ensure both the SBS and ABC
boards were made up of 40 per cent women.
Jane Bennett is joined by former Australian
of the Year Fiona Stanley AC, Cheryl Bart
AO and Dr Julienne Schultz AM. The SBS
board enjoys the expertise of Jacqueline Hey,
Elleni Berededit-Samuel and Patricia Azarias.

As I mentioned earlier, the National
Broadcasting Legislation Amendment Bill
also allows for the restoration of a staff
elected director to the ABC board. Staff
elected directors are important for many
reasons. They have not only a strong
understanding of the ABC and its operations,
but the confidence of the ABC staff, who
deserve to have their voices heard by those
on the board. The knowledge of those at the
forefront is vital. How can it be perceived as
anything but a positive step?

However, history shows that a staff-
elected director has been perceived
negatively by some. In 2006, the Howard
government abolished, through legislation,
the staff-elected position on the ABC board.
The excuse given was that the position
created 'uncertainty about accountability' and
that a staff elected director would be
expected by their constituents to place their
interests ahead of the interests of the ABC. I
fundamentally disagree on that front. In
2006, then staff elected director Romona
Koval wrote to the online newsletter Crikey:
It's a serious responsibility that I have carried out
with passionate commitment. The position of
staff-elected director is important to provide the
board with a working knowledge of the role and
functions of a public broadcaster, and, at times, as
a balance to the practice of party political
stacking of the ABC board.
... and it's a serious responsibility that I have
carried out with passionate commitment.
The position of staff-elected director is important to provide the Board with a working knowledge of the role and functions of a public broadcaster, and, at times, as a balance to the practice of party political stacking of the ABC board...

I personally welcome the decision to reinstate a staff-elected director to the board, and look forward to the contribution this person will bring to the ABC, which is fondly known by many as 'Aunty'.

Australians are proud of their ABC and have a real sense of ownership, as they should. In Tasmania, we have an active Friends of the ABC with whom I regularly engage. Friends of the ABC is a community organisation that represents the public's interest in the ABC. It works to ensure the ABC continues as a healthy, independent and comprehensive national public broadcaster. Friends of the ABC in New South Wales, Queensland, Victoria, WA and Tasmania joined forces to respond to the inquiry into the National Broadcasting Legislation Amendment Bill 2010 with a thoughtful submission. This group has welcomed—very much so—the appointment of a staff elected director. It is wonderful to see a group of people such as the Friends of the ABC who are representing the interests of the Australian community in this way, and I would very much like to applaud their efforts.

Neither the ABC nor SBS can function to the best of their ability without boards of excellence. I am confident that the proposed amendments to the Australian Broadcasting Corporation Act 1983 and the Special Broadcasting Service Act 1991 will result in exactly this. All Australians will have the opportunity to nominate for a place on either board, as they should, and all claims will be considered on their merits. All future appointments will be subject to independent scrutiny and the principles of equal opportunity and gender and geographical diversity will be upheld. A staff elected director will bring an important perspective and expert knowledge. I am confident that this bill will ensure that the bright future of our public broadcasters is placed in the very best of hands, as it should be. That is why this amendment has come before the Senate through the parliament at this time. Certainly the Gillard Labor government takes very seriously righting the wrongs of the past in relation to the loss of that basis of merit and by having a staff elected director on our ABC and SBS boards.

We all very much admire the input that the ABC and the SBS provide to us. We want to be able to support them with boards of excellence. That is exactly what this bill now does. I commend the bill to the Senate.

Senator IAN MACDONALD (Queensland) (17:43): I have a number of views about this particular bill, the National Broadcasting Legislation Amendment Bill, but because this bill is subject to the guillotine I am going to restrict my comments just to the issue of the staff elected director.

I have to say that it is a bit tough when the Labor Party and the Greens impose a limit on the amount of debate that you can have here and then have speakers like the last speaker speaking for 15 minutes on this bill, thereby restricting those members of the opposition who want to have a say on this but who will not be able to because of the very limited time. I do acknowledge that Senator Ludlam did not take his full 20 minutes, but, again, here are the Greens and the Labor Party, who have passed these motions to restrict free debate in this chamber, taking up the time of the opposition in speaking on this bill. Just before I address the bill, I quote from a debate some time ago:
You do not just need to be here in this chamber to realise how arrogant and out of touch this government has become, with the ramming through of legislation, ridiculously tight deadlines for legislation, changing the sitting pattern all the time and using the guillotine. It is turning this chamber, which for 30 or 40 years has been a chamber of accountability and scrutiny, into a farce.

Who said that? None other than our erstwhile shadow minister for communications, Senator Conroy. So, just five years ago, it was awful to impose restrictions and guillotines on the debate, but today, because Senator Conroy and his Greens mates want to ram legislation through, suddenly it is quite okay! I raise those issues to explain why my contribution will be, of necessity, brief. I understand that my colleagues want to make a contribution as well.

I start by alerting the Senate to the Australian Broadcasting Corporation Amendment Bill 2006. The explanatory memorandum states:

The Bill addresses an ongoing tension relating to the position of staff-elected Director. A potential conflict exists between the duties of the staff-elected Director under paragraph 23(1)(a) of the Commonwealth Authorities and Companies Act 1997—

the CAC Act—

to act in good faith in the best interests of the ABC, and the appointment of that Director via election by ABC staff. The election method creates a risk that a staff-elected Director will be expected by the constituents who elect him or her to place the interests of staff ahead of the interests of the ABC as a whole where they are in conflict.

I think that sums up why this re-creation of this position is so wrong. I have not heard any debate from the Labor Party or Greens senators during this very truncated debate on why a staff elected director should be appointed. Why not have a Rugby League elected director appointed to the board? Surely a Rugby League elected director would be able to give the ABC board a real insight into not only the best football code but actually how sporting activities should be dealt with. They would have a very balanced view on the way sports should be recorded by the ABC. You could pick any example of a group of people electing one particular representative on the ABC board. This is supposed to be a merit based board.

I heard the arguments from the previous speaker about gender equity, I do not want to enter into that debate, but it is the same in this parliament, Madam Acting Deputy President McKenzie. You, may I say with respect, and the minister on duty on the coalition side, Senator Payne, clearly demonstrate why a merit based selection process—be it for the Senate or for the ABC board—is the correct way to go. Quite clearly in this chamber and in this parliament those on our side of parliament understand that what is important is merit, not gender. I repeat, without meaning to embarrass you, Madam Acting Deputy President, or the minister on duty, you get merit for merit's sake. You do not have to, without meaning to be too offensive, be like the Labor Party, who have senators in this chamber who are there for one reason and one reason only: their gender. Whilst that applies in this chamber, the same applies on the ABC board. You need a board based on merit, not a board based on gender or on staff election.

Can I say, lest people misunderstand me, that I think the ABC generally is a pretty good organisation. I think that, in the country in particular and particularly in radio, the ABC is a magnificent organisation that is balanced, provides a real service and is part of the community. I have never made any secret of the fact that a lot—not all—of the ABC journalists who hang around Sydney, Melbourne and this building have a view that is to the left of the political spectrum. That is fine; I expect everyone in Australia has a
political view. What I do not like about some of the ABC presentations is that individuals’ personal views determine how news is represented. I am an avid listener of ABC News Radio, which, when I first started listening to it, I thought was pretty balanced. It still is, except, if you watch carefully, you will note, in terms of where things are put in the bulletin, that very often, when the coalition makes a major policy announcement, you do not get the ABC talking about the policy announcement—you get the ABC highlighting and giving prominence to anyone who would criticise the coalition’s policy announcements.

I am not one of those that goes to Senate estimates committees with a long list of the indiscretions of the ABC. I am afraid I have grown beyond that. I have been around too long, and a lot of people will agree with that comment. But I know the system and I know it will not make any difference to the way news is presented. Quite frankly, we have had some very good ABC boards but they have not really impacted upon what I see broadly as a pro-leftish approach not just to the news but also to the presentation of news that is so important. But I do not complain about that.

I acknowledge that there are a lot of ABC journalists and reporters who are balanced and who have views across the spectrum. What concerns me is when those views determine how news is presented by the taxpayer funded broadcaster. The ABC generally does a good job. Some of the news and current affairs that come out of what I used to call the ‘Gore Hill mob’, and out of the capital city areas, does not seem to me to be quite so balanced. I reiterate that the same does not apply, though, to ABC radio. That is my experience. I congratulate the ABC; I think it does a marvellous job for Australia. Having said what I have said, across the board the ABC is probably better being there than not being there, so that is a half-tick.

Getting back to this particular issue before the chamber at the moment, no case has been made for the establishment of a staff elected director. A staff elected director is seen as an anomaly. Why is the staff elected director there if not to represent the interests of the staff? If it is not there for that position then why is it there? If it is there to represent the interests of the staff on the ABC board then clearly it is an abrogation of the duties of directors on any board, including the board of the ABC. Can anyone in the Labor Party tell me why the staff elected director is there?

Sure, the staff elected director would have an understanding of how radio, TV, news presentation, current affairs and social programs work—yes, they would have expertise in that, but so would Alan Jones. He would understand those things, so why not also have a commercial radio station shock jock elected member on the ABC board to give a slightly different approach to the way the ABC presents news? That is rather a silly suggestion, but it is about as silly as having a staff appointed director on this particular board.

This is a chamber of debate and of trying to get an argument across. I always come into every debate with my ears completely open and, more often than not, my mind unmade. I am here to be convinced of the right or wrong of a particular provision but I have not heard it in this debate whatsoever. The coalition members of the Senate Environment and Communications Legislation Committee that looked into this bill clearly articulated why this provision was wrong and, similarly, why a number of the other provisions relating to this amendment bill are incorrect. I urge senators to have a look at those provisions.
I wanted to comment on other aspects of this bill but unfortunately time has beaten me. I am conscious that others of my colleagues are wanting to speak on this particular bill and so I will restrict my comments there. I see Senator Edwards joining the chamber now and I am conscious that he has some things to say.

Again, I lament the fact that we are not going to be able to debate this bill as we would have wanted to and that we are not going to be able to look closely into every aspect of the bill, as this chamber should be doing. We are not able to do that, I remind those who might be listening, because the Labor Party and the Greens political party have embarked upon this curtailment of debate in what should be the house of review. After all the pious words of Labor and the Greens in years gone by about guillotining, here they are just in this fortnight guillotining—that is, curtailing the debate on—36 bills. For all that the Labor Party and the Greens might rail about the Howard government, in the three years in which that government had an absolute majority in this chamber it only time managed bills on 36 occasions. For the three years of the Howard government, 36 bills were time managed, while already in this fortnight—and I do not go back to the farce we went through when the carbon tax bills were brought in.

Remember the carbon tax bills? There, 18 separate bills imposing upon Australians the largest carbon tax in the world were rammed through this parliament in a guillotined debate. Eighteen bills, 76 senators. I think that gave us all about one minute per bill per senator. This is what the Labor Party classes as democracy. Its mismanagement is so obvious and it clearly does not want debate in this chamber which might highlight that.

So those are all the guillotined bills prior to this session. In these two weeks alone 36 bills have been subject to the curtailment of debate. That puts the lie to the new paradigm of openness and accountability that our so-called Prime Minister announced proudly when she convinced a couple of Independents to support her in her bid to retain power in this country. Have a look at this: 36 bills curtailed in this fortnight alone—great openness! Great accountability! Great new paradigm!

**Senator BILYK** (Tasmania) (17:59): I rise to speak on the National Broadcasting Legislation Amendment Bill 2010. Those on the other side who are continually grizzling and harping and not actually participating in discussion on the issue at hand have wasted so much time that they could probably have had another speaker had they not gone on with all their diatribe. Strong and independent national broadcasters are an essential pillar of our democracy and it is vital that in a vibrant civil society there exist broadcasters whose views are not tied to and corrupted by corporate interests. It is also vital that there are broadcasters whose views are not partisan and tied to the views of current or previous governments due to politically motivated appointments to their boards.

The purpose of this bill is to amend the Australian Broadcasting Corporation Act 1983 and the Special Broadcasting Services Corporation Act 1991 to implement a new merit based appointment process for the ABC and SBS boards. The bill also reinstates the position of a staff elected director on the ABC board, which was removed by coalition changes to the ABC Act in 2006. This government believes in the independence of the ABC and the SBS and it believes that the boards of the ABC and SBS should not be appointed due to their political allegiances and previous political positions.
There can be no objective disagreement with the way in which the independence of the ABC and SBS has been compromised in the past through a series of blatantly political board appointments. I want to highlight some of the appointments during the Howard government. In 1996 Donald McDonald, who happened to be a long-time friend of former Prime Minister Howard, was appointed chair of the ABC board. Mr Michael Kroger, an active member of the Victorian branch of the Liberal Party who has been in the news a bit lately, was appointed to the ABC board in 1998. Between 2003 and 2007 appointments to the board included conservative commentators Janet Albrechtsen, Ron Brunton, Keith Windschuttle and Morris Newman—and a former speechwriter for John Howard, Christopher Pearson, was appointed to the board of SBS in 2003. All these people were in support of the Liberal Party and the Liberal Party ideology.

The ABC has a duty to its viewers, its listeners and the public to ensure the highest standards of journalism, to accept that it is accountable and to ensure that it is meeting its own codes of practice. It is also incumbent on the ABC and SBS boards to be able to respond to the challenges and opportunities of the emerging digital and online environment. The ABC and SBS cannot function to their maximum capacity without excellent boards. This legislation will ensure that all Australians will have an opportunity to nominate for a place on the ABC or the SBS boards and all claims will be considered on their merits by an independent panel.

Importantly, all future appointments will be governed by the overriding principle of selection based on merit. Individuals who through their abilities, experience and qualities match the needs of the ABC and SBS will be selected. All future appointments to the ABC and SBS boards will be subject to independent scrutiny by the nomination panel, who will shortlist suitable candidates. The process promotes the principles of equal opportunity and gender and geographical diversity. The ABC and SBS provide the important function of reflecting the whole Australian community—urban and rural, young and old, and people from different ethnic and religious backgrounds. The appointment process for the ABC and SBS boards must ensure that the persons most suited for the position of board member are chosen.

It is interesting to note the comments of the Friends of the ABC, who, in their submission to the Senate committee on this bill, wrote:

The past practice of governments appointing their supporters to the governing board of the ABC resulted in the appointment of people who lacked independence or merit and sometimes both. If allowed to resume, this situation, which was in danger of spiralling out of control, would ultimately damage the public’s trust in the national broadcaster’s independence and in the integrity of government.

Schedule 1 to the bill establishes a merit based appointment process for ABC and SBS non-executive directors, with the following features: the assessment of applicants’ claims will be undertaken by an independent nomination panel established at arm’s length from the government; vacancies will be widely advertised, at a minimum in national and/or state and territory newspapers, and on the website of the Department of Broadband, Communications and the Digital Economy; the assessment of candidates will be made against a core set of selection criteria, supplemented where necessary by additional criteria as determined by the minister; and a report containing short-listed recommended candidates will be provided to either the
minister or the Prime Minister by the nomination panel.

There are some amendments, stemming from the committee process. The Senate Environment and Communications Legislation Committee report on the National Broadcasting Legislation Amendment Bill commented that a waiting period before former politicians and senior staffers become eligible for public appointment would be appropriate. The committee recommended a waiting period rather than a lifelong prohibition, and the government supports this amendment. A waiting period would be consistent with other Australian government policies such as the Lobbying Code of Conduct, which provides that former ministers and parliamentary secretaries may not engage in lobbying activities relating to any matter with which they had official dealings, within 18 months of leaving office. The Lobbying Code of Conduct provides for a 12-month waiting period for former political staff, agency heads, senior public servants and others.

The Australian Greens have suggested an amendment to this bill, which will work in conjunction with the Opposition's amendment, and the government agrees with this amendment also. The proposed amendment will mean a former politician or senior staffer can only be appointed to the ABC or SBS boards after ceasing to be a member of a parliament or a legislative assembly or a senior political staff member for a period of 12 months and being nominated by the nomination panel following their participation in a merit based selection process, as set out in the bill.

In addition, we strengthened the statement of reasons that must be tabled in parliament by the executive if any person, other than a former politician or senior staffer, is recommended for appointment by the Prime Minister or minister, as the case requires. This is consistent with the government's commitments to strengthen the independence and integrity of the ABC and SBS boards and to facilitate greater transparency and parliamentary scrutiny of the selection and appointment of candidates to the boards.

Schedule 2 concerns the appointment of a staff elected director to the ABC board, which I believe to be a very important issue. Prior to 2006, the ABC Act provided for the inclusion of a staff elected director on the board. The coalition's Australian Broadcasting Corporation Amendment Act 2006 removed the position of staff elected director from the ABC board. It removed the right of ABC staff to elect a representative from amongst their peers. The removal of the position of staff appointed director on the ABC board was done by the coalition purely from an ideological opposition to having staff being represented. This was a great injustice and is one which this government now seeks to rectify. The staff elected director enhances the ABC's independence by providing the board with a unique and important insight into ABC operations. I will quote once again from the Friends of the ABC's submission:

Importantly, the Bill restores the Staff elected Director to the ABC Board. The Staff Director position ensures there is at least one Board member with a sound understanding of the role and ethos of public broadcasting and an intimate understanding of the ABC's current operations. It is a sole counter should any government again stack the independent broadcaster's board.

The staff elected director was often the only individual with the on-the-ground expertise to examine the advice to the board from the ABC's executive.

The staff elected director will sit as a non-executive director on the ABC board and fall within the definition of director for the
purposes of the ABC Act. The staff elected director will have the same duties, rights and responsibilities as all other non-executive directors. Like any other ABC director, the staff elected director's primary duty will be to act in the best interests of the corporation. The only difference between the staff elected director and other ABC directors will be their means of appointment. The Friends of the ABC highlighted the importance of the staff elected director in their submission to the committee inquiry:

The Staff Director was integral, for example, in bringing to the ABC Board's attention illegal ABC activities in the 1990s. The inquiry conducted on behalf of the ABC Board by Mr George Palmer QC established breaches of the ABC Act and Board editorial and coproduction policies. The role of the staff-elected Director in the exposure of ‘backdoor’ compromise of programs through external funding was acknowledged in Our ABC—the 1995 report of the Senate Select Committee on ABC Management and Operations … which was chaired by Senator Richard Alston.

There is nothing in the present act or the proposed amendments that says the duties of the staff elected director would be different from those of the other non-executive directors on the board. It is the responsibility of the board to ensure that all directors are aware of their primary duty to act in the interest of the corporation as a whole. This point was made by the Australian National Audit Office in 1999 when it noted in its discussion paper about corporate governance that a written code of conduct, approved by the board, setting out ethical and behavioural expectations for both directors and employees was a better-practice governance principle for the board of a Commonwealth authority or company.

In conclusion, this bill will make important changes to the way the ABC and SBS boards are appointed, to ensure that political favouritism does not occur and that the boards have the talent and experience to respond to the challenges and opportunities of the emerging digital and online environment. Importantly, it will also bring back an independent, staff elected director with unique insights into the daily operations of the ABC. With those few words I commend this bill to the Senate.

Senator EDWARDS (South Australia) (18:11): Today I rise to speak on the National Broadcasting Amendment Bill 2010. This bill centres around three main changes to our national broadcasters, the ABC and SBS. This bill covers the appointment of directors, the membership of the boards and a new, merit based appointment process for these boards.

The ABC is an important institution and SBS is an important part of public broadcasting also. The ABC has a budget of $779 million from the 2010-11 year—not insubstantial by anybody's account—and it is important that we have the best possible management structure in place to ensure high-quality programming at the ABC and SBS. We do not need an ABC that is further encumbered by additional layers of bureaucracy, which is what this bill will achieve.

In the very short time before the government guillotines this bill, I will turn my attention first to the merit based appointment process. The bill proposes to insert a provision into the legislation concerning the ABC and SBS requiring them to implement a merit based selection process and stipulating that appointments cannot occur unless the process has been undertaken—and so let the bureaucratic red tape begin. The bill will require the government to establish a nomination panel, which will be made up of a chair and two or three members. The members will be appointed by the Secretary to the Department
of the Prime Minister and Cabinet. The committee of three or four will be appointed for up to three years in part-time positions—I guess they will all receive a nice stipend.

