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SITTING DAYS—2011

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FORTY-THIRD PARLIAMENT
FIRST SESSION—THIRD PERIOD

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

Senate Officeholders

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


Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

Senate Party Leaders and Whips

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

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

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<th>State or Territory</th>
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<td>Abetz, Hon. Eric</td>
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(1) Chosen by the Parliament of South Australia to fill a casual vacancy vice Amanda Eloise Vanstone, resigned.

(2) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Ian Campbell, resigned.

(3) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Christopher Martin Ellison, resigned.

(4) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.

**PARTY ABBREVIATIONS**

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

**Heads of Parliamentary Departments**

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

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

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<tr>
<td>Minister for the Arts</td>
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<td>Hon. Tanya Plibersek MP</td>
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<tr>
<td>Minister for Privacy and Freedom of Information</td>
<td>Hon. Brendan O'Connor MP</td>
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<tr>
<td>Minister for Sport</td>
<td>Senator Hon. Mark Arbib</td>
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<tr>
<td>Special Minister of State for the Public Service and Integrity</td>
<td>Hon. Gary Gray AO, MP</td>
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<tr>
<td>Assistant Treasurer and Minister for Financial Services and Superannuation</td>
<td>Hon. Bill Shorten MP</td>
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<tr>
<td>Minister for Employment Participation and Childcare</td>
<td>Hon. Kate Ellis MP</td>
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<td>Minister for Indigenous Employment and Economic Development</td>
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<td>Hon. Warren Snowdon MP</td>
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<td>Hon. Jason Clare MP</td>
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<td>Minister for Human Services</td>
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<td>Cabinet Secretary</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
<td>Senator Hon. Kate Lundy</td>
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<td>Parliamentary Secretary to the Treasurer</td>
<td>Hon. David Bradbury MP</td>
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<td>Parliamentary Secretary for School Education and Workplace Relations</td>
<td>Senator Hon. Jacinta Collins</td>
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<td>Senator Hon. Stephen Conroy</td>
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<tr>
<td>Parliamentary Secretary for Trade</td>
<td>Hon. Justine Elliot MP</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
<td>Hon. Richard Marles MP</td>
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<td>Senator Hon. David Feeney</td>
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<td>Parliamentary Secretary for Infrastructure and Transport and Parliamentary Secretary for Health and Ageing</td>
<td>Hon. Catherine King MP</td>
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<td>Parliamentary Secretary for Disabilities and Carers</td>
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<td>Parliamentary Secretary for Community Services</td>
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<td>Parliamentary Secretary for Sustainability and Urban Water</td>
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<td>Minister Assisting on Deregulation and Public Sector Superannuation</td>
<td>Senator Hon. Nick Sherry</td>
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<tr>
<td>Minister Assisting the Attorney-General on Queensland Floods Recovery</td>
<td>Senator Hon. Joe Ludwig</td>
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<tr>
<td>Parliamentary Secretary for Climate Change and Energy Efficiency</td>
<td>Hon. Mark Dreyfus QC, MP</td>
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## SHADOW MINISTRY

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<td>Deputy Leader of the Opposition and Shadow Minister for Foreign Affairs</td>
<td>Hon. Julie Bishop MP</td>
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<td>Ministry for Trade</td>
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<td>Leader of the Nationals and Shadow Minister for Infrastructure</td>
<td>Hon. Warren Truss MP</td>
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<td>Senator Barnaby Joyce</td>
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<td>Senator Hon. David Johnston</td>
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<td>Hon. Peter Dutton MP</td>
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<td>Shadow Minister for Families, Housing and Human Services</td>
<td>Hon. Kevin Andrews MP</td>
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<td>Hon. Greg Hunt MP</td>
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<td>Hon. Bruce Billson MP</td>
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<td>Consumer Affairs</td>
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Hon. Sussan Ley MP

Shadow Minister for Justice, Customs and Border Protection  
Mr Michael Keenan MP

Shadow Assistant Treasurer and Shadow Minister for Financial Services and Superannuation  
Senator Mathias Cormann

Shadow Minister for Childcare and Early Childhood Learning  
Senator Hon. Brett Mason

Shadow Minister for Universities and Research  
Mr Luke Hartsuyker MP

Shadow Minister for Youth and Sport and Deputy Manager of Opposition Business in the House  
Senator Marise Payne

Shadow Minister for Indigenous Development and Employment  
Hon. Bob Baldwin MP

Shadow Minister for Regional Development  
Hon. Bronwyn Bishop MP

Shadow Special Minister of State  
Senator Marise Payne

Shadow Minister for COAG  
Hon. Bob Baldwin MP

Shadow Minister for Tourism  
Mr Stuart Robert MP

Shadow Minister for Defence Science, Technology and Personnel  
Senator Hon. Michael Ronaldson

Shadow Minister for Veterans' Affairs and Shadow Minister Assisting the Leader of the Opposition on the Centenary of ANZAC  
Mr Luke Hartsuyker MP

Shadow Minister for Regional Communications  
Senator Concetta Fierravanti-Wells

Shadow Minister for Ageing and Shadow Minister for Mental Health  
Hon. Bronwyn Bishop MP

Shadow Minister for Seniors  
Senator Mitch Fifield

Shadow Minister for Disabilities, Carers and the Voluntary Sector and Manager of Opposition Business in the Senate  
Senator Marise Payne

Chairman, Scrutiny of Government Waste Committee  
Mr Jamie Briggs MP

Shadow Cabinet Secretary  
Hon. Philip Ruddock MP

Shadow Parliamentary Secretary Assisting the Leader of the Opposition  
Senator Cory Bernardi

Shadow Parliamentary Secretary for International Development Assistance  
Hon. Teresa Gambaro MP

Shadow Parliamentary Secretary for Roads and Regional Transport  
Mr Darren Chester MP

Shadow Parliamentary Secretary to the Shadow Attorney-General  
Senator Gary Humphries

Shadow Parliamentary Secretary for Tax Reform and Deputy Chairman, Coalition Policy Development Committee  
Hon. Tony Smith MP

Shadow Parliamentary Secretary for Regional Education  
Senator Fiona Nash

Shadow Parliamentary Secretary for Northern and Remote Australia  
Senator Hon. Ian Macdonald

Shadow Parliamentary Secretary for Local Government  
Mr Don Randall MP

Shadow Parliamentary Secretary for the Murray-Darling Basin  
Senator Simon Birmingham

Shadow Parliamentary Secretary for Defence Materiel  
Senator Gary Humphries

Shadow Parliamentary Secretary for the Defence Force and Defence Support  
Senator Hon. Ian Macdonald
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Dr Andrew Southcott MP

Shadow Parliamentary Secretary for Regional Health Services and Indigenous Health
Mr Andrew Laming MP

Shadow Parliamentary Secretary for Supporting Families
Senator Cory Bernardi

Shadow Parliamentary Secretary for the Status of Women
Senator Michaelia Cash

Shadow Parliamentary Secretary for Environment
Senator Simon Birmingham

Shadow Parliamentary Secretary for Citizenship and Settlement
Hon. Teresa Gambaro MP

Shadow Parliamentary Secretary for Immigration
Senator Michaelia Cash

Shadow Parliamentary Secretary for Innovation, Industry, and Science
Senator Hon. Richard Colbeck

Shadow Parliamentary Secretary for Fisheries and Forestry
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Thursday, 23 June 2011

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

BUSINESS

Rearrangement

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (09:31): I move:

That the order of consideration of general business orders of the day for the remainder of today be as follows:

No. 20—Food Standards Amendment (Truth in Labelling—Palm Oil) Bill 2010

No. 57—Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011

No. 55—Wild Rivers (Environmental Management) Bill 2011

No. 50—National Broadband Network Financial Transparency Bill 2010 (No. 2)

No. 17—Evidence Amendment (Journalists’ Privilege) Bill 2010 (No. 2)

No. 52—Foreign Acquisitions Amendment (Agricultural Land) Bill 2010.

Question agreed to.

BILLS

Food Standards Amendment (Truth in Labelling—Palm Oil) Bill 2010

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator SIEWERT (Western Australia—Australian Greens Whip) (09:32): It is with great pleasure that I stand here today to talk about this bill. The title of the dissenting report by Senator Xenophon and the Australian Greens into this bill—‘Oils ain’t oils’—says it all, and I must give Senator Xenophon credit for it. And it is true, because palm oil is not just a vegetable oil. If you read food packaging today you would believe it is just a vegetable oil. Well, we do not believe it is just a vegetable oil, nor do a large number of Australians. And this is at the heart of this particular bill. Because we do not believe it is just a vegetable oil, we believe that needs to be labelled on the packet so that people have choice.

This bill aims to provide consumers with information to make an informed choice about the products they choose to buy and consume. Most people probably do not know that 50 per cent of products on supermarket shelves—from household products to food items to cosmetics—contain vegetable oil. Because that is not labelled, consumers cannot look at the packet and know that they are buying a product that contains palm oil. They think they are just buying an innocuous product called vegetable oil. So the aim of this bill is to enable consumers to have that choice.

Of course, there are a number of reasons why we want consumers to have that choice. We are severely concerned about the impact that some forms of palm oil have on biodiversity, rainforests and, therefore, orangutans. It has been calculated that an orangutan dies every two hours in the clearing of rainforest for palm plantations. Not all palm oil is from plantations where rainforest has been cleared, but a lot is. There is a very strong connection between the clearing of rainforest for palm plantations.

Efforts are being made to promote sustainable palm oil but, at the moment, unfortunately there is not an accurate tracking system and it cannot be guaranteed that palm oil is sustainability produced. That is why Senator Xenophon will later talk in more detail about the amendments that we have proposed to this bill. Those amend-
mments were developed after this bill went to a committee inquiry—and I am sure Senator Moore will also talk about that inquiry. We took a lot of evidence from witnesses who supported this bill very strongly and from witnesses who did not—and I will go into that in a little more detail shortly. Because of the relatively short time frame we were unable to have a large number of witnesses, but we did have two days of hearings and we gathered quite a lot of evidence.

Another important point raised was the health outcomes from the saturated fats in palm oil. Under the current food labelling regulations, palm oil can be labelled as just a vegetable oil. We do not believe this gives consumers enough choice. They do not know whether that means sunflower oil, just plain vegetable oil, cotton seed oil, soya bean oil or, in fact, palm oil. The provisions of this bill, we know, were supported by COAG and the Australia and New Zealand Food Regulation Ministerial Council review on food labelling law and policy, commonly known as the Blewett review instead of that mouthful. To remind senators of their recommendation, they said that where sugars, fats or vegetable oils are added as separate ingredients in a food, the term 'added sugars, added fats and/or added vegetable oils' should be used in the ingredients list as the generic term, followed by a bracketed list—for example, 'Added sugars: fructose, glucose syrup or honey' or 'Added fats: palm oil, milk fat, vegetable oils, sunflower or palm oil'. In other words, this is picking up on a recommendation from the Blewett review.

I know we will hear it argued in this chamber that we need to wait—you have to give time for the government to consider the Blewett review. I have been in this chamber for six years. Every time issues about labelling have come up I have been told: 'You have to give this time, Senator. It takes time to consult the Australian community. It takes time to consult with the states and territories.' Well, I am sorry, but you have run out of time. It is time that we made a move and put this amendment in place.

I remember when I was seated over there on the opposition bench, arguing this case about labelling foods. I remember when I was seated over there arguing the case for better labelling laws. I have sat in estimates for six years, questioning FSANZ about what they are doing about labelling, and we have had no action. It is time now that we had some action. I am very pleased to hear the coalition say that they are going to support this particular bill, because it is a very important move in the right direction. It is about giving consumers choice, labelling food products so people know what they are buying. They can go to the supermarket, pick up a packet of biscuits, look at whether it has palm oil or not and make a choice. They may make the choice that they want to buy it. They also may make a different choice. The key thing here is that they will have the choice. Hopefully, that choice can drive change, because this is also about enabling people to make a choice on what they buy and about trying to drive some change with the choices consumers make.

We had a very good public response to the inquiry on this issue. There were 448 submissions received for the previous inquiry—this was carried out in two stages because of the election—and 48 more received after the election. There was a petition tabled around this issue with 163,917 Australians asking for changes to our labelling laws and to label for palm oil.

I point out that this is not a boycott of palm oil. We did not call for a boycott of palm oil. We have not asked for a ban on palm oil. We are simply asking for products that contain palm oil to be labelled so that
people can make a very clearly informed choice. It is what Australians have been asking for. We believe these changes are eminently sensible changes. We believe that this should be the start—and maybe that is what scares the government—of ensuring consumers can read labels and get intelligible information off those labels so that they can make an informed choice.

Do you know that each year Australians consume an average of 10 kilos of palm oil each? But they do not know that they are doing it. Some people may want to do it but, I tell you what: I do not. I know lots of people that do not. But at this stage I do not have a choice. I know some products that contain it and I avoid those, but there are dozens of products where I do not know if they contain palm oil. I want to be able to make that choice. Hundreds of thousands of Australians have indicated they want to make that choice.

This is an important bill. It is an important milestone for labelling products and for giving consumers a choice. And do not forget that there are orangutans that will continue to survive by you making this choice, by passing this bill. Hopefully it means that in the future an orangutan will not die every two hours as a result of clearing rainforests for palm oil plantations. This is not a ban. It is not a boycott. It is enabling people to make choices about what they buy and what they eat. I commend this bill to the chamber.

Senator MOORE (Queensland) (09:42):
The issues around palm oil have become quite well-known to the members of the Community Affairs Legislation Committee. I take the point that until we had the series of references to our committee there was not a great deal of knowledge. We had seen some information. Naturally, we had seen the large campaign by the Zoos Australia network. I want to particularly commend in this contribution the extraordinary, educative role that Zoos Australia at their Taronga, Perth and Melbourne outlets have run to raise awareness of environmental issues that have been put forward as part of the debate.

I think all of us have seen the range of extraordinarily cute postcards with a particularly fetching orangutan. I have to admit I have forgotten the name of the orangutan, but it was given a name and people knew it. It was a very personal, very confronting process in raising the issues of the need to save wildlife, the concerns of rainforest deforestation and the ongoing agricultural production in Malaysia, Indonesia and other countries. This was a particularly important part of the evidence we received.

I want to put on record the range of information we received from people who attended zoos to see what was going on. I also want to pay credit to a young woman who came to our public hearing. Her name is Chloe Nicolosi. She came along because she had a particular view, after going to the zoo, on saving the orangutan. I want to commend the role that Chloe played, because she had the courage to put forward the issue and also the courage to work with her friends at school and her local community to raise awareness, which we all need to have, about wildlife protection—and particularly, in this case, the protection of the orangutan through the Don't Palm Us Off campaign.

I know Senator Siewert mentioned that in her contribution, and I do not think anyone who was at our hearing was unaware of the genuine need to look at these issues and to come up with some response across the world. Whether—and this is a very important point—the passing of this legislation is actually the best way of doing that is a debate for this chamber. But the important
thing is that the discussion must happen and that environmental protection is something that the Australian community find interesting and that they should know about.

In our recommendations at the end of the Community Affairs Legislation Committee report, we stated that, throughout the whole process, we had evidence from a range of organisations, individuals and people on the issues of health, effective production, labelling and environment protection. But, as we said in the concluding elements of our report, for every argument that we received there was a corresponding argument for the other side. I know that a is a common situation in this place when we are taking forward important issues. Nonetheless, the committee felt that we had to put on record that in this inquiry you could go through and compare the arguments were raised and the contrasting issues. What was important was that people wanted to have their say and that they had concerns. As Senator Siewert has said, the issues of food labelling are important to our community and are becoming more so. I will go on to talk about the various issues of the current legislation.

One of the more interesting aspects of the evidence received was that people wanted clear labelling. I take that point; I am one of those people who tries to read extensively the contents of the products that I am purchasing. It is not that easy when you are looking at grapes, but, nonetheless, when you are going through the supermarket lanes and looking at the range of options before you, you see that a lot of progress has been made to date.

I know that Senator Siewert has talked about her frustration with the time that these changes take, and there is an element of truth in that. To go through a process of change does take time. But, for food products in Australia—and New Zealand, but I am talking about Australia in particular at the moment—there is much more interest in and much more availability of food labelling on packaging. Sometimes—and this is my own point, not taken up in this piece of legislation—it is almost impossible because trying to look at that the small print on a food product is a challenge in itself. Apart from that, there has been progress.

One of the interesting pieces of evidence was that people actually say that labelling is important to them. People say they want to have clear labelling of content. But does it change their purchasing processes? We had evidence to our inquiry that there are surveys from major chains on this point. Yes, people do want access to food labelling, and that is their right. But I think there needs to be much more work done in the Australian community on looking at the effectiveness of the progress in people's patterns of purchase and whether they understand clearly what the need for change is. Certainly evidence we received from the Heart Foundation and various agencies was particularly clear about the health impacts of this legislation proposal—we need to have clear labelling in terms of health. That was an issue that I think we in this place need to work on with our communities.

The Preventive Health Agency that the government has developed needs to make sure that the full message is known, as is being demanded by this legislation, about the issues of palm oil. We had significant evidence about the issues around palm oil—its level of fat and the degree of harm in that fat. That came out consistently in evidence from people looking at the health impacts—that palm oil is a substance that can have particular health impacts. That was raised, and I draw attention to the ongoing work of the Heart Foundation in this matter. That is an issue that we need to consider. The evidence that came to us in our committee
looked mainly at health aspects, the orangutan link and environmental responsibilities.

We took some time in the committee to look at the current food protection system in Australia. It is not an easy one. As Senator Siewert has said, on many occasions in our Senate estimates and community affairs committee, and also in some debate in this place, we have gone through the way that the current food protection system works. The core aspect of our current food protection system is that it is a cooperative arrangement involving the states and territories of our country. It is not a federal process. In fact, it is clearly defined that it is not a federal role to go in over the top and direct. This process works through the ministerial councils to ensure that there is agreement on and commitment to our food labelling and food protection processes—understanding that the core responsibility is with the states but that, naturally, the federal agencies have a role in coordinating and ensuring that there is understanding.

We take that situation extraordinarily seriously, and we had evidence from a number of state governments who put forward their view that they strongly believe that, in whatever process we have, recommendations are able to go through the ministerial council process so they are worked through effectively and so that the legislation that feeds out—possibly a wrong choice of verb there, considering the issue we are talking about!—of the decisions that are made on food standards are then implemented through legislation at the state level. The issue that we have with federal intervention of this type—done for the very best purposes, I strongly believe—is: how are we actually going to make it work and maintain the cooperative and effective arrangements that we have?

The ministerial council is made up of ministers from each state and territory—absolutely—the Commonwealth and, because of a particular cross-country arrangement, with our friends from New Zealand. I suppose, considering the discussion we had recently, I should call them our family members from New Zealand. It is important that we have that link through Food Standards Australia New Zealand, which is the independent statutory authority set up by the Australian government under the Food Standards Australia New Zealand Act 1991.

This cooperative arrangement in our legislation has the role of developing and maintaining the food standards which make up the Australia New Zealand Food Standards Code. That document is freely available and at times in our community affairs process we have turned to that to find out exactly what is agreed in our current process. The code itself—I know this is something people have some difficulties with—has no legal effect in its own right. The Food Regulation Agreement between the states, the territories and the Commonwealth provides that the states and territories will adopt or incorporate into state or territory law the standard which FSANZ develops. I know Senator Siewert has expressed her frustration with this process, but it is the way that we, not only in Australia but also in New Zealand, can reach an agreement which means that we have the best engagement and the opportunity to ensure that there is consistency and involvement in the process. In the first day of evidence in the community affairs inquiry Mr Steve McCutcheon, the Chief Executive Officer of FSANZ, made the point on record: I think in the context of providing more information to consumers through food labels that is very much around health and safety, and the objectives of our act make that clear. Whatever
mechanism would be taken to give effect to the objectives of this bill—

the bill we are talking about today—

I think we would probably struggle to meet the benefit-cost test that would be applied under the Council of Australian Governments best practice regulation guidelines, in terms of the cost that would be imposed on industry to put in place the systems that would be required to underpin label statements, and then the benefits of that for the consumers who were interested in that information.

I draw people's attention to the full submission of FSANZ if they want to look at all the actions, but that statement encapsulates, for me, the way the current system works—it actually draws in the states and territories and then it works with the various stakeholders, for whom there are public consultation processes to ensure that we have agreement. It does take time, and that is a point that we should all consider in looking to the future, but we need to work within the system we have to come up with the best possible arrangement.

In working within this process our committee has adopted a continuing questioning model, and that is extraordinarily important to ensure that people in the community know that their voices are able to be put into this process, which goes back into government to ensure that we have a system that is public and transparent. We use that term all the time—it needs to be transparent so people understand the way things operate and can see what the objectives of the process are.

The object of the FSANZ Act is to ensure a high standard of public health protection throughout Australia and New Zealand by means of the establishment and operation of a joint body to be known as Food Standards Australia New Zealand. FSANZ has four goals: to achieve a high degree of consumer confidence in the quality and safety of food produced, processed, sold or exported from Australia or New Zealand; to be an effective, transparent and accountable regulatory framework within which the food industry can work efficiently; to provide adequate information relating to food to enable consumers to make informed choices; and to establish common rules for both countries and promote consistency between domestic and international food regulatory measures without reducing the safeguards applying to public health and consumer protection. The core aspects are health, consumer protection, public health and safety.

There was some discussion in the community affairs committee about whether the palm oil issue fell into any of these areas.

Once again, as I said earlier, for every argument that was put up there was a contradictory argument, but I tended to fall on the side of saying that palm oil as a health matter should be further considered through our process. Most people in this place, and certainly the community affairs committee, are aware of the extensive review of this area led by former health minister Neal Blewett. That review brought down its report earlier this year. There was a large number of recommendations, and I truly hope that many people who are interested in this area have taken the time to look at the Blewett report, which is a significant document, and the large number of recommendations.

One of the recommendations of the report, which has been referred to cabinet for consideration—because it is a very important area and an important document—is that there should be consideration of palm oil labelling being identified in its own right. I was able to look at some of the submissions—many of the people who came to the community affairs committee had also made submissions through the Blewett process—and look at the issue of fat in palm oil. That was the argument Dr Blewett took up in his
recommendations, and certainly when we were pulling together the community affairs committee report in response to Senator Xenophon's bill and Senator Brown's bill, we said that, as there had been this fulsome—many people involved in that review would say extremely fulsome—review of our system conducted under Neal Blewett and those recommendations were being considered by Cabinet, that would be the appropriate way to move forward on the issue. Where we go is then a decision for this place.

It is important that the community understand that this has not been an empty space; that the government has taken seriously its responsibilities to ensure that we maintain the system that I have read out, that is enshrined in the act—looking at the transparency, looking at the responsibilities around public health and accountability. The government has certainly not moved away from its responsibility to keep that system as an effective and worthy process within our country. We have had this national review and we are working through the process. We need to ensure that the health issues raised by the community through our committee are taken up in our food standards process. There was further discussion of whether, at this stage in our food regulation program, the issues of environmental protection—and those issues are absolutely important and worthy and no-one says they should not be considered—are taken up by the various terms in the current legislation that I have already put into the debate today. That was something that many consumers felt needed to be put forward, and they brought that information to our committee. But I think it is something that needs more consideration.

We on the community affairs committee took good evidence from retailers and producers and also industry groups on voluntary labelling of products. The content for health purposes was spelt out in one area, but there was also some kind of sticker or promotional agreement that talked about the environmental processes. This was to take these concerns to the market so that people could see, when making their choices about which products to buy, if it was going through the round table process. There is a round table process, to which Senator Siewert referred, on environmental sustainability—I will not have time to go into that in this contribution, but I feel sure that we will have more discussions around this issue in the future. The labelling would make that clearly known. People could then read on a product that it had palm oil in it—under the process that will be considered in the future—and whether the palm oil being used was sustainably produced. That is already used in many areas now to grab public attention and make them aware of these differences between products.

From the perspective of the community affairs committee, it was an extraordinarily valuable exercise to see that these things were considered so important by so many people in our community and that people wanted to know about how the system for food regulation worked. People wanted to have their say in the process, but they also said that they wanted to know what they would be able to do next, after this labelling is actually agreed, and I think that is something for further discussion in this place.

I think it is important to put on the record that I think our system works. Engaging effectively with the states and stakeholders and so making sure that people understand what is going on is the best possible way to ensure food safety and awareness in our community.

Senator RYAN (Victoria) (10:02): In deference to time, I will be brief. The
coalition is going to support this bill and the amendments proposed to it which, we believe, substantially improve the bill as initially proposed. With all due respect to Senator Moore, while I found the speech we just heard very informative about food standards and about process, if I had to point to a reason why this bill needs to be passed, it would be that speech. There are many processes. They go on for a long time. As Senator Siewert outlined, this has been proposed for many years. But there has been no action. So the coalition, in supporting this bill, is simply saying consumers have the right to know what is in the food and goods they purchase. We believe this will improve consumers' ability to make informed choices.

I will speak very briefly when the amendments are proposed to indicate that we do support the amendments because we think that it is more appropriate to have these provisions in the competition and consumer law. We believe we already have a framework there, with an existing regulator. That is the place where we try to guarantee consumers rights and provide guarantees to consumers that what they think is in the products they purchase is indeed in those products.

No-one that I know dislikes orangutans. I am an animal lover myself. Some of the numbers that have been put by some of the proponents of this bill about the clearing of forests for palm oil and the impact upon orangutans are contested; I think I should state that. Clearly I do not think that if people disagree with those numbers it should be implied in any way that they do not like orangutans any less than the proponents of this. This is about people actually knowing what is in the goods that they purchase, particularly in the food they eat.

I will finish on this brief point. I would not want—and I am not saying this has happened so far—this issue to become a vilification of farmers in these parts of the world. People clearing land to grow produce which they sell, trade or eat has been quite important over the course of human history, and the people who do this are actually quite poor. While the proponents have not suggested this, I think we do need to be careful because there may be an impact on people from this. But I do not think that giving more information to consumers is in any way a bad thing. And that is the reason that the coalition is supporting this legislation as, hopefully, to be amended.

**Senator FEENEY** (Victoria—Parliamentary Secretary for Defence) (10:05): It is my great pleasure to rise to make a contribution in this debate on the Food Standards Amendment (Truth in Labelling—Palm Oil) Bill 2010. Senator Minchin said in his valedictory speech a few nights ago that he had little imagined when he came to Canberra that he would spend so much time discussing greenhouse gases like carbon dioxide. I might say, in a similar vein, that I had no idea when I was elected to the Senate that I would be addressing this place on the subject of palm oil. But such is life.

As it happens, this is a subject that has come to be of interest to me, both because of work I did previously in the foreign affairs, defence and trade committee, considering the questions of development, poverty and security in the Pacific. That is a constellation of issues that continues to be of interest to me with my defence responsibilities. And this is an aspect of this debate that I will return to.

Senator Xenophon's private member's bill seeks to amend the Food Standards Australia New Zealand Act 1991 to require Food Standards Australia New Zealand to develop and approve mandatory labelling standards which would require all food producers and
manufacturers and distributors of food to label all products that contain palm oil. The bill also requires that where what is described as 'certified sustainable palm oil' is used, this is to be labelled 'CS palm oil' to indicate its sustainable origins. The purpose of this bill is therefore to require the mandatory labelling of palm oil and to encourage the use of palm oil from sustainable sources. Let me say at the outset that I recognise Senator Xenophon's good intentions in presenting this bill. He is genuinely concerned about the threat that the destruction of native rainforest habitat in Indonesia for palm oil plantations poses to wildlife, particularly the orangutan. The orangutan is currently threatened with extinction and this is an emotive issue that has gained quite a bit of traction in the broader community. Senator Xenophon believes that this bill will give Australian consumers the ability to choose whether or not to buy products which contain palm oil and that it will also reward those who produce palm oil in a sustainable way by the means of the CS palm oil label to which I referred.

I share—indeed, the government shares—Senator Xenophon's concerns about environmental degradation and unsustainable agricultural practices, whether they be found in Indonesia or anywhere else in our region. We are all aware of the acute danger posed by uncontrolled land clearance, whether it be for palm oil plantations or for any other purpose—

Senator Xenophon: Madam Acting Deputy President, on a point of order: Senator Feeney keeps referring to this as simply my bill. It is a bill moved jointly with Senator Brown. I think the record should be corrected.

The ACTING DEPUTY PRESIDENT (Senator Pratt) (10:08): That is not a point of order, Senator Xenophon, but I am sure the senator will take your comments into account.

Senator FEENEY: Thank you, Madam Acting Deputy President, and I think that is a fine reflection on Senator Xenophon's resolve to share the credit for this endeavour. Returning to the subject, we are all aware of the dangers of uncontrolled land clearance, whether it be in Indonesia or anywhere else in our region, and it is an issue of signal importance that legislators in this parliament should be mindful of; because it is having increasing and devastating effects on Pacific Island nations in particular.

In February 2007, the United Nations Environment Program produced a report titled The last stand of the orangutan. According to the report, the natural forests of Sumatra and Borneo are being cleared at such a fast rate that they will be totally destroyed by 2022. These forests are the last surviving habitat for the orangutan and for other endangered species such as the Sumatran rhino and the Sumatran tiger. The clearing of rainforest for palm oil plantations is also very harmful in terms of its impact on climate change. When rainforests are drained and cleared to make way for palm oil plantations, their peat-filled soils dry out and release large amounts of methane. Methane is, of course, a greenhouse gas that is many times more dangerous than carbon dioxide in terms of its global warming impact. Peat soils are highly susceptible to long-burning fires that emit large quantities of carbon. Illegally-lit peatland fires in Borneo have for many years now been identified as one of the largest global sources of greenhouse gas emissions.

For all of these reasons, our regional development aid program has a very strong focus on supporting sustainable agricultural practices. AusAID and the Australian Centre
for International Agricultural Research spent over $100 million a year on this work, with over 200 bilateral projects in developing countries across the Asia-Pacific region. I think that really does tell the story about a set of issues that are and should continue to be of great importance to all of us.

The question about this bill, then, is not intentions but whether it will actually help to achieve its objectives—objectives which, I think, all sides of this Senate are in agreement on. The question is whether this bill might have unforeseen harmful consequences. This bill seeks to use the food standards regime to achieve an objective which is not related to food standards. That is, in and of itself, a public policy question we should deliberate on carefully. There is nothing intrinsically harmful about the small amounts of palm oil which are commonly used in many processed foods. Senator Xenophon wants foods labelled to show the presence of palm oil not because palm oil is in itself hazardous but because he is trying to achieve an environmental purpose. The purpose of food standards law is to protect consumers against potentially hazardous foods and to allow them to make informed choices about what they and their families eat. It is essentially a health law. To use the food standards law to achieve an environmental objective—in this case an environmental objective in one or more countries—sets a potentially dangerous precedent, and this Senate should understand full well what it is about to embark upon.

The bill pre-empts a government response to the recommendations of the Blewett food labelling review. Recommendation 12 of that review recommends, on public health grounds, the labelling of all types of saturated fats, which would include palm oil. Of course, when the issue of saturated fats in foods is considered from a health point of view, what is relevant is the level of such fats in any given product. Senator Xenophon's bill, on the other hand, requires that palm oil must be listed as an ingredient regardless of the amount used in a food product or used to produce that food product. This will be seen in the broader food industry as imposing an unreasonable burden on food producers, particularly those who use only very small amounts of palm oil in their products.

There is a further issue of consideration here and, in reflecting on it, I note that in a recent visit to the Solomon Islands I had the opportunity to visit some palm oil plantations and to make some preliminary observations about how they came to be there. The Solomon Islands is a country that is our immediate neighbour, and it is a country that is of signal importance to this country. It is a country that we have been working with since 2003 through the RAMSI program—the Regional Assistance Mission to the Solomon Islands. That is a whole-of-government exercise that has been a focus for government since 2003. It is a sad matter of fact that it is estimated that by something like 2015 the once-enormous forest resources of the Solomon Islands will be exhausted. The deforestation, the unsustainable logging that has wrought such extraordinary destruction in that country, has continued unabated since the 1980s. It means that the forest resources of that country, which are, I think, at present its greatest earner, will soon be lost for the foreseeable future. In considering this enormous environmental destruction, we also must consider the fact that countries like the Solomon Islands—and this is unfortunately typical of many Pacific Island nations—are struggling financially, and have large and increasingly urbanised populations that endure very high levels of unemployment. That systemic unemployment in their urban landscapes has become one of several factors that have often led to
dangerous security implications for those countries and those countries' governments.

I think we would all imagine that, in a country like the Solomon Islands, palm oil production and palm oil plantations may offer one industry which the islands can engage in and embrace which can produce valuable employment and financial opportunities. I am very concerned that, as we ventilate these issues and consider this bill and these sorts of measures, we do not prevent poor countries that have already experienced dramatic levels of deforestation from pursuing legitimate and important economic opportunities. Those are things Australia wants for countries like the Solomon Islands; those are of course things that the Solomon Islands government wants to pursue.

As we pursue these questions about palm oil, let's remember—as Senator Ryan mentioned briefly—that palm oil is not itself an intrinsically destructive product. It is often produced by economies that are poor, struggling and need development opportunities. If we pursue a course of action that has us vilify the food in its entirety, then we will not be doing orangutans a service insomuch as we will be destroying the economic opportunities of poor and developing economies.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:17): Can I say at the outset that the government fully understands the intention and motivation behind Senator Xenophon and Senator Bob Brown's bill. We absolutely understand the widespread community concern about the impact of deforestation on the orangutan population and the importance of consumers being well informed about the food they buy and consume. That is evident in the Senate Community Affairs Legislation Committee report. Interestingly, the majority report raised some of the concerns that I will raise now. The first principle this chamber needs to understand is that, I think, there is total unanimity around this chamber about the concern about the impact of deforestation on the orangutan population.

While we do recognise the intent and the community interest in the bill, we are concerned that the bill in its current form, including amendments that may be put in front of us today, may not be the best way to address those issues. The government has already processes in train with respect to food-labelling reform. I acknowledge that Senator Siewert in her contribution today indicated that she was frustrated with the time that that has taken.

Senator XENOPHON: Absolutely. Six years.

Senator McLUCAS: I concur. It is a very difficult process to get agreement from states and territories around making food regulation. It is the nature of a federated system that those delays occur. But I do acknowledge the frustration that Senator Siewert and Senator Xenophon are expressing.

We believe that the policy objectives underlying the bill could be met in other ways. We think there are better ways to provide more effective mechanisms to ensure that consumers are informed, while minimising the uncertainty on industry and working within Australia's existing food regulation system.

We note that the intention of the bill is to amend the Food Standards Australia New Zealand Act 1991 to require Food Standards Australia New Zealand to develop and approve labelling standards to be used by food producers, manufacturers and distributors of food containing palm oil. The aim of this is to ensure that consumers are
provided with clear, accurate information about the inclusion of palm oil in food. However, it is our view that the mechanisms for achieving this as currently drafted are unlikely to be effective.

The Commonwealth, as Senator Moore put on the table, has limited direct power under the Constitution over food regulation. Food laws and their implementation and enforcement are mainly undertaken by state and territory governments. However, the three levels of Australian governments have worked together over many decades in a cooperative manner to provide Australians with the benefit of consistent national food standards. The food regulation system is also bi-national; it includes the government of New Zealand.

We note that the bill fails to conform to the Australian food regulation system and does not recognise the role of the Australia and New Zealand Food Regulation Ministerial Council within that framework. The FSANZ Act has of itself no effect in state or territory law, due to those constitutional restraints. The adoption, monitoring and enforcement of a standard is dependent on states and territories placing the standard into their law and meeting the conditions of their agreement with the Commonwealth. Therefore, a standard developed in accordance with the proposed section 16B of the bill may not be likely to become law, because states and territories are not bound to adopt something that is developed outside the current food regulatory framework.

The bill would require FSANZ to develop and approve a standard requiring palm oil to be specifically listed as an ingredient of food. If the bill is enacted, FSANZ would be required to make that standard—which would be unlike any other food standard that it can now make under its enabling legislation. The proposed standard would not have been made with regard to matters such as the protection of public health and safety, scientific evidence, consistency with international standards, or policy guidelines formulated by the ministerial council that FSANZ has a statutory obligation to consider based on the best available scientific evidence. I want to now talk about the impact on industry. The bill in its current form may have serious ramifications for industry which do not appear to have been fully considered. Potential adverse effects reach beyond manufacturers to retailers, distributors and importers and could affect business and trade in a very wide range of products. The Australian Food and Grocery Council has indicated that the costs to industry, including small business, are likely to be substantial. It is important to note that it could affect every supermarket and corner store in this country. We are debating a bill that has not been subject to any regulatory impact assessment. If passed, this bill is likely to impose more than minimum effective regulation and therefore would be at odds with the COAG principles for national regulation and assessment. These principles are directed at achieving minimum effective regulation, taking into account economic, environmental, health and safety concerns.

Australian national competition policy requires proposals for new regulation to demonstrate that the competitive effects of regulation are no more restrictive than is necessary in the public interest and that the benefits of the regulation outweigh the likely costs. An analysis of the regulatory impacts of the bill, including an analysis of all the costs and benefits, has not been undertaken.

In addition, we have concerns about the proposed penalty provisions which would amend the Australian Consumer Law and which are contained in the amendments that we will debate shortly. We received those amendments at 8.30 last night. Again, in the
current form of the bill there is an issue about the legal efficacy of the provision and the degree of certainty that it creates for consumers. Australian Consumer Law is subject to an intergovernmental agreement which provides that any amendments must be the subject of consultation with the states and territories. The national approach to consumer protection legislation serves Australian consumers well, and we have concerns about one-off proposals that undermine the integrity and consistency of the laws and the scheme established in the agreement.

There is doubt that amending section 33 of the Australian Consumer Law in this way would produce the desired outcome that Senators Xenophon and Brown are seeking. Food-labelling standards are not enforced as part of Australian Consumer Law. This amendment has the potential to be ineffectual and increase confusion for both business and consumers. The limited nature of the carve-out for palm oil will only increase compliance costs for businesses and create uncertainty for consumers. Under this amendment, for example, why can olive oil be labelled as vegetable oil but not palm oil?

Moreover, the proposed amendments to the ACL appear to reach far further than food to a range of other products where palm oil is used. These include soap, detergent, cosmetics, lubricants and biodiesel. These are the sorts of issues that need to be considered in a proper form. In the normal process of policy development there should be an opportunity to seek feedback from stakeholders and experts in the field. I have to say that it does make a nonsense of parliamentary process to move amendments to a law when we have no confidence that they will actually achieve their stated aims. This only creates more red tape, more regulation for business and more confusion for consumers. I will have a series of questions in the committee stage that go to these Australian Consumer Law issues.

The Australian Consumer Law was introduced with the support of those opposite after a long and thorough consultation process. It involved a Productivity Commission report and the cooperation of the states and territories and it passed both houses of parliament. Each state and territory subsequently passed its own version of the Australian Consumer Law. It was introduced so that we could cut the red-tape burden and make consumer protection laws easy to interpret for consumers and business alike. If we go about making ad hoc changes to the Australian Consumer Law we will begin to unravel the very thorough policy process that underpins this reform. Seeking to amend the ACL in this way flies in the face of the intergovernmental agreement on the ACL that the Commonwealth and all states and territories have entered into.

The uniform national law for consumer protection has been built on the cooperation of all Australian governments. By unilaterally making a change, particularly one that may have unintended consequences and create confusion and uncertainty for consumers, this bill would be breaking the agreement that we have signed. After having voted to implement the Australian Consumer Law, those opposite, if they vote for this bill as they have indicated, would be breaking apart the fruits of that cooperation. The ACL is an important microeconomic reform that has helped to reduce the compliance burden of business and improve the level of consumer protection in our country. It also flies in the face of good policymaking. Without any input from the states and territories, without any consideration of the regulatory impacts and without any thorough examination of the efficacy of the amendments, the actions of those opposite could seriously undermine the cooperative
work that has been undertaken in the development of the Australian Consumer Law.

The government has already engaged in a process of considering the recommendations of the report into food labelling, *Labelling logic: review of food labelling law and policy*, which covers these matters. Palm oil labelling is one of the issues that has been considered by the review and there are recommendations in the report about the way forward. We have always said to the other parties in this chamber that we would be happy to consult with them throughout the process of considering the recommendations of the report. I say again: we share the aim of all senators in this chamber that consumers should be appropriately informed, but it has to be done without imposing inappropriate costs on business. If this bill is passed it will pre-empt a considered response to the labelling review report due in December of this year.

As Senator Moore noted, the Senate Community Affairs Legislation Committee reported on this bill. In the majority report of Labor and coalition senators, the committee noted that while the objectives of the bill had merit, the drafting of the bill would possibly not achieve those objectives without circumventing the current regulatory environment. It further found that concerns could be more adequately dealt with through COAG and the government's labelling review. Given that the final amendments to the bill were not circulated until 8:30 last night, it has not been possible for affected stakeholders and industries to be properly consulted or for us to receive any legal advice. It has not been possible to fully assess any unintended consequences. The approach adopted broadens the category of items subject to the amendments from food to all goods, with the effect that the proposal will have a much broader impact on industry and potentially cover many manufacturers, importers and retailers beyond the food industry. It is of concern that senators in this chamber are faced with making a decision on this bill without appropriate consultation with affected stakeholders, including consumers, small business and manufacturers, across the country. For these reasons, we believe this bill is premature without further consideration of those important issues. I might make the point that it is interesting that the opposition have come to this place with a desire to support this legislation. In the committee stage I would like the opposition to indicate why, if this is such an important issue, they did not do something about this in their years in government.

As I said at the outset, the government does consider it is important to provide appropriate information to consumers so that they can make informed decisions about the food they purchase and they consume. The government does recognise and shares the concern of all Australians about the impact of deforestation on the orangutan population. We believe that the bill in its current form may not achieve those laudable objectives. Moreover, it has been conceived hastily, with the final amendments circulated barely 12 hours ago, with almost no consultation with affected stakeholders, including consumers and small business. There is considerable uncertainty about how the bill will work in practice. However, we recognise that many senators have strong views about the importance of this bill and its intent and we understand the community interest in the issue. Given that, we will not be opposing the bill.

**Senator XENOPHON** (South Australia) (10:31): in reply—I wish to sum up in relation to this bill, the Food Standards Amendment (Truth in Labelling—Palm Oil) Bill 2010, before the vote on the second reading. I am grateful that the government
indicates that it will not be opposing it and I am genuinely grateful for the contribution made by Senator McLucas. It was a substantive contribution dealing with the issues of concern, and these are issues that will of course be dealt with in the committee stage as well.

I want to reiterate what Senator Siewert said. This has been a long time coming. We have run out of patience in relation to this issue. We have been talking about the labelling of palm oil in food and goods for many, many years—for the six years that Senator Siewert has been in the Senate and the three years that I have been here and many years before that—with a whole range of advocacy groups and consumer groups that have been concerned about this issue. Yet the government is effectively saying that it is all too hard and we have to await the outcome of the Blewett review. We do not need to do that; we can find a way forward—and this bill is that way forward.

I welcome the questions that Senator McLucas raised, and these will be dealt with further in the committee stage. I know that these amendments were put up very recently, but they are amendments aimed at simplifying the bill and making it clearer and more effective. If I remember, not so long ago, in relation to the NBN legislation, there was a whole swag of very, very complex amendments—

Senator Siewert interjecting—

Senator XENOPHON: Thank you, Senator Siewert. She said, 'Welcome to our world.' I worked in good faith with Senator Conroy to work through those amendments and to get the government's legislation through, because we all wanted to achieve a laudable policy objective.

So let us look at what is happening here. Contrary to Senator Feeney—for whom I have enormous regard—I want to make it clear that this is a bill that I co-sponsored with Senator Brown. Before that, in 2009, Senator Joyce co-sponsored effectively the same bill. This is something that members of the coalition, particularly Senator Joyce, have had a long-term interest in. This is a bill that I have worked on very closely with Senator Siewert, and I am very grateful that this has been a team effort. I think Senator Feeney should acknowledge that there has been a joint effort—for my part with the Greens and earlier with Senator Joyce from the Nationals—in relation to this bill. So credit should go where credit is due. I am great believer in sharing the love.

I think it is also important to acknowledge that the coalition has considered the evidence and the facts and says that it is appropriate to support this bill. I am grateful to the Leader of the Opposition, Mr Abbott, for supporting this bill and for the work of Senator Joyce, Senator Ryan and the member for Dunkley, Mr Bruce Billson, who has made, I believe, a number of very constructive suggestions to improve the bill, to simplify it and to make it effective—and those are the matters that will be dealt with.

The government says that this is not the way to do it. Well, this has to be the way to do it, because the government has known about this bill for a long time, since 2009. It has been aware of this bill for 18 months. I do not want to be critical of the government particularly about this, but I will give a contrasting approach. I introduced a bill on dumping just a few months ago, earlier this year, and from day one—in fact, before the bill was introduced—I worked very closely with Minister Brendon O'Connor and his staff. There were a number of meetings to see what could be done to make the bill or parts of it workable. The government announced in response yesterday that it would be putting up its own bill with a number of very useful amendments and
reforms which will be debated later this year. That is what I regard as a cooperative process. I am always willing to engage with the government, the opposition and my crossbench colleagues if they are dinkum about dealing with something.

Here is an opportunity for us to do the right thing by consumers. Here is an opportunity to fast-track some much-needed reforms in relation to consumer protection laws. This bill needs to be dealt with today, and it needs to be dealt with in the other place very soon, assuming that it passes this place. The benefits of it will be that consumers will get some meaningful information that they hitherto have not had. I am very grateful to Senator Ryan, who—in two minutes and 45 seconds—eloquently outlined the matter. It is important that we deal with this substantively in the committee stages of this bill.

I want to make it clear that I have acted in good faith at all times in relation to this—as have my colleagues, Senator Siewert and Senator Brown. We have come to this because the concerns have been ignored by successive governments. I am pleased that the opposition has come on board. This will be a significant, substantive reform and a good reform. I look forward to the committee stages of this bill so that we can progress this bill and hopefully have it passed in this chamber very shortly. I commend the bill to the Senate and I look forward to the committee stages of this bill.

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:38): To assist the committee, I am going to try and ask these questions in subsections. The first set of questions I want to ask Senator Xenophon or Senator Siewert goes to the question of enforcement. Could you explain to the committee how you envisage enforcement occurring under the act, if it comes into effect with the proposed amendments. That goes to the question: is this the way to achieve the outcome that we are all looking for? If you could explain how the enforcement regime would work, that would be helpful.

Senator XENOPHON (South Australia) (10:39): The bill in its amended form proposes that there be amendments to the Australian Consumer Law, which would mean enforcement via the ACCC. Before you get to the stage of enforcement, you need to look at the whole issue of appropriate labelling. There is still a role for FSANZ to play in developing labelling standards. The enforcement would be through the ACCC, but, before that, you have a process whereby FSANZ would play a useful role in developing and approving labelling standards. Let’s put this in perspective. The position is that we are not seeking a boycott of palm oil, as Senator Siewert rightfully pointed out; this is just giving consumers the basic information, because to call it a vegetable oil is inherently misleading. The Blewett review picked up on that in recommendation 12. So, effectively, the mechanism of enforcement would be through the ACCC, through the ordinary course of enforcement mechanisms contained in the Australian Consumer Law.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:40): In that respect, what role do the state and territory food enforcement processes have? Are they completely unengaged in that process? I am just trying to ascertain the normal enforcement processes around food as compliance with the Food Standards Code is delivered by
state and territory agencies. Is palm oil going to be completely separate and the ACCC would have a compliance role for palm oil alone?