Let us look at the bureaucracy that will be laid over the appointment process. The nomination panel will conduct a selection process for each appointment of a director. To do this, the panel will be required to advertise vacancies nationally and then must see and assess all applications against the selection criteria set by the minister. In the case of the appointment of the SBS chairperson the panel is required to provide a report to the minister, while the appointment of a new ABC chairperson will require a report to the Prime Minister as well. Both reports will have to offer a minimum of three nominations for consideration. It does not really matter, does it? In 2009, they spent $200,000 doing this. The reality is that those reports do not actually require the minister or the Prime Minister to adopt any of those recommendations. This bill just puts red tape in there and the selectors do not have, by virtue of the second recommendation, the widest possible pool of talent to choose from.

The second recommendation implements a blanket prohibition on former politicians and senior staff members, and eliminates a large number of people who may have suitable experience. What nonsense. Politicians and their staff spend their entire careers in the public domain, in some cases, dealing with issues of local, regional and national importance. It is our job to be across current affairs and understand a wide range of issues. This kind of broad knowledge provides a solid foundation for a board appointment.

Clearly, there are concerns about politically driven appointments. Everyone shares that concern, which is why my colleague Senator Birmingham, on behalf of the coalition, will move an amendment to this bill, which if left as is will restrict the prohibition of former politicians and their staff to the first 12 months after leaving. This will help prevent politically motivated appointments to the ABC and SBS boards—what rot. Unless the Senate adopts this amendment, we could have the ludicrous situation where a great candidate from any political party who has left this place could be overlooked for candidates of the ilk of, say, Mr Paul Howes, the current national secretary of the AWU, or Mr Tony Sheldon, the current secretary of the TWU, both public political figures and demonstrably partisan, and would not face any impediment to selection under the current deal. Complete hypocrisy.

The third change this bill provides is for the reinstatement of a staff-elected director—in other words, a shop steward. In 2006, the coalition eliminated the staff-elected director position on the ABC board. This was done on the advice of the Howard government's Review of corporate governance of statutory authorities and officeholders. It was done by a review of corporate governance of statutory authorities and officeholders. I repeat that because this was no lame task; this was based on a concept in Australian company law that directors act in the best interests of the company and all of its shareholders, not because they are beholden to a group from within. The very nature of the placement which is proposed makes them subject to coercion from the very people who put them there; therefore having a director who is representative of one group, the staff, at a board level does not fulfil this long-held view of company directorships in a modern corporate world.

Then there is the issue of public broadcasters who were being paid by the taxpayers of Australia. None of those people
are subject to the same scrutiny as politicians. So it is a double standard. The bill refers to the merit of appointments to the ABC and SBS. These two publicly funded broadcasters have become incredibly narrow in their appointments in recent years. How much new talent has managed to get into these organisations from the commercial channels? Very little, I can tell you. Mateship might not be a prized attribute in the fractured Labor caucus, but the cronies who look after their mates in these two organisations are very much alive and flourishing. When the time comes for a staff elected commissioner, watch and see how they will inevitably be aligned with the ALP or the Greens.

So we have additional red tape, unnecessary restrictions on board appointments and an attempt to reinstate a staff-elected director position at the ABC, all unnecessary changes that will only make it harder to appoint high-calibre candidates to board and director positions at the ABC and the SBS. This bill in its current form makes knuckle-draggers of this Labor-Greens alliance and it takes our public broadcasters back to corporate Neanderthal times. In the seconds I have left before this bill is guillotined, I urge all members in this chamber not to take a step back in time and stop taking the ABC, our national broadcaster, into the Dark Ages and support the amendments. (Time expired)

The DEPUTY PRESIDENT: Order! The allotment of time for this bill has now expired. The question is that the bill now be read a second time.

Question agreed to.

Bill read a second time.

The DEPUTY PRESIDENT: The question now is that opposition amendments (1) and (2) on sheet 7108 be agreed to.

Question agreed to.

The PRESIDENT: The question now is that amendment (1) on sheet 7239 be agreed to.

The amendments read as follows—

Schedule 1, item 12, page 5 (after line 15), after subsection 12(5A), insert:

(5AA) However, so far as subsection (5A) relates to a person who:

(a) is a former member of a Parliament or a Legislative Assembly referred to in that subsection; or

(b) was a senior political staff member;

that subsection applies only for the period of 12 months beginning on the day the person ceased to be a member of that Parliament or that Legislative Assembly or a senior political staff member.

Schedule 1, item 24, page 16 (after line 10), after subsection 17(2A), insert:

(2AA) However, so far as subsection (2A) relates to a person who:

(a) is a former member of a Parliament or a Legislative Assembly referred to in that subsection; or

(b) was a senior political staff member (within the meaning of the Australian Broadcasting Corporation Act 1983); that subsection applies only for the period of 12 months beginning on the day the person ceased to be a member of that Parliament or that Legislative Assembly or a senior political staff member (within the meaning of that Act).

Clause 2, page 2 (table items 3 to 5), omit the table items.

The Senate divided. [18:25 ]

(The President—Senator Hogg)

Ayes .................26
Noes .................33
Majority..............7

AYES

Abetz, E
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S

Back, CJ
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
The President (18:28): The question is that amendments (2), (3), (6) and (9) on sheet 7240, circulated by the opposition, be agreed to.

The amendments read as follows—

Schedule 1, item 12, page 5 (lines 16 to 24), omit subsections 12(5B), (5C) and (5D).

Schedule 1, item 14, page 5 (line 31), omit “(including a failure to comply with Part IIIA)”.

Schedule 1, item 24, page 16 (lines 11 to 17), omit subsections 17(2B) and (2C).

Schedule 1, item 30, page 20 (lines 2 and 3), omit subitem (1), substitute:

1) The amendment made by item 24 applies in relation to appointments made after the commencement of that item.

The Senate divided. [18:28]

Ayes 

Abetz, E .............................. 26
Birmingham, SJ ..................... 25
Brandis, GH .......................... 26
Bushby, DC .......................... 26
Colbeck, R ........................... 26
Edwards, S ........................... 26
Fawcett, DJ ........................... 26
Fierravanti-Wells, C ................. 26
Fifield, MP ............................ 26
Humphries, G ........................ 26
Joyce, B ............................... 26
Kroger, H (teller) ..................... 26
McKenzie, B ........................... 26
Nash, F ................................. 26
Parry, S ............................... 26
Payne, MA ............................ 27
Ryan, SM .............................. 26
Scullion, NG ........................... 26
Sinodinos, A ........................... 26
Smith, D ............................... 27
Williams, JR ........................... 26

Noes 

Bilyk, CL ............................... 33
Bishop, TM ............................ 32
Brown, CL ............................. 33
Cameron, DN ......................... 31
Collins, JMA .......................... 32
Crossin, P .............................. 32
Farrell, D .............................. 32
Furner, ML ............................. 32
Gallacher, AM .......................... 32
Hanson-Young, SC ................... 32
Hogg, JJ ............................... 32
Ludlam, S .............................. 32
Lundy, KA .............................. 32
McEwen, A (teller) ................... 32
McLucas, J .............................. 32
Moore, CM ............................. 32
Polley, H ............................... 32
Sterle, G ............................... 32
Thistlethwaite, M ..................... 32
Wright, PL ............................. 32

Majority .................. 7

AYES

Bilyk, CL ............................... 27
Brown, CL ............................. 27
Carr, KJ ............................... 27
Conroy, SM ............................ 27
Di Natale, R ........................... 27
Faulkner, J .............................. 27
Furner, ML ............................. 27
Hanson-Young, SC ................... 27
Ludlam, S .............................. 27
Lundy, KA .............................. 27
McEwen, A (teller) ................... 27
Milne, C ............................... 27
Polley, H ............................... 27
Rhiannon, L ............................ 27
Stephens, U ............................ 27
Thistlethwaite, M ..................... 27
Wright, PL ............................. 27

NOES

Bishop, TM ............................ 28
Cameron, DN ......................... 28
Collins, JMA .......................... 28
Crossin, P .............................. 28
Farrell, D .............................. 28
Furner, ML ............................. 28
Gallacher, AM .......................... 28
Hanson-Young, SC ................... 28
Hogg, JJ ............................... 28
Ludlam, S .............................. 28
Lundy, KA .............................. 28
McEwen, A (teller) ................... 28
Milne, C ............................... 28
Polley, H ............................... 28
Rhiannon, L ............................ 28
Stephens, U ............................ 28
Thistlethwaite, M ..................... 28

The Senate divided.
The Senate divided. [18:31]

The President—Senator Hogg
Ayes ...................... 33
Noes ...................... 26
Majority ............... 7

AYES
Bilyk, CL
Brown, CL
Carr, KJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ladlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Stephens, U
Thistlethwaite, M
Wright, PL
Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE

NOES
Abetz, E
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Back, CJ
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Humphries, G
Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Macdonald did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question agreed to.

The President (18:37): The question is that amendments (1) and (2) on sheet 7132, circulated by Senator Xenophon, be agreed to.

The amendments read as follows—
(1) Clause 2, page 2 (at the end of the table), add:
6. Schedule 3 Immediately after the commencement of the provision(s) covered by table item 4.
(2) Page 23 (line 22), at the end of the bill, add:
Schedule 3—SBS staff-elected directors
Special Broadcasting Service Act 1991
1 After paragraph 8(aa)
   Insert:
   (ab) the staff-elected Director; and
2 Before subsection 17(1)
   Insert:
   (1A) This section does not apply to the staff-elected Director.
(c) if there is no other eligible candidate—fresh invitations must be issued for the nomination of candidates.

Candidate may vote at election

(4) A person who is eligible to be a candidate for election as the staff-elected Director is eligible to vote at the election.

Period of office

(5) Subject to sections 26 and 27, the person who is the staff-elected Director holds office on a part-time basis for a period of 5 years starting:

(a) if, on the day on which the person is declared to be elected, the person already holds office as the staff-elected Director because of a previous election—on the day after the day on which that person would, but for having been re-elected, cease to hold office; or

(b) if, on the day on which the person is declared to be elected, another person holds office as the staff-elected Director because of a previous election—on the day after the day on which the other person ceases to hold office; or

(c) in any other case—on the day on which the person is declared to be elected.

(6) A person who has been elected as the staff-elected Director at 2 elections is not eligible for election at any other election of the staff-elected Director.

(7) If an election of a person as the staff-elected Director is invalid because of a defect or irregularity in connection with that election, the performance of the functions, or the exercise of the powers, of the Board is not affected by anything done, or omitted to be done, by or in relation to that person while he or she purported to be, or to act as, the staff-elected Director.

4 At the end of section 18

Add:

(4) In this section, non-executive Director does not include the staff-elected Director.

5 Paragraph 22(a)

Omit "or Deputy Chairperson", substitute ", Deputy Chairperson or staff-elected Director".

6 After paragraph 27(2)(c)

Insert:

; or (d) the staff-elected Director ceases to be eligible to hold office as that Director;

The Senate divided. [18:37]

(The President—Senator Hogg)

Ayes ...................... 6
Noes ...................... 51
Majority ............... 45

AYES
Di Natale, R Ludlam, S (teller) Rhiannon, L
Hanson-Young, SC Milne, C Wright, PL

NOES
Abetz, E Back, CJ Bilyk, CL Birmingham, SJ
Bishop, TM Brandis, GH Brown, CL Bushby, DC
Cameron, DN Carr, KJ Cash, MC Colbeck, R
Conroy, SM Cormann, M Crossin, P Edwards, S
Eggleston, A Farrell, D Faulkner, J Fawcett, DJ
Feeney, D Fieravanti-Wells, C Fifield, MP Furrer, M Lundy, KA Ludwig, JW
Gallacher, AM Marshall, GM McEwen, A McKenzie, B
Humphries, G McLucas, J Moore, CM Nash, F Parry, S
Kroger, H (teller) Payne, MA Polley, H Pratt, LC Ryan, SM
Scullion, NG Singh, LM Sinodinos, A Smith, D Stephens, U Sterle, G Thistlethwaite, M Urquhart, AE Williams, JR

Question negatived.

The PRESIDENT (18:42): The question now is that schedule 1, items (1), (15) as amended, (16), (18), (25), and (29) as amended, and schedule 2 stand as printed.
The Senate divided. [18:40]

(The President—Senator Hogg)

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

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE

Senator Macdonald did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question agreed to.

Bill, as amended, agreed to.

Third Reading

The PRESIDENT (18:44): The question now is that the remaining stages of this bill be agreed to and this bill, as amended, be now passed.

The Senate divided. [18:46]

(The President—Senator Hogg)

Ayes .........................34
Noes ..........................27
Majority ......................7

AYES

Bilyk, CL
Brown, CL
Carr, KJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Lundy, KA
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Singh, LM
Sterle, G
Urquhart, AE

NOES

Abetz, E
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Johnston, D
McKenzie, B
Parry, S
Ryan, SM
Sinodinos, A
Williams, JR

Back, CJ
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Cannavale-Wells, C
Humphries, G
Rogerson, H (teller)
Nash, F
Payne, MA
Scullion, NG
Smith, D

AYES

Bishop, TM
Cameron, DN
Collins, JMA
Crossin, P
Farrell, D
Gallacher, AM
Hogg, JJ
Madigan, JJ
McEwen, A (teller)
Milne, C
Polley, H
Riannon, L
Stithlthwaite, M
Wright, PL

NOES

Abetz, E
Birmingham, SJ
Bushby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Fifield, MP
Johnston, D
McKenzie, B
Parry, S
Ryan, SM
Sinodinos, A
Williams, JR

Back, CJ
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Ferravanti-Wells, C
Humphries, G
Rogerson, H (teller)
Nash, F
Payne, MA
Scullion, NG
Smith, D
Senator Fisher did not vote, to compensate for the vacancy caused by the resignation of Senator Sherry.

Senator Macdonald did not vote, to compensate for the vacancy caused by the resignation of Senator Bob Brown.

Question agreed to.

Bill read a third time.

**National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2012**

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

**Senator FIERRAVANTI-WELLS** (New South Wales) (18:48): The National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2012 seeks to improve the operation of pricing and price disclosure for medicines supplied under the Pharmaceutical Benefits Scheme, to commence 1 October 2012. The bill also makes some modifications to the way medicines are listed for supply for doctors’ emergency bags. As it is under the current legislation, the price of a medicine can be expressed in different ways for different functions. This bill removes the approved price to pharmacists and replaces it with an ex-manufacturer price as the core PBS price in the act. The bill provides transitional provisions and includes a method for converting current PBS prices to an ex-manufacturer amount. The bill requires that only one approved ex-manufacturer price be agreed or determined for a pharmaceutical item.

However, the minister has advised that there will be around 40 pharmaceutical items for which the conversion calculations will result in different prices and some negotiations will be required on a case-by-case basis. Where negotiations are not successful, a default price will be applied which is the lowest of the converted ex-manufacturer prices for the item. The bill, as we understand, will also enable price functions to operate uniformly at ex-manufacturer level across the PBS, including where the same item is listed under different PBS programs and mechanisms of supply. Provisions for premium brand pricing will continue.

This bill will ensure that medicines can be captured for the purposes of price disclosure and such pricing issues, as far as the coalition is concerned, ought to have been more properly addressed at the time that the government originally legislated its changes, namely in the National Health Amendment (Pharmaceutical Benefits Scheme) Bill 2010. The government has failed to honour agreements with the sector in the past and the deferral agreement in this case is only valid until October 2012.

The government has introduced uncertainty in the process of PBS approvals which may result in delays in timely access to new medicines. I take the opportunity to make some pertinent points in relation to this very point about uncertainty with PBS approvals. Labor signed a memorandum of understanding with Medicines Australia in May 2010 to provide policy certainty to the sector in return for additional savings of $1.9 billion over five years. But within months of having entered into the agreement, the government made an unprecedented
change—surprise, surprise!—to the convention on how governments list medicines on the PBS, in direct contradiction of the spirit of the memorandum of understanding. So in February 2011 we saw the Gillard Labor government refuse to list on the PBS a number of medicines that had been recommended by the independent Pharmaceutical Benefits Advisory Committee, blaming its 'fiscal circumstances'. Of course, the indefinite deferral of the listing of seven new medicines and a vaccine recommended by the independent Pharmaceutical Benefits Advisory Committee had some very grave consequences—and I will come to those—which were analysed by the Senate Finance and Public Administration Committee. Unfortunately, this move denied patients timely access to new medicines that had been independently assessed by the PBAC as safe, efficacious and cost effective.

As I indicated, there was a Senate inquiry and, after substantial political pressure and the Senate inquiry initiated by the coalition, the government agreed to list the deferred medicines in December 2011 and entered into another agreement with key stakeholders. Having said that, when they did make the announcement, on 30 September 2011, the announcement was that there would be further deferrals in the future for new medicines being subsidised on the PBS. In that announcement the government committed only to not deferring drugs that cost under $10 million a year for the coming year. Of course this was a token gesture and it has done absolutely nothing to restore confidence in the PBS.

That backdown by the Gillard government on the February deferrals was certainly welcome news for the patients and families who had been denied access to those medicines, but the uncertainty has continued. What is really sad in this circumstance is that a transparent evidence based system for listing new medicines which received bipartisan support over many years and was very widely respected was trashed by this government because of its financial mismanagement of the economy. People desperately in need of drugs that had been approved by this transparent system were suddenly held up because the government had wasted so much money, and people's lives were put at stake. Yes, the government had signed the memorandum of understanding that was supposed to provide policy certainty for the future in return for savings. Yet, typical of this government, only months after this agreement was signed, in an unprecedented policy U-turn, the government totally changed its mind—of course, that reflects more on the then minister, Minister Roxon, and the fact that she really could not be trusted—and again promises about health were broken. Therefore, any indication from this government of working with stakeholders has to be taken with a grain of salt because, as we have seen, if they are prepared to play with the health of people in relation to life-saving drugs they are prepared to do anything. We know that patients in the future are going to be denied access to their medicines, but we do not know the grounds upon which that is going to happen. In September we were looking at, for example, the fact that drugs that prevent strokes, which could benefit up to 300,000 patients, had not been listed, despite having been recommended for six months and having been found to be safe, efficacious and cost effective. Continuing policy uncertainty means that companies will reconsider the costly process of listing new medicines into the future.

I want to take the opportunity to look at some of the matters that were raised at a hearing of the Senate Finance and Public Administration References Committee under
the chairmanship of my colleague Senator Ryan. When you look at the evidence, none was more graphic than the evidence given in relation to Botox, just one of the drugs registered for the treatment of severe primary hyperhidrosis, which is, basically, severe sweating. For those members who participated in that hearing, the evidence given by Ms Ellsum was very powerful. In her case, the initial treatment cost was just under $1,900, a cost that for many people was prohibitive. Had Ms Ellsum's grandparents not been able to assist with the payments, it would have been very difficult. Her evidence provided the committee with a rare insight into how living with the disease has affected her life and the difference it has made to be able to access this treatment. She said:

I have had it since I was three, but it got really bad in puberty. That was when I was in high school, so I was like the magnet for bullying; everyone went at me, because they did not understand, and no-one understands. It caused my depression. There were days when I did not want to get out of bed because it is so controlling. I blamed myself lots of the times when I had it; I thought it was just me who had it. It draws people back; it stops people from doing things. It deprived me of most of my youth; I did not do the things I wanted to do because it was so controlling and conflicting with my life. I could not do my deb this year because I was afraid of what people would think, and that really made me sad.

With the Botox, it has been amazing. It is the biggest improvement that I have ever heard about, and it has worked. I am planning to do my deb next year—

and she went on about how, amazingly, this had changed her life. This was just one insight that we had into the human cost of this government's total mismanagement. They said it was because of fiscal circumstances, but we still do not know about this arbitrary new decision-making process to defer drugs that have been approved by the PBAC. I do not have the time this evening—because the guillotine is going to be applied shortly—to canvass fully the very pertinent issues as to how small amounts of very vital drugs are being cut because of this government's mismanagement. We will restore policy stability and confidence in the PBS. *(Time expired)*

Question agreed to.
Bill read a second time.

Third Reading

The DEPUTY PRESIDENT: Order!

The time allotted for the consideration of this bill has now expired. The question is that the remaining stages of the bill be agreed to and the bill be now passed.

Question agreed to.
Bill read a third time.