Senator XENOPHON (South Australia) (10:40): The ACCC would have a compliance role in relation to this particular bill. If state agencies want to point out that there has been a breach of labelling laws in relation to this, they can have the same engagement as is currently the case with any food-labelling requirement. As I see the legislation set out in its amended form, following consultation with the coalition, it would be done through the ACCC. But the local food agencies, the local state regulatory agencies, can say, 'Here is a breach of labelling laws.' The outcome is the same in terms of enforcement. The pathway by which the label has been affixed, if you like, is through Australian Consumer Law. So, in a sense, it enhances the enforcement mechanism. In practical terms it could be dealt with by local agencies that point out a breach of Australian Consumer Law. My understanding is that parties are not prohibited from bringing an action, but the fact is that the ACCC would have a role. If this is about consumers not being misled, I think that is entirely appropriate.

Senator McLucas (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:43): Thank you for that. I now want to go to the question of who an action can be taken against. Is it a manufacturer; is it a distributor? Who would be able to be enjoined in an action under the proposed amended legislation? It is not clear to us that it is simply the manufacturer. Is it my corner shop?

Senator XENOPHON (South Australia) (10:43): I thank Senator McLucas for the question. The legislation makes it clear that there is an obligation on goods manufactured after 12 months of the commencement of that section. The issue relates to the manufacturer and the label. My interpretation of it is that it is confined to the manufacturer—that it is not intended to deal with the corner shop and penalise them. It is the manufacturer that manufactures these goods. Of course, if a corner shop has its own home brand or whatever, then there is a nexus between the two by virtue of the act of manufacture, but it is intended, by the plain wording of this bill, that the manufacturer has the primary role. In terms of the way Australian Consumer Law works, if they are overseas manufactured goods and their distributors are in Australia, then you have a clear mechanism, a clear pathway, to ensure that the law is effectively enforced.

Senator McLucas (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:45): I may come back to that...
issue because I think this is something that we do need very clear clarification about. I will go to the question then of manufactured goods. What does it cover? It seems clear in one part that we are talking about food and then in another part of the material that I have seen it seems to be able to include anything that has palm oil in it, which would then go to soaps, detergents, cosmetics, biodiesel et cetera. I just need to be very clear what we are talking about in terms of the labelling provisions.

Senator XENOPHON (South Australia) (10:45): The answer is anything that contains palm oil regardless of how much.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:46): So it is not just food then, absolutely?

Senator XENOPHON (South Australia) (10:46): That is correct.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:46): In respect of the CS palm oil provision which Senator Siewert talked about, I am interested to know how the traceability of that would work. How would the ACCC be able to confirm one way or another that this particular palm oil is the sustainable type as opposed to the non-sustainable type? I just want to consider the traceability—the tracking back.

Senator XENOPHON (South Australia) (10:46): Another excellent question from Senator McLucas. That is why Senator Siewert foreshadowed, following discussions with the coalition, that it would be taken out. Those clauses relating to certified sustainability would be taken out because of the very issues of traceability that Senator McLucas raises.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:47): So in effect we are not differentiating between them. I know that there is a question about what sustainable palm oil might be, but if in fact it is sustainable we would not differentiate and therefore any claim that was made by a sustainable palm oil manufacturer about its sustainability could be illegal to place on a label under this legislation—is that the case?

Senator XENOPHON (South Australia) (10:47): The position is this: if a manufacturer seeks to assert that they have certified sustainable palm oil, they can do so voluntarily. The efficacy and accuracy of that statement is something that would be subject to general Consumer Law provisions in terms of false and misleading statements. But I understand and appreciate the point made by both the opposition and, indeed, by the government about the traceability issues and the robustness of that. Therefore it is left to general provisions of Consumer Law as to false and misleading conduct if somebody raises the issue that they have got certified sustainable palm oil. The robustness of such claims is something that can be caught under general Consumer Law, but it is a matter that will be voluntary rather than having a statutory standard, and for the very reasons that Senator McLucas raises it is problematic.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:48): That goes to the uncertainty that I think is being introduced by this. We should have far more clarity about how the enforcement will be delivered. I go back then to the Australian Consumer Law issues that I was talking about earlier. Section 33 of Australian Consumer Law indicates that anyone engaged in trade or commerce may be captured, and the question therefore is: wouldn't that
include retailers and distributors, along with the manufacturers? Can you point me to where they are excluded?

Senator XENOPHON (South Australia) (10:49): Again, a very important question. I think these are very important preliminary questions raised by Senator McLucas, but by virtue of the drafting of the amendment the focus is on the manufacturer. The focus is on an obligation on the manufacturer and that narrows the scope of the enforcement of this to the manufacturer. But also under general definitions you look at the issue of the distributor. If you are bringing in goods, you are deemed to have the same liabilities that apply to a manufacturer whether it is for foods or for manufactured goods and the like. So that is the reading of that. I am happy to explore that further, but that is the clear aim and content of the proposed amendment that deals with having a focus on manufacturers as a result of the discussions that I had with the coalition in relation to this.

Senator McLucas (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:51): I would like to move to the position of the opposition. Would the opposition discuss the consultations that they have undertaken in the time that we have had to discuss the bill. I know that is an unusual question to ask, but I think that it is important for the record that we have the opportunity to talk about the consultation process that the opposition has undertaken. I invite the opposition to provide the chamber with a discussion about the consultation that has been undertaken.

Senator Ryan (Victoria) (10:51): Thank you, Senator McLucas. I did not know questions came from that direction across the chamber, but I will do my best to answer them better than they have been when they have gone the other way of recent times.

Firstly, I want to make a point—I said this earlier—about Senator Moore's speech, and I want to make a point about the comments you have made, Senator McLucas. With all due respect, the endless, interminable process that has now been around this issue for so long—you have demonstrated quite well, because you are quite right, that it is complex—is actually one of the reasons the coalition has decided to support this piece of legislation, because ideas drop into the bureaucratic morass that is intergovernmental arrangements in this country. Too often—not all the time, but too often—they do not come out.

I do not plan to give a complete list of every person I have spoken to about this legislation, nor to go through my diary over the last week and outline all the consultations. I have indicated the coalition is supporting the bill.

Senator XENOPHON: He spoke to me.

Senator Ryan: I have spent a lot of time with Senator Xenophon. I have spent a lot of time with colleagues in the lower house. I have spoken to the industry sector. I have spoken to NGOs and think tanks about this legislation. I do not plan to go through names for you, Senator McLucas. I would not expect you to do so. I am not proposing the legislation; I am outlining the coalition's position. I do not think I have been shy about the reasons for that, and I do not plan to take up much more time of this Senate repeating what I have said earlier.

Senator McLucas (Queensland—Parliamentary Secretary for Disabilities and Carers) (10:53): In response to that, I note that the opposition was in government for 12 years. I spent a lot of time sitting on the other side of the chamber. When we came into government I became the Parliamentary Secretary to the Minister for Health and Ageing. I had responsibility for food and
labelling, and I remember many conversations I had with Senator Siewert over that time about the problems that we have with labelling in this country, and it was I who established the review. So you had 12 years to do something about labelling of food, and you did nothing. All of a sudden now we have this big change of heart that means that we are going to have a special labelling regime for palm oil, but all of those other issues that people have talked to us about—need for clarity in labelling, ingredient lists and all of those issues—we are not going to deal with today, according to the opposition. We are going to deal with palm oil, which is an important thing to do, but you had 12 years on the government benches to do something about labelling, and it was only when Labor came into power that we started the process of getting a better labelling system in this country.

I accept Senator Siewert's concern about time. If it had happened about 10 years ago, it might have been fixed by now.

**Senator Siewert:** They've seen the light now, though.

**Senator McLUCAS:** It is a funny light: it is a light that shines on just one ingredient—it is an important ingredient that affects the orangutan population, but it is one ingredient in all of the food and other products in our country. So we are shining a light on palm oil, and that is important and good, but we had the opportunity and we have the opportunity to be comprehensive about our labelling regime in this country, and responding to the Blewett review is the way in which our government has shown the way forward. You had 12 years to do something, and you did nothing, and now we are, it would seem, going to deal with it ingredient by ingredient. Bit by bit we are going to change the food-labelling laws if this is the precedent we are setting today.

My final question before we go into the full committee stage is to Senator Xenophon or Senator Siewert: how will this affect the review of labelling process that we are going through?

**Senator XENOPHON** (South Australia) (10:55): I see it as enhancing the process. I see it as sending a clear message to government and to bureaucracy. I want to make this very clear: I have great respect for Senator McLucas and the work she has done on this, but Senator McLucas should understand my frustration, the frustration of Senators Siewert and Bob Brown and the frustration of members in the coalition who have been campaigning on this as well for a number of years. We need to get on with it. I must say that Neal Blewett is a great Australian, and I have enormous regard for him, but I was disappointed with many parts of the review. I felt that it could have gone further, but the government is working through that; I understand. But how much longer does it have to work through on things? The Commonwealth clearly has a leadership role here, and I acknowledge the leadership role that Senator McLucas has had on this, but I do not see this as in any way impeding the process of further food labelling; in fact I see it as enhancing it.

I think we also need to stand up to the Australian Food and Grocery Council. Just last night on Lateline we heard a number of leading public health experts, including the government's Preventative Health Taskforce chair, Professor Rob Moodie, being quite scathing of the Australian Food and Grocery Council and its influence in public debate on a whole range of measures in terms of dietary issues. I think Senator McLucas is aware of those particular concerns—that the Food and Grocery Council has too much government influence and is delaying effective action against diet related diseases. I see this bill as enhancing the process.
I think Senator McLucas knows how I work with the government and how I worked with Minister O'Connor and other parts of the government, including the Prime Minister's office on the flood levy. I am happy to work cooperatively with people, but if you treated good ideas dismissively then I felt the only thing I could do was to enter into substantial negotiations with the coalition, and they have borne fruit. So I see this as enhancing the process. I see it as speeding up good food-labelling laws, which I think that Senator McLucas will welcome given her long-term advocacy on this.

Senator RYAN (Victoria) (10:58): I will be exceedingly brief and just say, in response to Senator McLucas's comments about the coalition position, firstly, that I was not here, so I will be accountable and at least outline my own position. I also simply say that action on one front does not preclude action on many, and the logic that this somehow would delay action upon the broader front of labelling just does not make any sense. This is taking action on one particular issue which is of concern and using an effective regulatory framework we have in place.

The TEMPORARY CHAIRMAN (Senator Mark Bishop): With that preliminary discussion, perhaps I could get some advice to the chair from the sponsors of the amendments. Do you wish to deal with the amendments seriatim or to deal with amendments (1) to (4) as a block, Senator Xenophon or Senator Siewert?

Senator XENOPHON (South Australia) (10:59): I am in the hands of the chamber. I am happy to—

Senator Ryan: As a block.

Senator XENOPHON: As a block? Very well, if that is going to save time. I seek leave to move all the amendments standing in my name and the name of my colleague Senator Siewert together.

Leave granted.

Senator XENOPHON: I will very briefly set out the reasoning for each amendment, if that is the will of the chamber. Firstly, amendment (1) relates to the commencement date. The amendment acknowledges that and so provides that the mandatory labelling of palm oil will apply only to goods sold at least 12 months after this act is given royal assent. I should point out that there is a similar application provision in amendment (3), which provides that the mandatory labelling of palm oil will only apply to goods manufactured 12 months after this bill is given royal assent—again, acknowledging the long shelf life of certain products. I will speak to that in shortly.

Amendment (2), relating to purpose, follows discussion with the coalition and my colleagues in the Greens. It is in line with the amendment to remove the provision in the bill relating to certified sustainable palm oil labelling. It also amends the purpose of the act to take into account that this labelling, under the Australian consumer law, is applied to goods. Currently the bill refers to food but, of course, palm oil is present in around 50 per cent of goods on supermarket shelves—not just foods but also cosmetics and other household goods.

Amendment (3) removes the certified sustainable palm oil provision—and we have already discussed that.

Amendment (4) relates to the Australian consumer law and follows my discussions with the coalition and, in particular, the shadow minister for consumer law and member for Dunkley, Mr Billson. Section 33 of the Australian consumer law says that a person must not, in trade or commerce, engage in conduct that is likely to mislead the public as to the nature, manufacturing process, characteristics, suitability for purpose or quantity of any goods. Under the
proposed amendment, one of those characteristics is palm oil. What this essentially means is that, where palm oil is a characteristic of a good, the manufacturer must not mislead the public by labelling it as simply vegetable oil.

There is also in the amendments an application to say that this requirement will apply to goods manufactured 12 months after the bill has been given royal assent. This will give manufacturers time to transition to the labelling requirement—again, acknowledging that some products which contain palm oil have long shelf lives.

Before I finish, it would be remiss of me not to thank my adviser Evelyn Ek. She would probably kill me if I did not acknowledge the enormous amount of work she has done on this. I fear that she will threaten to say that, if this bill goes through, she has no further reason to work with me and can retire from working as a political adviser. I hope that is not the case—and I hope that she is not poached!

I move amendments (1) to (4) standing in my name and the name of Senator Siewert:

(1) Clause 2, page 2 (at the end of the table), add:

3. Schedule 2 The day after the end of the period of 12 months beginning on the day on which this Act receives the Royal Assent.

(2) Clause 4, page 2 (lines 15 to 20), omit the clause, substitute:

4 Purpose of Act

The purpose of this Act is to ensure that consumers have clear, accurate information about the inclusion of palm oil in goods.

(3) Schedule 1, item 1, page 3 (lines 8 to 23), omit subsections 16A(1) and (2), substitute:

(1) The Authority must, within 6 months after the commencement of this section, develop and approve labelling standards that prescribe that producers, manufacturers and distributors of food containing palm oil, regardless of the amount of palm oil used in the food or used to produce the food, must list palm oil as an ingredient of the food.

(4) Page 4 (after line 14), at the end of the bill, add:

Schedule 2—Amendment of the Competition and Consumer Act 2010

1 Section 33 of Schedule 2

Before "A person", insert "(1)".

2 At the end of section 33 of Schedule 2 (before the note)

Add:

(2) For the purposes of subsection (1), the characteristics of any goods include the use of palm oil in the goods or to produce the goods.

Application

(3) Subsection (2) applies to goods manufactured after 12 months after the commencement of that subsection.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (11:02): I have a technical question. Senator Xenophon, can you just advise when sheet 7090 Revised 4 was tabled in the chamber?

Senator XENOPHON (South Australia) (11:02): It was tabled very recently. We just wanted to clarify the issue of 'goods' and 'food'.

Senator McLUCAS (Queensland—Parliamentary Secretary for Disabilities and Carers) (11:02): I understand that it was tabled while I was speaking. If this is not policy on the run then I have never seen anything quite like it. It makes it extremely difficult to make a considered contribution to this place. This was tabled while I was speaking. Here we are, taking a decision on something when it is extremely difficult for me to seek advice.
Senator XENOPHON (South Australia) (11:03): I take Senator McLucas's point. I want to make it very clear that there is nothing tricky or sneaky about this. It is simply to make it clear that it applies to goods, not just foods, by virtue of the application of the Australian Consumer Law. It is by way of clarification; it is not introducing a new concept. I take Senator McLucas's point, but it does not introduce a new concept to the bill; it simply clarifies an aspect of it so that, to be consistent with the amendments the Australian consumer law, it applies to goods.

Senator McLucas (Queensland— Parliamentary Secretary for Disabilities and Carers) (11:03): I beg to differ. I am tenuous about making this claim, but the way I look at Revised 3 is that it must list palm oil as an ingredient of the food but Revised 4 means it is any product that contains palm oil. That is a huge shift, and seeking advice about what that might cover is really difficult.

Senator XENOPHON (South Australia) (11:04): It is effectively consequential to having Australian consumer law applying to this. Australian consumer law applies to goods, including food, so it is all-encompassing. So the concept is no different; we are just clarifying it so that there would not be any confusion that one applies to food and the other applies to goods generally. It is consistent with the information that was provided last night about having amendments to the Australian consumer law, which applies more broadly to goods.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator XENOPHON: I move:

That the bill be read a third time.

Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011

Second Reading
Debate resumed on the motion:

That this bill be now read a second time.

Senator Cameron (New South Wales) (11:06): I continue my remarks on the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 from Thursday, 16 June. I got to the stage where I was discussing the tabling of the bill. I outlined that the bill would require bioregional plans to be tabled in each house of parliament within six sitting days of commencement. If not laid before both houses within this time frame, the bioregional plan would cease to have effect. Once the bill was tabled, both houses of parliament would have 15 sitting days in which to give a notice of motion to disallow the bioregional plan. If the motion were agreed to or were not been withdrawn within a further 15 sitting days, the bioregional plan would be taken to have been disallowed and would cease to have effect from the date of the disallowance. Therefore, even once a bioregional plan had commenced, the disallowance process would mean that there would be a period of up to 36 sitting days in which it would be uncertain whether the bioregional plan would continue to operate. Based on the 2011 parliamentary sitting pattern, this could translate to nearly six months.

Senator Colbeck's bill would amend the EPBC Act to alter the process for establishing Commonwealth marine reserves. So not only would we have to wait nearly six months before there was certainty about the bioregional plans but there would be other
problems with the bill. Section 344 of the EPBC Act allows the Governor-General to make proclamations to establish Commonwealth reserves. Commonwealth reserves may apply to an area of land, an area of sea or an area of both land and sea. Reserves covering areas of the sea and areas of both land and sea are commonly known as 'Commonwealth marine reserves'. Commonwealth marine reserves applying to an area of sea can cover either a Commonwealth marine area—that is, an area within Commonwealth waters—or an area outside Australia for which Australia has obligations regarding the area's biodiversity or heritage under an agreement with one or more countries.

The bioregional planning process may be used to identify areas in which to establish future Commonwealth marine reserves. Along with the state and territory governments, the Australian government has committed to establishing the National Representative System of Marine Protected Areas by 2012. The NRSMPA has been under development by the Commonwealth, state and Northern Territory governments since its creation was first agreed by these jurisdictions in 1998. The NRSMPA is a network of marine reserves across Commonwealth, state and territory waters, of which Commonwealth marine reserves form one part. As of 24 March 2011, there are 26 Commonwealth marine reserves.

The NRSMPA is intended to establish a marine protection strategy that is comprehensive, adequate and representative. It is comprehensive in that it would include marine protected areas that sample the full range of Australia's ecosystems; it is adequate in that it would include marine protected areas of appropriate size and configuration to ensure the conservation of marine biodiversity and integrity of ecological processes; and it is representative on the basis that it would include marine protected areas that reflect the marine life and habitats of the area they are chosen to represent.

Commonwealth reserves and Commonwealth marine reserves are also part of the Australian government's implementation of the Guidelines for Applying Protected Area Management Categories, developed by the International Union for the Conservation of Nature. Each reserve is assigned an IUCN category, which influences the management policies applying to the reserve. The EPBC Act requires a number of steps, including a process of public consultation, to be undertaken before a proclamation to establish a Commonwealth reserve or Commonwealth marine reserve is made.

The minister is to have regard to a report prepared by the Director of National Parks regarding the proposed reserve. In preparing the report, the Director of National Parks is required to invite public comment and allow 60 days for comments to be received. The comments, and the director's view regarding the comments, are to be noted in the report. The minister is also required to be satisfied that the appropriate IUCN category will be applied to the proposed reserve.

I will go to some of the matters raised in relation to the bill during the committee inquiry that I chaired. Submissions received in support of the bill in the course of the committee inquiry typically argued that parliamentary disallowance is necessary to ensure a transparent, democratic process for establishing bioregional plans and Commonwealth marine reserves. It was apparent that underlying these views are concerns about the existing consultation processes for establishing bioregional plans and Commonwealth marine reserves. Public consultation is intended to create ‘a shared
understanding of the conservation objectives and priorities in a region' and promote decisions that are 'based on accurate information'.

Submissions also questioned the objectivity of current consultation processes and concerns were expressed about the extent to which the consultation process is effective in gathering relevant scientific analysis. However, these concerns were not supported by all who presented evidence to the committee. A number of submissions argued that the consultation processes are both effective and comprehensive. Mr Stephen Oxley, first assistant secretary with the department, explained to the committee the consultation processes while acknowledging that 'perhaps' the department 'clearly could have been a little bit more proactive in terms of the active provision of information'. Mr Oxley advised that there is 'a very good amount of information available publicly about the science underpinning what we do'.

In additional to divergent views regarding the efficacy of the consultation processes, it was apparent that there was also a lack of consensus about whether parliamentary disallowance would lead to a more transparent and informed decision-making process.

Further, it was put to the committee that the parliamentary disallowance process may reduce, rather than increase, public input into the formation of bioregional plans and Commonwealth marine reserves. Several concerns were expressed with the proposal for bioregional plans and proclamations for Commonwealth marine reserves to be subject to parliamentary disallowance. Concerns included that the disallowance process may compromise Australia's compliance with its environmental management obligations. There were also queries about whether it was intended to make bioregional plans subject to parliamentary disallowance.

By providing for the disallowance of Commonwealth marine reserves, the proposed amendments to the EPIC Act may compromise Australia's fulfilment of its international commitments. The bill may delay or undermine our meeting of international obligations under the Convention on Biological Diversity, where we are expected to establish a network of marine reserves. I know the coalition do not have much regard for the environment. I know that they are under the control of the climate change sceptics and deniers, and we will hear from one in a few seconds, but I have to indicate that this is an extremely important initiative to make sure that we do not compromise the environment, and this bill should be rejected.

Senator BOSWELL (Queensland) (11:17): The Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 seeks to reinstate parliamentary scrutiny over decisions affecting an area of 16 million square kilometres of ocean—an area twice the size of Australia. The area concerned is the entirety of Australia's exclusive economic zone—all our waters stretching from state limits three miles offshore out to the 200 nautical mile limit of the exclusive economic zone.

It is an extraordinary fact that, as the EPIC Act currently stands, the environment minister can make decisions that regulate any or all activities in this vast area without any reference whatsoever to the parliament. He can make decisions with huge ramifications for the people whose livelihoods and interests are involved in these areas—unilaterally. At the stroke of a pen he can make decisions that dictate mining activity. He can make decisions that dictate, through regulation, all scientific activity. He can dictate commercial and recreational fishing activity. He can dictate tourism activity. He can dictate absolutely every action...
concerning an area twice the size of the Australian land mass with one stroke of his pen.

Holding that extraordinarily ridiculous level of authority means that, by extension, he also dictates what will happen to the thousands of onshore jobs, and the communities supported by those jobs, that might be linked to any imaginable offshore activity. He can do all that unilaterally, without the slightest reference to the parliament, and, if he so chooses, with total disregard for any input from people whose livelihoods will be so impacted. Sure, there has to be consultation but at this point in time I would like to read out something—and this ought to be compulsory reading for everyone in the ALP—from a submission from Mr Cameron Talbot:

I’m concerned that lobby groups like PEW WWF and MACS seem to get access to Ministers and control of what happens. The Department does not consult us or simply ignores what we have to say. I feel that democracy has been lost and further more my faith in the Labour party has gone with it. I along with all labour supporters that I know who also fish, are so disenfranchised with this government that at the next election we will do what I never thought we would and vote LAP. This is the last chance I will give labour, if this falls thru so does my vote—for good—and for fishermen all over. That is what Mr Cameron Talbot thinks about the consultation that is offered. To get back, the minister can do almost anything without the slightest reference to parliament if he chooses, with total regard for any input from people whose livelihoods will be impacted. That is exactly what the authority is now exercising.