Electoral and Referendum Amendment (Maintaining Address) Bill 2011

Electoral and Referendum Amendment (Protecting Elector Participation) Bill 2012

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator RYAN (Victoria) (19:00): These bills represent another in the ongoing attempts by the Labor government and their Green allies to fiddle with our electoral act. I have probably been involved in more particular inquiries on this legislation than anyone else in the building, having served on three of them through two different committees over my short time here. It was initially introduced in 2009 under a different name which would have allowed the Australian Electoral Commission to determine trusted data sources and to use
those data sources to automatically enrol people on the electoral roll. I note that 'automatically' is not the preferred term of the Electoral Commissioner. The Electoral Commissioner's preferred term is 'direct enrolment' and in New South Wales the preferred term is 'smart roll'. But the point remains that if this legislation is passed we will no longer have a completed enrolment form by someone who enrols to vote. We will no longer be expecting people to fill out a DL-sized form no bigger than an envelope and to have it witnessed to exercise that most critical element of our liberal democracy—and that is the franchise.

I will go into a number of concerns I have with that. That bill was not passed by this parliament, and on a number of occasions it has been floated again and the opposition has made its views clear that the integrity of the electoral roll is of the utmost importance. There seems to be a contention put by advocates of this legislation on the other side and their Greens partners that somehow enrolling to vote in Australia is a complex task. I do not know about you, Mr Deputy President, but if I go and try to join a video library I will fill out a bigger form than Australia's electoral enrolment form. It is a small form that simply asks for confirmation of the details you assert and a sworn statement that it happens to be true. It provides a signature whereby the Australian Electoral Commission can compare that signature if, for example, you are using a declaration vote.

This is not an onerous task. Australians fill out forms all the time—Centrelink forms, schoolkids' vaccination forms, childcare forms. The process to enrol in Australia is an easy one. At every citizenship ceremony I have been to, the Australian Electoral Commission either is there or has handed out material with the citizenship packs to allow new citizens to exercise their franchise as soon as possible. As children leave high school, we have the Australian Electoral Commission contacting them. People can enrol provisionally from the age of 16 in this country. It is not like certain other countries where there may be allegations of intimidation or there may be allegations of bureaucratic hurdles that make it difficult to vote. In Australia enrolling to vote is probably the easiest interaction with government bureaucracy you are ever going to have.

Our system has a remarkably strong record of enrolment—with over 90 per cent of people enrolled—we have high turnouts at elections, as a general rule we have very safe electoral processes and we do not have a fraudulent electoral roll. I admit that there are concerns about the policing of the electoral roll and the investigation of electoral offences, but I think it is fair to say that when we have a close election the Australian people have faith that the result is fair. The only example of sustained electoral fraud that has come to light in the last couple of decades that I have been following politics has been that exposed by the Shepherdson inquiry and undertaken by the Queensland branch of the Australian Labor Party. But, as a general rule, we have a trusted electoral system.

Why is this bill being put forward? We have an allegation that somehow there are a million people missing from the electoral roll. There are people who are not on the electoral roll, but I am not so arrogant as to think that a DL-sized form is actually the source of that. A person with a touch of humility might say that people not enrolling to vote in our compulsory voting environment is more of a reflection on the politicians than on the people. I put that view. However, what the government and their Greens allies now seek to do is conscript people onto the electoral roll and to
remove that particular responsibility and duty from Australian citizens. It is a very, very important change in our electoral system, not just for reasons of security but because we are no longer expecting people to enrol. I would imagine that the reason some people choose not to enrol to vote is that we have a compulsory voting environment. The only way in which you can exercise what some might consider a right not to vote, as I do, or to not attend would be to not enrol. I say again, I do not think that is a reflection on the citizenry as much as it is on politicians.

What do these bills do? I note that we now have two bills before us—one about changing addresses and one about the initial enrolment. When Minister Gray introduced in the other place the bill that relates to automatically changing people's address, I note that he did actually say that the bill only changes people's addresses and is not moving to automatic or, as he described it, direct enrolment. So another separate bill came forward. Let us go back to where we were in 2009 and simply say that here we have a package of bills that is going to profoundly change our electoral roll by automatically enrolling people. What are the concerns we have? I have mentioned some of the concerns I have with respect to the security of issues like provisional votes. Let us go to the data sources that could be used.

The Australian electoral roll is actually one of the most accurate databases that anyone in Australia would have. By using other government databases that are not designed for this particular purpose, we put at real risk its integrity, we put its security at real risk of being watered down and we put its quality at real risk of being lowered. For example, databases that have been considered for use by the New South Wales Electoral Commission are things like drivers licences. They do not contain citizenship data. Similarly, high school leaving databases, whether they be HSC exams in New South Wales or VCE exams in Victoria, do not necessarily contain citizenship data. They do not necessarily contain country-of-birth data, which might at least create a subset of people who could be used. These databases are not designed for the purpose that an electoral database is. Similarly, with electoral rolls based upon RTA or VicRoads databases, people do not necessarily always update their drivers licence. At the moment, people are required to update their information with the Electoral Commission within 30 days of a change of address. I appreciate that it is not always the first thing on people's minds. Also, drivers licences, unlike electricity or mobile phone accounts or bills that you have to pay, are not automatically updated by people.

I will go to a couple of reports that have been quoted in the dissenting reports of the opposition to show that some of the databases people might like to think would be fit for this purpose are indeed not. A 1999 report by the House of Representatives Standing Committee on Economics, Finance and Public Administration entitled Numbers on the run: review of the ANAO report No. 37, 1998-1999 on the management of tax file numbers found that there were 3.2 million more tax file numbers than there were people in Australia at the previous census. There were 185,000 potential duplicate tax records and 62 per cent of deceased clients were not recorded as deceased in a sample match. Similarly, an ANAO audit report stated that:

ANAO found that up to half a million active Medicare enrolment records were probably for people who are deceased. The databases of other governments are not to the standard that we would expect for an electoral roll.

One of the reasons that people have faith in election decisions that can be decided by a
handful of votes, such as the seat of McEwen at the 2007 election, even after challenges and court judgments, is that there is no question about the electoral roll. Again, there has been no demonstrated need for this change. Yes, there are people who are not on the electoral roll but no-one has alleged that there is in any way a campaign that makes it difficult for those people to be on the electoral roll. No-one has alleged that this is in fact an overly bureaucratic process, when every other government form takes hours to fill out. I was fortunate enough late last year to become a father. The Centrelink form to register the birth of a child takes a day to fill out with 85 questions. It is one of the more complex forms I have ever come across. It is not an easy form. The electoral form would be less than a 10th of the size of it, yet somehow we have to address this. There is a real risk with the use of external data sources here.

Another thing that gives people faith in our elections is the impartiality of the Electoral Commissioner. I say nothing now that I have not said on the record to the commissioner himself. I believe he made a mistake when he advocated this issue. This is a contentious political issue and I believe the commissioner made a mistake when he advocated the Labor Party's position on it. This bill will give the commissioner the power to determine trusted data sources. We do not have any criteria around what those trusted data sources will be and there is no avenue for parliamentary disallowance of such. What happens if a mistake is made? What happens if people are added to the roll and votes are exercised if they are not supposed to be on the roll, if one of the trusted data sources is wrong, if a mistake is made?

Anything involving human decision with respect to this will involve mistakes. I think that is a risk to the commission, because in a close election if we do not have the same level of faith in our electoral roll and if decisions have been made by impartial officials, even if done in good faith—and I allege nothing less—then we will bring into question the impartiality of the electoral process and the faith that people have in our electoral process and, indeed, in the Electoral Commission. I do not want a bill like this to go forward that puts the commissioner in a position where a genuine mistake could cause a loss of faith in the commission.

Let us go back to what we have—a simple form, less than an A4 piece of paper, saying who you are, where you live, your date of birth, your citizenship or nation of birth and to be witnessed by someone that says the above is true. That is not an onerous task and it creates that level of public confidence and faith in our electoral system—and that is being put at risk by this bill. The lack of criteria about the data sources that will be used, the lack of criteria about when decisions will be made and the lack of information about those decisions being publicised all create a risk for mistakes to be made. Even with all the good faith actions by the Electoral Commission, they create the risk of mistakes being made and therefore some of that public faith potentially being removed, because there is no data source or database that government has that will not have mistakes.

One of the other criticisms of our current electoral arrangements is that we cleanse people from the roll. At the moment, we can remove people from the roll but we cannot add them to the roll without their consent. That is true. We may have all received a letter at some point in our lives from the Electoral Commission asking us to validate our enrolment by saying, 'Yes, we still live at this address,' signing it and then sending it back in a reply-paid envelope. If you receive multiples of those letters and do not
respond—they come with big warnings saying, 'You will be removed from the roll'—you will be removed from it. That is not in any way a criticism of our current process. I fail to see how that is a flaw.

If you get a letter in a reply-paid envelope—and it is not just done on a once-off basis; it is done if the commission receive some data that says you may have moved, and they do it on multiple occasions to give you an opportunity to respond or to deal with the vagaries of the mail service—all you have to do is sign the piece of paper and put it in the reply-paid envelope and post it and you will maintain your enrolment. That is a core integrity measure to make sure that people are actually where they live and to make sure that the roll is accurate. That is in no way a comparison with adding people to the roll without their consent. The reason for that is that, under the proposals before us, if the Electoral Commissioner receives data that, for example, you have moved house or moved suburb or you are a new enrolee—if you have just turned 18 years old and they have not received a form from you; they might be using a high school graduation database or an exam database or a drivers licence database—they will send you a letter. Or, if they have an email address or a number for text messaging, they will send you one of those, saying, 'We now are aware that you live at the following address and are 18 years old, and unless you respond we are going to put you on the roll.'

Perhaps we can just pause here for a second and consider the extraordinary inconsistency between those two approaches. In one case you are required to update your enrolment if you move. Occasionally the AEC, in a not very burdensome approach to the citizen, will say, 'Please sign this form just to confirm that you still live where you do and put it in the reply paid envelope so we can make sure the electoral roll has integrity.' However, under this system, if you are a new enrollee or you have changed address, according to the AEC or some so-called trusted data source, that letter might go to your new address or it might go to another address they have. If you are not there you will never get the letter, but you may well be added to the electoral roll. That is the opposite of maintaining integrity in our electoral system. That goes to show that the agenda of the Greens and the Labor Party is to at all costs try to get as many people on the roll as possible. I have said again to the commissioner that I think the AEC at the moment has an unfortunate obsession with trying to hit some sort of numerical target for the number of people enrolled.

The correct job of the AEC is to promote enrolment, to enforce the electoral law, including finding those who do not vote, regardless of what one's view on compulsory voting may be, and to maintain an electoral roll as best they can. And they should be able to chase people who do not enrol, because the law requires it, and we may need to consider changes to the law to make it a summary offence to not enrol to vote, rather than to more formally prosecute people as was done in Victoria recently. But none of that is an excuse for removing the paper trail we have that actually ensures that individuals have to sign up to the electoral roll and that therefore if there is electoral fraud an offence has been committed.

What would happen if we suddenly found that there were people appearing on electoral rolls who were not meant to be there, apart from criticism of the commission that put them there? I am not saying this will necessarily happen soon, but a mistake will be made at some point. We cannot necessarily then prove that there was any fraud on the part of the voter. In Queensland, which had the Shepherdson inquiry and where there were serious allegations of
people not enrolling or enrolling at incorrect addresses for internal Labor party purposes, we will not necessarily have the paper trail to be able to prove that case. We will not necessarily even have the paper trail to be able to investigate it.

So this represents a very serious threat to a system that works. No-one has demonstrated the problem with our current electoral system. No-one has demonstrated why on earth we need to undertake such a radical change. If people think this is going to be a panacea for electoral participation, they are wrong. The truth is that those who choose not to enrol to vote usually are not that keen on voting anyway. If people think we want to pursue those who do not compulsorily enrol and those who do not vote, then fine: use the legal mechanisms at your disposal rather than creating this Big Brother approach which conscripts people.

To use the example of New South Wales, which brought in this particular process before the last state election in a last-gasp attempt by the Labor Party, about 92 per cent of people who were enrolled on the normal electoral roll voted. That is a pretty standard electoral turnout. But among those who were compulsorily or automatically enrolled the turnout collapsed to 64 per cent, because a lot of these people did not want to vote. We have not yet had all the questions answered over these many years, because the Victorian and New South Wales electoral commissions are still working through this. This is still quite experimental. But the important point is that there has been no demonstrated need to change this core aspect of our electoral roll. The courts have held, quite rightly, that they do not peer beyond the electoral roll. It is a bit like a register of land titles. The register or the electoral roll has become something the court does not peer behind the veil of—and that is as it should be. But what we are doing now is putting at risk the level of public faith that people hold in that roll.

I could speak for hours and probably put many people to sleep with my concerns about this roll, but they are the most important ones. This is strongly opposed by the coalition, simply because there is no need for it. Any allegations that this is somehow addressing people's inability to vote are profoundly misleading and do not represent any form of truth.

Debate interrupted.

**ADJOURNMENT**

The DEPUTY PRESIDENT (19:19): Order! I propose the question:

That the Senate do now adjourn.

**Antarctica**

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (19:19): I rise in tonight's adjournment debate to make a contribution about an event I attended on Sunday on behalf of the federal government and the environment minister, Mr Tony Burke. The forum on Antarctica, held in Hobart, was organised by the People for an Antarctic World Park and coincided with the Antarctic Treaty Consultative Meeting in Hobart. I want to thank Dr Geoff Mosley not only for organising the forum but also in acknowledgment of the leading and influential role he has played in the environmental protection of Antarctica. At the forum I spoke on and covered a number of issues relating to Australia's involvement in Antarctica and the importance of Antarctica to Tasmania. It is important, I believe, to also put that on record here today.

At the forum I said that Australia has a long and close association with the frozen continent to our south. Nowhere is that connection felt more deeply than in Hobart, which has for more than 100 years been a gateway to the Southern Ocean and the
Antarctic continent beyond. The Antarctic sector is vitally important to Tasmania. In fact, it contributes at least $182.5 million to the Tasmanian economy every year and employs over 830 Tasmanians in research institutions and businesses. The majority of Australian research scientists in the Antarctic field are based in Tasmania, and the work they do is internationally recognised.

The federal Labor government remains strongly committed to investing in Antarctica, and as part of the 2011-12 budget we announced $28.3 million to ensure that Australia maintains its position as a world leader in Antarctic research. This investment will ensure that we continue to equip our scientists and expeditioners with the tools they need to pursue cutting-edge research in Antarctica. The investment of $28.3 million for research in Antarctica will address critical issues such as climate change and the human footprint on Antarctica. It also includes scientific research programs at research stations at Mawson, Davis, Casey and Macquarie and shipping support for the Australian Airlink, which provides direct air links for scientists and other expeditioners from Hobart to Antarctica. Australia is responsible for 42 per cent and the Australian government has led a scientific research program for 60 years, so our commitment to Antarctica remains strong.

Our commitment to Antarctic research is also good news for Tasmania, which is recognised as Australia's gateway to the Antarctic and enjoys the flow-on benefits of jobs and investments related to our significant Antarctic research program. As well as being an internationally renowned hub of Antarctic operations, Hobart is also host to the secretariats of two related international agreements—the Commission for the Conservation of Antarctic Marine Living Resources and the Agreement on the Conservation of Albatrosses and Petrels.

Hobart is also home to some of the world's leading Antarctic and Southern Ocean research and educational facilities, including the Australian Antarctic Division; the Institute for Marine and Antarctic Studies and the Antarctic Climate and Ecosystems Cooperative Research Centre, both within the University of Tasmania; and the headquarters of the Marine and Atmospheric Research Division of our Commonwealth Scientific and Industrial Research Organisation.

The presence of these organisations in Hobart boosts Tasmania's international Antarctic profile and is critical for maintaining the status and reputation of Hobart as an Antarctic gateway. These institutions also bring together a formidable body of world-class researchers from across the country and across the globe to work together on Antarctic research of national and international significance. They conduct unique research focused on questions of global significance, including the role of Antarctica and the Southern Ocean in global climate and the impacts of climate change on Australia and the world.

The Australian government is honoured to have hosted the 35th Antarctic Treaty Consultative Meeting in Hobart. All nations with an active interest in Antarctica are part of the Antarctic Treaty. The gathering of governments, experts, non-government groups and industry representatives makes it clear that the spirit of cooperation and understanding embedded in the Antarctic Treaty is alive and well. Parties to the treaty have much to be proud of—the achievements arising out of the Antarctic Treaty are indeed impressive. At the most fundamental level, the preservation of an entire unspoiled continent as a natural reserve free of conflict and devoted to peace and science is an incredible achievement.
The Australian government also has a long and distinguished record as a leading advocate for environmental protection of Antarctica. We have worked very actively through the Antarctic Treaty system to achieve strong environmental outcomes through this unique international system. The Australian government has long seen the Antarctic Treaty system as the most effective way to maintain and improve environmental protection standards in Antarctica.

Only last week at the opening of the 35th Antarctic Treaty Consultative Meeting in Hobart, the federal Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke, applauded the role played by former Australian Prime Minister Bob Hawke in taking on the world—defying a global move to enable mining in Antarctica. Mr Hawke and his colleagues from France and Spain led an international push which culminated in the Protocol on Environmental Protection to the Antarctic Treaty, often called the Madrid protocol. This agreement imposes an indefinite prohibition on mining in Antarctica. It also sets in place a comprehensive and effective range of environmental protections for the frozen continent. It is a living arrangement which continues to adapt to changing circumstances through the work of the Committee for Environmental Protection.

The Antarctic Treaty includes prohibitions on military and nuclear activities. The Madrid protocol designates Antarctica as a natural reserve devoted, as I have said, to peace and science, and the Convention on the Conservation of Antarctic Marine Living Resources protects the Southern Ocean ecosystems. The Committee for Environmental Protection has undertaken its ongoing and important work in Hobart to establish and enforce contemporary and appropriate rules of environmental engagement for parties active in Antarctica.

As the Antarctic Treaty Consultative Meeting, or ATCM, finishes up, Australia and other Antarctic nations have only today reaffirmed their commitment to protect and preserve Antarctica as a natural reserve devoted to peace and science. The communiqué released by the ATCM has set out key outcomes, including measures to further reduce the risk posed by non-native species, further develop the Antarctic protected areas system, promote repair of past environmental damage, enhance understanding of global climate change scientific research and promote the safe and environmentally sensitive conduct of tourism activities.

Australia has also signed three new international agreements with the Chinese Arctic and Antarctic Administration, the French Polar Institute and the Russian Federation. These new agreements will cover science, logistics and environmental management and are aimed at deepening bilateral collaboration and cooperation on the ground in Antarctica.

The environment minister, Tony Burke, has welcomed the positive outcomes from the meeting. He said:

Antarctica is one of the world's great wildernesses and Australia is a world leader in ensuring that we protect this unique continent for the future. Importantly, we will continue to work to build the number of parties to the Environmental Protocol to the Antarctic Treaty.

Australia pursued outcomes at the ATCM focused on ensuring that the ATCM becomes an even more effective institution, responsive to the priorities of the Antarctic Treaty parties and capable of tackling the challenges faced by Antarctica in the 21st century. I would like to echo what Senator Bob Carr said, which was:
I am proud that Australia, as a leading Antarctic nation, drove outcomes at the meeting which will have a lasting legacy for Antarctica.

**Gillard Government**

**Marine Sanctuaries**

**Senator SMITH** (Western Australia) (19:28): I rise on the adjournment this evening to talk about a government which is intent on repeating the errors of its short history and a government which cares more about fish than it cares about people. We might have thought that this government had learned a few lessons about making policy on the run. After all, it is not as if they have not had plenty of opportunities to learn. We have had the ill-considered, poorly thought through Home Insulation Program. We have had the hunched school halls program. We have had a mining superprofits tax—a policy to which the current Prime Minister and Treasurer enthusiastically subscribed until they read the polls, at which point they quickly threw it on the scrap heap along with the political corpse of a former Prime Minister. We have had the East Timor solution, which was going nicely until the Prime Minister discovered that it might have been a good idea to consult with the East Timorese before making her announcement. So that was ditched and, before we knew it, we had the Malaysia solution, which was so poorly designed the High Court struck it down. In less than two weeks, Australians will cop the world's biggest carbon tax—the final manifestation of one of the most cynical deceptions ever perpetrated on the Australian electorate. The government is right to talk about its compensation package—its one-off payment to relieve the pain for Australian families, retirees and pensioners—because its carbon tax will hurt people. We have a compensation program because the carbon tax will hurt people. It is worth noting its compensation package is a one-off payment, whereas the carbon tax is the tax that keeps on taxing. Year in, year out it will continue to rise.