Under the Marine Bioregional Planning Program, the minister is embarked on making just such huge, unilateral decisions in relation to this vast area. He is in the process of making decisions that will lead to the declaration of a system of marine reserves in the EEZ that will have massive ramifications for people engaged in all activities across the economic zone. This is occurring under the Marine Bioregional Planning process. For this purpose, the EEZ has been dissected into five huge marine bioregions. They are the South-west Marine Region, The North-west Marine Region, The North Marine Region, the East Marine Region and the South-east Marine Region. Together these bioregions cover the entire EEZ.

Within this area the government has identified 23 so-called areas for further assessment. These are the areas of focus for the development of a vast network of marine reserves that are likely to cover around 30 per cent of the EEZ. Some sections of those reserves will be general use, where constraints on activities are limited. But there will also be areas where there will be anything from minor to total constraints on most activities, especially fishing. A draft plan has been put forward for reserves in the south-west bioregion, and the government intends putting forward its edicts on the remaining bioregions by the end of the year, excepting for the south-east. The flaw in the act providing the minister with extraordinary levels of unilateral authority is not the only accountability problem with the act. There is another loophole that is already being used to consolidate his ability to totally avoid any accountability to this parliament in the management of this area, which is twice the size of Australia's landmass. There is a simple ruse by which the minister can avoid the intent of the act for ultimate parliamentary scrutiny of his actions. This involves management plans. The extent of the act is that a management plan that would give substance to the declaration of a marine reserve ought to involve parliamentary scrutiny—the plans are disallowable
instruments—but the minister can sidestep that requirement by a simple delegation of the management of the reserves to the Director of National Parks with indefinite effect.

The development of the marine reserve system in the south-east zone involving waters around Tasmania and the South Australian and Victorian coast was completed under the previous government. No management plan has been brought to the parliament by this government. It has been managed through a delegation to the Director of National Parks. The government will likely use the same ruse to avoid parliamentary scrutiny of the remaining bioregions as the declarations of marine reserves occur. He will be able to, and no doubt will, simply refer management of the reserves to the Director of National Parks and thus avoid enabling the parliament to express its views on not just the reserves themselves but the regulations that will be set in place to enforce them. This whole circumstance is unconscionable. It is wrong that a minister should have such extreme powers—the powers of a dictator—in these areas. The parliament must have a say.

It is a matter of great regret to me that these fundamental flaws in the act were not identified in the original debate on the EPBC legislation in the life of the previous government. Not one of us on either side of the chamber even remarked on this aspect of the legislation when it was debated. An explanation, not an excuse for members of both sides of this chamber, is that at the time no such massive interventions in activities in the EMEZ were contemplated. The emphasis of the day in terms of reserves was exclusively on land based reserves that generally encompassed crown land and involved cooperative relationships with the state governments. Marine issues simply were not on the radar.

The extraordinary process now underway, however, has brought that fault in the act into focus. This parliament, of all parliaments, ought to be ready to address this problem. We are ostensibly operating in this parliament under a new paradigm. The Independents demanded of the Labor Party, before they endorsed them to form a minority government, a greater role for parliament, a more accountable parliament and greater respect for parliament. Here I believe is a great opportunity for them to press this government to live up to its signed commitment to the new paradigm.

The issue here is not just the extraordinary scale of the unilateralism that has been seized by the minister in terms of the size of the area—it is an area twice the size of Australia's landmass—but the leverage that he claims over the lives and livelihoods of many thousands of Australians engaged in the fishing industry, the tourism industry, the mining industry and their support and associated industries. Members opposite, as well as members on this side of the chamber, will be aware that how the government was handling this whole matter in the last term was one issue that gave it a very near-death experience at the 2010 election. There was outrage amongst fishers especially, both professional and recreational, over the conduct of the marine planning process by the former minister for the environment. That outrage was reflected at the ballot box, especially down the eastern seaboard, at the last election. Consultation was barely at lip-service level and was well known by all affected parties to be at lip-service level unless you happened to be a green NGO, in which case you had the ear of the minister.

I signal to members opposite that the same movement will likely be marshalled against them at the next election unless they are prepared to much more significantly involve affected groups and the parliament in this
process. There have been some indications that since the election the quality of consultation with affected parties has improved somewhat. Whether this has been driven by altruism or by clear recognition of the power of this issue at the last election is a moot point, but members opposite should not delude themselves—this issue can certainly come back to bite them again. Passing this bill will not necessarily avoid that outcome if they subsequently seek to pander to the minority party that will shortly hold the balance of power in the Senate.

Greens policies in this area are as extreme as anything on their agenda. Their policy calls for 30 per cent of the EEZ to be no-take zones. They will press the government to achieve that goal. They will be pressing for very high levels of protection within a marine reserve system. The Greens are as antifishing as they are anticoal, and they will have the numbers in this chamber, if the government is silly enough to back them, to get the outcomes they seek. There will be temptation for the government to treat marine reserves as a means to deliver the Greens' concessions that might be denied them elsewhere in their policy framework. Fishermen in particular could become sacrificial cows for the government in appeasing the Greens.

The best outcome for the government is, therefore, to grab our bill with both hands. It gives them the best chance at a sensible outcome. I think I can virtually guarantee the government that any move by the Greens in the Senate from 1 July to turn a potentially sensible marine reserve plan into a bad marine reserve plan will not pass in the other place. This reality should help the government ensure that what it brings forward for the consideration of the parliament, should this bill pass, is sensible. The alternative for the government will, I absolutely promise, not be pretty. There have already been signs that the government will take steps to delay debate on this bill until after the Greens achieve the balance of power. I suspect they will try to talk it out today.

The government should understand that this will be seen by fishers in particular as a concession to the Greens and to extreme outcomes in terms of marine reserves. Extreme outcomes will come back to bite members opposite—I can promise them that. Fishers already comprehend that the likelihood they will be treated fairly by this government if their interests are impacted in this process are slim. A consultancy report to the government proposed extremely limited compensation or structural adjustment support for fishers and none for the thousands employed in support industries for both the professional and recreational fisheries. In the end, and very belatedly, the government agreed to use the same policy that the former government used to determine these issues in the rezoning of the Great Barrier Reef Marine Park some three years ago. The Howard government interpreted that policy very generously, and in the end the cost of it was around $230 million. There is potential that the outcome in the areas where declarations are yet to be made will involve a multiple of that. The northern areas are Australia's premier prawning grounds. The east coast involves the bulk of all other forms of fishing, both professional and recreational. Extreme outcomes in these areas, given the record of this government since 2007 and its indebtedness to the Greens since the election last year, are going to be a real threat.

The best way for the government to proceed is to support this bill. It is also the proper way for the government to proceed. As I said at the beginning, it is simply unconscionable that a single minister has the authority, as the act now stands, to make unilateral decisions affecting so many
interests across a vast area without any reference whatsoever to this parliament. Under the old or any other paradigm, let alone the new paradigm, these are matters on which the parliament should have its say.

I sincerely hope that the parliament will support this bill. There are a number of people absolutely depending on it. There are 72,000 people who get a living from the sale of boats and other things—the sale of fishing tackle. Many of them have come to me and expressed extreme concern for the people that work for them, their businesses and their investments. They are extremely worried, and that is why so many submissions were put forward to the committee. There were submissions from professional fishermen, boatbuilders and others, including Cameron Talbot, Tin Can Bay Chamber of Commerce and Tourism, Marine Queensland, Super-yacht (SYBA) Australia Inc., Sunfish Queensland Inc., Australian Marine Engine Council, Queensland Seafood Industry Association, Recfish Australia, Australian Underwater Federation, Coral Sea Access Alliance—all these submissions urging support for this bill. There was also one from Dr Ben Diggles, a very prominent scientist.

If this bill does not go through parliament, it will be no good regretting it when fishing industries close down and the amateur fishermen—and there are four million of them—come to us as members of parliament and say, 'Look, we need support.' What are we going to say? Will we say: 'We had the chance to give you support, but we rejected it. We passed the whole management of this bill back to the minister. He will be able to declare what fishing will take place, what boating will take place, what industries will take place in particular zones, and we will not be able to do a thing about it.

Surely parliamentary representation is the ability of a constituent to bring their problems and their concerns to parliament. We are rejecting that if we do not pass this bill. We are saying to people out there: leave it to the minister; he knows better than your elected representative. That is not what Australians believe their elected representative is about. It is not what the four million amateur fishermen want. They want to come and have their views heard and they want to express them to their elected members of parliament. If we reject this bill we reject their opportunity to do so.

Debate interrupted.

**PARLIAMENTARY REPRESENTATION**

**Valedictory**

Senator McEWEN: On behalf of Senator Collins, I seek leave to incorporate her valedictory statement.

Leave granted.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (11:34): The incorporated speech read as follows—

I would like to take this opportunity not only to acknowledge those senators who spoke last night—senators Hutchins, Hurley and Fielding—but also to acknowledge the contributions made to this parliament and chamber by all of the 12 retiring senators.

I would like to say a few words about those who are leaving, in particular my colleagues from the Australian Labor Party.

Senator Steve Hutchins

Firstly, to my good friend Steve Hutchins who I have had the pleasure of working with during the tough years of opposition and now in government.

I would like to congratulate you, Senator Hutchins, on your contribution not only to this
parliament but to the wider Labor cause to which you are so dedicated.

In your first speech you mentioned that: 'We have failed to soften the impact of the enormous economic and social changes upon ordinary Australians, and more importantly, we have failed to recognise how tough people are doing it.'

I think serving in this parliament, especially since forming government in 2007, you can walk away with pride knowing that you have helped to soften that impact on working families, especially during the global financial crisis.

I want to publicly acknowledge your long career with the Transport Workers Union, your time as president of the New South Wales branch of the Labor Party and your service on the ALP national executive, including as national vice-president.

While I am very sorry to be saying goodbye to you, Steve, I look forward to catching up with you in Melbourne.

Senator Michael Forshaw

I turn to another friend and colleague Michael Forshaw who last week gave us 'a fond farewell with few regrets and complaints'. After 17 years in the chamber, this is a remarkable achievement.

I know that you expressed regret about never serving on the front bench, except in opposition. Unfortunately, you were one of us who endured the long and hard years of opposition.

As Senator Evans said last week, you have made a tremendous contribution to the Labor cause both on the front bench and in committee work, especially as Chair of the Joint Foreign Affairs, Defence and Trade Committee of the parliament.

Committee work is often undervalued and I salute you for your hard work and commitment to such important and necessary committee work.

Prior to becoming a senator, replacing another great Labor man Graham Richardson, you served the Australian Workers Union for an impressive 18 years, becoming General Secretary in 1991.

And of course on a personal note, as one of the Hoggarama or La Capania members, you will be greatly missed.

Senator Kerry O’Brien

To Senator Kerry O’Brien, another long-serving senator, who endured the long years of opposition.

Kerry, I wish you every success in the future years. You have served your Tasmanian constituency well in this chamber since 1996.

I read in the Canberra Times that you believe your greatest achievements are the regional forestry agreement and forging agriculture policies as an opposition frontbencher. I congratulate you on these significant achievements.

I also want to acknowledge that, before entering parliament, Kerry was Secretary of the Liquor, Hospitality and Miscellaneous Workers' Union (Tasmanian Branch) and a member of the union's national executive.

Senator Dana Wortley

Dana Wortley is a valued member of the Senate Labor team and unfortunately missed out on the opportunity to serve once again in this chamber.

I too know the dangers of trying to be re-elected from the No. 3 position. It was a close battle and I know many feel it was unlucky that you only got one term.

Prior to entering parliament, Dana worked as a teacher and education officer as well as a journalist and education editor.

Having been an industrial officer for the Media, Entertainment and Arts Alliance in 1994, she went on to be Assistant State Secretary (SA and NT), from 1997-2001 and State Secretary (SA and NT) from 2001-05, all impressive achievements.

Senator Hurley

To Annette Hurley, I pay tribute to your contribution, particularly to South Australia.

Prior to entering parliament, Annette worked first in a hospital based pathology service before working in the arts, merchant banking and mining related services.

I want to acknowledge Annette’s service as a member of the South Australian parliament from 1993 until 2002 and becoming a shadow minister.

Closing Remarks

While I do not have the opportunity to mention all those senators who are leaving, I give you all my best wishes for the challenges and opportunities that lie ahead.

You have all served this parliament, your parties and your constituents.

In particular, I acknowledge my fellow Victorians, senators Fielding and McGauran.

Julian, I wish you well in your teaching career and I do hope it succeeds in a way your dancing career never did!

BILLS

Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011

Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator PARRY: I move:
That the question be now put.

A division having been called and the bells being rung—

Senator Parry: by leave—I ask that the division now be withdrawn on the basis that you, Madam Acting Deputy President Moore, were under the impression that Senator McEwen was seeking leave in relation to this bill. That was not the case. In the spirit of cooperation, because you were deceived by the government—'misled' is probably a better word—we will withdraw the division.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:39): So the Greens are the extreme ones in this debate, apparently, and yet Senator Boswell has just accused the minister for the environment of being a dictator. He clearly does not understand the act. He acknowledged that he was not paying attention when his side of politics put through the Environment Protection and Biodiversity Conservation Act, which set out what is actually a very consultative process for bioregional planning and for marine protected areas. It is an extremely useful process which, at the time, his side of politics—who are not always known for their environmental credentials—thought was a good process in terms of consultation and the process you go through to establish bioregional planning processes in marine protected areas. But now he is saying, 'No, we don't think it is.' But if you actually look at the process you see that it is a highly consultative process that takes years.

I have been involved in marine protection and these issues for 25 years. I have been involved in a lot of consultation and I have been involved in the south-west marine planning process since about the mid-1990s. Now we have finally got a draft plan on the table. That is 15 or 16 years. How much longer do the coalition want to be able to consult on marine protected areas? I will tell you: forever—because they do not want them. This is what this is about: they are scared of evidence based planning, which is what happens with marine bioregional planning and when you put marine reserves and marine protected areas in place. It is evidence based planning, and that is why we so strongly oppose this particular bill. What the coalition want to do is make this a political process and try to never get marine protected areas in place. Senator Boswell ignores the science consistently. For years the coalition have been saying, 'No, we don't want marine protected areas. No, we don't want marine no-take areas,' because they are trying to imply that all marine protected areas are no-take areas, and that is blatantly not true.

For years the coalition have been saying, 'There is no science around marine protected
areas. There is no science around the role marine no-take areas play. The science is well and truly in about the role they play in protecting our marine biodiversity. Also on the ledger is how much marine biodiversity we have lost and the parlous state of our coral reefs around this planet—the global importance of protecting those reefs in Australia. Now that the science is much better documented, they cannot rely on that argument anymore, even though they keep rolling it out. Now they want to come in here and try to use a political process to stop marine protected areas, because they know the science is in, they know the evidence is in, they know that communities support it. Go and talk to West Australians. You will clearly see that the majority of Western Australians support marine protected areas and marine reserves.

Go and talk to my community in my home state of Western Australia. Talk to the people in the south-west, which I do all the time. There is overwhelming support for the south-west bioregional area. There is overwhelming support for marine protected areas, because West Australians understand the science and the roles of marine protected areas. They are overwhelmingly committed to Ningaloo Marine Park. They are overwhelmingly supportive of the zoning of Ningaloo. They want to see their precious marine environment protected. The south-west regional area, from the south-west of WA over into South Australia, has more unique species than the Great Barrier Reef. There are species there that are found nowhere else on the planet. It is highly important, and the government has gone through a very consultative process with industry, with stakeholders and with the community. And they are still going through it. This thing about our not talking to the fishers is complete nonsense. The fishers have had extra-special access around, for example, the fishing gear assessment process. The community still have not seen that report, but the fishing industry have, rec fishers have; they have seen it. Here is the coalition saying that there is special consultation with—I am going to mention the word, Senator Boswell—Pew. I am going to mention—wait for it—Imogen Zethoven. I will go back to the issue of claims that the Greens are extreme. You should see Senator Boswell light up and press his button every time you mention that name in estimates. How many hours have the coalition, and Senator Boswell in particular, wasted in estimates asking ridiculous questions about times that non-government organisations have actually dared to ring the government?

Senator Colbeck: Madam Acting Deputy President, on a point of order: I reject the reflection that Senator Siewert is making upon coalition senators and questions we have asked in estimates about bioregional planning. I have spent a lot of time asking questions about bioregional planning because I am concerned about it and I treat it as serious. I reject the reflection that she makes and I ask her to withdraw it.

The ACTING DEPUTY PRESIDENT (Senator Moore): Senator, what is your point of order?

Senator Colbeck: It is a reflection on another senator and I ask her to withdraw the reflection.

Senator Bob Brown: On the point of order—what a specious point of order. Senator Siewert has the right to make the comments she has made. They are quite within the rules, and Senator Colbeck should have that request dismissed.

The ACTING DEPUTY PRESIDENT: Thank you, Senator Brown.

Senator Colbeck: I have the right to make a point of order—
The ACTING DEPUTY PRESIDENT: Senator Colbeck, you do indeed.

Senator Colbeck: and to deal with issues as I see fit, and we do not need the help of Senator Brown.

The ACTING DEPUTY PRESIDENT: You are now beginning to argue the matter.

Senator Siewert interjecting—

The ACTING DEPUTY PRESIDENT: I am going to rule on the point of order, Senator Siewert. I do not believe there is a point of order at this stage, Senator Colbeck; it is part of the debate. But I will continue to listen closely.

Senator SIEWERT: If Senator Colbeck would let me finish, I was about to highlight the fact that they are asking questions as though it is wrong, in a democracy, that organisations are allowed to speak to government or to statutory organisations. They ask questions like: have non-government organisations spoken to ministers? Have they spoken to the Great Barrier Reef Marine Park Authority? That is the way fishing organisations talk to government all the time. Of course recreational fishers talk to government and statutory authorities—all the time. I would like to know his point. He keeps pushing the argument that Pew run the marine management process. It would not have taken 16 or more years to get to the point where we have some draft plans out on the south-west bioregional planning process if a non-government organisation were pulling the strings of the government—as they keep implying—which is of course a whole lot of nonsense.

There has been an extensive consultation process, which has looked at the science, at the biodiversity hotspots, at the areas of high endemism and at the areas that need special protection. They have consulted industry—they have consulted the fishing industry; they have consulted recreational fishers; they have consulted the oil and gas industry—for a very long time and now those plans are on the table. The conservation movement has made its view very clear: they do not think it has gone far enough. At the moment, the fishing industry or recreational fishers are making claims that it has gone too far. That is part of the process. There is a clear process, a review of management plans, where they are a disallowable instrument.

This is about not allowing the role that marine protected areas play in the essential protection of biodiversity and fish stocks. As I said, they keep denying that, despite the overwhelming evidence.

I urge coalition members to look at the role that marine protected areas play in protecting fish stocks in particular. It is really ironic that recreational fishers and the fishing industry are so vehemently opposed to marine protected areas and particularly to marine no-take areas—look at the role they play in terms of protecting fish stocks. No-take areas are absolutely essential, particularly given the overfishing that has occurred around the world.

Before the opposition jump up and say that I am having a go at fishing regulations, I want to point out that I have stated many times in this chamber that Australia has some of the best fishing regulation in the world. I have acknowledged that. I do not say it has reached optimum effectiveness, but we have said on many occasions that it is among the best in the world. But that is not to say that it cannot be improved. We are still seeing fish stocks depleted. In Western Australia the system has become so politicised, because no government dared to create adequate marine protected areas off the coast of Western Australia, that there are fish stocks after fish stocks and species after species that have got to the point where— (Time expired)
Senator PARRY (Tasmania—Chief Opposition Whip in the Senate and Deputy Manager of Opposition Business in the Senate) (11:49): I seek leave to make a brief statement to ask a question of the Leader of the Government in the Senate, Senator Ludwig.

The ACTING DEPUTY PRESIDENT (Senator Moore) (11:49): Leave is granted for two minutes.

Senator PARRY: Thank you. As the government is aware, this is a private senator's bill—this is our bill and we wish to have all stages completed. I am asking, so that it is on the record, if the government will consider extending time to complete all stages of the bill within one hour. If we extend that time, the coalition will withdraw its matter of public importance that is listed for this afternoon on the Notice Paper. That would bring back the hour so neither the government nor the opposition would lose time. The important point is that we would like all stages of the bill completed within that one hour.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (11:50): It seems an unusual way to do this—to have a discussion across the chamber. I indicate firstly that it is private senators' time. It is for private senators' bills to be spoken to, debated, put through the committee stage and finalised. The government will not agree to a device to bring something to a vote in private senators' time. I think that would be a type of guillotine of a particular bill. If it finishes within that hour—if all senators want it to finish within that hour and they confine their speeches to that—so be it. But I cannot and would not, either by leave or through a motion, agree to a procedural device that would bring it to a finalisation. I think that is sensible; otherwise, we detract from private senators' time to openly discuss private senators' bills. That would be the general feeling, I would think. Those are the first principles I would always go to. There may be other reasons. People can agree around the chamber to bring things to a conclusion and that would be a sensible thing to do if they so wished. So I am not ruling out the possibility of it being concluded and having a vote on all stages within that hour, but I feel obliged to make plain that I do not want to agree to a procedural device that would then enforce that because it may mean that other senators around the chamber who want to make a contribution cannot. That is not to say that I would then encourage senators to speak who would otherwise have not spoken on the bill.

Senator BOSWELL (Queensland) (11:52): I seek leave to make a statement.

The ACTING DEPUTY PRESIDENT (Senator Moore) (11:52): Leave is granted for two minutes.

Senator BOSWELL: When the government came to power there was an agreement. I understood that agreement to be that private members' bills would be presented on Friday between certain times and they would be debated out and voted upon. That was the agreement I believe all parties agreed to. It was done on a number of bills. I think Senator Fiona Nash had one that got through. That was the agreement I believe we had in this parliament, but that has been aborted today. Under the agreement that was presented to this parliament this bill should be put to a vote. It is an important bill. It is a bill that the coalition went to the people on. It should be voted on because that is what the parliament agreed under the new paradigm. This is just an attempt to talk this bill out so that four million amateur
fishermen do not have their say through their representatives in parliament. They will be bitterly disappointed because they believe the people they helped to elect have a right to take their concerns into this parliament. That is being stopped by this bill not being voted on today. That is against every principle that was put forward when the new parliament started. I want to put that on the record. I am disappointed, but I am not as disappointed as those four million people who vote and fish are going to be. They will be bitter that the Labor government has acceded to the Greens. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:54): I seek leave to make a similar statement.

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

Senator BOB BROWN: Firstly, we made no agreement to debate matters on Fridays. The agreement was to debate matters on Thursdays.

Senator Ian Macdonald: You are so cute.

Senator BOB BROWN: Senator Macdonald says that I am cute. I take that; it is nice to hear him make a positive statement about me for once.

Senator Faulkner: I am sure all senators agree with him.

Senator BOB BROWN: Thank you, Senator Faulkner. The private members’ time that we are now enjoying exists because the Greens brought that into an agreement after many years of Liberal and Labor governments suppressing any move for private members’ bills. It is a bit precious for Senator Boswell to now be saying that he wants to—

Senator Ian Macdonald: Precious! Apart from Penny Wong you are the most precious in this chamber.

The ACTING DEPUTY PRESIDENT: Senator Macdonald, I cannot hear Senator Brown.

Senator Ian Macdonald: You’re not missing anything.

The ACTING DEPUTY PRESIDENT: Senator Brown, please continue with your statement.

Senator BOB BROWN: He is a bit grumpy, as usual. We will not be supporting this move. The opposition brings on an urgency motion and suddenly says it is not urgent. What an abuse of parliament that is. That means that other people who may have had urgency motions do not get the opportunity to have that debating time this afternoon. We have had a private member’s bill voted on here this morning. Those are the terms and conditions of the arrangements we made with the government that Senator Boswell refers to. It is proper process and we will continue to stick by that proper process.