Tonight I want to draw the Senate's attention to the government's expansion of marine parks. It seems the Prime Minister's determination to placate her political enablers in the form of the Australian Greens goes further than the imposition of the world's biggest carbon tax. We now have the government proposing the world's biggest network of marine parks. I am old enough to remember the statement that no child will live in poverty—

**Senator Kroger:** You're not that old!

**Senator SMITH:** I am that old/young! So I am very sceptical when I hear about grandiose government plans, particularly from this government. We see big ideas based on bad policy, a lack of science and little real consultation with affected communities. Once again, the policy has been cobbled together with inadequate consultation, a failure to address the likely economic consequences and what seems to be a manic determination by this government to placate noisy environmentalists at the expense of a careful, balanced, science based approach to policy.

The coalition has an excellent record when it comes to marine conservation. I will always prefer a balanced, science based approach to environmental management over a cobbled together environmental and political fix. All of us in this place understand the importance of protecting Australia's marine environment. The coalition has a clear, strong record of delivery in this area with policy that is based on science and a proper process of consultation with affected communities. The Senate will remember that it was the Howard government that established the Great Barrier Reef Marine Park in 2001. It was the coalition that commenced the process of
establishing a network of marine protected areas in 2006, a process begun by working cooperatively with both environmental and fishing groups. When this incompetent Labor government is finally gone, the coalition will restore sanity to the process by committing to a carefully balanced, science based panel approach to reviewing the boundaries of these marine conservation reserves.

The announcement of the marine reserves network smacks of Labor's typical approach—that government knows best and this is what we are doing, take it or leave it. Minister Burke's own statement makes this crystal clear. On 14 June he announced a 60-day consultation period, but the very next sentence in his statement reads:

It's too late for people to say I want this line shifted or I want this zone painted a different colour.

In other words, the decision had been made and the government was not the least bit interested in hearing what ordinary people might have thought. What makes this dismissal of community views even harder to stomach is that there is no evidence whatsoever that the government has based its marine reserve zones on an empirical, science based approach. Indeed, there is ample evidence to suggest that precisely the opposite has occurred. The minister's own department has reportedly admitted that there is no marine science behind the Coral Sea lockup zone. The minister himself concedes that the scale of the lockup in the temperate east zone is nothing more than a payoff for the vast lockup of the Coral Sea zone.

Environmental and industry groups have been played off against each other, with some kept in the dark so that others can be given preferential treatment. This might sound familiar to some people. It all sounds rather like a good old-fashioned Sussex Street fix, or Sussex Street under water. However, we are not talking about a preselection or the latest plot to overthrow a Prime Minister. We are talking about people's livelihoods. The minister needs to realise that, whilst he might enjoy playing politics, when it comes to the protection of Australia's marine environment and the viability of our fishing industry it is time to end the deals and stop the games. The policy needs to be based on science and not politics.

The farcical consultation process that has accompanied the announcement of the marine reserves means there is great uncertainty in Australia's fishing industries about what kind of assistance they might be able to get. The Prime Minister, speaking on the ABC on 14 June, declared that there will be assistance 'in the vicinity of $100 million'. That should make commercial fishers around Australia feel extremely nervous—because of both the woefully inadequate figure, which I will come to in a moment, and the Prime Minister's language. This Prime Minister has clear political form. We know that when she makes a firm declaration such as, 'There will be no carbon tax under the government I lead,' she is quite prepared to do precisely the opposite. So when the Prime Minister invokes a qualifier and says a compensation package will be 'in the vicinity' of $100 million, we are entitled to ask: does that actually mean $50 million, does it mean $75 million, or does it in fact mean $100 million?

Given that we will all be paying this Prime Minister's carbon tax in two weeks, Australians are entitled to doubt her word. It is worth noting that experts have made it clear that $100 million will not go anywhere near addressing the problem. When the Howard government established the Great Barrier Reef Marine Park, the compensation for that one region alone came to $250 million. Yet Labor now tell us something 'in the vicinity' of $100 million will be adequate for an area covering 3.1 million square
kilometres. It is even more concerning when you consider that Labor did not allocate a single cent in the budget last month to this initiative.

In my remaining minutes, let me talk about the impact on my home state of Western Australia. As we all know, Western Australia's exports of iron ore are critical to Australia's economic wellbeing. It stands to reason that any government with a modicum of common sense would act to ensure the mining and resources sector did not suffer as a result of increasing cost and regulatory burdens. Alas, for now, we have in Australia the Gillard Labor government, which is not just content with slugging the $68.2 billion iron ore export industry with its mineral resources rent tax; it has found another way to make it harder for the mining sector to do business. The marine reserves plan announced by Minister Burke will place restrictions on port and shipping access in the Kimberley and the Pilbara—the very ports used by the iron ore industry to get its product to overseas customers. This is another policy masterstroke from a Labor government that has brought new depth to the meaning of the word 'ineptitude'.

The oil and gas sector's capacity to grow in the years ahead is wholly dependent on its ability to undertake further exploration—an ability that will be constrained by the government's marine park announcement. I am sure these issues could have been worked through—there is always some give and take in these sorts of issues—but it appears to me that on this particular point there has been a tremendous lack of consultation with key governments, such as the Western Australian government. (Time expired)

Mining

Senator RHIANNON (New South Wales) (19:38): If the Minister for Sustainability, Environment, Water, Population and Communities, Tony Burke, had been able to hop on that plane to Rio I would have recommended that he read Dirty Money by Matthew Benns on the long haul across the Pacific. Mr Benn's book details numerous examples of the impact that mining companies—many of them Australian owned—are having on low-income countries. Dirty Money is a stark reminder that the Gillard government's plan to promote so-called sustainable mining to respond to global environmental damage and social inequality is an irresponsible policy that should not have any role in the negotiations to finalise the UN document 'The Future We Want' at Rio+20. Mining companies have an appalling record in low-income countries. This is one excerpt from Dirty Money:

They put the boys into the Anvil mining truck. They came for my dad. I asked them 'where are you taking him?' and they didn't answer.' The Australian mining company trucks had come roaring into the African village and disgorged over 100 heavily armed Government soldiers. The rebels, protesting at the way the Australian company was mining the Congolese silver and copper without giving anything back to the local community, had already surrendered. But their looting of food and fuel from the Anvil Mining depot at Kilwa could not go unanswered. The Australians flew in the Government troops, loaded them onto their trucks and then stood back while they rounded up the rebellion's 'sympathisers'. "We started running but the soldiers caught and searched our belongings, they arrested my dad and two other boys," said Albert Kitanika. The soldiers refused to say where they were taking his father. "They took him 50 metres down the road where they shot and stabbed him to death." A United Nations investigation found Mr Kitanika was one of at least 100 people summarily executed in the Government operation in 2004. Afterwards the Australian company issued a press release praising the Government for its rapid response. Asked about its role in transporting the troops, Anvil's chief executive officer Bill Turner said: "So what".
Sadly, these events are not unusual for mining corporations in Africa and other low-income countries.

Closer to home, Australian mining companies may not be working with the military but their actions are far from world's best practice. The name Ok Tedi has become synonymous with polluting mining practices. Downstream from the BHP Billiton owned mine, 50,000 locals from 120 villages have been affected. Polluted waters from the mine have destroyed food, gardens and fishing grounds. Hardship and sickness is what this mining operation brought to locals. This gold and copper mine has been run for the benefit of boardrooms far removed from PNG, but if you read the company's documents you would be led to believe otherwise. BHP's 'Guide to Business Conduct' promises: 'It is BHP's policy to achieve a high standard of environmental care.'

Rio Tinto also talks up its high standards. This mining giant states with reference to workers in Australia: 'Employees will be protected to the best of the company's ability against harassment in the workplace.' However, in Indonesia Rio Tinto is being investigated by the National Human Rights Commission over sexual abuse of underage children at its Kelian mine. BHP Billiton and Rio Tinto are two of the mining companies that are playing a role in AusAID's Mining for Development Initiative, introduced last year by the Prime Minister with the stated aim to see:

... developing countries use their natural resources to grow their economies and provide social benefits to their people.

The statement goes on to say that this will:

... improve resource governance, sustainability and development.

The wisdom of the choice of BHP Billiton and Rio Tinto by AusAID is telling. BHP Billiton's main task is to maximise its profits, and that is frequently at the expense of occupational health and safety standards on the job, environmental standards and the rights of local communities. BHP Chairman Jac Nasser recently told the Institute of Company Directors that Australian industrial laws should be amended to 'recognise the rights of management'. BHP Billiton regularly battles unions campaigning to protect working conditions.

In Australia, mining companies such as BHP Billiton do not have a track record in managing the environmental and health impacts of mining related activities that we can in any way be proud of. This leaves a very big question mark over how these mining companies can serve as a model for best-practice mining in low-income countries. A Western Australian parliamentary inquiry into the deaths of over 9,000 native birds near Esperance in Western Australia that occurred over about four months between the end of 2006 and 2007 found the cause was lead poisoning from Magellan Metals lead carbonate. Illegal mining is polluting the Great Barrier Reef and uranium mining in Kakadu National Park conflicts with the World Heritage status of those sites. Newmont Mining dumped 7,000 tonnes of poisonous mercury over Kalgoorlie—mercury damages our vital organs. And we should never forget that it was the careless actions of the Australian owned company Esmeralda that resulted in a huge cyanide spill that reached the Danube River and killed countless fish in Hungary and other countries. With a track record like this, Australian mining companies are hardly the model international citizens to promote responsible mining practice. The Greens certainly support the right of all nations to develop their mineral resources in accordance with the needs of their communities and to protect local and global environments. But the Australian govern-
The Independent review of aid effectiveness, released in April 2011, states that using the aid budget on extractive industries 'could raise conflict-of-interest issues, which would need to be carefully managed'. The Gillard government is championing a pro-mining message at Rio+20 this week. The government's preparation for the negotiations reads suspiciously like a strategy to assist mining companies to boost their profit margins. The Australian government's 'Rio+20 and mining for sustainable development' document asserts that mining is sustainable development. Mining by definition, however, is unsustainable, as all mining involves exploiting a non-renewable resource.

Experience of mining to date demonstrates that mining results in damage to local and global environments. Air and water pollution are a common feature of mining along with loss of biodiversity, displacement of local communities and destruction of farming land. The climate change impacts of many mining operations are huge. The burning and mining of coal in New South Wales contributes about 40 per cent of Australia's greenhouse gas emissions. Friends of the Earth, Aid/Watch and Quit Coal have questioned the governments tactics at Rio+20 in a letter sent to the Minister for Foreign Affairs, Senator the Hon. Bob Carr. Their letter states:

The UN draft states that Rio+20 must not 'impose new conditionalities on aid and finance', nor 'restrict the policy space for countries to pursue their own paths to sustainable development'. In addition, the UN draft reasserts the obligation of developed countries to commit at least 0.7% of national income to overseas aid; the Australian position suggests a commitment of only 0.5%.

Their letter further states:

Australia's proposals on 'financing sustainable development' signal the use of aid in 'enabling policy settings, regulations and incentives (such as innovative market-based tools) to catalyse private finance in sustainable investments'. At the same time, it favours the use of aid 'creatively to leverage private capital through risk-sharing'.

The closest the government's Rio+20 document comes to admitting any problem is in its statement: 'Converting mining into sustainable development is a challenge.' The weakness of this statement reflects that AusAID's mining projects are out of step with its own objectives. Using the cloak of overseas development as a way to rebadge mining as a plus for low-income countries is troubling. At the very least AusAID should start working with mining impacted communities to oblige the companies to clean up their waste, help communities disrupted by mining to restore sustainable living practices and ensure that the bulk of the profits are retained by the people of the countries where the mining occurs.

Arnhem Land Progress Aboriginal Corporation: 40th Anniversary

Senator CROSSIN (Northern Territory) (19:48): Tonight in Darwin there will be a night of celebration and success, a night of celebrating the history of one of the most successful Indigenous economic enterprises the Territory has seen. It is a night where the Territory will recognise the 40 years since the establishment of a business called ALPA.
For those down here in the southern states, you are probably shaking your heads and wondering what it is. For people like me who have lived at Yirrkala in a remote community in the Northern Territory, ALPA is the place you go to get your food and your supplies, the place that is the hub of the very community it serves. I am talking about the Arnhem Land Progress Aboriginal Corporation.

It is an Indigenous business now that was established by the Methodist Overseas Mission Commission 40 years ago, but it is the group that manages the stores in at least five communities, if not 12 communities, throughout its development now. Unfortunately, I am a bit sad because it is the one celebration this year I would have loved to have been at, to be with the many communities and the many fantastic staff, the chair of their board, Reverend Djiniyini Gondarra, and Alistair King, their business manager. I promised them, though, that if I could not be there in person I would be there in spirit through my words tonight in the Senate chamber. I hope that this little contribution actually shows my gratitude on behalf of my constituents for the many decades of work that they have undertaken in remote communities.

ALPA was incorporated under the Northern Territory of Australia Association Incorporation Ordinance 1963 on 20 June 1972. In 2008, ALPA moved from the Northern Territory Association Act to the Federal Corporation (Aboriginal and Torres Strait Islander) Act, or the CATSI Act. Throughout that time, you will see more than 20 years of growth and development. There have been changes. In 1972 there was no Northern Territory and under the Northern Territory government there was no self-government act. We were part of the Commonwealth then. So this organisation and this business has transitioned through some enormous challenges, from the Commonwealth to the Territory, from successive governments to the growth and development of Indigenous communities.

They began as a cooperative of community stores in seven Arnhem Land communities. They have come a long way in their 40 years, from starting off where they sold a few supplies from a counter in a store, probably in a tin shed, to what are now fully serviced air-conditioned stores, offering a wide range of quality products in some of the remotest communities this country knows.

They were established under the supervision of the Methodist Overseas Mission Commission. People across the Territory have some fond memories of the missions, but particularly in north-east Arnhem Land. They were owned and operated by the church back in those days. ALPA was formed as part of the mission's economic development plan for Yolngu people 40 years ago. What a vision. Their initial members were seven community stores: Warruwi on Croker Island, Gapuwiyak, Galiwinku, Milingimbi, Minjilang on Croker Island, Ramingining and Yirrkala. Yirrkala and Warruwi, I think, are now not part of the ALPA store chain. They pulled out in the 1980s, probably about the time I left Yirrkala.

They started off by borrowing almost $1 million to upgrade plant and equipment. The early success in the operation of the stores in fact allowed them to repay that loan within three years. Of course, they have never looked back. ALPA have used their successful retail operations to meet their goals and visions. And what are they? Their mission is to conduct an efficient retail business, emphasising customer service, nutrition, staff development, training and education. They say that they strive to enhance the social and economic
development of their members, giving primacy to their cultural heritage, dignity and desire for equality with their fellow Australians. As I said, their Yolngu members live and are culturally connected to the Arnhem Land communities. The board of directors is chaired by the Reverend Djiniyini Gondarra OAM, who does a fine and outstanding job. They are as a retailer one of the largest financially independent employers of Aboriginal people in Australia. In fact, I think they employ over 330 Indigenous people to this day.

But ALPA's success is built not just on supplying basic food and requirements in each and every community; ALPA's success is really about their involvement with the communities, their development of their communities. It is something that is so entrenched in those communities. When I think about it I find it hard to actually verbalise it and put it into words. But just like in any small community, the community store is more than just a store. The way in which ALPA have put an emphasis on employing and training the Indigenous people in those communities to help run and operate those stores has been a real credit to how a successful Indigenous business model can operate.

Since the 1970s they have recognised the importance of training and development for their staff. They place a big emphasis on that. They are a registered training provider and they deliver certificates I to IV from the current retail services training package. They have been so successful that they have moved outside of the five main communities that are the owners of this business now and they currently manage 12 enterprises owned by other community organisations around the Territory—I will not list those 12 communities. They are now seen as a consultancy in store management for Indigenous communities. In fact, so successful were they that Alastair King was taken across to Outback Stores some years ago, when their CEO suddenly left, to assist with the establishment of Outback Stores. Luckily and thankfully he is now back with ALPA.

They have initiated a nutrition policy and they have started a benevolent program, which means that the profits that they make go into doing such things as providing funeral support for members of the community, medical transfers when necessary and education funds. A whole range of other benefits for the community derive from their profits—ceremonies, education, medical escorts and community events. They were a part of the initiation and financing of the establishment of the Traditional Credit Union in 1995 in the Northern Territory. They are a truly successful business model.

They have, for the last 14 years, developed their success by bringing together Yolngu, Indigenous people, and Balanda, non-Indigenous people, in north-east Arnhem Land. They have a vision that what they want to do is work together, that they can learn from each other, that the skills and knowledge that non-Indigenous people have about operating and running a successful store are skills and knowledge that can be imparted and given to the Yolngu people in those stores. They have a strong emphasis on good governance principles. They use the Money Story. They teach Indigenous people about profit and loss. And, of course, they work with the communities in which they are based.

I guess there is a lot I could say tonight about ALPA. I am passionate about the work they have done and I am passionate about the way in which they have successfully combined what they do with the communities they are in. They are a
recognised industry leader and they are an innovator in this field. As the chairman said in his report last year, he has two visions—one is to steer a ship which successfully manages a company and the other is to be a great ambassador for this company, and that he is. Tonight, as they celebrate 40 years of history, 40 years of success, 40 years of involvement in the Northern Territory, with a net surplus profit of $2.9 million last year, I congratulate them. (Time expired)

Senate adjourned at 19:59

DODOCUMENTS

Tabling

The following government documents were tabled:

Australian National University—Report for 2011.

Migration Act 1958—

Reports for the period 1 November 2011 to 29 February 2012—

Section 91Y—Protection visa processing taking more than 90 days.

Section 440A—Conduct of Refugee Review Tribunal reviews not completed within 90 days.

Section 486O—Assessment of detention arrangements—Personal identifiers 707/12, 710/12, 713/12, 714/12, 717/12, 718/12, 721/12, 722/12, 724-28/12, 732/12, 734/12, 736-38/12, 742/12, 747-49/12, 751/12, 752/12, 755/12, 758/12, 760/12, 763/12, 764/12, 768-71/12, 773/12, 777/12, 781/12, 784/12, 786/12 and 829/12—

Commonwealth Ombudsman’s reports.

Government response to Ombudsman’s reports.

Departmental and Agency Grants

Tabling

The following document was tabled pursuant to the order of the Senate of 24 June 2008:

Departmental and agency grants—Budget estimates—Letter of advice—Education, Employment and Workplace Relations portfolio.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Special Minister of State

(Question No. 1774)

Senator Abetz asked the Minister representing the Special Minister of State, upon notice, on 22 March 2012:

(1) Can a list be provided of all office locations for each department or agency within the Minister’s portfolio, detailing:

(a) the department or agency;
(b) the location;
(c) the size;
(d) the number of staff at each location and their classification;
(e) if the office location is rented, the amount and breakdown of rent paid per square metre;
(f) if the location is owned by the department or agency, the:
   (i) value, and
   (ii) depreciation, of the building; and
(g) the type of functions and work undertaken.

(2) For each department and agency within the Minister's portfolio, can details be provided of all public relations, communications and media staff, listed by department or agency, including:

(a) the number of ongoing staff, specifying:
   (i) their classification,
   (ii) the type of work they undertake, and
   (iii) their location;
(b) the number of non-ongoing staff, specifying:
   (i) their classification,
   (ii) the type of work they undertake, and
   (iii) their location; and
(c) the number of contracted staff, specifying:
   (i) their classification,
   (ii) the type of work they undertake, and
   (iii) their location.

Senator Wong: The Special Minister of State has provided the following answer to the honourable senator's question:

Please refer to the Minister for Finance and Deregulation's response to Question No. 1751.

Treasury

(Question No. 1789)

Senator Bushby asked the Minister representing the Assistant Treasurer, upon notice, on 28 March 2012:
(1) At what stage of the four phase implementation schedule is the Australian Charities and Not-For-Profits Commission (ACNC).

(2) How many positions on the organisational chart have been filled to date, including details of which positions have been filled.