Senator PARRY (Tasmania—Chief Opposition Whip in the Senate and Deputy Manager of Opposition Business in the Senate) (11:56): I seek leave to make a further two-minute statement just to sum up this discussion.

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

Senator PARRY: Thank you. I accept Senator Brown’s proposition that the Greens have implemented this time and also the coalition and the government did support private senators’ business of a Thursday morning. However, a broad concept was that whoever had the time for the private senators’ bills would in fact organise which bills they wished to debate and, where possible, organise time management. I think it is superfluous if we end up having private senators’ bills time and we do not get to a final decision on this.
I will pick up the point about the urgency motion that Senator Brown mentioned. Yes, we have an urgency motion this afternoon, but we believe, especially with the statements made by Senator Boswell, that this matter is more urgent than that motion. That is all. It is just more urgent than the motion that we currently have listed for this afternoon to be debated. It is important for us to achieve an outcome with this bill. We prepared to put it to a vote at the end of further debate and then let the chamber decide on whether the bill will pass or fail on its merits. That is all we are asking to do. We are not asking for anything except to conclude this debate within one hour of time and does not affect the government's program any further today.

The ACTING DEPUTY PRESIDENT: The time for this debate has expired.

PETITIONS

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

Carbon Pricing

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

The petition of the undersigned shows:

Their concern about increases in the cost of living that would result from the Green-Labor Alliance's plans to introduce a tax on carbon dioxide emissions.

Your petitioners therefore request that the Senate:

Hold the Prime Minister to account on her pre-election promise and oppose any and all attempts to tax carbon dioxide emissions in Australia.

Petition received.

by Senator Abetz (from 1,411 citizens).

NOTICES

Presentation

Senator MARSHALL: To move:

That the Senate—

(a) notes:

(i) the opening statement made by the President of Fair Work Australia on 1 June 2010 during his appearance at an estimates hearing of the Education, Employment and Workplace Relations Legislation Committee, and

(ii) in particular, the request made in that statement that the Senate reconsider its order of 28 October 2009 which requires that, on each occasion on which the Education, Employment and Workplace Relations Legislation Committee meets to consider estimates in relation to Fair Work Australia, the President of Fair Work Australia appear before the committee to answer questions; and

(b) modifies the order of 28 October 2009 by declaring that, while relaxing the requirement that the President of Fair Work Australia attend to answer questions on all occasions when the Education, Employment and Workplace Relations Legislation Committee meets to consider estimates in relation to Fair Work Australia, the Senate expects that the President will appear should his or her presence be requested by the Education, Employment and Workplace Relations Legislation Committee in the future.

Senator LUDLAM: To move:

That the Senate—

(a) notes that:

(i) the elections held in Burma on 7 November 2010 did not meet international democratic standards, with widespread reports of voter fraud, harassment and intimidation and foreign media and election monitors not given permission to observe,

(ii) the military backed Union Solidarity and Development Party won nearly 77 per cent of seats, the military linked National Unity Party won more than 5 per cent of seats and opposition parties won 18 per cent of seats,

(iii) the 2008 Constitution does not uphold democratic principles by prohibiting freedom of
speech, freedom of assembly and freedom of association, excluding all political prisoners from standing for election, ensuring continued military control over the country and providing impunity for human rights violations committed by members of the armed forces,

(iv) 25 per cent of seats in the parliament are reserved for the military, to be appointed by the military’s Commander in Chief, with the head of the military providing a short list of candidates to the President for the Minister of Home Affairs, the Minister for Border Affairs and the Minister of Defence,

(v) severe restrictions have been imposed on parliamentarians: they face 2 years imprisonment if they write, print or distribute by any means parliament-related documents, information, statistics, drawings, charts or other references; bring a mobile phone, recording device or camera into parliament or if they make a protest in parliament,

(vi) speeches, motions and questions must be approved by the Speaker of the House before they can be entered into the parliament, and they must be submitted 10 working days in advance for approval,

(vii) parliamentarians cannot ask questions on, or speak about, national security, international relations or national unity related issues, and

(viii) the parliament is not open to the public and unauthorised individuals who enter the parliament face one year in prison; and

(b) calls on the Government to:

(i) not recognise the Parliament of the Republic of the Union of Myanmar as the true Parliament of Burma,

(ii) condemn the 2008 Constitution as undemocratic,

(iii) pledge its continued support for genuine democracy and human rights in Burma,

(iv) call for national reconciliation in Burma, particularly tripartite dialogue between the democracy movement led by Daw Aung San Suu Kyi, ethnic nationalities and the military,

(v) commit to continue working with opposition groups in Burma, including those outside the parliament such as the National League for Democracy and the United Nationalities League for Democracy, and

(vi) call for the release of all political prisoners in Burma.

Senator BOSWELL: To move:
That the Senate—

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

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

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

Notice of amendment:

Senator BOB BROWN: To move:
That the Senate recognises the rights of the people of Palestine and Israel to live together as self governing states.

Senator HANSON-YOUNG: To move:
That the Senate—

(a) notes that after the Tiananmen Square massacre in 1989 the Hawke Labor Government allowed many thousands of Chinese students studying in Australia to stay after their visas had expired; and

(b) calls on the Government to:

(i) provide an extension of student visas on humanitarian grounds to the students of the conflict-ridden countries of Libya, Syria and Bahrain, allowing them to stay in Australia until it is safe to return home, and

(ii) lift the current work restrictions, to allow these students, who have had their assets and bank accounts frozen, an increased ability to work and access basic entitlements in Australia.

Postponement

The following items of business were postponed:
General business notice of motion no. 298 standing in the name of Senator Xenophon for today, proposing the introduction of the Bankruptcy Amendment (Exceptional Circumstances Exit Package) Bill 2011, postponed till 4 July 2011.

General business notice of motion no. 300 standing in the names of Senators Boyce, Adams and Siewert for today, relating to Foetal Alcohol Spectrum Disorder, postponed till 4 July 2011.

COMMITTEES
Selection of Bills Committee

Report

Senator McEWEN (South Australia—Government Whip in the Senate) (11:59): I present report No.8 of 2011 of the Selection of Bills Committee and I seek leave to have the report incorporated in *Hansard*.

Leave granted.

The report read as follows—

**SELECTION OF BILLS COMMITTEE**

REPORT NO. 8 OF 2011

1. The committee met in private session on Wednesday, 22 June 2011 at 7.26 pm.

2. The committee resolved to recommend—

   That—

   (a) the order of the Senate of 12 May 2011 adopting the committee’s 5th report of 2011 be varied to provide that the Crimes Legislation Amendment Bill (No. 2) 2011 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 23 August 2011; and

   (b) the Live Animal Export (Slaughter) Prohibition Bill 2011 and the Live Animal Export Restriction and Prohibition Bill 2011 [No. 2] be referred immediately to the Rural Affairs and Transport References Committee for inquiry and report by 16 August 2011 (see appendices 1 and 2 for statements of reasons for referral).

3. The committee resolved to recommend—

   That the following bills not be referred to committees:

   - Carbon Tax Plebiscite Bill 2011
   - Commonwealth Electoral Amendment (Tobacco Industry Donations) Bill 2011
   - Competition and Consumer Legislation Amendment Bill 2011
   - Customs Amendment (New Zealand Rules of Origin) Bill 2011

   The committee recommends accordingly.

4. The committee deferred consideration of the following bills to its next meeting:

   - Consumer Credit Protection Amendment (Fees) Bill 2011
   - Cybercrime Legislation Amendment Bill 2011
   - Government Advertising (Accountability) Bill 2011
   - Intellectual Property Laws Amendment (Raising the Bar) Bill 2011
   - Interactive Gambling and Broadcasting Amendment (Online Transactions and Other Measures) Bill 2011
   - Migration Amendment (Declared Countries) Bill 2011
   - Public Service Amendment (Payments in Special Circumstances) Bill 2011
   - Responsible Takeaway Alcohol Hours Bill 2010
   - Schools Assistance Amendment Bill 2011

   (Anne McEwen)

Chair

23 June 2011

Appendix 1

**SELECTION OF BILLS COMMITTEE**

Proposal to refer a bill to a committee

Name of bill:
Live Animal Export (Slaughter) Prohibition Bill 2011

Reasons for referral/principal issues for consideration:

Possible submissions or evidence from:

Humane Society International
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of Bill:
Live Animal Export Restriction and Prohibition Bill 2011

Reasons for referral/principal issues for consideration:
In undertaking the inquiry, the Committee should consider:

1. The animal welfare issues inherent in live animal exports
2. The failure of successive governments and governmental agencies to improve welfare standards for live exports overseas
3. The lack of enforceable standards for animal welfare overseas
4. The economic benefits and impacts of the live export trade
5. The economic benefits and imports of phasing out the live export trade and replacing it with a chilled meat trade, as has occurred in New Zealand

Possible submissions or evidence from:
Department of Agriculture, Fisheries and Forestry
Meat and Livestock Australia
Australian Quarantine and Inspection Service
Animals Australia
RSPCA
Australian Meat Industry Council
Australian Meat Industry Employees Union
Ministry of Agriculture and Forestry, New Zealand

Committee to which bill is to be referred:
Senate Standing Committee on Rural Affairs and Transport

Possible hearing date(s):
July/August 2011

Possible reporting date:
16 August 2011

(sign)
Senator Siewert

Appendix 2

BUSINESS
Rearrangement

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (12:01): I move the motion in the terms circulated in the chamber relating to the consideration of private senators’ bills:

That the following list of general business orders of the day be considered under the temporary order relating to the consideration of private senators’ bills on Thursday, 7 July 2011:

No. 68—Carbon Tax Plebiscite Bill 2011
No. 57—Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011
No. 55—Wild Rivers (Environmental Management) Bill 2011

Ordered that the report be adopted.
No. 50—National Broadband Network
Financial Transparency Bill 2010 (No. 2)
No. 17—Evidence Amendment (Journalists’ Privilege) Bill 2010 (No. 2).

Question agreed to.

NOTICES
Withdrawal

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (12:01): I withdraw business of the Senate notices of motion Nos 7 and 8.

Senator LUDLAM (Western Australia) (12:01): I withdraw business of the Senate notice of motion No. 5.

COMMITTEES
Gambling Reform Committee
Meeting

Senator McEWEN: I move:
That the Joint Select Committee on Gambling Reform be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 5 July 2011, from 4 pm.

Question agreed to.

Legal and Constitutional Affairs
Legislation Committee
Reporting Date

Senator McEWEN: I move:
That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Migration Amendment (Strengthening the Character Test and Other Provisions) Bill 2011 be extended to 29 June 2011.

Question agreed to.

Rural Affairs and Transport
References Committee
Reporting Date

Senator PARRY: I move:
That the time for the presentation of the report of the Rural Affairs and Transport References Committee on biosecurity and quarantine arrangements be extended to 29 November 2011.

Question agreed to.

Community Affairs References
Committee
Reference

Senator FIERRAVANTI-WELLS: I, and also on behalf of Senator Siewert, move the motion as amended:
That the following matter be referred to the Community Affairs References Committee for inquiry and report by 16 August 2011:

The Government’s funding and administration of mental health services in Australia, with particular reference to:

(a) the Government’s 2011-12 Budget changes relating to mental health;
(b) changes to the Better Access Initiative, including:
   (i) the rationalisation of general practitioner (GP) mental health services,
   (ii) the rationalisation of allied health treatment sessions,
   (iii) the impact of changes to the Medicare rebates and the two tiered rebate structure for clinical assessment and preparation of a care plan by GPs, and
   (iv) the impact of changes to the number of allied mental health treatment services for patients with mild or moderate mental illness under the Medicare Benefits Schedule;
(c) the impact and adequacy of services provided to people with mental illness through the Access to Allied Psychological Services program;
(d) services available for people with severe mental illness and the coordination of those services;
mental health workforce issues, including:

(i) the two-tiered Medicare rebate system for psychologists,
(ii) workforce qualifications and training of psychologists, and
(iii) workforce shortages;

(f) the adequacy of mental health funding and services for disadvantaged groups, including:

(i) culturally and linguistically diverse communities,
(ii) Indigenous communities, and
(iii) people with disabilities;

(g) the delivery of a national mental health commission; and

(h) the impact of online services for people with a mental illness, with particular regard to those living in rural and remote locations and other hard to reach groups; and

(j) any other related matter.

Question agreed to.

REGULATIONS AND DETERMINATIONS

Health Insurance (Extended Medicare Safety Net) Amendment Determination 2011

Senator LUDWIG: I move:
That, in accordance with section 10B(2) of the Health Insurance Act 1973, the Senate approves the Health Insurance (Extended Medicare Safety Net—Telehealth) Amendment Determination 2011 made under section 10B(1) of the Act on 23 May 2011.

Question agreed to.

Health Insurance (Extended Medicare Safety Net—Telehealth) Amendment Determination 2011 (No. 2)

Senator LUDWIG: I move:
That, in accordance with section 10B(2) of the Health Insurance Act 1973, the Senate approves the Health Insurance (Extended Medicare Safety Net) Amendment Determination 2011 and the Health Insurance (Extended Medicare Safety Net) Amendment Determination 2011 (No. 2) made under section 10B(1) of the Act on 23 May 2011 and 1 June 2011, respectively.

Question agreed to.

BILLS

Social Security and Other Legislation Amendment (Miscellaneous Measures) Bill 2011

First Reading

Senator LUDWIG: I move:
That the following bill be introduced:
A Bill for an Act to amend the law relating to social security and family assistance, and for other purposes.

Question agreed to.

Senator LUDWIG: I present the bill and move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

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

Leave granted.
The speech read as follows—

The Social Security and Other Legislation Amendment (Miscellaneous Measures) Bill 2011 contains a number of amendments to protect the integrity of Australia's social security system.

Australia is a society that looks to provide a safety net for those that are most in need. Social security payments provide that safety net to thousands of Australians.

While the great majority of social security recipients claim payments to which they are rightfully entitled, successive Australian Governments have recognised that some people will attempt to receive payments to which they are not entitled. It is necessary, therefore, that there are robust measures in place to ensure the integrity of the social security system.

The Bill amends the Social Security (Administration) Act 1999 (the Administration Act) to address issues that have been identified, dating back to the commencement of the Administration Act in 2000, as a result of the recent case of Poniatowska versus the Commonwealth Director of Public Prosecutions (the CDPP).

For many years the CDPP has prosecuted cases involving social security fraud under various sections of the Criminal Code, particularly section 135.2 'Obtaining a financial advantage'. These offence provisions involve, for the physical element of the offence, proving that the defendant engaged in conduct, where the relevant conduct is an omission — namely, failing to inform the Department of an event or change of circumstances that might affect the person's social security payment or qualification for a concession card.

Section 4.1 of the Criminal Code provides that engaging in conduct includes an omission to perform an act. Section 4.3 provides that an omission to perform an act can only be a physical element of an offence if (a) the law creating the offence makes it so; or (b) the law creating the offence impliedly provides that the offence is committed by an omission to perform an act that by law there is a duty to perform.

In the recent case of Poniatowska, a majority of the full court of the Supreme Court of South Australia held that 'section 135.2 does not define any duty or obligation relevant to an offence committed by way of omission'. It further noted that the CDPP had not relied on any notice issued to the defendant to establish a duty to inform the Department of an event or change of circumstances, and that the Administration Act did not create a separate "stand alone" obligation. On this basis, the court set aside the convictions which had been recorded against the defendant.

The Commonwealth has appealed the Poniatowska decision to the High Court, which has reserved its decision. The current position is that a large number of past convictions are at risk of being overturned on appeal on the basis of the decision in Poniatowska.

Since the decision, the CDPP has adjourned or discontinued a large number of matters of this kind before the courts. The CDPP is also not commencing new proceedings of this kind, pending the determination of the appeal before the High Court.

Since the 2000-2001 financial year, the CDPP has prosecuted approximately 36,500 defendants for social security fraud. Without a detailed analysis of each case, it is not possible to state definitively how many matters of social security fraud have been committed via omission since the introduction of the Criminal Code, however the Governments best estimate is that as many as 40% of this number, or around 15,000 convictions, may now be open to question as a consequence of the decision in Poniatowska.

To ensure the past convictions cannot be called into question, the Bill amends the Administration Act to insert a stand alone obligation for a person to inform the Department of an event or change of circumstances that might affect the person's social security payment or qualification for a concession card.

This provision will operate both prospectively and retrospectively to 20 March 2000, the date the Administration Act commenced.

Successive Australian governments have not lightly pursued retrospective legislation. However, in this case there are exceptional circumstances justifying retrospectivity, namely that it would not be appropriate for a significant number
of prosecutions conducted from 2000 for social security fraud to be overturned on the basis of a previously unidentified legal technicality.

One of the criticisms that can be directed at retrospective legislation in relation to criminal offences is that people will be unaware that their conduct is an offence. In this case, however, the convicted persons would all have been aware that they should have informed the Department of the specified events and changes of circumstances listed in the notices given to them by Centrelink in relation to their social security payment or concession card. The effect of the retrospective application of this provision is to confirm convictions already made.

As Members would be aware, Centrelink has more than seven million customers. Its operations depend on the use of computer programs to generate decisions based on the requirements of the social security legislation.

Considerations in the light of the Poniatowska decision have also raised some doubt that there is sufficient evidence to prove that, with respect to the period from 12 June 2001 to the present, decisions made by Centrelink under the social security law by the operation of computer programs have satisfied all legislative requirements.

To ensure that these decisions are not open to question, the Bill provides that the requirements of subsection 6A(1) of the Administration Act are taken to have been complied with in relation to decisions made under the social security law by the operation of a computer program for the period 12 June 2001 to the date of Royal Assent.

Finally, the Bill makes technical amendments to the Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Act 2011 and to the Family Assistance Legislation Amendment (Child Care Rebate) Act 2011 to correct drafting oversights.

I conclude by noting that the bill has been designed such that there will be no practical impact on the ordinary course of Centrelink's business, or on a person's obligations to report changes in circumstances to Centrelink.

Every person who receives a social security payment or a concession card is currently sent notices by Centrelink. These notices require the person to inform the Department of events or changes of circumstances which might affect the person's social security payment or qualification for a concession card. That will not change as a result of this bill.

The bill is necessary to protect the integrity of the social security system. It has been brought forward by the Government, based on advice from the Commonwealth Director of Public Prosecutions and the Solicitor-General, to address technical issues that have been brought to light by recent litigation. It does so without disturbing the existing protections that the law guarantees for Centrelink clients.

Ordered that further consideration of the second reading of this bill be adjourned to the first sitting day of the next period of sittings, commencing 16 August 2011, in accordance with standing order 111.

COMMITTEES

Finance and Public Administration Legislation Committee

Reference

Senator FAULKNER (New South Wales) (12:08): I, and also on behalf of Senators Fifield, Forshaw, Kroger, Moore, Polley, Siewert and Stephens, move:

That the following matter be referred to the Finance and Public Administration Legislation Committee as an inquiry under standing order 25(2)(a), for inquiry and report by 29 November 2011:

The performance of the Department of Parliamentary Services (DPS), with particular reference to:

(a) matters raised at the Budget estimates hearing of the committee on 23 May 2011 and in answers to questions taken on notice;

(b) policies and practices followed by DPS for the management of the heritage values of Parliament House and its contents;

(c) asset management and disposal policies and practices;
(d) resource agreements and/or memoranda of understanding for the provision of services within and by DPS;

(e) an assessment of the efficiencies achieved following the amalgamation of the three former joint parliamentary service departments and any impact on the level and quality of service delivery;

(f) the efficient use, management and delivery of information technology services and equipment; and

(g) any related matter.

Question agreed to.

DOCUMENTS

Trade: Apples

Order for the Production of Documents

Senator COLBECK (Tasmania) (12:09):

I move:

That the Senate—

(a) orders that all documents associated with the development of the import protocol for apples from New Zealand be laid on the table by the Minister for Agriculture, Fisheries and Forestry by 5 pm on Thursday, 30 June 2011, including:

(i) all details of the Integrated Fruit Production System that forms the basis of on farm management of fireblight and other diseases in orchards producing apples for export to Australia, including a copy of the Integrated Fruit Production Manual,

(ii) documents referred to in the Draft report for the non-regulated analysis of existing policy for apples from New Zealand (May 2011) (the draft report), including:

(A) Biosecurity Services Group (2011) Trip Report: Apple production practices in Hawkes Bay and Nelson, New Zealand, March 6–11, Biosecurity Services Group, Department of Agriculture, Fisheries and Forestry, Canberra,

(B) Japan Regulations (2007) Plant Quarantine Enforcement: Detailed Regulation Concerning Fresh Apple Fruit Produced in New Zealand, July 2007,

(C) Ministry of Agriculture and Forestry New Zealand (2011) Correspondence sent from the Ministry of Agriculture and Forestry to Plant Biosecurity, 8 April 2011, and

(D) Rogers DJ (2008): Correspondence sent from Dr DJ Rogers to the New Zealand Ministry of Agriculture and Forestry, and

(iii) evidence of new science taken into account in preparing the draft report which was not referred to in the Final Import Risk Analysis Report for Apples from New Zealand (November 2006),

(iv) records of communications between Biosecurity Australia or the Department of Agriculture, Fisheries and Forestry with:

(A) the Prime Minister, Minister for Foreign Affairs, or Minister for Trade about the draft report, or the review leading to the draft report, including all briefings provided to the Prime Minister concerning the review prior to her speech to the New Zealand Parliament on 16 February 2011 and all briefings provided to the Minister for Trade, Minister for Foreign Affairs or Prime Minister concerning the review prior to the Minister for Trade publishing the document 'Gillard Government Trade Policy Statement: Trading our way to more jobs and prosperity' in April 2011,

(B) the Director of Quarantine,

(C) the Government of New Zealand since the decision by the World Trade Organization in 2010, including ministers and New Zealand Government departments and agencies, and

(D) Pipfruit New Zealand Inc.,

(v) all details of how 'equivalence' of other systems will be assessed and the process of consulting with Australian industry with regard to permission of other on farm systems,

(vi) all details relating to the verification processes, including audit frequency, auditor qualifications/competency and registration, related to the Integrated Fruit Production System,

(vii) all details of the historic efficacy of the Integrated Fruit Production System in containing, controlling and preventing the outbreak of fireblight and other diseases in apple orchards,
(viii) all details of pack house management protocols for export of apples to Australia, including, but not limited to:

(A) details of testing and assessment of fruit maturity,

(B) maintenance of sanitary conditions in dump tank water,

(C) maintenance of high pressure water washing and brushing of fruit,

(D) good hygiene practices, and

(E) training of key personnel in the identification of fireblight and other diseases of concern to Australia,

(ix) all details relating to the verification processes, including audit frequency, auditor qualifications/competency and registration, related to the pack house management protocols,

(x) details of accreditation of auditors and certification bodies by independent bodies, such as JAS-ANZ [Joint Accreditation System of Australia and New Zealand],

(xi) all details of inspection protocols at the border, including training, qualifications/competency and registration of inspectors, and

(xii) mitigation measures for outbreaks of fireblight in export orchards; and

(b) calls on the Government to extend to 4 August 2011 the period of public consultation by Biosecurity Australia on the draft report, to allow consideration of the documents referred to above.

Question agreed to.

COMMITTEES

Finance and Public Administration References Committee

Reference

Senator FIERRAVANTI-WELLS (New South Wales) (12:10): I move:

That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 18 August 2011:

The Government's administration of the Pharmaceutical Benefits Scheme (PBS), with particular reference to:

(a) the deferral of listing medicines on the PBS that have been recommended by the Pharmaceutical Benefits Advisory Committee;

(b) any consequences for patients of such deferrals;

(c) any consequences for the pharmaceutical sector of such deferrals;

(d) any impacts on the future availability of medicines in the Australian market due to such deferrals;

(e) the criteria and advice used to determine medicines to be deferred;

(f) the financial impact on the Commonwealth Budget of deferring the listing of medicines;

(g) the consultation process prior to a deferral;

(h) compliance with the intent of the Memorandum of Understanding signed with Medicines Australia in May 2010; and

(i) any other related matter.

Question agreed to.

Legal and Constitutional Affairs References Committee

Reference

Senator XENOPHON (South Australia) (12:10): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.

Senator XENOPHON: This relates to matters that have a long history in what many regard as the Heiner affair. I note Senator Joyce's previous advocacy in relation to this. I have had discussions with my colleague Senator Brown from the Australian Greens in relation to this. My understanding is that they may not be of the mind to support this motion. In the event that this motion is not passed, I will continue to advocate for the passage of this or a similar motion. In good faith, I will have discussions with my colleagues in the Australian Greens in subsequent days and weeks.
I point out that I have a note from Hetty Johnston, the founder and Executive Director of Bravehearts. She said that she believes it is incumbent upon every member of parliament to support this motion, leaving aside the matters around the shredding of the documents, rightly or wrongly; that the matter raises serious issues around the rape and abuse of girls and boys at the John Oxley detention centre; that the same issues that legitimately prompted the original establishment of the Heiner inquiry remain unresolved; and that every member of parliament, especially those who espouse a particular interest in the issue of child protection, owes answers to the children who were so dreadfully treated.

Senator Fielding is patron of White Balloon Day, which is run by Bravehearts. I note Senator Fielding’s previous advocacy on this and other issues. I hope this motion is passed at this stage. There are important and unresolved issues of law reform in relation to the protection of documents, cabinet-in-confidence, the protection of whistleblowers and related matters. The victim at the centre of this horrific matter still has not had her say. There have been recent developments in relation to this which I believe ought to be the subject of an appropriate Senate inquiry.

I move:

That the following matters be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 23 November 2011:

(a) the expected role of Government in preventing the destruction and concealment of documents which should be retained in the public interest, including documents in relation to potential legal proceedings;

(b) the circumstances under which documents should be categorised as Cabinet-in-confidence;

(c) the need for a national requirement for documents relating to child abuse, particularly child sexual abuse, to be held for a minimum of 30 years;

(d) the appropriateness of victims of child abuse, particularly child sexual abuse, being required to sign confidentiality agreements as part of any compensation arrangements;

(e) the role state and federal archivists can play in setting standards for the preservation of documents relating to the above matters;

(f) in relation to events relating to allegations of abuse in the John Oxley Youth Detention Centre in Queensland from 1988:

(i) the shredding of documents by the then-Queensland Government in 1990 relating to the alleged rape of a resident at the John Oxley Youth Detention Centre in 1988, and other abuses and the implications these actions had on the ability of victims and others to pursue their legal rights with reference to section 129 of the Queensland Criminal Code, and the need for a national approach to the protection of such documents,

(ii) previous Queensland Government initiated inquiries and Federal Parliamentary inquiries into the matters referred to at the John Oxley Youth Detention Centre,

(iii) whether evidence provided to previous Senate committee inquiries about the shredding of the documents referred to was misleading, or whether evidence was withheld from previous Senate committee inquiries, and whether there is any new evidence relating to these matters, and

(iv) the prevalence of abuse, and how reports of abuse were managed by management at the John Oxley Youth Detention Centre, and whether there should be national standards generally in relation to the reporting and management of such matters; and

(g) any other related matter.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12:13): Mr President, I seek leave to make a short statement.
The PRESIDENT: Leave is granted for two minutes.

Senator BOB BROWN: I appreciate what Senator Xenophon said, and it is correct. I note, however, that there have been extensive inquiries into this matter by the Senate on at least three previous occasions. We all know the impost. We have just arranged for another extensive inquiry into mental health services in this country. I certainly will enter into talks with Senator Xenophon about this matter, but I am highly averse to an inquiry simply traversing ground that has already been serially traversed by previous Senate inquiries. I have enormous sympathy for people involved in the matters that Senator Xenophon refers to, and we take that into account, but we also have to be very prudent about the way in which inquiries repeatedly come before the Senate for exhaustive, and sometimes more than that, assessment.

Senator FIELDING (Victoria—Leader and Whip of the Family First Party) (12:14): I seek leave to make a short statement, Mr President.

The PRESIDENT: Leave is granted for two minutes.

Senator FIELDING: This is a very personal issue for everyone in this chamber to look at. As someone who has been sexually abused—and I have declared that before, though that is not the issue here—I regard this as a serious matter that has been put forward again, and I have definitely been weighing it up very heavily. Since the notice of motion came through yesterday—I think it was four o'clock when I got it—I have had to weigh up what has been put forward and what has been looked into before by the Senate. I have to weigh up whether the accusations should continue or whether another inquiry is warranted. And it is not easy to weigh both those issues up. I have had people approach me from both sides on this issue. I suppose that I hate people accusing me of things, but I also do not like sexual abuse and that is why I am torn between these two viewpoints.

I know that there have been a number of occasions when the Senate has considered this issue before, and I do understand that matters proposed for this inquiry have already been investigated by Senate committees on several occasions to the extent of their jurisdiction and there has been found to be nothing to go on with. I am concerned that maybe we are making accusations again and the issue is: what do you do with that? I am concerned about both issues and I am concerned about how many more times we will look into this.

Some people have said to me that we should just continue to do it until we get another answer. I do not think that is right either. I have always taken my vote seriously in this place and I am torn between the two. What has not helped was getting the notice of motion and the detail of it late yesterday. I am being frank: there has been a lot of time—months—for this to be brought forward and for the two issues to be weighed up. I do not think that I can support it.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (12:17): Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.

Senator LUDWIG: Thank you, Mr President. It seems incumbent upon the government also to state its position. The government does not support the motion. It is not that we do not have—in my personal view and in the government's view—
enormous sympathy for child abuse victims. This is not about examining that issue per se; this seems to be about going back and examining a matter that has a number of times been seized by the Senate, with reports and information provided. We seem to have gone through this a range of times. On that basis, I am not sure of the utility of another inquiry in relation to this. If there is any evidence of child abuse, it should be reported to the authorities and the authorities should be dealing with it appropriately. If there are any allegations in relation to concealment of evidence, that is also a matter that should be pursued through the relevant authorities. The Senate is not an appropriate body to be doing inquiries of that nature. The Senate has created a wide remit for what it may look into. It has looked into this on a number of occasions and I am not sure that the Senate would be well served by looking into this specific issue again.

That is not to detract from what occurred in circa 1988 to 1990. That issue is well known in the public domain and the circumstances surrounding that are well known in the Senate. For those reasons, the government will not be supporting the motion, but I reiterate the importance of highlighting the fact that from the government's perspective the issue of child abuse is an important issue. It is a matter that is being addressed through the various portfolios which have responsibility and through a COAG process, and I would encourage people to use the appropriate forums. (Time expired)

Senator XENOPHON: Mr President, I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.

Senator XENOPHON: Thank you for the indulgence of making a second short statement. This motion deals with the issue quite differently from the way that other inquiries into this area have dealt with it. It deals fundamentally, first and foremost, with issues of law reform in relation to the destruction of documents that could be used in legal proceedings. It deals with issues of cabinet-in-confidence. It deals with the way that people have been dealt with in this matter in a way that has not been previously traversed. It is not about digging up old ground; it is about dealing with fresh matters and about fundamental law reform.

The issue here is that the victim at the centre of this was a 14-year-old girl who was raped in 1988 while at John Oxley Youth Detention Centre, and the perpetrators have never been charged. Yet this woman apparently received a payout from the Queensland government just last year. She has had a confidentiality clause attached to that payout and she has been gagged from speaking out. She needs to have her voice heard about this. This is about unfinished business that needs to be resolved. It is not about traversing old ground.

I would urge Senator Fielding to reconsider his position. I am sorry that the matter was only lodged yesterday, but it is something that my office has been working on for some time. I have had good discussions with Senator Fielding's office about this. If Senator Fielding is of a mind to have further discussions right now, I would move that this matter be postponed till later—if that can be done and if there are other matters to deal with—so that I can continue these discussions. But I would urge the Senate to consider this given that there are new matters. There is unfinished business and the victim deserves the right to be heard.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12:21): Mr President, I seek leave to make a short statement.
The PRESIDENT: Leave is granted for two minutes.

Senator BOB BROWN: I disagree with Senator Xenophon on this matter. He has just indicated that he has been dealing with this matter for some time. We are in the last day of this last week of sitting in the financial year. The senator can bring back a different motion in the future. Senator Fielding is quite right: we all had this very complex and highly charged motion brought before us yesterday afternoon. Senator Xenophon ought to have brought it to senators' attention earlier than this and ought to ensure that there is due time for it to be properly considered. It is not a good process that we are having put upon us. I repeat that there have been three Senate inquiries into this matter. You can come back with differently configured terms of reference, but there needs to be due justification for that, and then we need to absorb that and take it into account. I do not think this process is a good one.

Question put:
That the motion (Senator Xenophon's) be agreed to.

The Senate divided. [12:27]
(The PRESIDENT—Senator Hogg)

Ayes......................32
Noes......................32
Majority..................0

AYES
Adams, J
Barnett, G
Birmingham, SJ
Boyce, SK
Bushby, DC
Colbeck, R
Cormann, M
Ferguson, AB
Fifield, MP
Humphries, G
Joyce, B
Mason, B
Parry, S (teller)
Back, CJ
Bernardi, C
Boswell, RLD
Brandis, GH
Cash, MC
Coonan, H
Eggleston, A
Ferraravanti-Wells, C
Fisher, M
Johnston, D
Macdonald, ID
McGauran, JJJ
Payne, MA

NOES
Arbib, MV
Bishop, TM
Brown, RJ
Crossin, P
Faulkner, J
Fielding, S
Furner, ML
Hogg, JJ
Hutchins, S
Ladwig, JW
Marshall, GM
McLucas, J
Moore, CM
Polley, H
Sherry, NJ
Stephens, U

AYES
Ronaldson, M
Sebullion, NG
Trood, R

NOES
Bilyk, CL
Brown, CL
Cameron, DN
Farrell, D
Feeney, D
Forshaw, MG
Hanson-Young, SC
Hurley, A
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
O'Brien, K
Pratt, LC
Siewert, R
Sterle, G

PAIRS
Abetz, E
Conroy, SM
Heffernan, W
Evans, C
Kroger, H
Wong, P
Minchin, NH
Carr, KJ
Nash, F
Wortley, D
Williams, JR
collins, JMA

Question negatived.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (12:30): I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.

Senator JOYCE: I think it is very important that, on the issue of the Heiner inquiry, which I have been pursuing for quite some time—in fact, in a former time on the backbench I brought the Rofe report into the chamber to try to get it tabled—I express my absolute disgust that we have not seen right a process of getting transparency on this issue. There remains a lady who no-one denies was raped and who is still seeking justice on this
issue. Beyond all the so-called issues and other things that are dragged into this, that lady deserves justice. She wants her time to be able to explain her position. We know that she has received money—an amount, basically, to stay quiet. I think this is absolutely disgusting and I have to say on the record that for Senator Fielding, as a person who is a patron of White Balloon Day, to vote against this—

**Senator Bob Brown:** Mr President, I raise a point of order. There is a standing order that senators will not reflect on a vote of the Senate—

**Senator Ian Macdonald interjecting—**

**Senator Bob Brown:** or interject. I ask you to look at that standing order.

**The PRESIDENT:** 'Reflection' means 'in an unparliamentary way'. I will allow you to continue, Senator Joyce.

**Senator JOYCE:** I am also extremely disappointed in the position of the Australian Greens. They too have become party to trying to circumvent the process of transparency. This issue must at some point in time be brought to a position of conclusion and transparency. I believe and have said before that this, in a form, is Australia's Watergate, only this time the perpetrators got away.

**MOTIONS**

**Nuclear Energy**

**Senator LUDLAM** (Western Australia) (12:32): I move:

That the Senate—

(a) notes:

(i) the ongoing crisis and radiation leaks from the severely damaged Fukushima Daiichi nuclear complex,

(ii) that on 12 April 2011 the nuclear disaster reached INES [International Nuclear and Radiological Event Scale] disaster level 7, the worst possible type of nuclear event due to cumulative radiation releases and contamination of the air, soil, water and food,

(iii) the Comprehensive Nuclear-Test-Ban Treaty Organization and specialist research institutes have documented radiation from Fukushima spreading to Korea, China, Russia, Europe, the United States of America and Australia,

(iv) that seabed, air and soil samples taken in the region record alarming radiation levels that are hundreds of times higher than previously detected in and around Fukushima,

(v) the 7 June 2011 report from Japan to the United Nations indicating that fuel in three Fukushima's reactors have melted through the containment structure,

(vi) the report tabled on 6 June 2011 by Japan's Nuclear and Industrial Safety Agency that doubled the figure for the radiation it believed was released into the atmosphere in the first 6 days, from 370 000 terabecquerels to 770 000,

(vii) the 3 June 2011 disclosure that Japanese authorities had suppressed the 12 March 2011 finding of radioactive tellurium 6 kilometres from Fukushima, the presence of which indicates that the temperature of the fuel rods was more than 1 000 degrees and that a meltdown had commenced before the emergency ventilation of the unit 1 reactor containment, and

(viii) the Declaration by the International Atomic Energy Agency Ministerial Conference on Nuclear Safety in Vienna of 20 June 2011; and

(b) calls on the Australian Government to:

(i) maintain the interdepartmental emergency task force coordinating Australian nuclear expertise and equipment to measure detectable levels of radiation, model the plumes and provide advice to the Australian Government,

(ii) publicly disclose all data held by Australian authorities on inspection and monitoring efforts regarding radiation levels in the environment, including radiation levels in the surface of soil, rain water, tap water, food and air, exposure to which is dangerous to human health, and

(iii) regularly update the Senate on findings by the interdepartmental emergency task
force on all data collected by Australian nuclear experts and equipment.

I seek leave to make a short statement.

The PRESIDENT: Leave is granted for two minutes.

Senator LUDLAM: I understand that I do not have support from either the government or the opposition on this motion, so I wanted to note briefly what this motion actually does, because I doubt many senators present have taken the time to read it. The motion does nothing more than state facts about the serious and ongoing nuclear disaster on the north-east Pacific coast of Japan. The motion notes a number of official government reports and statements and it notes that the disaster is the worst possible type of nuclear event. It notes that the radiation levels are seriously dangerous to human health and the environment in the long term. It also acknowledges and encourages Australian nuclear expertise—because we have a fair degree of that here in Australia—to keep gathering data.

Senator Ian Macdonald: Come on, Bob. I'll take the point of order if you won't.

Senator LUDLAM: Senator Macdonald, if you listen you may learn something. No? That does not appear to be the case.

The motion also noted that the data should be made publicly available through the Australian Senate. It is simply an information-gathering request put to the chamber. It is extraordinary how in denial—

Senator Ian Macdonald: Mr President, I raise a point of order. Senator Brown has just alerted us to the fact that there is a standing order that militates against reflection on a vote, and this senator is reflecting on a vote about to be taken. I thought Senator Brown would have been on his feet to take the point of order but, as he has not, I do it on behalf of Senator Brown.

The PRESIDENT: There is no point of order.

Senator LUDLAM: I understand that we do not have support for this motion. Since the chamber is not interested in understanding the facts on the ground in Japan, I would like to remind the chamber that there are 20 exposed nuclear cores at Fukushima, that a nuclear adviser to the Japanese government has reported that 966 square kilometres around the reactor site—an area 17 times the size of Manhattan—is now probably uninhabitable and that TEPCO have been spraying water onto volcanically hot reactors and fuel cores, so radiation is now emitted in an uncontrolled way in air and steam. These are some of the facts that the government and opposition do not seem willing to face. Perhaps I will put to this chamber future motions that will have a better result. In the meantime, can we reflect on why we do not appear to be interested in having this information on the public record?

Question put:

That the motion (Senator Ludlam's) be agreed to.

The Senate divided. [12:37]

(The PRESIDENT—Senator the Hon. JJ Hogg)

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AYES

Brown, RJ
Ludlam, S
Siewert, R (teller)

Hanson-Young, SC
Milne, C
Xenophon, N

NOES

Adams, J
Barnett, G
Bilyk, CL
Bishop, TM
Boycie, SK
Cameron, DN

Arbib, MV
Bernardi, C
Birmingham, SJ
Boswell, RLD
Brown, CL
Colbeck, R
NOES

Cormann, M  Crossin, P
Farrell, D  Faulkner, J
Feeney, D  Fielding, S
 Fifield, MP  Fisher, M
Forshaw, MG  Furner, ML
Hogg, JJ  Hurley, A
Hutchins, S  Ludwig, JW
Lundy, KA  Macdonald, ID
Marshall, GM  McEwen, A
McLucas, J  Moore, CM
O’Brien, K  Parry, S (teller)
Payne, MA  Polley, H
Pratt, LC  Ronaldson, M
Ryan, SM  Scullion, NG
Stephens, U  Sterle, G
Troeth, JM  Trood, R

Question negatived.

COMMITTEES

Foreign Affairs, Defence and Trade References Committee

Reference

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12:40): I move:

That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 19 September 2011:

(a) the effectiveness of the Australian Government's response to Australian citizens who are kidnapped and held for ransom overseas, including but not limited to the response of the Australian Federal Police, the Department of Foreign Affairs and Trade and the consular assistance in the relevant country;

(b) how the Australian Government's response in these situations compares to the approach taken by other countries;

(c) measures that could be taken by the Australian Government to improve the handling of its assistance to Australian citizens and their families; and

(d) any other related matter.

Question agreed to.

BUDGET

Consideration by Estimates Committees

Senator McEWEN: On behalf of the respective chairs, I present additional information received by the Senate Environment and Communications Legislation Committee and the Senate Foreign Affairs, Defence and Trade Legislation Committee in response to the 2010-11 additional estimates hearings and additional information received by the Finance and Public Administration Legislation Committee in response to the 2010-11 additional and supplementary estimates hearings, as well as information received from the Economics Legislation Committee.

COMMITTEES

Intelligence and Security Committee

Report

Senator FAULKNER (New South Wales) (12:42): On behalf of the Parliamentary Joint Committee on Intelligence and Security I present the committee's report entitled Annual report of committee activities 2009-10 and I move:

That the Senate take note of the report.

The tabling of this report has been delayed because of the federal election. It is a report of the activities of the committee of the 42nd Parliament. The activities dealt with in the report were carried out under the previous chair and former member for Brisbane, the Hon. Arch Bevis. I am sure senators would appreciate my taking this opportunity to thank Mr Bevis for his work on the committee. His important contribution to the critically important area of national security is well known to all who have served in this parliament and certainly will be missed.

Reviewing administration and expenditure on an annual basis is one of the primary functions of the committee. Section 29 of the Intelligence Services Act stipulates that the
committee has an obligation to review the administration and expenditure, including the annual financial statements, of the Australian intelligence community.

During this period the committee tabled their reviews of administration and expenditure Nos 6, 7 and 8 for the financial years 2006-07, 2007-08 and 2008-09. These reports were, respectively, tabled in September 2009, May 2010 and June 2010. Of these reports, only Review of Administration and Expenditure No. 8 made recommendations and I refer to two of those recommendations, relating to the efficiency dividend and the funding of the Office of the Inspector-General of Intelligence and Security in particular. ONA's submission stated that, as a result of the efficiency dividend, there would be 'some modest reduction in ONA's analytical capacity'. Another agency stated that any additional reduction in their budget would significantly impact their operational activities. The committee was concerned about the impact of the efficiency dividend on the smaller agencies of the Australian intelligence community and therefore recommended that the Australian government review the potential adverse effects of the efficiency dividend on the AIC.

The committee also took the opportunity afforded by this review to look at the budget of the Office of the Inspector-General of Intelligence and Security, OIGIS. Its budget has not grown in line with ASIO's budget growth. In light of the increases in the number of personnel and activities of the AIC as well as an expansion in OIGIS's role, the committee recommended that the budget of the Office of the Inspector-General of Intelligence and Security be increased.

Two reports on the listing of organisations as terrorist organisations were tabled in the period under review. The two reports dealt with five organisations comprising four relistings and one initial listing. These reports were a review of the relisting of Hamas' Izz al-Din al-Qassam Brigades (the Brigades), Kurdistan Workers Party (PKK), Lashkar-e-Taiba (LeT) and Palestinian Islamic Jihad (PIJ) as terrorist organisations under the Criminal Code Act 1995 and a review of the listing of al-Shabaab as a terrorist organisation. The committee did not recommend disallowance of any of the regulations in relation to the five organisations.

Since 2002 the committee has sent representatives to the biennial conference of oversight agencies. In 2010 the conference was hosted by the Parliamentary Joint Committee on Intelligence and Security and the IGIS in Sydney between Sunday, 21 March and Wednesday, 24 March 2010. Members of our committee attended that biennial conference.

On behalf of the committee, I thank all those who have contributed to the work of the committee over the past year. I acknowledge on the occasion of the retirement of Senators Trood, Forshaw and McGauran that they have all been significant contributors to the committee over recent years. Finally, I formally thank them, as has the committee, for their service and today I take the opportunity to place that on the public record. I conclude my remarks today by commending this report to the Senate.

Senator TROOD (Queensland) (12:48): As a member of the Parliamentary Joint Committee on Intelligence and Security, I would like to take a moment to associate myself with the remarks of Senator Faulkner with regard to this report, Annual report of committee activities 2009-10. I thank Senator Faulkner for his remarks about my own membership of the committee.
I make three brief points with regard to the report. Firstly, I acknowledge the significant contribution that the former chair of the committee, Mr Arch Bevis, made. He was indeed a very diligent and conscientious chair, but he was defeated at the last election. Most of the time I spent on that committee was under his chairmanship. He led it with distinction and I associate myself with Senator Faulkner's remarks about his leadership of the committee.

Secondly, the Office of the Inspector General of Intelligence and Security is a statutory office, which I have watched for some time now. In particular, I have explored with the Inspector-General in a succession of Senate estimates meetings the situation of its budget. It is manifestly obvious that the budget is inadequate for the increasing duties that are being imposed upon the Inspector-General. Almost at every turn it seems the government assumes that the Inspector-General is, firstly, the appropriate office to undertake various inquiries and, further, that the inquiries to be undertaken and the responsibilities devolved to the Inspector-General are responsibilities that the Inspector-General can undertake without any significant increase in resources. We have reached a point where that cannot continue. It seems to me that the resources of Inspector-General need serious reconsideration. The Inspector-General, who is the most diligent of people and whose office is the most diligent of offices, is under considerable constraint with resources and its budget needs to be reviewed.

Thirdly, having sat on the committee for some years and since its activities do take place in a very confidential fashion, I underscore what I regard as the great value of the committee to the parliament. Its activities are, of course, confidential. The witnesses that come before the committee do so in camera. In some quarters, that raises suspicions about the activities of the committee. I think it is an appropriate time, when we are looking at the annual report of the committee, to underscore the fact that the work of the committee is undertaken in the most conscientious way. The committee does explore in great detail the administration of these various agencies, which are very important to the national security of the country, and they do it very effectively. Since I am a member of the committee and we are looking at the annual report, it seems an appropriate occasion to underscore what a valuable exercise this is and how diligently and conscientiously all members of the committee undertake their work.