(3) Is the implementation schedule still on target for the proposed 1 July 2012 start date; if not, when is the organisation expected to commence operation in its capacity as regulator.

(4) Is the legislation to create the ACNC being subjected to the full Regulatory Impact Assessment process; if not, to what extent is it being exempted.

Senator Wong: The Assistant Treasurer has provided the following answer to the honourable senator's question:

(1) The ACNC is currently being established as a regulator for the not-for-profit sector. Current projects include:
   - developing legislation establishing the ACNC;
   - building the ACNC information portal and website;
   - developing requirements for the new general reporting framework;
   - recruiting staff for the ACNC;
   - designing and building systems for the registration and review of charitable entities; and
   - working with the ATO to, amongst other things, set up back office functions for the ACNC and structurally separate the ATO's current charity status determination functions for transfer to the ACNC.

(2) As at 27 April 2012, 30 positions have been filled, with the recruited staff for these positions being in various stages of transferring to the ACNC.
   The positions consist of:
   - 2 ACNC SES Assistant Commissioners: General Counsel and Charity Services;
   - 8 EL2 ACNC Directors across the range of ACNC operations;
   - 9 EL1s comprising Managers, Legal Counsels, Senior Investigators, HR support;
   - 6 APS 6 Investigators;
   - 3 APS 6 Advice Services Officers; and
   - 2 APS 6 Guidance and Education Officers.

(3) The Government recently extended the start date for the ACNC from 1 July 2012 to 1 October 2012 (see then Assistant Treasurer's Media Release No. 11 of 1 March 2012).

(4) The policy decision to create an independent Commonwealth level regulator for the sector was subjected to the full Regulatory Impact Assessment process.
   As part of this process, Treasury prepared a Regulation Impact Statement (RIS) in accordance with the Government's Best Practice Regulation Handbook.
   The RIS was formally assessed and considered as adequate and meeting Government standards by the Office of Best Practice Regulation (OBPR). The RIS was published on the OBPR's website.

Sustainability, Environment, Water, Population and Communities
(Question No. 1790)

Senator Waters asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 29 March 2012:
With reference to section 136 of the Environment Protection and Biodiversity Conservation Act 1999, requiring that the Minister consider economic and social matters as part of the EPBC approval process, and the proposed Connors River Dam project (EPBC 2008/4429):

(1) Has the department undertaken or sourced externally any analysis of the social and economic impacts of this project.

(2) Has the analysis considered the social and/or economic impacts of the project's significant downstream effects, given that the proposed dam would further enable numerous resource projects.

(3) Can details be provided of any internal or outsourced analysis of the potential positive and negative impacts of the project, including downstream effects, on the local, regional and national economy and employment, including impacts on:
   (a) local and regional jobs within the mining, manufacturing, agriculture and tourism sectors;
   (b) workforce skills, including:
       (i) where the workforce for downstream projects will be sourced,
       (ii) the impacts of this on skills availability to other sectors, and
       (iii) the likely need for overseas and interstate employees;
   (c) the value of the Australian dollar, and thereby the competitiveness of other export markets; and
   (d) the corporate ownership and flow of profits from downstream projects.

(4) Can details be provided of any internal or outsourced analysis of the potential positive and negative impacts of the project, including downstream effects, on the local, state and federal governments' budgets, including impacts on:
   (a) royalties;
   (b) corporate tax;
   (c) subsidies through fuel subsidies for mining;
   (d) infrastructure contributions; and
   (e) the Queensland Government's fiscal condition, including the robustness of cost recovery plans for this publicly funded infrastructure, and the risk of stranded assets where the infrastructure outlives the resources boom.

(5) Can details be provided of any internal or outsourced analysis of the potential positive and negative impacts of the project, including downstream effects, on the local communities, including impacts on:
   (a) the level of community support for the project;
   (b) local community services;
   (c) local infrastructure;
   (d) housing affordability; and
   (e) the impacts associated with a significant fly-in, fly-out workforce.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

Answer:

(1) The approval decision for this proposal was made by the delegate of the Minister on 19 April 2012. Whilst the department did not source independent analysis of the social and economic impacts of the proposal, the matters were considered internally based largely upon the Queensland Coordinator-General's findings and the information provided by the proponent.
(2) Yes, as consistent with section 136 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

This project was assessed under the bilateral agreement between the Commonwealth and the State of Queensland relating to environmental assessment.

The Queensland Coordinator-General’s report (the assessment report) was released publicly on 20 January 2012 and supplied to the department on the same day. It provided an analysis of the social and economic impacts of the project. An Environmental Impact Statement (EIS) provided by SunWater Limited contains social and economic analysis and was considered as part of the assessment.

The EIS provided an analysis of the local community within the Isaac Regional Council area including population size and growth, age and gender profiles, population mobility, employment and income, housing costs and property values. Further to this, the EIS also provided an analysis on the local business community which included skill requirements, impacts on other industries, population, demography, housing and accommodation.

(3) (a) The key findings of the social and economic assessment in the EIS highlighted that since 2001 the mining sector has experience strong growth within the region and that the agriculture sector’s contribution to regional output has decreased over the same period. In the year ending March 2008, the region (which includes the Mackay Tourism Region) has experienced an increase in demand; however tourism is not a significant contributor to total regional output.

(b) The analysis of workforce skills presented in the EIS only contains information for workforce issues relating to the construction and operation of the Dam and pipeline. There was no detailed analysis of sourcing of workforce for any downstream projects or skills availability to other sectors. This detailed analysis would be considered as part of any future projects referred to the department.

(c) No, this was not part of the analysis.

(d) No, this was not part of the analysis.

(4) There has been no detailed analysis on the points raised in Question 4 (a-d), other than that which was discussed in response to Questions 2 and 3.

(e) The EIS does provide information on the impacts on the Gross State Product (GSP). The EIS estimates that construction of the project could add over $700 million to GSP. The on-going contribution from the operation of the project will be much smaller but could add some $3.5 million per annum directly to GSP and some $9.5 million per annum in total (direct and indirect effects).

(5) (a) There has been no detailed analysis of the level of community support for the project. However the EIS development process contained an extensive public consultation process. Public consultation included stakeholders identified based on their proximity to the project site, persons identified as either an affected or interested person, stakeholders with interests in regional issues such as local businesses, natural resource management groups, conservation groups, industry groups as well as state and local government representatives. A Community Liaison Group was also formed for the project to identify and discuss issues associated with the project including community feedback.

(b) There has been no detailed analysis of the impacts to local community services.

(c) The analysis in the EIS identifies the key infrastructure impacted by the project as roads infrastructure, as well as supporting the increase in coal exports which impacts Queensland’s coal transport infrastructure.

(d) The key findings for the housing analysis state that the impacts on housing and accommodation may occur through acquisition of properties for the project and the increased demand for accommodation by construction workers. Consultation undertaken for the project identified housing affordability and availability as a key issues for towns in the Bowen Basin. The EIS states that given the
housing constraints in the housing availability in the study area, three construction camps will be constructed to house the majority of the construction workers.

(e) The impacts associated with a significant fly-in, fly-out workforce was not discussed in detail on potential downstream projects. However, the EIS states that it is estimated that 40 per cent of the workforce for the construction and operation of the Dam and pipeline will be employed on a fly-in, fly-out basis, 40 per cent employed from the nearby east coastal areas and up to 20 per cent from the immediate area (Moranbah, Nebo).

**Carbon Pricing**

*(Question No. 1791)*

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 29 March 2012:

How many jobs will be created as a result of the Carbon Tax?

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

The Treasury modelling report Strong growth, low pollution: Modelling a Carbon Price showed that jobs continue to grow under carbon pricing, with employment increasing by 1.6 million jobs by 2020, with or without carbon pricing.

**Mining**

*(Question No. 1792)*

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 29 March 2012:

With reference to the Treasurer's Economic Note dated 25 March 2012, how many jobs will be created as a result of the Minerals Resource Rent Tax?

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

Mineral and energy companies have continued to expand production, invest in new projects and hire new workers in full knowledge of the new resource tax arrangements that will commence on 1 July 2012.

Investment in the mining sector has continued to grow strongly from $47 billion in 2010-11 to an estimated $86 billion in 2011-12, and is expected to reach $119 billion in 2012-13.

According to the Bureau of Resources and Energy Economics, the planned pipeline of projects in the resources sector is worth over $500 billion, with more than half of these projects at an advanced stage.

Employment in the mining industry has also increased significantly, from 198,100 in August 2010 to 275,200 in May 2012 – an increase of 77,100 or 39 per cent since the new resource tax arrangements were announced.

**Agriculture, Fisheries and Forestry**

*(Question No. 1793)*

Senator Siewert asked the Minister for Agriculture, Fisheries and Forestry, upon notice, on 2 April 2012:

(1) Can details be provided of the trials for the evaluation of methyl iodide products used by strawberry runner growers.

(2) What are the terms of the permits enabling the trials.
(3) With particular reference to pregnant women or those trying to become pregnant, what steps have been taken to reduce the exposure of the following groups to methyl iodide: (a) strawberry runner growers and their employees; and (b) individuals living, working or otherwise spending time at or near the trial site/s.

Senator Ludwig: The answer is as follows:

(1) The trials of methyl iodide products were conducted under a research permit first issued by the Australian Pesticides and Veterinary Medicines Authority (APVMA) on 21 February 2007. Commercial-scale trials have been conducted since 2007 in Victoria and Queensland. There have been two subsequent renewals of the permit from 30 September 2008 to 31 October 2009 and 21 April 2010 to 30 April 2011. Other details of these permits are commercial-in-confidence. There is currently no permit in place to allow further trial use of methyl iodide on strawberries.

(2) The permit(s) restricted the trial of the evaluation of methyl iodide to use on strawberries for a fixed period as indicated above for use in Queensland and Victoria only.

The research permits and labels of the experimental product contained restrictions on how it may be used. These included: the product was not to be used by persons who may be pregnant, the product was to be applied at a depth below the soil surface and the site covered with a plastic film immediately following application, all approaches to treated areas were to be signposted, a guard was to be stationed at each treatment site to prevent entry of unauthorised persons and the product was not to be applied near buildings inhabited by people or livestock.

In addition, fumigators applying the product were required to wear full protective equipment including a full facial respirator specifically for the active ingredients. Finally, the product was to be applied prior to planting and crops were not permitted to be planted back into treated fields for one month following removal of the plastic sheeting.

(3) Please refer to the answer to question 2.

Employment and Workplace Relations

(Question No. 1794)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 2 April 2012:

With reference to the Coal Mining Industry (Long Service Leave Funding) Act 1992 and related legislation, as amended in 2011:

(1) What is the current coverage of this legislation.

(2) Has the passage of the 2011 amendments led to more claims for coverage than initially indicated.

(3) How much back pay has been requested since the passage of the 2011 amendments.

Senator Ludwig: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The legislation covers all eligible employees within the black coal mining industry. The scope of who is an 'eligible employee' is set out in section 4 of the Coal Mining Industry (Long Service Leave) Administration Act 1992. The 2011 amendments did not change the coverage of the legislation.

The Corporation has advised the Department that it is currently making arrangements to invite eligible employees to confirm their service history and, where appropriate, claim extra periods of service. To date, there have been no claims from eligible employees or former eligible employees. The
Corporation has indicated that it is not possible to determine the number of claims that will be made and accepted.

**Fair Work Australia**

*(Question No. 1796)*

**Senator Abetz** asked the Minister for Employment and Workplace Relations, upon notice, on 2 April 2012:

With reference to the media release issued by the General Manager of Fair Work Australia (FWA) on 14 March 2012, relating to the Health Services Union Victoria No. 1 Branch investigation:

1. For which of the stated twenty-five contraventions will FWA be seeking Federal Court penalties.
2. Which two contraventions of civil penalty provisions identified by the delegate were not made out according to the General Manager.

**Senator Ludwig:** The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The table below sets out, in respect of the investigation report into the Health Services Union Victoria No. 1 Branch, the contraventions that the AGS has been instructed to initiate proceedings in the Federal Court of Australia in respect of, and the contraventions for which no action is to be taken pursuant to section 336(2)(b) of the Fair Work (Registered Organisations) Act 2009.

<table>
<thead>
<tr>
<th>Adverse Finding</th>
<th>Person</th>
<th>Contravention</th>
<th>General Manager’s Conclusion</th>
<th>Decision as to Action to be Taken</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Ms Fegan, Mr Jackson, Mr Hudson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person holding the office of Branch President, Branch Secretary or Branch Assistant Secretary would not have provided his or her PIN and password to the office manager, thus enabling her to execute electronic transactions without authorisation.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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<td>2</td>
<td>Ms Fegan, Mr Jackson, Mr Hudson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person holding the office of Branch President, Branch Secretary, or Branch Assistant Secretary would have ensured that each cheque that he or she signed contained details of the payee and the amount to be paid.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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<td>Adverse Finding</td>
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<td>that those details corresponded with a substantiated transaction.</td>
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<td>A reasonable person holding the office of Branch President, Branch Secretary or</td>
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<td>Branch Assistant Secretary would have signed cheques only after having viewed</td>
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<td>substantiating documentation (such as a purchase order and/or invoice).</td>
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<td>3</td>
<td>Mr Jackson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person holding the office of</td>
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<td>Branch Secretary would not have allowed cheques to be drawn on the Branch fund</td>
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<td>in contravention of the HSU rules.</td>
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<td>Initiate civil penalty proceedings</td>
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<td>4</td>
<td>Mr Jackson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person holding the office of</td>
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<td>Branch Secretary would not have instructed Ms Wills to not present monthly</td>
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<td>paid invoices to meetings of the Branch Committee of Management. A reasonable</td>
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<td>person in such circumstances would have ensured that all documentation</td>
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<td>relevant to the expenditure by the Branch in the preceding month was presented</td>
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<td>to meetings of the Branch Committee of Management.</td>
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<td>Initiate civil penalty proceedings</td>
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<td>Adverse Finding</td>
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<td>Contravention</td>
<td>General Manager's Conclusion</td>
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<td>5</td>
<td>Branch</td>
<td>Section 252(1) of the RAO Schedule - failure to keep, or cause to be kept such records as correctly record and explain the authorisation of expenditure on Branch credit cards and failing to keep, or cause to be kept, the financial records of the Branch in such a manner as will enable the accounts of the Branch to be conveniently and properly audited.</td>
<td>Contravention</td>
<td>Initiate proceedings seeking declaratory relief</td>
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<td>6</td>
<td>Mr Jackson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person holding the office of Branch Secretary would have ensured that the Branch had appropriate internal controls in place to ensure that all receipts or other supporting documentation necessary to substantiate expenditure on Branch credit cards were obtained and retained.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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<tr>
<td>7</td>
<td>Mr Hudson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person holding the office of Branch Assistant Secretary would have ensured that he was the only person to use a Branch credit card which had been issued in his name to make purchases and would have ensured that all receipts or other supporting documentation</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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<td>Adverse Finding</td>
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<td>Contravention</td>
<td>General Manager's Conclusion</td>
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<td>8</td>
<td>Mr Jackson</td>
<td>necessary to substantiate expenditure on the card was obtained and provided to the Branch. Section 285(1) of the RAO Schedule - a reasonable person holding the office of Branch Secretary would not have instructed the office manager to make the three $5,000 payments in the absence of documented authorisation from the Branch Committee of Management and would have provided Ms Wills with documentary evidence of any authorisation of payment of additional salary.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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<tr>
<td>9</td>
<td>Mr Jackson</td>
<td>Section 286(1) of the RAO Schedule - Mr Jackson was aware these payments were not authorised by the Branch Committee of Management and that Ms Wills was able to make such payments without reference to or authorisation from the Branch Committee of Management. Rather than discharging his duties in good faith in the best interests of the organisation and for a proper purpose, Mr Jackson acted in a manner designed to secure a private advantage outside the purpose of benefitting the Branch.</td>
<td>Contravention not made out. Based on the evidence before the Delegate as disclosed in the Report. In particular, the disputed accounts of this event (and the generally poor quality of the minutes of the Branch Committee of Management) render it impossible, in the absence of any further information, to safely conclude an absence of good faith on the</td>
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<td>Adverse Finding</td>
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<td>10</td>
<td>Mr Jackson</td>
<td>Section 287(1) of the RAO Schedule - Mr Jackson was aware these payments were not authorised by the Branch Committee of Management and that Ms Wills was able to make such payments without reference to or authorisation from the Branch Committee of Management.</td>
<td>Based on the evidence before the Delegate as disclosed in the Report. In particular, the disputed accounts of this event (and the generally poor quality of the minutes of the Branch Committee of Management) render it impossible, in the absence of any further information, to conclude that Mr Jackson improperly used his position to gain an advantage for himself.</td>
<td>Contravention Initiate civil penalty proceedings</td>
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<tr>
<td>11</td>
<td>Mr Jackson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person holding the office of Branch Secretary would not have instructed the office manager to make the payment of $5,000 to Ms Hicks in the absence of documented authorisation from the Branch Committee of Management.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
</tr>
<tr>
<td>12</td>
<td>Mr Jackson, Mr Hudson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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</tbody>
</table>
Adverse Finding | Person | Contravention | General Manager's Conclusion | Decision as to Action to be Taken
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holding the office of Branch Secretary or Branch Assistant Secretary would not have allowed the Branch to pay invoices for the cost of travel to attend the wedding of Mr Morgan where those payments were not authorised by the Branch Committee of Management. Where the Branch had already paid for such travel expenses, a reasonable person holding the office of Branch Secretary or Branch Assistant Secretary would have taken steps to ensure that the cost of such travel was reimbursed to the Branch.

13 Mr Jackson, Mr Hudson | Section 286(1) of the RAO Schedule - by allowing the Branch to pay the invoices, knowing that the payment of those expenses had not been approved by the Branch Committee of Management, and by not subsequently reimbursing the Branch, Mr Jackson and Mr Hudson have failed to act in good faith in the best interests of the Branch and for a proper purpose. | Contravention | Initiate civil penalty proceedings

14 Mr Jackson, Mr Hudson | Section 287(1) of the RAO Schedule - by allowing the branch to pay invoices for the cost of travel expenses, | Contravention | Initiate civil penalty proceedings
<table>
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<td>knowing that payment of those expenses had not been approved by the Branch Committee of Management and by not subsequently reimbursing the Branch, Mr Jackson and Mr Hudson have improperly used their positions to gain an advantage for themselves and have caused detriment to the Branch.</td>
<td></td>
<td>Initiate proceedings</td>
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<tr>
<td>15</td>
<td>Branch</td>
<td>Section 252(1) of the RAO Schedule - failure to keep or cause to be kept such records as correctly record and explain the annual leave taken or cashed out by [the Branch] during the period 1 July 2007 to 13 November 2008, and failure to keep, or cause to be kept, leave records of the Branch in such a manner as will enable a general purpose financial report to be prepared, and failure to keep, or cause to be kept, leave records in such a manner as will enable the accounts of the Branch to be conveniently and properly audited.</td>
<td>Contravention</td>
<td>seeking declaratory relief</td>
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<td></td>
<td>Mr Jackson</td>
<td>Section 285(1) of the RAO Schedule - a reasonable person holding the office of Branch Secretary would have signed, and sought authorisation of, leave forms on each occasion on which he sought to</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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<td>Adverse Finding</td>
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<td>Contravention</td>
<td>General Manager's Conclusion</td>
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<td>17</td>
<td>Branch</td>
<td>Section 265(5) of the RAO Schedule - failure to provide, or cause to be provided, to members the full report of the Branch for the year ended 30 June 2008.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
</tr>
<tr>
<td>18</td>
<td>Branch</td>
<td>Section 266 of the RAO Schedule - failure to present, or cause to be presented, the full report of the Branch for the year ended 30 June 2008 to a meeting of either the Branch Committee of Management or a general meeting or members.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
</tr>
<tr>
<td>19</td>
<td>Branch</td>
<td>Section 268 of the RAO Schedule - failure to lodge, or cause to be lodged, the full report of the Branch for the year ended 30 June 2008 and certificate under section 268 within the timeframe set out in the legislative scheme.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
</tr>
<tr>
<td>20</td>
<td>Branch</td>
<td>Section 253(1) of the RAO Schedule - lodging with the AIR a financial report for the year ended 30 June 2007 that did not contain related party disclosures regarding transactions between the Branch and Urban Giftware in accordance with AASB124.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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<tr>
<td>21</td>
<td>Branch</td>
<td>Section 253(1) of the RAO Schedule - lodging with the AIR a financial report for the year ended 30 June 2008 that was</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
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<td>Adverse Finding</td>
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<td>22</td>
<td>Mr Jackson</td>
<td>Rule 56(1) of the HSU Rules - failing to prepare, or cause to be prepared, a general purpose financial report for the year ended 30 June 2008 in accordance with the Australian Accounting Standards.</td>
<td>Contravention</td>
<td>Initiate proceedings seeking declaratory relief</td>
</tr>
<tr>
<td>23</td>
<td>Branch</td>
<td>Section 237(1) of the RAO Schedule - failure to lodge a statement of loans, grants and donations for the year ended 30 June 2007 within 90 days of the end of the financial year.</td>
<td>Contravention</td>
<td>Initiate civil penalty proceedings</td>
</tr>
<tr>
<td>24</td>
<td>Mr Dick</td>
<td>Section 257(8) of the RAO Schedule - audit report for the year ended 30 June 2007 not in accordance with Australian Auditing Standards in a number of respects.</td>
<td>Contravention</td>
<td>No Action</td>
</tr>
<tr>
<td>25</td>
<td>Mr Dick</td>
<td>Section 257(8) of the RAO Schedule - audit report for the year ended 30 June 2008 not in accordance with Australian Auditing Standards in a number of respects.</td>
<td>Contravention</td>
<td>No Action</td>
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</table>

**Families, Housing, Community Services and Indigenous Affairs**

*Question No. 1797*

Senator Abetz asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs and the Minister for Disability Reform, upon notice, on 2 April 2012:

QUESTIONS ON NOTICE
With reference to the answer to Question no. 142, taken on notice during the 2011-12 Additional Estimates hearing of Senate Community Affairs Committee, and noting that the question was premised on ‘the technical advice that the 2014 timeframe was not possible’:

(1) Was this or similar advice received by the department; if so, when was that advice received.
(2) Was the advice shared at the Interdepartmental Committee meeting held on 8 July 2011.
(3) Which departments were represented at the Interdepartmental Committee.
(4) What were the alleged risks associated with meeting the implementation timeline of 2014 discussed at the Interdepartmental Committee.