Senator FORSHAW (New South Wales) (12:52): I endorse the remarks of Senator Faulkner, who has spent many years on this committee and provided valuable experience to it, and the remarks of Senator Trood. I agree entirely with what he said, particularly his mention of the previous chair before the last election, Mr Arch Bevis, who was a terrific chairman. I think it was definitely a loss to the parliament when he, unfortunately, lost his seat. Finally, I thank Senator Faulkner once again for his kind words about me and Senator Trood. This is an extremely important committee of the parliament. It is really an honour to be asked to serve on it. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade Joint Committee

Report

Senator FORSHAW (New South Wales) (12:53): I present the report of the Joint Standing Committee on Foreign Affairs, Defence and Trade entitled Inquiry into Australia's relationship with the countries of Africa. I move:

That the Senate take note of the report.
I think this will be the last time I will make a formal speech in this chamber and I am particularly delighted to do it on the Joint Foreign Affairs, Defence and Trade Committee report I have just tabled. This is the first comprehensive report of our relationship with the countries of Africa by this committee or indeed by any other parliamentary committee.

This report is timely for a number of reasons. Many other advanced countries are turning their attention towards Africa. Indeed, in 2009 the President of the World Bank, Mr Robert Zoellick, called for the 21st century to be 'the century of Africa'. Why is this? In geopolitical terms, African countries have increasing influence on international organisations; in resource terms, Africa has vast reserves—about 30 per cent of the world's mineral resources; in trade terms, the African population represents a huge potential market; and, in agricultural terms, Africa's underutilised arable land represents great opportunities to feed not only the African continent but other parts of the world.

Australians have for a long time been interested in Africa. The Australian public donates far more to aid organisations than Australia's official development assistance. Academics too have been interested in Africa, although recently expertise has been fragmented across the universities in Australia. Now the Australian mining sector is becoming a major investor in Africa. The committee received evidence that 227 Australian resource companies have projects on the ground in Africa. At least 53 companies and 172 new projects commenced operation for the first time in Africa since the beginning of 2010. The total projected capital investment of projects is more than A$27 billion.

I can already report on one outcome of this inquiry. It has brought together people throughout Australia with an interest in Africa and African issues, including academics, businesses and Australian non-government organisations. This rich vein of knowledge and expertise is ready to be harnessed in promoting Australian interests in Africa.

Let me highlight some of the key findings of the report. Australia's diplomatic representation on the African continent is significantly less than that of our major trading partners: the US, China, Japan, the UK and the EU. Further, Canada and, in our region, the Republic of Korea and Malaysia all have substantially more diplomatic posts than Australia, and Thailand and Vietnam have comparable representation. Whilst the importance of Africa and African issues has increased over the past 25 years, Australia's diplomatic presence has decreased from 12 to eight posts in the same period. Our diplomatic presence is now concentrated in southern and eastern Africa and the former British colonies. There is a considerable gap elsewhere, particularly in Francophone Africa.

Therefore, this report recommends a comprehensive review of Australia's diplomatic representation on the African continent with a view to opening an additional post in Francophone Africa as a priority. Also it recommends increasing the number of Australia based French-speaking diplomatic staff in the existing west African high commissions and, as a short-term measure, increasing the number of Australian honorary consuls in Africa.

The committee welcomes the increasing level of Australian development aid to Africa in recent years. The areas where Australia is focusing its assistance—agriculture, food security, water, sanitation, and maternal and
child health—are where Australia has expertise and can, therefore, generate the greatest impact. The committee has not commented on Australia's aid effectiveness, because that is currently being reviewed by an independent panel. Nevertheless, a committee delegation, which visited four countries in Africa, was impressed by the potential benefit of supporting private sector initiatives. Provided such projects are carefully selected, there is the advantage of leveraging additional funds from the private sector, affecting large numbers of people through an expanded local economy and supporting a sustainable enterprise with the potential for growth. The committee received evidence from the private sector and individuals about initiatives which develop capacity in African countries. The committee believes these programs should be encouraged and has recommended that AusAID provide assistance to such programs.

Whilst in Africa the members of the committee delegation were regularly approached by African government ministers, officials and businessmen advocating Australian involvement in creating regulation frameworks for the mining sector in African countries. As a major minerals exporter, Australia has the experience and expertise in this area and could readily assist African countries. Robust regulatory frameworks offer certainty for business and would benefit resource-rich African countries. There is thus a major opportunity for the Australian government, the state government and the wider mining industry to use their expertise to assist the development, implementation and administration of sound mining codes in a range of African countries. The committee has recommended that there be established a special unit in the Australian government tasked with establishing a regulatory framework model for the mining and resources sector which African countries could consider adopting according to their requirements.

The higher education sector is now a significant contributor to Australia's export earnings. The sector has a growing reputation for building links with academic institutions in developing countries. It is in Australia’s interests to further develop these valuable ties and similar relationships in research and higher education in Africa. The committee recognises that there needs to be a balance with respect to the provision of scholarships to Africans. On the one hand, Africa will benefit through the transfer of skills if African students return to their country of origin after completion of their studies. Australia also benefits because the African alumni will act as ambassadors from Australia. On the other hand, the immediate benefit to Australia occurs when African students remain in Australia, because their skills alleviate Australia's skills shortage. Such a brain drain is of concern not only to African countries but also to other countries providing talented students to study in Australia.

The committee has recommended that AusAID's scholarships program should include providing scholarships to African students to undertake tertiary education in Africa. This could involve study at African universities and at Australian universities with links with Africa.

There is within Australia a substantial body of expertise on African issues. The committee believes that it is important to promote its coordination and further development. Therefore, the committee has recommended that a centre for African studies should be established, preferably within a university in Australia. A centre will facilitate a coordinated approach to education and training both at undergraduate and graduate level. Further, it will establish a
focal point for coordinating expertise on African issues.

There are a range of other matters that the committee dealt with, including trade and investment, recognising the potentially huge market of Africa, and issues to do with corporate social responsibility. One that I wish particularly to refer to because my time is running short is the Extractive Industries Transparency Initiative. This is a process whereby host governments publish what they receive from mining companies which in turn publish what they pay. This promotes transparency and is aimed to reduce the risk of corruption.

The only First World country that has signed up to the EITI is Norway. No other First World country, including Australia, either is an EITI candidate or has signalled intentions to adopt its principles. It would certainly enhance Australia's advocacy of EITI adoption on the African continent if it were itself engaged in the process of becoming EITI compliant.

I will seek leave to incorporate the remainder of my speech, but I do want to mention one other recommendation. The committee believes that the increasing opportunities for links with Africa, including the potential for increased trade with Africa and the increasing levels of investment that are already occurring, warrant the establishment of an Australia-Africa council similar to those that currently exist for other countries and regions. I point particularly to the great success of the Council on Australia Latin American Relations. That organisation had its genesis in a report by this committee back in 2000 when it looked at Australia's relations with Latin America.

As I said the committee report also discusses other issues, including defence and security, the work of our peacekeeping forces over many years on the continent and also issues that face African migrants and refugees living in Australia. In conclusion I thank firstly the Prime Minister and the Foreign Minister, who supported a delegation from the committee visiting the country and particularly their visit to Zimbabwe. Finally I thank my colleagues on the Africa subcommittee. I particularly thank the hard-working secretariat, I know some of them are here in the chamber today, Dr John Carter, James Bunce, Dr Brian Lloyd, Rhys Merrett, Jessica Butler and Gillian Drew. I also thank Dr Margot Kerley, the secretary of the full committee, who is leaving the parliament after some 20 years service. I believe this report will enhance our relations with Africa and I commend it to the Senate. I seek leave to incorporate the remainder of my speech.

Leave granted.

The remainder of the speech read as follows—

Turning to trade and investment, Mr President—

The 53 countries of Africa have a total population in excess of one billion; in Sub Saharan Africa the population is in excess of 870 million. This represents a potential huge market. Australia's trade links with Africa are currently modest, but there are opportunities for joint ventures with businesses in South Africa and in the horticultural and tourism sectors generally.

Australia is increasing its trade and investment links with the continent, yet has only a handful of Austrade personnel in Africa. Due to the increased importance of trade and investment in Africa combined with the large geographical area and increasing workload, the Committee has recommended that the number of Austrade offices and personnel that are based in Sub-Saharan Africa be increased.

The corporate social responsibility obligations of Australian resource sector companies operating in Africa was raised by a number of witnesses. The report discusses in some detail the activities of several Australian mining companies in Africa
including the links with NGOs with an interest in this area.

Of particular note, Mr President, is that BHP Billiton has a target of spending one per cent of its pre-tax profit on community programs. In 2009-10 this amounted to $200 million which makes BHP Billiton the third largest development agency in Australia—after the Australian Government and World Vision!

The Extractive Industry Transparency Initiative (EITI) is a process whereby host governments publish what they receive from mining companies which in turn publish what they pay. This promotes transparency and is aimed to reduce the risk of corruption.

Norway is the only First World country that is EITI compliant; no other First World country, including Australia, is either an EITI candidate or has signalled intent to adopt EITI principles. It would considerably enhance Australia's advocacy of EITI adoption if it was itself engaged in the process of becoming BM compliant.

The Committee has also recommended that the Government promote corporate social responsibility and continue to promote the Extractive Industries Transparency Initiative principles and other corporate social responsibility instruments to the Australian mining sector, in particular at the Australia Down Under Conference, and especially to new entrants and small operators.

The Committee believes the increasing opportunities for links with Africa, including the potential for increased trade with Africa and the increasing levels of investment that are already occurring, warrant the establishment of an Australia-Africa Council similar to those currently existing for other countries and regions. An example of such a council is the Council on Australian Latin America Relations—an organisation which had its genesis in a recommendation from this Committee in 2000.

The Report also discusses the defence and security aspects of Australia's engagement with Africa, and issues facing African migrants and refugees living in Australia and how the African community in Australia can contribute to Australia-Africa relations.

The Committee has recommended that the proposed Australia-Africa Council should include within its goals, support for activities that encourage and facilitate cultural interchange and exchange, particularly including the Australian African community.

In closing, Mr President, I would like to thank all those who provided submissions and gave evidence at the public hearings I also wish to thank the Prime Minister and the Foreign Affairs Minister for enabling a delegation of the Committee to visit four countries in Africa as part of the inquiry. In particular, the Foreign Minister encouraged the Committee Delegation to visit Zimbabwe. This provided valuable insights into the situation in that country.

Finally, I thank my colleagues on the Africa Sub-Committee, and the secretariat.

[Those who worked on the report were Dr John Carter, James Bunce, Dr Brian Lloyd, Rhys Merrett; office staff were Jessica Butler and Gillian Drew]

Mr President, I commend the report to the Senate.

Senator Michael Forshaw
Senator for New South Wales

Senator TROOD (Queensland) (13:04): I would like to take the opportunity of this report being tabled in the parliament to make some remarks in relation to the report. Before I do that I want to acknowledge Senator Forshaw's distinguished contribution to the parliament through his leadership of the Joint Standing Committee on Foreign Affairs, Defence and Trade and indeed his enthusiastic support for the inquiry in relation to Africa. It was unfortunate that he was unable to visit Africa with the delegation, but he was determined that this report proceed and that it be completed prior to him leaving the parliament, which I am delighted about because it means that the report has been completed before I leave the parliament as well. So that worked out rather nicely.
It is an important report as Senator Forshaw has said. I think it is a report that has been a long time coming. We have not as a parliament examined our relations with Africa or indeed any significant part of Africa for a great many years. I think that we have undertaken this inquiry is an indicator of the way in which perceptions about Africa are changing. There is a perception of Africa in the Western consciousness I can perhaps say. In many ways it is not a particularly flattering perception of Africa. It is a perception that rests on a place of enormous conflict, a place of tumult and a place of turbulence in political terms. It is also perception of a place of considerable underdevelopment where poverty is rife throughout the continent and not much changes over a long period of time.

One of the significant findings of this report—although it is not indicated as the basis of a recommendation—has to do with the very significant ways in which Africa is changing. It is changing in ways that ought to attract our significant attention. One indicator of this is merely by looking at some of the economic growth rates across the continent. In some respects I think people would be surprised about these growth rates. The growth rate for Angola in 2010 was 7.37 per cent; Ethiopia, 9.6 per cent; Ghana, 6.4 per cent; Rwanda, 5.2 per cent; the Republic of Tanzania, 5.7 per cent and Uganda, 7.4 per cent. These are not insignificant growth rates for a continent which for such a long period of time has been perceived as, to put it colloquially and unfavourably, ‘a basket case’. Of course these are growth rates off a very low base, which we all recognise, but they are a reflection of the fact that, fortunately for Africans, they were not as severely affected by the global financial crisis as many other countries were. But they tell a story about the promise of Africa. I think that is a story to which we should all be paying close attention.

I was fortunate that I was able to visit Africa with the parliamentary delegation which went there. We visited South Africa, Zimbabwe, Ghana and Ethiopia, and in each of these places I think we found a measure of opportunity and optimism. In fact, there were three general themes from the many insights and useful things that I learnt during my visit to Africa with the delegation. The three that strike me and which I think are important indicators of Africa's future are, firstly, the fact that there is now a tremendous optimism across Africa. Notwithstanding the fact that places like Zimbabwe and the whole of North Africa remain in a measure of political turmoil and turbulence, in the places we visited there was a great deal of optimism. When I say that, I say it even in the context of Zimbabwe, which of course has had a catastrophic period of time politically and, indeed, economically. But even amongst the Zimbabweans we met there was a degree of optimism about its future.

In my view that optimism has to be finely calibrated against the possible downside of what could happen there in the near future, but there is optimism. The context of that optimism leads to the second broad observation I would make, which is that in the context of optimism there is great opportunity in Africa. There is great opportunity, not for exploitation but to become more actively and effectively engaged with Africa. That is one of the themes that I think underlines the report as much as any.

The third observation I would make about it is that Australians seem to be welcomed across Africa. Unlike some countries that are actively involved there and which are larger—and I refer to the Chinese, who many see as a rather threatening presence in parts
of Africa—Australians are welcomed for their aid expertise, their expertise in mining and the contribution that it is widely seen they are able to make to Africa's future and to its promise.

In Senator Forshaw's remarks he referred specifically to the state of our diplomatic representation. This is, indeed, rather lamentable. We have only eight missions across Africa, and I acknowledge that the Labor government has opened a new mission in Addis Ababa. That is an important mission, and I am delighted that it has actually taken place. We are underweight in Africa, diplomatically, compared to some other comparable countries. As Senator Forshaw said, Canada, Malaysia and Korea all have a significantly large number of embassies. Canada, for example, has 18 embassies and high commissions, Malaysia has 13 and the Republic of Korea has 16. We need to do better than that, and the point that Senator Forshaw made—a point that is made in the report by the committee—is that we particularly need greater representation in Francophone Africa—perhaps in Senegal. We have limited representation.

The other thing that strikes one when one looks at the representation in Africa is that many of our embassies and high commissions are very small, particularly where there is multiple representation and accreditation to other countries beyond the residence of the embassy or the high commission. It is a real stretch for the staff to undertake the work that is demanded of them. I particularly underscore the point that is made in the report that the Austrade representation in Africa is, essentially, inadequate. We need greater Austrade representation. There are tremendous opportunities for Australian business in Africa. Again, as Senator Forshaw observed, there is something in the vicinity of $27 billion of Australian investment in Africa now, but the potential for greater investment for expanding Australia's trade is significant. I think we certainly need to improve Austrade's representation in the context of those opportunities.

In the final moments that are left to me I would like to make the point that there is educational opportunity in Africa. There are resources in relation to Africa spread across the country, but they are rather disaggregated. The expertise we have in Africa is growing but it is not well concentrated, and I think the recommendation in the report for the creation of an African studies centre is one that deserves particularly close attention because we do need to find some aggregation of resources which will allow us to work effectively in understanding Africa a great deal more thoroughly than we are able to do at the moment.

In concluding I acknowledge the tremendous contribution that the committee secretariat made to the preparation of the report—in particular Dr John Carter, who accompanied the delegation to Africa. From my perspective, his notes were sometimes difficult to read but were immensely valuable in reminding me of some of the meetings we undertook. He did a tremendous job in making sure the delegation did not lose itself and I acknowledge the work that he did on the inquiry and that, indeed, of the rest of his staff.

Question agreed to.

Legal and Constitutional Affairs
References Committee

Report

Senator BARNETT (Tasmania) (13:14): I present the report by the Legal and Constitutional Affairs References Committee on the Australian film and literature classification scheme together with the
Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BARNETT: As chair of the committee it is a great honour and pleasure to speak on and support this report, which, in my view, is a landmark report. It is nearly 200 pages in length and it has some 30 recommendations. It relates to and reviews the National Classification Scheme, which was introduced some 15 years ago. I thank the committee secretary and secretariat for the good work they have done. It was a very difficult and complex review but, as usual, it has been done professionally and comprehensively. I specifically want to acknowledge Ann Palmer for the wonderful work she has done on behalf of the committee. I thank our committee secretary, Julie Dennett. I thank Bill Bannear; Patrick O'Neill, who did quite a bit of the work through until April this year; Katie Bird; Dylan Harrington; and Kate Middleton. I thank the deputy chair of the committee, Senator Crossin and my other colleagues on the committee. It is a landmark report and it took over seven months to deliver to the Senate today. On my last day in the Senate I am delighted to have the privilege of tabling and supporting this report and its 30 recommendations.

What we have discovered in this report is that the current system is flawed; in fact, there are multiple flaws with the National Classification Scheme. There is clearly a lack of consistency and uniformity across a range of media platforms and that is something that needs to be fixed as soon as possible. There are key principles that underpin the National Classification Scheme and we support those principles and an expansion of them.

One area of particular concern is the sexualisation of our children, the sexualisation of society and the objectification of women—indeed, the demeaning of women—particularly in advertising, marketing and the community in general. We say enough is enough. We have got to get it right and we have got to get the balance right—an appropriate balance between freedom of expression and protecting what is in the interests of our children, women, families and society.

We have made specific recommendations regarding the importance of consistency and uniformity across all media platforms while maintaining a touchstone to community standards and community values. One of the major areas of significant flaws in the current system relates to what are called call-in notices, whereby the classification board can call in particular magazines and publications. Let's face it, they were in petrol stations, general stores and news agencies across this country. Various inappropriate and offensive material—particularly in relation to children—could be found in those public places by children or whoever. Clearly, they were inappropriate and should not have been there. They were called in. They were not in the dozens, but in the hundreds. The classification board clearly could not follow through on that. They called them in and there was, of course, no response. I have raised this again and again in Senate estimates. The evidence I put was that that is wrong and the process is flawed. The system is broken and it needs to be fixed. The committee report confirms that wholeheartedly.

We had the bizarre situation where we had evidence put to our committee which was taken from newsagents, petrol stations and general stores and we felt that we could not in fact publish those publications—they had to be censored! What a bizarre situation. We had those magazines and materials forwarded to us directly from newsagents, petrol stations and general stores and we
could not actually put it on our website or make the material public because it was so offensive. So, clearly, the system is broken and needs to be fixed.

I would like to highlight some of the 30 recommendations in the report. I am absolutely delighted with these recommendations because they are far-reaching and they make a lot of sense. Let us have a look at some of the key recommendations. First of all the Senate provided an excellent report in 2008. Many colleagues in the Senate chamber would remember the 2008 report by the communications and arts committee on the sexualisation of children in the contemporary media. That report required a response within 18 months, but that has not been provided. All members of the committee, including the government members on the committee, supported that particular recommendation. We need action there, and fast.

We have recommended community assessment panels. It is important to provide a touchstone to the values and standards that are held by the community. Of course they change over time but, if you have that connection directly into the classification system through community assessment panels, then you know that you are going to keep in touch.

We recommended that the exhibition, sale, possession and supply of X 18+ material and films should be prohibited in all Australian jurisdictions, not just the states. As we know, at the moment they are legal in the ACT and in parts of the Northern Territory. This is a great shame and it should be fixed as soon as possible.

We have recommended a centralised database to provide full information sharing on the classification enforcement actions. This will help the law enforcement agencies to do their job of going in and making sure that any offensive material can be removed.

We have called for a massive expansion of the Classification Liaison Scheme, which is now part of the Attorney-General's Department. Their job will be to provide compliance and audit-checking activities in relation to compliance with serial classification declaration requirements—those call-in notices. We think there should be at least one representative in each state and territory. We think there should be a huge expansion of their workforce and resources. They can provide assistance to the state and territory law enforcement agencies for failure to respond to those call-in notices, and of course they should provide an annual report to this parliament via the Attorney-General's Department annual report. We have made a number of recommendations there as well. Equally, the National Classifications Scheme should apply across all content, regardless of the medium of delivery. Industry codes of practice that come under the Broadcasting Services Act, the ARIA/AMRA Labelling Code of Practice and the advertising industry should be required to incorporate the classification principles, categories, content, labelling, markings and warnings of the National Classification Scheme into their industry. They should adopt those measures by industry and, in our view, the measures should be legally enforceable with sanctions applying as appropriate. Further details are set out in our report.

We have made recommendations with respect to assessing and accrediting those that undertake those assessments. We have made recommendations with respect to setting up a one-stop shop for complaints. A lot of the evidence that came to our committee was that people simply did not know where to complain or how to complain. We had one bizarre example of a family member who went to the industry
association, went to ACMA, went to the classification board and was left hanging dry. So we are saying there needs to be a one-stop shop, a classification complaints clearing-house. That clearinghouse would be responsible for the following: receiving complaints and forwarding them to the appropriate body for consideration, advising complainants that their complaint had been forwarded to a particular organisation for consideration, and giving complainants direct contact details and an outline of the processes of the organisation to which the complaint has been forwarded.

Big-picture-wise, yes, the government has set up the Australian Law Reform Commission to report into this matter and report back by January next year. That highlights the fact that, yes, the system is broken and needs to be fixed. This report will be wonderfully useful to the Law Reform Commission, but there are recommendations that we believe should be acted on forthwith.

In conclusion, thank you to my Senate committee colleagues for the work that has been done on this report and to the committee staff for all their support. It is a landmark report with major recommendations and I support the motion to the Senate. I thank the Senate.

Senator BUSHBY: I move: That the Senate take note of the report.

Senator O'BRIEN (Tasmania) (13:25): I know Senator Milne, who authored some important recommendations to this report, also wishes to speak to it, so I will not use all of the time available to me. This report, on what may seem to senators and the public to be a less important matter than some that come before this chamber, is one which has significant bearing, ultimately, on Australia's ability to produce food that is reliant upon bees for pollination.

The report indicates that the Asian honey bee—not native to Australia but the subject of a relatively recent incursion into North Queensland—has the ability, amongst other things, to carry a mite known as the varroa mite, which has progressively spread around the world. In fact, the only country that does not have this mite is Australia. Members of the committee who travelled to New Zealand two weeks ago had the benefit of receiving a briefing from apiculture experts there and about the spread of the varroa mite there. New Zealand has a number of horticulture enterprises—for example, kiwifruit—that rely upon bees for pollination. They rely upon beehives run by the honey industry, which is also an industry for pollination, to keep the industry pollinated and successful. To deal with varroa mite they use pyrethroid strips in the hives to kill-off the mite. The unfortunate problem is that, over time, resistance to the pyrethroid is developed, as is experienced in other jurisdictions. If there is resistance to the substances to treat varroa mites, the fear is that there may not be an easily available alternative.
In the absence of those hives, the New Zealand industries will not produce the fruit that they depend upon. Australia, of course, is reliant upon native bees predominantly for pollination. We would not be able to protect those populations of native bees in the way that domesticated hives, if I can call them that, are protected. If we were to experience an incursion of varroa mite, we would have severe problems for industries that depend on bees for pollination. When people think about bees they do not think about the consequences for food production in this country. It is a problem around the world.

The committee was very concerned about the approach taken by the states and the Commonwealth on potential eradication of the Asian honey bee. We noted that there was a report from a Victorian scientist associated with the Victorian government. When we sought to test the view of that scientist, the Victorian government would not make the scientist available to the committee to examine that view. The situation remains, as is reported in the report, that the decision of the panel, which was established to determine whether the bees were eradicable, was that the incursion of bees is not eradicable. The committee does not necessarily accept that view; we note that there is still scope for a view that the Asian honey bee incursion is eradicable. The committee in the future will no doubt continue to pursue the quest for a program of eradication if evidence emerges which suggests that matter should be revisited.