Senator Chris Evans: The Minister for Families, Housing, Community Services and Indigenous Affairs and the Minister for Disability Reform have provided the following answer to the honourable senator's question:

(1) As provided at the Additional Estimates hearing in February 2012, the Department indicated that advice of this nature was received in February 2011.
(2) As also provided at the Additional Estimates hearing in February 2012, advice regarding the difficulty of the implementation timeframe was discussed at the Interdepartmental Committee meeting on 8 July 2012.
(3) The departments represented at the Interdepartmental Committee meeting on 8 July 2012 were:
   • Department of Families, Housing, Community Services and Indigenous Affairs
   • Department of the Prime Minister and Cabinet
   • Department of the Treasury
   • Department of Finance and Deregulation
   • Department of Broadband, Communication and the Digital Economy
   • Attorney-General's Department
(4) There were discussions on the risks associated with the implementation timelines and in relation to the feasibility of venues complying with the legislation by 2014.

Australia Post
(Question No. 1798)

Senator Abetz asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 3 April 2012:

With reference to Clause 22 of the formal agreements made between Australia Post and Licensed Post Offices (LPO):

(1) When Clause 22 is invoked in order to terminate an LPO agreement:
   (a) is it the intention of Australia Post that compensation paid is "fair and reasonable"; if not, what are the intentions of Australia Post; and
   (b) is the market value of an LPO considered when determining the rate of compensation where market value is in excess of three times business revenue; if not, why not.
(2) Can details be provided of the formal policy of Australia Post in regard to the use of Clause 22, including:
   (a) in what circumstances termination without cause can be implemented;
   (b) what is the compensation policy in circumstances where termination without cause is implemented, including whether full compensation is required to be paid, and if it is not paid, why not; and
(c) does Australia Post have a policy with regard to the use of Clause 22; if so, can a copy be provided; if not, why not and on what basis is the clause exercised.

(3) Can details be provided of the policy work undertaken by Mr Gary Ward in relation to the use of Clause 22 by Australia Post, including whether that work is available; if so, can a copy be provided.

(4) Does Australia Post intend to invoke Clause 22 as a bargaining tool against licensees who request fair payment under their LPO agreement.

(5) Does Australia Post acknowledge that it would be fair and reasonable that any decision to terminate an LPO agreement under Clause 22 be required to pass through an independent public review, thereby enabling licensee representation prior to termination; if not, why not.

(6) In regard to the Vaucluse LPO and Campbell Town LPO, detailed separately:
   
   (a) which Australia Post official was responsible for invoking Clause 22;
   (b) who is responsible for determining the licensee compensation payments;
   (c) what were the market values of each LPO at the time of termination;
   (d) was the market value greater than three times the business revenue; and
   (e) has an offer of three times business revenue been made to the licensees by way of compensation; if not, why not.

Senator Conroy: The answer to the honourable senator's question is as follows:

(1) (a) It is Australia Post's intention to conduct itself in a "fair and reasonable" manner in all matters relating to the administration of the LPO Agreement.
   (b) As part of reaching agreement with the outgoing licensee on the compensation payable under Clause 22, Australia Post will consider a range of factors that may include the licensee's submission on the market value of the underlying business. Australia Post's considerations are subject to the contractual terms provided under the LPO Agreement.

(2) (a) The LPO Agreement provides that either party may terminate the Agreement subject to providing 90 days notice to the other party.
   (b) The LPO Agreement provides that termination compensation shall be an amount agreed between Australia Post and the licensee. "However such amount shall not be less than an amount equal to the Business Revenue over the period of twelve (12) months prior to the date of termination nor greater than that amount multiplied by three (3)."
   (c) Australia Post's policy documents with respect to Clause 22 are commercial-in-confidence. Either party to the LPO Agreement may decide that they do not wish to maintain an ongoing licensee/licensor relationship. Australia Post may decide to exercise its rights under this clause for matters such as, but not be limited to, network planning considerations, a loss of trust and confidence in Australia Post's relationship with the licensee or a loss of trust and confidence in the suitability of the licensee.

(3) Mr Ward ceased employment with Australia Post in March 2007.
   Mr Ward's employment with Australia Post was not directly related to policy work in relation to Clause 22 of the LPO Agreement.

(4) Australia Post has not, and does not intend, to invoke Clause 22 as a bargaining tool against licensees who request fair payment under their LPO Agreement.

(5) Australia Post does not agree that an independent public review of a decision to terminate an LPO Agreement under clause 22 would be fair and reasonable.

The relationship between Australia Post and any licensee is governed by the terms of the LPO Agreement and further defined through the Franchising Code of Conduct. It is appropriate for both
parties that any decision to terminate the licensee/licensor relationship is undertaken in accordance with these provisions.

(6) (a) The General Manager Retail Sales & Service approved the termination of the LPO Agreements for Vaucluse and Campbell Town.

(b) The compensation payment will be an amount agreed between Australia Post and the former licensee subject to the contractual terms provided under the LPO Agreement.

(c) Australia Post is not in a position to advise the market values of each LPO.

(d) Refer to answer (c) above.

(e) In the matters mentioned, agreement has not been reached on the figure for business revenue. The current offers made by Australia Post have been in accordance with the terms of the LPO agreement and based on information available to Australia Post, information provided by the respective former licensees and negotiations to date with each of the former licensees.

Productivity Commission
(Question No. 1800)

Senator Abetz asked the Minister representing the Assistant Treasurer, upon notice, on 4 April 2012:

Does the Productivity Commission have a practical knowledge and appreciation of contemporary workplace relations issues and practices.

Senator Wong: The Assistant Treasurer has provided the following answer to the honourable senator's question:

In the course of conducting select inquiries and studies, the Productivity Commission has considered workplace relations issues and practices where relevant. For example, the recently concluded inquiry into the Australian Retail Sector looked in detail at such issues as part of a broader examination of that sector and the challenges it currently faces.

The Commission has an on-going capacity in areas such as productivity analysis and economic and labour market research. However, it does not retain a branch or other staff grouping of individuals with specialist expertise in workplace relations.

Australian Broadcasting Corporation
(Question No. 1801)

Senator Abetz asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 4 April 2012:

With reference to the Australian Broadcasting Corporation, can a breakdown be provided detailing the annual cost of: (a) promotional items; and (b) free give-aways, including DVDs, books and other merchandise.

Senator Conroy: The answer to the honourable senator's question is as follows:

The ABC advises that, excluding Audience Research and advertising, a total of $2.6 million has been spent on promotions as at the end of March for the 2011-12 financial year.

The ABC does not track the cost of giveaways. ABC Commercial is given an allocation of free-of-charge promotional items under various distribution contracts. These items are distributed to the other areas of the ABC for airplay, review and to be given-away. ABC Commercial also distributes these promotional items to other media organisations.
The ABC may also receive community event/movie/theatre/concert/festival tickets from third parties in support of cultural partnerships, and these are given away to audiences as part of the ABC's support of these events.

The ABC receives limited number of tickets from the Australian Football League, National Rugby League and Cricket Australia for competition giveaways to support the ABC's Grandstand broadcasts.

**Broadband, Communications and the Digital Economy**  
(Question No. 1802)

**Senator Abetz** asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 5 April 2012:

Can a detailed description be provided of the nature of the content or stories aired on the Australia Network during the 4 pm news segment that was broadcast to Vietnam on Wednesday 4 April 2012.

**Senator Conroy:** The answer to the honourable senator's question is as follows:

The Australia Network rebroadcasts ABC News 24's 7pm news bulletin at this time. On 4 April 2012, ABC News 24 crossed to coverage of a Community Cabinet meeting at this time and this feed was rebroadcast on the Australia Network.

**Sustainability, Environment, Water, Population and Communities**  
(Question No. 1803)

**Senator Waters** asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 12 April 2012:

With reference to the time taken to list threatened species and ecological communities under the *Environment Protection and Biodiversity Conservation Act 1999*, what is the average time taken from:

(a) submission of a nomination to the finalisation of the Finalised Priority Assessment List; and

(b) provision of advice to the Minister by the Threatened Species Scientific Committee to publication of the decision.

**Senator Conroy:** The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(a) It usually takes approximately 180 calendar days from a nomination being received to the finalisation of the Finalised Priority Assessment List.

(b) On average it takes 118 calendar days for species and 155 calendar days for ecological Communities from the provision of the advice from the Threatened Species Scientific Committee to the publication of the decision.

**Chronic Disease Dental Scheme**  
(Question No. 1807)

**Senator Abetz** asked the Minister for Human Services, upon notice, on 13 April 2012:

With reference to the answer provided to question no. HS 7, taken on notice during the 2011-12 Additional Estimates hearing of the Community Affairs Legislation Committee, relating to the Chronic Disease Dental Scheme:

(1) On what legislative or regulatory authority does the department claim the ability to waive the totality of a debt but not part of a debt.

(2) Does the Minister agree that injustice may occur as a result of the above approach.

**Senator Kim Carr:** The answer to the honourable senator's question is as follows:
(1) The Health Insurance Act 1973 contains no provisions which allow for the waiver of debts owed to the Commonwealth. Where program legislation contains no provisions which authorise the waiver of debts owed to the Commonwealth, such debts can only be waived by the Finance Minister (or her delegate)—see paragraph 34(1)(a) of the Financial Management and Accountability Act 1997. The Finance Minister's power of waiver has not been delegated to the Secretary.

Under section 47 of the Financial Management and Accountability Act 1997, the Secretary of the department is obliged to pursue the recovery of debts for which she is responsible unless:
1. the debt has been written off as authorised by an Act;
2. the Secretary is satisfied that the debt is not legally recoverable; or
3. the Secretary considers that it is not economical to pursue recovery of the debt.

Consistent with the provisions of the Financial Management and Accountability Act 1997, the Secretary of the department has no legal authority to accept a lesser amount in satisfaction of a debt unless at least one of the exceptions outlined above apply.

The Secretary of the department has been delegated the power to allow a debt to be paid in instalments or to defer the time payment of a debt—see paragraphs 34(1)(c) and (d) of the Financial Management and Accountability Act 1997. This power may be used in situations of financial hardship.

(2) No.

Syria
(Question No. 1808)

Senator Rhiannon asked the Minister for Foreign Affairs, upon notice, on 18 April 2011:
With reference to the violence in Homs, Syria:
(1) Does the Minister agree with the Secretary-General of the United Nations and the International Committee of the Red Cross that the use of explosive weapons in densely populated areas causes severe harm to the civilians.
(2) Will the Government use the Security Council debate in June 2012 on the protection of civilians in armed conflict to highlight this concern.

Senator Bob Carr: The answer to the honourable senator's question is as follows:
(1) Yes.
(2) Yes.

Prime Minister and Cabinet
(Question No. 1810)

Senator Abetz asked the Minister representing the Prime Minister, upon notice, on 19 April 2012:
With reference to question on notice no. 1696:
(1) What was the total amount spent on catering Cabinet and Cabinet committee meetings for each the following financial years: (a) 2008-09; (b) 2009-10; and (c) 2010-11.
(2) What is the current balance of the Cabinet Trust Fund.
(3) What contribution is each minister expected to make to the fund.
(4) Apart from catering Cabinet and Cabinet committee meetings, for what other purposes is the Cabinet Trust Fund used.

Senator Chris Evans: The Prime Minister has provided the following answer to the honourable senator's question:

QUESTIONS ON NOTICE
I am advised that the answer to the honourable member's question is as follows:

(1) The total amount spent on catering for Cabinet and Cabinet committee meetings over the financial years was:

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount</td>
<td>$55,114.00</td>
<td>$56,760.50</td>
<td>$61,113.73</td>
</tr>
</tbody>
</table>

(2) and (3) As the Cabinet Trust Fund is a private bank account with automatic deductions from ministers' salaries paid into the account, the level of contributions and the overall balance of the Fund is a private matter for ministers.

(4) The Cabinet Trust Fund is only used to assist in the costs of catering for Cabinet and Cabinet committee meetings.

Employment and Workplace Relations
(Question No. 1811)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 19 April 2012:

What marketing has been undertaken in relation to 'workforce communications'.

Senator Ludwig: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

No marketing activities have been undertaken in relation to workforce communications.

The file on the Department of Education, Employment and Workplace Relations website's list of departmental files titled 'Marketing-Workforce Communications' was created in error, contains no material and has now been classified as inactive.

Employment and Workplace Relations
(Question No. 1812)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 19 April 2012:

Has the department undertaken an evaluation of successful Jobs Fund projects; if so, which projects were: (a) evaluated as being successful; and (b) not evaluated as being successful.

Senator Ludwig: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

• DEEWR commissioned the Evaluation of Jobs Fund Projects in December 2011. This evaluation is being conducted by an external consultant (Hugh Watson Consulting Pty Ltd) and is examining completed Jobs Fund projects to identify best practice examples and lessons learned to use in future employment and social inclusion policy development.

• The evaluation is not measuring the success or failure of individual projects, rather will assess approaches that were successful in meeting objectives.

• A sample of 23 Jobs Fund projects were selected for the evaluation based on the extent to which the projects had met or exceeded their objectives within the milestones allocated, or where positive outcomes were identified by DEEWR staff.

• A draft report was submitted by the consultant to DEEWR at the end of March 2012.
Employment and Workplace Relations
(Question No. 1813)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 19 April 2012:

Who sits on the Homeworkers Code of Practice Committee.

Senator Ludwig: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The Homeworkers Code Committee Inc. consists of representatives from union and employer stakeholders in the textile, clothing and footwear industry. Specifically:

- Michele O'Neil – Textile, Clothing and Footwear Union of Australia (TCFUA)
- Vivienne Wiles – TCFUA
- Jenny Kruschel – TCFUA
- Barry Tubner – TCFUA
- John Owen – TCFUA
- Hung Nguyen – TCFUA
- Paula Rogers – Council of Textiles and Fashion Industries of Australia
- Tony Dalton – Australian Industry Group (Ai Group)
- Gabrielle Star – NSW Business Chamber / Australian Business Lawyers
- Ted Efthimiadis – Pacific Brands
- Damien Pearce-Grant – Cue Clothing Co
- Rob Schonberger – Jets Swimwear

Employment and Workplace Relations
(Question No. 1815)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 19 April 2012:

What are the labour market and migration issues associated with the offshoring and outsourcing of jobs by Australian companies.

Senator Ludwig: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The Government encourages all Australian companies in all sectors to invest in the skills of their Australian workforce as an alternative to offshoring and outsourcing work to overseas companies. Investment in the skills development of Australians will better enable companies to handle the peaks and troughs of the business cycle.

The importance of better workforce planning and investment in skills development by companies is reflected in migration measures introduced by the Government to ensure employer-sponsored migration programs are responsive to economic conditions; consistent with other domestic law (including the Fair Work Act 2009); and support other initiatives to meet industry skill needs (including the Building Australia's Future Workforce and Skills for All Australians packages).

These migration measures include a requirement for Australian companies using the temporary business (subclass 457) program to demonstrate a commitment to training Australians and to attest to employing local labour and non-discriminatory work practices. These commitments and other
obligations are monitored by the Department of Immigration and Citizenship, with the option of referral to the Fair Work Ombudsman to ensure compliance with the Fair Work Act 2009.

**Employment and Workplace Relations**

*(Question No. 1816)*

**Senator Abetz** asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 19 April 2012:

Can a breakdown be provided of the cost of the Pacific Seasonal Worker Pilot Scheme Conference 2011.

**Senator Ludwig:** The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The Department of Education, Employment and Workplace Relations received funding under the Pacific Seasonal Worker Pilot Scheme (the Pilot) to conduct three conferences during the Pilot. The 2011 conference was the third and final conference convened during the Pilot.

A breakdown of the cost of the Pacific Seasonal Worker Pilot Scheme 2011 conference is contained in Table 1. The conference involved a training day for international officials and approved employers on Tuesday 2 August 2011 and a plenary conference from Wednesday 3 August to Friday 5 August 2011.

Table 1: Breakdown of the cost of the 2011 Pilot conference

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conference venue including:</td>
<td>$52,684.60</td>
</tr>
<tr>
<td>hire of meeting rooms</td>
<td></td>
</tr>
<tr>
<td>hire of plenary room</td>
<td></td>
</tr>
<tr>
<td>catering</td>
<td></td>
</tr>
<tr>
<td>accommodation for partner country officials</td>
<td></td>
</tr>
<tr>
<td>accommodation for speakers and the Master of Ceremonies</td>
<td></td>
</tr>
<tr>
<td>International flights, domestic transfers and travel allowance for international officials from partner countries</td>
<td>$19,754 (GST inclusive)</td>
</tr>
<tr>
<td>Master of Ceremonies including fee, travel and meal costs</td>
<td>$17,531.00 (GST inclusive)</td>
</tr>
<tr>
<td>Audio visual services</td>
<td>$9,997.35 (GST inclusive)</td>
</tr>
<tr>
<td>Conference dinner event</td>
<td>$9,065.00 (GST inclusive)</td>
</tr>
<tr>
<td>Conference materials including printed materials, programs and lanyards</td>
<td>$1,536.30 (GST inclusive)</td>
</tr>
<tr>
<td>Welcome to country</td>
<td>$330.00 (GST inclusive)</td>
</tr>
</tbody>
</table>

**Employment and Workplace Relations**

*(Question No. 1817)*

**Senator Abetz** asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 19 April 2012:

(1) Who sits on the High Level Officials Group in relation to workplace relations.

(2) Who is the chair.

(3) How many meetings have taken place.

**Senator Ludwig:** The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) The High Level Officials' Group is made up of workplace relations senior officials from the Commonwealth, states and territories, with relevant subject matter experts attending as needed. The current membership list is attached.
(2) The High Level Officials’ Group is chaired by the Commonwealth, specifically, the Group Manager, Workplace Relations Policy Group, Department of Education, Employment and Workplace Relations.

(3) Since February 2008, there have been 25 meetings of the High Level Officials’ Group.

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>High-level official</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commonwealth (Chair)</td>
<td>Group Manager, Workplace Relations Policy Group, Department of Education, Employment and Workplace Relations</td>
</tr>
<tr>
<td>New South Wales</td>
<td>Executive Director, NSW Industrial Relations, NSW Department of Services, Technology and Administration</td>
</tr>
<tr>
<td></td>
<td>Director Policy, NSW Industrial Relations, NSW Department of Services, Technology and Administration</td>
</tr>
<tr>
<td></td>
<td>General Manager, Strategy and Policy, WorkCover NSW</td>
</tr>
<tr>
<td>Queensland</td>
<td>Associate Deputy Director-General, Department of Justice and Attorney-General</td>
</tr>
<tr>
<td></td>
<td>Executive Director, Private Sector Industrial Relations, Department of Justice and Attorney-General</td>
</tr>
<tr>
<td></td>
<td>Deputy Secretary, Workforce Victoria, Department of Business and Innovation</td>
</tr>
<tr>
<td></td>
<td>Director, Public Sector Workplace Relations, Department of Business and Innovation</td>
</tr>
<tr>
<td>Victoria</td>
<td>Executive Director, SafeWork SA, Department of the Premier and Cabinet</td>
</tr>
<tr>
<td></td>
<td>Director, Policy and Strategy, SafeWork SA, Department of the Premier and Cabinet</td>
</tr>
<tr>
<td>South Australia</td>
<td>Executive Director, Labour Relations Division, West Australia Department of Commerce</td>
</tr>
<tr>
<td>Western Australia</td>
<td>Deputy Secretary, Department of Justice</td>
</tr>
<tr>
<td>Tasmania</td>
<td>Director, Employee Relations, Office of the Commissioner for Public Employment</td>
</tr>
<tr>
<td>Northern Territory</td>
<td>Director, Office of Industrial Relations, Chief Minister and Cabinet Directorate</td>
</tr>
<tr>
<td>Australian Capital Territory</td>
<td>Senior Manager, Office of Industrial Relations, Chief Minister and Cabinet Directorate</td>
</tr>
</tbody>
</table>

Employment and Workplace Relations

(Question No. 1818)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 19 April 2012:

(1) Who sits on the Workplace Relations Reform Steering Committee.

(2) Who is the chair.

(3) Can a list be provided detailing the dates and times of meetings of the committee to date.

Senator Ludwig: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator’s question:

(1) The Workplace Relations Reform Steering Committee was an internal departmental governance committee comprised of officials of the Department of Education, Employment and Workplace Relations and its predecessor department. Membership included the Deputy Secretary, Workplace
Relations and Economic Strategy (Chair) and the Group Managers responsible for workplace relations policy, legal and implementation matters.

(2) The Workplace Relations Reform Steering Committee was chaired by the Deputy Secretary for Workplace Relations and Economic Strategy.

(3) From its commencement in February 2007 until late 2010, the Workplace Relations Reform Steering Committee met as required, either weekly or fortnightly. Meetings were usually held on Fridays, 11.00am - 12 noon. Information about the actual dates and times is not readily available and would involve an unreasonable diversion of the department's resources to ascertain.

**Home Affairs**

(Question No. 1819)

Senator Cash asked the Minister representing the Minister for Home Affairs, upon notice, on 19 April 2012:

With reference to the documents released under freedom of information (FOI) laws to journalist Natalie O'Brien of *The Sun-Herald*:

(1) What are the 'back pocket briefs' regarding missing boats, as requested in an email from Australian Federal Police Agent Erica Merrin from the People Smuggling Operations Coordination Team to the Australian Customs and Border Protection Service.

(2) Does the notation 'O/H Calls to Xmas Island from VSI', contained in the document note written on Rescue Coordination Centre note-paper from CJW to John Young of the Australian Maritime Safety Authority, dated 3 October 2009, mean 'overheard calls'; if not, what is the meaning of the notation.

(3) What does the reference to 'new vessel' in distress mean in the emergency response note from PWG to BASARNAS dated 3 October 2009.

Senator Ludwig: The Minister for Home Affairs has provided the following answer to the honourable senator's question:

(1) The 'back pocket briefs' regarding missing vessels that are referred to in Federal Agent Erica Merrin's email are part of the materials prepared within the agency to support Customs and Border Protection's appearance before the February 2012 Additional Estimates hearings. Typically these briefs contain information regarding possible questions that may be raised during the Estimates hearing. In this instance, the briefings covered key issues pertaining to alleged missing vessels of October 2009 and November 2010, and four foundered vessels between November 2011 and February 2012.

(2) The Australian Maritime Safety Authority (AMSA) have advised the answer to this question is Yes.

(3) AMSA have advised that in a telephone call from AMSA to BARSANAS on 2 October 2009, AMSA's rescue coordination centre operator advised BASARNAS of details of a vessel in distress in position 06 55S 104 58E. The term 'new vessel' is used to draw attention to BASARNAS that the information does not relate to any previous incidents or advice from AMSA.

**Treasury**

(Question No. 1820)

Senator Sinodinos asked the Minister representing the Treasurer, upon notice, on 19 April 2012:

Given that, according to data from the Australian Office of Financial Management (AOFM), the total value of currently issued Commonwealth Government Securities (CGS) as of March 2012 was $237.4 billion, and noting that the Guarantee of State and Territory Borrowing Appropriation Act 2009 does not provide the AOFM with the power to compel security holders, custodians and nominees to provide
the AOFM with information on the beneficial ownership of securities, can the following information be provided detailed in both gross and percentage terms:

(1) On what proportion of the $237.4 billion issued CGS does information exist regarding beneficial ownership.

(2) Of the $237.4 billion issued CGS, where information has been provided to the AOFM regarding beneficial ownership as of 31 March 2012:

(a) how much issued CGS is held by governments, central bank authorities, companies, trusts and other private organisations and individuals;

(b) which countries are those enjoying beneficial ownership officially registered in, detailing the amount of issued CGS per country;

(c) do any governments (either national or provincial) have beneficial ownership of issued CGS; if so: (i) which governments and how much issued CGS do they have beneficial ownership over, and (ii) what is the average length of time of ownership of issued CGS;

(d) for those private organisations that enjoy beneficial ownership of issued CGS, which industries do these organisations belong to, including a breakdown by: (i) industry, (ii) country, and (iii) both industry and country, indicating in each case the amount of issued CGS;

(e) for those individuals who enjoy beneficial ownership of issued CGS, which countries do these individuals reside in, indicating the amount of issued CGS per country;

(f) does the Reserve Bank of Australia or any foreign central bank own any issued CGS; if so: (i) how much, indicated per central bank institution; and (ii) what is the average length of time of ownership of issued CGS; and

(g) does the Future Fund own any issued CGS; if so, how much.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

The information available to AOFM does not directly identify the ultimate beneficial owner or their country of domicile or industry. The AOFM attempts, where possible, to reasonably infer the beneficial owner and country of domicile from an account name.

The AOFM has been provided with permission to use this information by its owner, the Australian Securities Exchange (who operate Austraclear), on the proviso that this use is consistent with the operating rules of Austraclear which prevent them publishing information that would identify individual holders or holdings.

(1) AOFM has information on the beneficial ownership, or has formed an opinion on the beneficial ownership of $91.1 billion or 38.4 per cent of issued CGS. The remainder of holdings are mostly in the hands of entities, typically nominee or custodial firms, for which the AOFM has insufficient information to identify the country of domicile of the beneficial owner.

(2) (a) Where the AOFM has identified or formed an opinion on beneficial ownership around $1.1 billion is held by governments, $53.7 billion is held by central banks, $35.9 billion held by corporations and $0.4 billion would mainly be in the hands of trusts, other private organisations or individuals.

(b) Where the AOFM has identified or formed an opinion regarding beneficial ownership, it has found it across 23 different countries. Information on the holdings by country beyond that already available on the AOFM website cannot be provided because of the risk of revealing the identity of individual bond holders in contravention of the conditions of use of the data provided to AOFM.

(c) (i) Where the AOFM has identified or formed an opinion regarding beneficial ownership it has identified $1.1 billion of issued CGS as held by governments. This figure represents the holdings by Australian State government financing authorities and public trustees. No foreign government holdings
are identified. Information on the holdings by individual governments cannot be provided because of the risk of revealing the identity of individual bond holders in contravention of the conditions of use of the data provided to AOFM. (ii) It is unclear how the average length of time of ownership referred to in the question would be calculated.

(d) (i) Where the AOFM has identified or formed an opinion regarding beneficial ownership it has identified $35.9 billion of issued CGS as held by corporations. Information on the holdings by private organisations by industry cannot be provided because of the risk of revealing the identity of individual bond holders in contravention of the conditions of use of the data provided to AOFM. (ii) Information on the holdings by private organisations by country cannot be provided because of the risk of revealing the identity of individual bond holders in contravention of the conditions of use of the data provided to AOFM. (iii) Information on the holdings by private organisations by both industry and country cannot be provided because of the risk of revealing the identity of individual bond holders in contravention of the conditions of use of the data provided to AOFM.

(e) Most issued CGS is held in the professional wholesale market, through Austraclear and this data does not identify holdings by individuals (they are all organisations). A comparatively small amount of issued CGS of $352 million is held in the domestic RBA registry while $5 million is a US dollar loan issued in the United States held on offshore registries. The AOFM has formed an opinion for the purposes of compiling the register, for these aggregate amounts that the domestic register consists primarily of individual accounts for Australian residents, while the US loan is primarily held by individual accounts of US residents.

(f) (i) Where the AOFM has identified or formed an opinion regarding beneficial ownership it has identified $53.7 billion of issued CGS as held by central bank authorities.

Information on the holdings by individual central bank authorities cannot be provided because of the risk of revealing the identity of individual bond holders in contravention of the conditions of use of the data provided to AOFM.

The Reserve Bank of Australia publishes information on the liabilities and assets on their balance sheet including their holdings of Australian Government securities in the Reserve Bank Bulletin and on their website. Published Reserve Bank data indicates they held around $10.2 billion of issued CGS as at end March 2012.

(ii) Information on the holdings by individual central bank authorities cannot be provided because of the risk of revealing the identity of individual bond holders in contravention of the conditions of use of the data provided to AOFM.

The published Reserve Bank of Australia monthly data on their holdings of issued CGS indicates that they held CGS continuously at least back to July 1969 although the level has fluctuated significantly over time. It is unclear how the average length of time of ownership referred to in the question would be calculated.

(g) The Future Fund is not separately identified in the data available to AOFM as it operates through other asset managers. The Department of Finance and Deregulation has advised, however, that as at 19 April 2012, the Future Fund held no issued CGS, while the Building Australia Fund, Education Investment Fund and Health and Hospital Funds each held around $265 million, $175 million and $144 million respectively.

**Australian Communications and Media Authority**

(Question No. 1821)

**Senator Birmingham:** asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 20 April 2012:
(1) Has the Australian Communications and Media Authority (ACMA) and/or the department examined the Secure Kids Chat platform; if so, what views have been formed of the platform.

(2) Has the ACMA and/or department met with the developers of this platform.

(3) Is the ACMA and/or department aware of a request by Secure Kids Chat for funding assistance; if so, what response has been given.

(4) What other funding programs or sources could Secure Kids Chat potentially access.

Senator Conroy: The answer to the honourable senator's question is as follows:

(1) The ACMA and the department have not examined the Secure Kids Chat platform. However, the department has visited the Secure Kids Chat website to gain a preliminary understanding of the platform.

(2) No.

(3) Yes. On 14 March 2012, I responded to a representation from Mr Robert Oakeshott MP on behalf of Secure Kids Chat in which I said:

'At this stage, my department does not offer any grants that can assist Mr Gray and Ms Redmond with their project. You can however direct them to GrantsLINK for a directory of all currently available Australian Government grants which is available at www.grantslink.gov.au'

(4) Please see response to question 3 above.

Australian Prudential Regulation Authority

(Question No. 1822)

Senator Bushby asked the Minister representing the Treasurer, upon notice, on 23 April 2012:

With reference to the Australian Prudential Regulation Authority (APRA) and overseas travel:

(1) What is the approval process for

(a) authority members;

(b) the Chair; and

(c) staff.

(2) What records are kept.

(3) Are reports completed following each overseas travel event.

(4) How many overseas travel applications were approved over the past 3 years.

(5) Can details be provided in tabulated form, by officer name, date, approving delegate, destination, purpose and cost, for each approved travel application over the past 3 years.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

(1) (a) (b)(c) Travel by the Chairman of the Australian Prudential Regulation Authority (APRA), other APRA members and APRA staff is undertaken pursuant to APRA's policy on Official Travel, set out in the Chairman's Finance Instructions. Under the policy, all proposals for overseas travel require the approval of either an APRA Member or an Executive General Manager. Travel by the Chairman or APRA Members is approved by another APRA Member in line with the relevant Determination of the Remuneration Tribunal. In the case of overseas conferences, proposals for staff participation as an attendee also require the initial approval of the People and Engagement Steering Group, chaired by the Deputy Chairman; proposals for staff participation as a presenter require the initial approval of the Management Group.
(2) All expenditure must be adequately explained and substantiated in accordance with the Chairman's Finance Instructions and APRA Financial Procedures. APRA retains records that evidence all aspects of the travel process including but not limited to the approval and payment processes and travel diaries. Substantiation of expenditure typically takes the form of tax invoices i.e. vouchers, docketes, points of sale receipts etc and credit card statements.

(3) APRA’s policy and procedures require staff to complete a travel diary for business trips that exceed five consecutive nights including travel time. Travel diaries are retained by APRA’s Finance section. Staff report on the outcomes of overseas travel and attendances through a variety of internal mechanisms, including briefings to APRA’s industry groups, for accountability and information sharing purposes.

(4) 2009/10 – 2010/11 – 145
2011/12 (to date) - 145

(5) The table below records details of travel for the APRA Members and Executive General Managers by name and purpose. Other staff overseas travel has been aggregated. Extracting the name of the approving delegate and the specific costs of each trip for each of the approvals would require a substantial diversion of APRA’s resources.

**Travel information for FY 2009/10**

**APRA Members**

<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAKER Chairman</td>
<td>Basel Committee on Banking Supervision (3)</td>
</tr>
<tr>
<td></td>
<td>Basel Committee on Banking Supervision/IMF Annual Meeting*/Financial Stability Institute Policy Forum*</td>
</tr>
<tr>
<td></td>
<td>Lujiazui Forum 2010*</td>
</tr>
<tr>
<td></td>
<td>Peer regulator</td>
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<tr>
<td>JONES Deputy Chair</td>
<td>Organisation for Economic Cooperation and Development</td>
</tr>
<tr>
<td></td>
<td>(OECD)/International Organisation of Pension Supervisors (IOPS) (3)</td>
</tr>
<tr>
<td></td>
<td>IOPS/Global Forum on Private Pensions</td>
</tr>
<tr>
<td></td>
<td>Bank of Indonesia Convention*/</td>
</tr>
<tr>
<td></td>
<td>International Network on Financial Education (INFE) Conference*</td>
</tr>
<tr>
<td></td>
<td>International Federation of Pension Fund Administrators (FIAP)</td>
</tr>
<tr>
<td></td>
<td>OECD/IOPS/INFE Symposium</td>
</tr>
<tr>
<td>TROWBRIDGE Member</td>
<td>International Association of Insurance Supervisors (4)</td>
</tr>
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* Speaker

**APRA Executive General Managers**

<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>BYRES</td>
<td>Basel Committee on Banking Supervision – Top-Down Calibration Group (3)</td>
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<tr>
<td></td>
<td>Basel Committee on Banking Supervision - Working Group on Liquidity</td>
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<tr>
<td></td>
<td>Asian meeting with industry representatives</td>
</tr>
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<td></td>
<td>Basel Committee on Banking Supervision – Top Down Calibration Workstream on Liquidity/Working Group on Liquidity</td>
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<tr>
<td></td>
<td>International Association of Insurance Supervisors (3)</td>
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<tr>
<td></td>
<td>International Association of Insurance Supervisors – Subcommittees (2)</td>
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<tr>
<td></td>
<td>Seminar hosted by Financial Supervisory Service, Korea</td>
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</table>

**QUESTIONS ON NOTICE**
<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose</th>
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</thead>
<tbody>
<tr>
<td>KHOO</td>
<td>Basel Committee on Banking Supervision - Accounting Task Force (3)</td>
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<tr>
<td></td>
<td>World Council of Credit Unions/International Credit Union Regulators</td>
</tr>
<tr>
<td></td>
<td>Network *</td>
</tr>
<tr>
<td>LITTRELL</td>
<td>12th Integrated Financial Supervisors Conference/Meeting with</td>
</tr>
<tr>
<td></td>
<td>European Commission/Basel Committee on Banking Supervision -</td>
</tr>
<tr>
<td></td>
<td>Policy Development Group</td>
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<tr>
<td></td>
<td>Basel Committee on Banking Supervision - Policy Development Group</td>
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<tr>
<td></td>
<td>Financial Stability Forum</td>
</tr>
</tbody>
</table>

* Speaker

**Other APRA staff**

<table>
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<tr>
<th>Number of trips</th>
<th>Purpose of attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>51</td>
<td>Policy Committee / Meeting</td>
</tr>
<tr>
<td>42</td>
<td>Prudential review</td>
</tr>
<tr>
<td>38</td>
<td>Attending conference/seminar as attendee</td>
</tr>
<tr>
<td>15</td>
<td>Attending conference/seminar as presenter</td>
</tr>
<tr>
<td>14</td>
<td>Training</td>
</tr>
<tr>
<td>7</td>
<td>Technical assistance</td>
</tr>
</tbody>
</table>

**Travel information for FY 2010/11**

**APRA Members**

<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>LAKER Chairman</td>
<td>Basel Committee on Banking Supervision (6)</td>
</tr>
<tr>
<td></td>
<td>Basel Committee on Banking Supervision/International Conference of</td>
</tr>
<tr>
<td></td>
<td>Banking Supervisors*/Institute of International Finance Asia CEO</td>
</tr>
<tr>
<td></td>
<td>Summit*</td>
</tr>
<tr>
<td></td>
<td>Institute of International Finance High-Level Symposium *</td>
</tr>
<tr>
<td></td>
<td>Trans-Tasman Banking Council</td>
</tr>
<tr>
<td>JONES Deputy Chair</td>
<td>OECD/IOPS (5)</td>
</tr>
<tr>
<td></td>
<td>Asia-Pacific Investments Summit*</td>
</tr>
<tr>
<td></td>
<td>International Federation of Pension Fund Administrators (FIAP)*</td>
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<tr>
<td></td>
<td>International Network on Financial Education</td>
</tr>
<tr>
<td></td>
<td>OECD Russian Federation Technical Seminar</td>
</tr>
<tr>
<td>LAUGHLIN Member</td>
<td>International Association of Insurance Supervisors (4)</td>
</tr>
<tr>
<td>TROWBRIDGE Member</td>
<td>International Association of Insurance Supervisors *</td>
</tr>
</tbody>
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* Speaker

**APRA Executive General Managers**

<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose</th>
</tr>
</thead>
<tbody>
<tr>
<td>BYRES</td>
<td>International Conference of Supervisors 2010 *</td>
</tr>
<tr>
<td></td>
<td>Peer regulator (2)</td>
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<tr>
<td></td>
<td>Financial Stability Institute/Executives’ Meeting of East Asia -Pacific</td>
</tr>
<tr>
<td></td>
<td>Central Banks High-Level Meeting*</td>
</tr>
<tr>
<td></td>
<td>FSA International Regulatory Risk Roundtable 2011*</td>
</tr>
<tr>
<td></td>
<td>13th Integrated Financial Supervisors Conference*</td>
</tr>
<tr>
<td>CHAPMAN</td>
<td>International Association of Insurance Supervisors (3)</td>
</tr>
</tbody>
</table>
Name | Purpose
--- | ---
KHOO | World Council of Credit Unions and International Credit Union Regulators Network*/Deposit Insurance Corporation of Ontario/ Basel Committee on Banking Supervision - Accounting Task Force (2)
 | Basel Committee on Banking Supervision - Accounting Task Force
 | International Credit Union Regulators Network/Basel Committee on Banking Supervision - Accounting Task Force (2)
 | Overseas recruitment program
LITRELL | Financial Stability Institute High-Level Meeting
 | Basel Committee on Banking Supervision - Policy Development Group (2)
 | Trans-Tasman Banking Council

### Other APRA staff

<table>
<thead>
<tr>
<th>Number of trips</th>
<th>Purpose of attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>33</td>
<td>Policy Committee / Meeting</td>
</tr>
<tr>
<td>43</td>
<td>Prudential review</td>
</tr>
<tr>
<td>43</td>
<td>Attending conference/seminar as attendee</td>
</tr>
<tr>
<td>15</td>
<td>Attending conference/seminar as presenter</td>
</tr>
<tr>
<td>11</td>
<td>Training</td>
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<tr>
<td>11</td>
<td>Technical assistance</td>
</tr>
<tr>
<td>4</td>
<td>Secondment</td>
</tr>
<tr>
<td>3</td>
<td>Recruitment</td>
</tr>
</tbody>
</table>

### Travel information for FY 2011/12 (to date)

**APRA Members**

<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose</th>
</tr>
</thead>
</table>
| LAKER Chairman | Monetary Authority of Singapore 40th Anniversary Roundtable *
 | Basel Committee on Banking Supervision (2) |
| JONES Deputy Chair | Korean Financial Investment Association Conference*/IOPS Association of Superannuation Funds of Australia Forum*
 | OECD/IOPS (4) |
 | Minister Shorten's Mission to Israel/Regulatory Meetings |
| LAUGHLIN Member | International Association of Insurance Supervisors (3) |

* Speaker

**APRA Executive General Managers**

<table>
<thead>
<tr>
<th>Name</th>
<th>Purpose</th>
</tr>
</thead>
</table>
| BYRES | Basel Committee on Banking Supervision (2)
 | IMF High-Level Regional Symposium*/Basel Committee on Banking Supervision |
| CHAPMAN | FSA Regulatory Round Table
 | International Association of Insurance Supervisors – Financial Stability Committee (2) |
| KHOO | Basel Committee on Banking Supervision - Accounting Task |
Senator Bushby asked the Minister representing the Treasurer, upon notice, on 23 April 2012:

With reference to the Australian Taxation Office Annual Report 2010-11, which states that 'during 2010-11, 3,466 formal notices were issued across all markets to obtain relevant information and documents':

(1) What is the comparable figure for the 2011-12 financial year, for the period ending 31 March 2012.

(2) Have any trends become evident; if so, can an explanation be provided.

(3) Can a breakdown be provided detailing the exercise of these functions by heads of powers, as per the presentation in the 2010-11 annual report.

(4) Has there been any judicial comment in relation to the exercise of these powers during the 2011-12 financial year; if so, can details be provided.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

(1) Formal compliance access and information gathering overall.

Annual Report 2010-11 Year to date 2011-12 (as at 31 March 2012)
3,466 3,212

(2) No, the ATO hasn't identified any trends.

(3) Formal access and information gathering powers used by the Commissioner, 1 July 2011 to 31 March 2012.

Access Approved submissions
With notice 14

QUESTIONS ON NOTICE
Burma
(Question No. 1825)

Senator Ludlam asked the Minister for Foreign Affairs, upon notice, on 3 May 2012:
(1) Is an Australian business delegation to Burma being organised by the department or by the Australian ambassador to Burma; if so:
   (a) which Australian companies are invited to participate on the delegation;
   (b) with whom will the delegation meet;
   (c) on what dates will the delegation travel to Burma and to which locales within the country; and
   (d) what amount has the Government budgeted to facilitate the delegation.

(2) What measures will be in place to ensure that:
   (a) deals undertaken by Australian businesses are reversible to be consistent with the Government's position, that sanctions will return if democratic reforms do not progress; and
   (b) Australian companies are not engaging in industries or projects in Burma that are linked to human rights abuses.

(3) Why is the Government normalising business relationships with Burma given the highly undemocratic nature of the constitution, ongoing military offensives against ethnic minorities in the north and east of the country and the large number of political prisoners who remain incarcerated.

Senator Bob Carr: The answer to the honourable senator's question is as follows:
(1) No.

(2) (a) The Government's 16 April announcement to normalise trade ties with Burma involved discontinuing the policy of neither encouraging nor discouraging trade and investment with Burma. The Australian Government has never imposed general trade and investment sanctions on Burma. Rather, Australia maintains targeted autonomous sanctions consisting of financial sanctions and travel restrictions against a list of Burmese individuals.

   (b) The Government has maintained the arms embargo against Burma which prohibits the supply, sale or transfer to Burma of arms and related materiel and the provision of related services.

   Australian companies are responsible for ensuring they abide by the laws of the jurisdiction in which they operate as well as Australian laws that apply extraterritorially. The Australian Government expects that Australian companies will fulfil their responsibilities to comply with applicable laws and obligations when operating abroad.
The Australian Government also expects Australian companies to conduct their business overseas according to best practice principles. The Australian Government supports a number of best practice principles that encourage ethical and responsible corporate behaviour, for example:

- OECD Guidelines for Multinational Enterprises (OECD Guidelines)
- OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones
- UN Global Compact

These initiatives advocate principles aimed, explicitly or implicitly, at protecting human rights and the environment.

(3) The Government recognises that increased trade and investment will help enhance the prospects of ordinary Burmese who are among the poorest in our region. Stronger economic growth will help Burma consolidate its democratic gains, address poverty and lay the foundations for enduring reform.

**Employment and Workplace Relations**

*(Question No. 1826)*

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 4 May 2012:

With reference to the answer to question no. 1160, taken on notice during the 2011 12 Additional Budget estimates hearing of the Education, Employment and Workplace Relations Legislation Committee: Can a breakdown be provided of the 13 'tweets' between employer, community and government organisations, stating in each case the name of the organisation.

Senator Ludwig: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

The 13 'retweets' referred to in EW1160_12 are:

1. 14 November Catholic Education Diocese Parramatta
2. 11 November QLD Dept of Education, Training & Employment
3. 11 November Australian Council of State School Organisations
4. 10 November She Success
5. 10 November Brotherhood of St Lawrence
6. 10 November YWCA Victoria
7. 10 November Victorian Council of Social Service
8. 8 November Australian Parents Council
9. 8 November Australian Council of State School Organisations
10. 10 October IDP Education
11. 5 September Workplace Insight
12. 4 September Australian Council for Private Education and Training
13. 30 August 2011 The Mental Health Services Conference

**Housing**

*(Question No. 1829)*

Senator Ludlam asked the Minister representing the Minister for Housing, upon notice, on 8 May 2012:
With reference to the increase to the Commonwealth Aged and Disability Support Pension, of approximately $10 and $32 per week for couples and singles, in the 2009-10 Federal Budget and with particular regard to recipients of the pension who are state housing tenants:

(1) Is the Treasurer aware that tenants in Victorian public housing received notice in January 2012 (effective 12 February 2012) from the Victorian Government that their pension increase would be included in rent calculations and classed as assessable income for the calculation of public housing rents.

(2) Can the Treasurer confirm the impact this will have on a single aged pensioner in terms of the net increase in rent paid per week.

(3) What is the estimated increase in revenue to the Victorian State Government as a result of this measure.

(4) Is the Treasurer aware that the Western Australian Government recently indicated publicly that it was planning on a similar measure, before withdrawing the announcement due to public outcry.

(5) Have any other states taken similar action.

(6) Does the Treasurer support such action by the states.

(7) Is the Australian Government considering any action to prevent states from including current or future increases to Commonwealth benefits being treated as income by the states, such as paying pensioners rent assistance or introducing legislation.

Senator Chris Evans: The Minister for Housing and the Minister for Homelessness has provided the following answer to the honourable senator's question:

(1) The Minister is aware of the Victorian State Government's decision to cease quarantining the Federal Government's September 2009 pension increase, effective as at 12 February 2012.

(2) Pensioners will continue to pay no more than 25 per cent of their assessable income in rent calculations. The net increase for a pensioner paying 25 per cent of their base pension in rent is $7.50 per week.

(3) The Victorian State Government would be best placed to respond to this question.

(4) Western Australia's quarantine arrangements for the September 2009 pension increase ceased on 20 March 2011. You may be referring to the Household Assistance Payment. I am aware that Western Australia has announced that all Household Assistance Payments will be exempt from assessable income for the purposes of rent setting.

(5) Six jurisdictions have ceased quarantine arrangements for the September 2009 pension increase, including Western Australia, South Australia, Tasmania, New South Wales, Victoria and the Australian Capital Territory. Queensland and the Northern Territory are the only jurisdictions to continue to quarantine the pension increase.

(6) No, the Gillard Government believes that Labor's September 2009 pension increase should be passed on to pensioners in public housing in full.

(7) When it announced its pension reform package in the 2009-10 Budget, the Commonwealth Government requested in writing that all States and Territories permanently exempt the 2009 pension increase from public housing rent setting.

This was followed by several formal and informal representations re-iterating the Commonwealth Government's view that pensioners should receive the full benefit of Labor's pension increase in September 2009.

This remains the Commonwealth Government's position in relation to the September 2009 pension increases.
Foreign Affairs and Trade
(Question No. 1832)

Senator Johnston asked the Minister for Foreign Affairs, upon notice, on 9 May 2012:

(1) What was the total cost incurred by the Australian Permanent Mission to the United Nations in hosting the reception that was catered for by contestants of the television program MasterChef Australia in 2011.

(2) Did the Australian Government provide any financial support to cover the accommodation or travel expenses of the contestants, hosts and/or producers of MasterChef Australia during their visit to New York in 2011; if so, how much.

(3) What assistance was provided to the contestants, hosts and/or producers of MasterChef Australia during their visit, and did the Australian Permanent Mission to the United Nations incur any associated costs; if so, how much.

(4) What assistance was provided by the Australian Permanent Mission to the United Nations prior to the filming of MasterChef Australia.

Senator Bob Carr: The answer to the honourable senator's question is as follows:

(1) On 26 May 2011, Australia co-hosted with the Secretariat of the United Nations Permanent Forum on Indigenous Issues a reception to coincide with the Tenth Session of the UN Permanent Forum, and to launch a photographic exhibition on Indigenous issues. Over 400 people attended, including approximately 35 Indigenous Australian non-government representatives and five Australian Government representatives, along with representatives from UN Permanent Missions and delegations to the Permanent Forum. The reception featured food prepared by the chefs of the television show MasterChef Australia, and MasterChef contributed substantially to the food and venue costs (including audio-visual equipment).

The Australian Permanent Mission to the United Nations provided AUD8,947.06 towards the event, which was a unique public diplomacy opportunity for Australia to promote our work on indigenous issues, and promote indigenous issues globally. Details of that expenditure were as follows:

<table>
<thead>
<tr>
<th>Details</th>
<th>Cost (AUD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food</td>
<td>$2,059.57</td>
</tr>
<tr>
<td>Venue costs/equipment hire</td>
<td>$2,785.20</td>
</tr>
<tr>
<td>Indigenous performers</td>
<td>$1,083.07</td>
</tr>
<tr>
<td>Hire of staff for bar and food service</td>
<td>$2,144.48</td>
</tr>
<tr>
<td>Sundries (postage, supplies)</td>
<td>$874.74</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$8,947.06</strong></td>
</tr>
</tbody>
</table>

(2) No. Nil.

(3) The Mission provided advice to the producers in their interaction with the United Nations. There were no costs incurred.


Human Services
(Question No. 1835)

Senator Johnston asked the Minister for Human Services, upon notice, on 10 May 2012:

(1) What are the formal roles and responsibilities of the position Special Advisor to the Secretary.

(2) Who occupies this position.

Senator Kim Carr: The answer to the honourable senator's question is as follows:
The formal roles and responsibilities of the Special Advisor to the Secretary for 2011-2012 are:

- complete integration of the Child Support Program into the Department of Human Services by 31 October 2011;
- maintain high quality program operations in the lead up to and during integration;
- support Associate Secretary and relevant Deputy Secretaries in leading the Child Support Program during and following integration; and
- provide advice and support to the Secretary, Associate Secretary and Executive Committee members on service delivery matters.

This position is currently occupied by Philippa Godwin, Deputy Secretary. Ms Godwin will proceed on leave on 15 June 2012 before retiring.

**Human Services**  
(Question No. 1836)

Senator Johnston asked the Minister for Human Services, upon notice, on 10 May 2012:

1. What are the formal roles and responsibilities of the position Deputy Director – Child Support.
2. Who occupies this position.

Senator Kim Carr: The answer to the honourable senator's question is as follows:

1. The Child Support Registrar is a statutory office holder established under section 10 of the Child Support (Registration and Collection) Act 1988 (the Act).

   The Act sets out the Registrar's statutory powers and responsibilities relating to the child support scheme.

   These powers and responsibilities include keeping and maintaining a register known as the Child Support Register (see section 13 of the Act).

   (2) Barry Sandison occupies the role of Deputy Secretary – Participation, Families and Older Australians, and the Child Support Registrar.

**Human Services**  
(Question No. 1837)

Senator Johnston asked the Minister for Human Services, upon notice, on 10 May 2012:

How many change of assessment applications have been processed by the department in the period July 2004 to June 2011.

Senator Kim Carr: The answer to the honourable senator's question is as follows:

During the period 1 July 2004 to 30 June 2011, the department has processed 185,923 Change of Assessment applications.

**Human Services**  
(Question No. 1838)

Senator Johnston asked the Minister for Human Services, upon notice, on 10 May 2012:

How many change of assessment applications have been processed where: (a) the applicant has substantiated their reason to proceed with the application; or (b) the Child Support Agency has made a change of assessment decision, using information or documents disclosed during court proceedings without consent of the other party, leave from the court, or an acknowledged understanding by the other party that the information was read out in open court.

Senator Kim Carr: The answer to the honourable senator's question is as follows:
The department is unable to provide statistics as to the number of Change of Assessment applications where customers have relied on court documents to substantiate their application or where the department has made a Change of Assessment decision using court documents without:

(i) the consent of the other party,
(ii) leave from the court, or
(iii) an acknowledged understanding by that other party that the information was read in open court.

It is not possible to precisely determine the number of past child support decisions that relied in some way on court information or documents that were provided by CSP customers.

Recent estimates are that customers provide court information in approximately ten per cent of Change of Assessment applications. In recent years the department has received approximately 20,000 Change of Assessment applications each year.

Human Rights
(Question No. 1850)

Senator Johnston asked the Minister representing the Prime Minister, upon notice, on 17 May 2012:

With reference to the Prime Ministers meeting with President Bongo of Gabon:

(1) Was the Prime Minister aware of allegations of corruption and human rights abuses prior to the meeting.

(2) Did the Prime Minister seek advice from the Department of Foreign Affairs and Trade as to whether it was appropriate to meet.

(3) Were the topics of: (a) human rights; (b) Australia's campaign for a temporary seat on the United Nations Security Council; and (c) corruption raised by the Prime Minister during the meeting.

(4) Did President Bongo or his entourage receive any Australian Government support for the visit to Australia, including airfares and accommodation; if so, what sum of money was spent.

(5) Did the President use the Australian Governments Special Purpose Aircraft during the visit to Australia; if so, what flights were arranged.

Senator Chris Evans: The Prime Minister is advised the answer to the honourable senator's question is as follows:

(1) and (2) The Department of the Prime Minister and Cabinet (PMC) provides advice to the Prime Minister to support her international engagements, including meetings with foreign leaders. In preparing such advice, PMC draws on information from other departments and agencies as appropriate, including the Department of Foreign Affairs and Trade, as it did on this occasion.

(3) The Prime Minister released a joint statement with President Bongo following their meeting on 29 March, which notes that they had wide-ranging discussions on a number of important issues, including food security, climate change, peace and security challenges, trade, natural resources governance and development cooperation. The Prime Minister and other members of the government regularly talk to other leaders and governments about the strong contribution Australia would make to the United Nations Security Council if elected.

(4) President Bongo’s visit to Australia was a state visit conducted under the guest of government program. The usual range of costs was covered by the Australian Government, including accommodation and ground transport. The Prime Minister is advised that the total cost of the visit was $156,991.44 (including GST).

(5) President Bongo did not use the Australian Government's special purpose aircraft during his visit.
Burma
(Question No. 1852)

Senator Johnston asked the Minister for Foreign Affairs, upon notice, on 17 May 2012:

(1) On what date did the Burmese Government first extend an invitation to Australia to send electoral observers, and what was the nature of the invitation.

(2) Did the Burmese Government specify a preference for officials, parliamentarians or any other person.

(3) Did the Australian Government contact other nations invited to send electoral observers prior to its decision to send Australian parliamentarians.

(4) Did the Australian Government ask other nations whether they were sending officials or elected representatives to Burma.

(5) What reasons were given by the Burmese Government for refusing visas to the parliamentarians nominated by the Australian Government.

Senator Bob Carr: The answer to the honourable senator's question is as follows:

(1) The Burmese Government extended the invitation to the Australian Government on 20 March 2012. The invitation was for the Australian Government to send two officials and three journalists to observe the 1 April by-elections in Burma.

(2) Yes. The invitation from the Burmese Government was for two officials and three journalists to go to Burma to observe the 1 April by-elections. Accordingly, the Australian Government asked officials with expertise in electoral systems and Burma's politics to participate along with media representatives. In parallel, we also requested that the Burmese authorities allow Australian parliamentarians to observe the elections.

(3) Yes, we engaged with ASEAN nations and ASEAN dialogue partners, Canada, New Zealand, and the US. We also consulted the United Nations in New York and the European Union in Brussels on the composition of the delegation.

(4) Yes.

(5) The Burmese Government advised that capacity constraints made hosting dignitaries impossible at such a busy time.

Fair Work Ombudsman
(Question No. 1856)

Senator Abetz asked the Minister representing the Minister for Employment and Workplace Relations, upon notice, on 18 May 2012:

With reference to the legal case between the Fair Work Ombudsman and Wegra Investments Pty Ltd, Heinz Wegener and Paula Wegener:

(1) What were the total legal costs incurred by the Fair Work Ombudsman in bringing this action.

Detailed separately, what were the total legal costs incurred:

(a) internally; and

(b) through the provision of any external legal advice.

(2) Can a breakdown be provided of the costs associated with officers preparing the case.

(3) Did this matter go straight to a hearing; if so, was an attempt made to mediate the issue; if not, why not.
Senator Ludwig: The Minister for Employment and Workplace Relations has provided the following answer to the honourable senator's question:

(1) The Fair Work Ombudsman (FWO) does not record the specific hours worked by Fair Work Inspectors or internal lawyers on individual files. The total costs associated with this matter therefore cannot be provided.

(2) The total cost to date of external legal advice obtained in relation to this matter is $67,431.62.

(3) Refer to question 1.

(4) Neither party sought formal court mediation throughout the legal proceedings. This was due to the extensive and cooperative consultations that took place between the parties in establishing agreed contraventions. These consultations enabled the parties to avoid the need for a liability hearing. The matter therefore was able to proceed directly to a penalty hearing.

Finance and Deregulation
(Question No. 1860)

Senator Abetz asked the Minister for Finance and Deregulation, upon notice, on 18 May 2012:

With reference to the answer provided to question on notice no. 1305: Have any representations been made to the Minister for Finance and Deregulation by the Minister for Tertiary Education, Skills, Jobs and Workplace Relations or the Minister for Small Business; if so, can details be provided.

Senator Wong: The answer to the honourable senator's question is as follows:

The answer to this question was provided in response to Question on Notice 1690 (Senate Hansard 8 May 2012, proof p.96) and Question on Notice 1305 (Senate Hansard 28 February 2012, proof p.101).

National Broadband Network
(Question No. 1865)

Senator Abetz asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 30 May 2012:

In relation to the National Broadband Network rollout in Tasmania, were plans submitted for each local council area in Tasmania or other geographic regions; if so:

(a) can a list be provided specifying each local council area or geographic region for which a plan was submitted and the date it was lodged;

(b) how many alterations were made to each submitted plan, including for each alteration:

(i) its lodgement date,

(ii) the date it was approved,

(iii) the reason for the alteration, and

(iv) the cost implication of the alteration; and

(c) what was the advertising of any plan and any alteration, including the advertising medium and cost.

Senator Conroy: The answer to the honourable senator's question is as follows:

The Telecommunications Act 1997 provides carriers with immunity from state and territory planning laws when installing low-impact facilities, temporary defense facilities or facilities for which a Facility Installation Permit has been obtained. The installation of all other telecommunications facilities is subject to state and territory planning laws. As a wholesale carrier, NBN Co is subject to these laws.
Whether a plan is required to be lodged with local councils is a matter for state and territory laws and/or individual local council requirements.

The Australian Government does not collect information on documents lodged with local governments by carriers.