There are more things that I would like to say about this matter, but I want to thank the secretariat and the members of the committee for the way that they have pursued this matter. I also want to thank the department for responding in difficult proceedings to questions to assist the committee in this matter. I thank them for their assistance and the committee secretariat for the work that they have done on this—another of their fine efforts to report.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (13:30): I rise today to comment on the report of the Senate Standing Committee on Rural and Regional Affairs and Transport in relation to the Asian honey bee. This is a reference that I made to that committee because of the high level of concern that I had, and largely because of the fantastic lobbying effort of the Australian honey bee association throughout Australia, bringing to the attention of senators on all sides of politics the very real concerns they expressed for not only apiarists and honey production but also about impacts on biodiversity and pollination.

In making these remarks I would also like to acknowledge the work of Senator O’Brien in the Rural and Regional Affairs and Transport Committee over a long period of time. His contribution today demonstrates the genuine concern he has around the whole range of rural and regional issues. I think it is important that the Senate acknowledge that contribution.

In speaking about the incursion of the Asian honey bee, as Senator O’Brien has just said, the reason I moved for this reference was the concern across the parliament, across all parties, that the state governments had been fast to run away from an eradication program—largely, I believe, because of the advice that the Asian honey bee would not spread beyond the tropics. I have no doubt that some state governments decided to withdraw support and save the money that they would have had to put into the program, because they did not believe that the Asian honey bee would affect them.

That highlights one of the faults of the process here. There was not adequate consultation with the CSIRO, including Dr Denis Anderson, who is the national expert
on the Asian honey bee. He has studied this for 20 years at the CSIRO, and you would have thought he would be the first person brought in and extensively consulted. We found that the dubious explanation for why he was left off receiving notification for meetings and so on was that his email address had changed, bounced or been left off a list. I find that an unacceptable explanation for something this serious.

One of the recommendations of the committee, which we managed to have incorporated in the report, is that when there is an incursion of a disease, a pest or a weed the consultation occur beyond the department and go to the scientific and other relevant experts in the field—whatever that field might be—to make sure we have an assessment of the impact not only on agricultural production but on biodiversity. As was just highlighted, if you lose your native bees in this circumstance then you lose pollination but also, if you have an incursion of the Asian honey bee, the displacement of native bees means a reduction in food for our nectar-feeding bats and birds, for example. So there can be a large impact on Australia’s biodiversity.

I am disappointed to say that the representative of the department of the environment, who was an observer at some of these meetings, is reported to have said nothing in the course of the discussions about impacts of the Asian honey bee. I find that unacceptable. So the recommendation is that in future the consultation be with experts both inside and outside the government and with the department of the environment but also that written reports are made so that there is some effort to analyse the impacts of an incursion such as this.

I am very pleased that the apiarists across the country came here and had a very well-organised information booth set up on the front lawns here. They have now, through voluntary effort, gone to Cairns. The beekeepers are putting in a huge effort in time and commitment to try and help with the eradication. Even though it is now a containment strategy, we are getting an effort at this point to establish whether or not the bee can be eradicated. That is what we should have been doing from day one—making a major effort to establish that. I am hopeful that we will establish that eradication is possible with baiting and other programs.

I want to congratulate the beekeepers, the community and the committee. I think we have really made good progress on this. I seek leave to continue my remarks.

Leave granted; debate adjourned.

BILLS

Inspector-General of Intelligence and Security Amendment Bill 2011
Military Justice (Interim Measures) Amendment Bill 2011
Mutual Assistance in Criminal Matters Amendment (Registration of Foreign Proceeds of Crime Orders) Bill 2011

First Reading

Bills received from the House of Representatives.

Senator CARR: I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.
Second Reading

Senator CARR: I move:

That these bill 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—

INSPECTOR-GENERAL OF INTELLIGENCE AND SECURITY AMENDMENT BILL 2011

The purpose of the Inspector-General of Intelligence and Security Amendment Bill 2011 (‘the Bill’) is to update and modernise the operation of the Inspector-General of Intelligence and Security Act 1986 (‘the Act’).

The proposed amendments are primarily intended to ensure the Inspector-General of Intelligence and Security (IGIS) is able to undertake the work of the Office of the IGIS (‘the Office’) more effectively and efficiently, including by addressing issues which have arisen or become evident since the legislation was enacted in 1986.

The Bill will also strengthen the accountability and oversight framework governing the activities of the agencies that make up the Australian Intelligence Community (AIC), and will provide greater assurance regarding the legality or propriety of their activities.

The Act was originally drafted in response to the Royal Commission on Intelligence and Security conducted by the Honourable Justice Robert Hope in 1983, which raised, amongst various issues, concerns about the capacity of Ministers to control effectively some AIC agencies.

The Government’s expressed aim at the time in establishing the Office was for assistance to be provided to ministers in undertaking their oversight and review responsibilities in relation to the five Australian intelligence and security agencies, particularly with regard to ensuring compliance with the law, propriety of their particular activities, and consistency with human rights. The work of the IGIS, particularly in assisting the Government meet its responsibilities in relation to the intelligence agencies, is one of the foundations of the accountability framework for the AIC, currently numbering six agencies.

With a view to renewing assurance to the Parliament and the public that agency use of special powers and capabilities is subject to scrutiny, the Bill recognises expressly the IGIS’s special role in assisting the Government in relation to oversight of the intelligence agencies.

In relation to the IGIS’s inquiry and reporting functions, the Bill enhances and expands the IGIS’s capacity to undertake own-motion inquiries and to provide copies of reports of inquiries to the Prime Minister.

Currently, the Act allows the IGIS to undertake preliminary inquiries, but only where a complaint is made to the Office. The proposed amendment will widen the scope for such preliminary inquiries by the IGIS. The ability to undertake a preliminary inquiry in response to a complaint provides the IGIS with an efficient and cost-effective mechanism to ask an agency for information about a matter, without having to allocate resources to conduct a full investigation.

In a significant number of instances, this allows for a sufficient examination of the matter while avoiding a full inquiry. There can be occasions when an allegation about one or more of the AIC agencies is made, for example in the media, but a formal complaint is not lodged with the IGIS. Currently, the only formal option open to the IGIS to examine a matter raised in this way, if he or she is so minded, is to move straight to a full inquiry.

It is preferable in such circumstances for the agency to have an early opportunity to present relevant facts to IGIS, prior to a decision about whether or not to commence a full own motion inquiry. The Bill allows for the adoption of this two stage process for deciding whether to commence an own-motion inquiry, which will help ensure the significant coercive powers provided under the Act for use in a full inquiry are only available when an actual need is identified. Moreover, this will provide the IGIS with more flexibility and a more cost effective option for handling many issues.
The Bill also addresses an anomaly in the Act in that for the Office of National Assessments (ONA), the Australian Security Intelligence Organisation and the Defence Intelligence Organisation, inquiries can be conducted by the IGIS on his or her own motion into ‘the effectiveness and appropriateness of the procedures of (the agency) relating to the legality or propriety of the activities of (the agency)’, but for the Defence Imagery and Geospatial Organisation, the Defence Signals Directorate and the Australian Secret Intelligence Service there is currently no own motion capacity in this regard – the IGIS can only conduct an inquiry into these agencies in response to individual cases of concern. The Bill ensures IGIS can adopt a common approach towards all six AIC agencies.

The Act currently allows the IGIS to provide to the Prime Minister, as the Minister responsible for ONA, a copy of any report covering ONA, but not the other five AIC agencies within the IGIS’s jurisdiction. The Bill will correct this anomaly and allow the IGIS to give the Prime Minister a copy of any final report prepared in relation to an inquiry conducted under the IGIS Act, either where the Prime Minister has requested that be done or where the IGIS otherwise considers such action appropriate.

The Bill will also provide the IGIS with the capacity to delegate his or her powers in certain circumstances, subject to Ministerial approval.

There is currently no power of delegation in the Act, and hence the IGIS must personally exercise the significant powers of the Office. Due to the small size of the Office, there is a limit to how many inquiries can be effectively conducted at any one time on top of its inspection and complaints handling functions.

In addition, the strong coercive powers provided to the IGIS to compel persons to provide information and documents can be exercised only by the IGIS personally. In practice, this means it would be difficult for IGIS to concurrently progress more than two full inquiries of a significant nature in a timely way.

The Bill allows for the engagement of a suitable person to conduct a major inquiry with access to the full range of powers under the Act. This will ensure the IGIS has greater flexibility to expand the capacity of the Office at short notice if a person of suitable standing could be engaged and delegated the full powers of IGIS in respect of a particular inquiry.

Coercive questioning, however, is an extraordinary power exercised by a very limited number of agencies. Accordingly, the scope for the IGIS to delegate the powers of the Office, particularly coercive questioning powers, will be subject to limitations that ensure this mechanism is only resorted to when there is a strict need.

The proposed amendments require the IGIS to seek approval from the relevant Minister in each case where such powers are to be delegated for the purpose of a specific inquiry only. The amendments also specify that unless the responsible Minister otherwise agrees in relation to a particular inquiry, the person proposed to be employed in relation to the inquiry must be able to obtain and maintain a security clearance to at least the same level as staff members of the Australian Secret Intelligence Service.

There would be a relatively limited number of suitable candidates for delegation. The key qualities required for a suitable person would include: a very good understanding of the policy, bureaucratic and legal environment within which the intelligence and security agencies work, as well as an ability to approach issues fairly and with an open mind in order to arrive at objective, credible and defensible outcomes from inquiries or other investigations.

The person would have to have the seniority and wisdom required to engage effectively the highest levels of agencies, and where necessary to resist pressures to influence unreasonably the outcomes of an IGIS investigation. For reasons of credibility, a delegate should also not have worked for any significant period of their career in the intelligence community itself, and would have to be able to work with and be subject to direction from the IGIS. Finally, the amendments require that the responsible Minister must be satisfied that the proposed delegate has appropriate expertise for the particular inquiry.

The Bill also provides the IGIS with the capacity to assist Royal Commissions at the discretion of the Government of the day, while ensuring the effective operation of limitations on
any unauthorised release of sensitive intelligence material by current or former IGIS officers to a court, coronial inquiry or Royal Commission. This would be in order to assist the work of relevant Royal Commissions.

The secrecy provisions of the Act are intended to avoid court proceedings becoming an indirect route for disclosure via the IGIS of documents and information from the intelligence and security agencies, to which the IGIS has complete and necessary access, and the Bill ensures that no person can be required by a court or tribunal to disclose information in contravention of the secrecy provisions of the Act.

There are, however, likely to be cases where the IGIS could provide significant assistance to, and facilitate the work of, a Royal Commission. The Bill therefore recognises the desirability of enabling the IGIS to release material to Royal Commissions in certain circumstances. The proposed provision that a Commission must be expressly prescribed in regulations as authorised to seek evidence from, or cooperate with, the IGIS will avoid the IGIS being under an obligation to give evidence to all Royal Commissions at a Commission’s request.

The Bill will also simplify some of the existing provisions of Section 8 which, although they are key to the IGIS’s jurisdiction, complainants and interested members of the public often find convoluted and difficult to read and comprehend. The operation of subsections 8(5), (6) and (7), which relate to the scope of the IGIS’s authority to inquire into employment matters concerning intelligence agency employees, will be simplified, providing greater clarity regarding the IGIS’s inquiry functions covered by these provisions. The substantive role, powers or functions of the IGIS in relation to the intelligence agencies will not be altered by these proposed amendments.

Finally, the opportunity is taken with this Bill to rectify drafting oversights and inconsistencies that have become apparent in the Act.

One oversight arose when a new requirement was introduced by the Freedom of Information (Removal of Conclusive Certificates and Other Measures) Act 2009 for the IGIS to give evidence in Information Commissioner reviews in certain circumstances, requiring a minor consequential amendment to paragraph 34(5)(a) proposed by this Bill.

The Bill will also rectify an unintended inconsistency in subsection 34(5) regarding the treatment of ‘documents’ as opposed to ‘information’ that arose when the subsection was repealed and substituted by Schedule 4 to the Freedom of Information (Removal of Conclusive Certificates and Other Measures) Act 2009, and then amended by Schedule 6 to the Freedom of Information Amendment (Reform) Act 2010.

Currently, paragraphs 34(5)(c), (ca), (d) and (e) deal with circumstances in which a person can be required to divulge or communicate information, but there are no equivalent provisions relating to documents. The proposed new paragraphs 34(5)(ba), (bb), (bc) and (bd) correct this drafting oversight.

As noted by the Prime Minister in announcing in December 2010 the Independent Review of the Intelligence Community, which is currently under way, intelligence plays a key role in preserving Australia’s national security and supports a wide range of our national interests.

With the significant expansion in the resources and capabilities of the intelligence community over the past decade, it is important for the accountability machinery for the intelligence agencies to be revisited and refined in order to keep pace.

This Bill will ensure the Office of the IGIS is well positioned for the future, and is one part of the Government’s broader agenda of ensuring accountability machinery across the Commonwealth is operating both efficiently and effectively.

MILITARY JUSTICE (INTERIM MEASURES) AMENDMENT BILL 2011

The Australian Military Court was established in 2007 by legislation supported by both sides of the Parliament.

The Court’s establishment followed a series of Senate Committee reports over a number of years recommending extensive changes to the system of military justice.
On 26 August 2009, the High Court of Australia handed down its decision in the case of Lane v Morrison. The case challenged the constitutional validity of the Australian Military Court.

The High Court found unanimously that the provisions of the Defence Force Discipline Act 1982 establishing the Australian Military Court were invalid, because the Australian Military Court purported to exercise the judicial power of the Commonwealth, but did not meet the requirements of Chapter III of the Constitution.

Chapter III of the Constitution ensures judicial independence from the executive and the legislature by providing that federal judges have tenure until they reach a fixed age of no more than 70, and that they can only be removed for proved misbehavior or incapacity following a request from both Houses of Parliament to the Governor General.

The Australian Military Court legislation claimed that the court was not a court under Chapter III of the constitution, as the appointment and tenure of its judges did not comply with Chapter III.

However the High Court found in Lane v Morrison that it was exercising judicial power, which the Constitution only allows to be exercised by a Chapter III court.

The Military Justice (Interim Measures) Act (No. 1) 2009 was then passed by the Parliament, again with bipartisan support, to reinstate the pre-2007 military justice arrangements.

The reinstatement of the pre-2007 military justice system was required to allow time for the consideration and development of options for a new military justice system which meets the requirements of Chapter III of the Constitution.

The Military Justice (Interim Measures) Act (No. 1) 2009 provided for a tenure of up to two years for the Chief Judge Advocate and the Judge Advocates.

This tenure is due to expire in September this year.

The Military Justice (Interim Measures) Amendment Bill 2011 will continue the appointment, remuneration and entitlement arrangements for the Chief Judge Advocate and the two full-time Judge Advocates for an additional two years or until the Minister for Defence declares, by legislative instrument, a specified day to be a termination day, whichever is sooner.

The Department of Defence and the Attorney-General's Department are currently working to finalise the details of a Military Court of Australia Bill and associated consequential and transitional provisions.

This important legislation will establish a permanent, effective and constitutionally sound system of military justice for Australia's defence forces.

This process will take some time, and there is currently no certainty that it will be complete and be enacted by the Parliament by September this year.

This Bill will ensure the continuity of these key military justice appointments until legislation establishing the Military Court of Australia takes effect.

I commend the Bill to the House.

MUTUAL ASSISTANCE IN CRIMINAL MATTERS AMENDMENT (REGISTRATION OF FOREIGN PROCEEDS OF CRIME OR DERIVED PROCEEDS OF CRIME ORDERS) BILL 2011

Organised crime affects all Australians. The Australian Crime Commission estimates that between $10-$15 billion dollars every year is lost as a result of organised crime. This is money that is being siphoned from legitimate Australian businesses; it is money that cannot be spent on education, health or any number of services. And in this way, organised crime steals from every Australian citizen every day.

In an age where borders are increasingly permeable, effective and efficient international crime cooperation is increasingly important. The growing use of sophisticated technology by organised criminal groups means assets derived from criminal activities are often moved offshore to avoid detection and confiscation by local authorities.

Organised criminals are motivated by greed – money is their lifeblood. If we can stop the
money flow we can stop organised criminals in their tracks. The Gillard Government has made combating organised crime a priority, and being able to confiscate assets and profits which are a result of crimes committed overseas is a key plank in this strategy.

**Legislative framework**

Australia has a strong framework for cooperating with foreign countries and restraining and confiscating benefits derived from foreign criminal offences where those assets are located in Australia. Part VI of the Mutual Assistance in Criminal Matters Act 1987 (Mutual Assistance Act) enables an Australian court to register and enforce orders issued by a foreign court. These foreign orders include restraining, confiscation and pecuniary penalty orders over property derived from serious criminal offences.

Once a foreign order is registered in Australia, it is able to be enforced as though it were an Australian order made under the Proceeds of Crime Act.


A recent High Court decision regarding New South Wales proceeds of crime related provisions has highlighted the importance of ensuring that functions imposed onto a court properly reflect the nature of judicial functions under Chapter III of the Constitution. Specifically, the decision reinforced that courts must be allowed to exercise appropriate supervision over the making or enforcement of proceeds of crime orders.

**Amendments in Bill**

To ensure the legislative framework providing a court with the power to register and enforce foreign orders continues to operate as intended, this Bill will make minor but important amendments to the Mutual Assistance Act, the International Criminal Court Act and the International War Crimes Tribunal Act.

The amendments to each of these Acts will provide a court with greater discretion when determining whether a foreign order should be registered and enforced in Australia, and whether or not to hear an application for registration on an ex parte basis. The amended provisions will require a court to register a foreign order unless it considers it would be contrary to the interests of justice to do so. In determining whether registration of a foreign order is in the interests of justice, the court is to give due regard to the overarching purpose of the regime.

**Objects provision**

In order to clarify the purpose of this regime, the Bill will also insert an object clause into Subdivision A of Part VI of the Mutual Assistance Act. The objective of the Subdivision is to enable Australia to give effect to foreign orders in situations where property related to serious foreign offences is located in Australia. As reciprocity is the fundamental basis of international crime cooperation, it is vital that we are able to provide the same level of assistance to other countries as we would expect of them.

**Conclusion**

Where a person has committed a serious offence in a foreign country, and proceeds from that offence are located within Australia, it is important that Australia is able to enforce foreign orders. Australia must not be seen as a safe haven for criminals and their ill-gotten gains.

These amendments will ensure that the legislative framework continues to operate as intended and that Australia can register foreign proceeds of crime orders in an effective and timely fashion.

Debate adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

**National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011**

**First Reading**

Bill received from the House of Representatives.

**Senator CARR:** I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator CARR: I table a revised explanatory memorandum relating to the bill and move:

That this bill be now read a second time.

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

Leave granted.

The speeches read as follows—

Today, I introduce a Bill which delivers on the Government’s election commitment to crack down on unfair treatment of Australians with credit cards, and to help them get a better deal in the banking system.

In December, the Government announced new reforms to promote a competitive and sustainable banking system to give every Australian a fair go.

We’re introducing three broad streams of reform to empower consumers, support smaller lenders, and secure the flow of credit to our economy.

Today we are building on our new national responsible lending reforms by giving credit card holders more control over the amount they borrow.

We went to the last election promising to stamp out lender practices which see consumers pay more interest than they should.

And today that’s precisely what we will do.

This Bill also delivers on our commitment last year to introduce a compulsory, one-page key facts sheet for new home loan customers.

So consumers can compare a loan they are offered by a big bank side-by-side with what will often be a better deal from their local credit union.

Credit Cards

This National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill contains strong measures to help give hard working Australians a better deal when it comes to credit cards.

We have already overhauled our consumer laws in the past two years.

The commencement of the Australian Consumer Law marked the first time in 100 years that Australians have had a uniform consumer law.

The new National Credit Code introduced for the first time a national consumer credit law with tough new protections for consumers.

Today we deliver on our promise to fast-track reforms through the National Credit Laws to increase fairness for credit card holders.

This Bill will give consumers more say over how they use their credit cards and help them better understand what they are signing up to.

Banning unsolicited offers to borrowers to increase their credit limit

The Bill prohibits lenders from sending unsolicited invitations to borrowers to increase their credit limit, as they sometimes cannot easily afford to.

Australian families who accept these types of offers can, over time, end up with too much credit card debt which can take years to pay off.

Of course this means they are saddled with significant interest payments which make it that much tougher to balance the family budget.

Some families have seen their credit card limit blow out to $10,000 after a series of unsolicited offers. On a typical credit card at about 20 per cent interest per year this represents a very large debt.

For a family that can only afford repayments of around $200 a month, it would take them about nine years to repay this level of credit card debt, and they would be slapped with over $11,000 in interest bills.

This Bill ensures credit card lenders won’t any longer be allowed to send consumers pre-approved, ‘tick a box’ offers to increase their credit limit.

These types of offers will simply be banned.
Consumers will be able to explicitly agree upfront to receive pre-approved offers to increase their credit limit – if that’s what they want.

But consumers who want to carefully manage their finances will no longer have to resist the temptation these types of offers present.

They’ll be able to make an informed decision to modify their credit limit – either up or down - if that suits them and their family budget.

But they won’t be doing it because they were encouraged to do so by a lender who just wants to make a buck out of them.

Use of credit card in excess of credit limit

This Bill also prevents lenders charging fees to customers who go over their credit limit, unless they’ve expressly asked for this service.

Of course, the Government recognises that lenders will have discretion to approve some payments which go over the credit limit.

They may have only gone over their credit limit by a few dollars, so it’s important that we leave a bit of flexibility here while protecting them.

For example, it is in the interests of the borrower’s family for their lender to honour a payment of their electricity bill so their power isn’t shut off.

Lenders will have discretion to approve a transaction that takes a borrower over their credit limit. This formalises existing arrangements but supplements them with new protections. First, lenders will need to notify consumers when they go over their credit limits and, more importantly, lenders will not be able to charge a fee unless the consumer has given their express consent to being charged a fee.

It is estimated that Australians will save around $225 million annually from this reform.

Overall this critical reform will mean an end to most credit limit overdraw fees, and significant savings for Australian families and all consumers.

Warning on statements about only paying minimum repayments

We will further make regulations requiring all lenders to clearly warn consumers on their monthly credit statement of the consequences of only making minimum repayments.

Many consumers fall into the trap of only paying the bare minimum required every month – which ends up costing them dearly over time.

Even slightly higher payments can make a big difference to how much interest they are charged.

This is critical to helping Australian manage their household budget.

Force lenders to allocate repayments to higher interest debts first

The Bill also forces lenders to allocate repayments to higher interest debts first – so consumers don’t pay more interest than they should.

Currently, consumers don’t have any control over how their repayments are allocated, with lenders often using their money to pay off parts of the loan which are actually only incurring low or no interest.

This means that the remainder of the consumer’s debt can be accruing interest at a higher rate, and without being reduced by the repayment.

The reform will address this by ensuring repayments are allocated to the higher interest balances first.

A family could save something like $170 a year or more, depending on their spending habits and credit limit.

Put simply, we’re ensuring that every dollar paid by the consumer works harder to pay down their debts.

One-page home loan key facts sheet

In December, the Government also announced that we would introduce a simple, standardised, one-page fact sheet for consumers to compare loans.

Families will be able to compare the cost of different home loans by putting one-page facts sheets from different lenders side by side.

They’ll be able to tell instantly the savings they could make between different mortgages every year and over the life of the loan.
A potential home borrower could easily compare the relative cost of a mortgage from a credit union against a big bank.

Buying a home is the most important investment many Australians will ever make – and this Bill helps them shop around for the best deal.

Choosing the wrong loan can be expensive - half a percent more interest on a $250,000 loan can cost a borrower $30,000 more over 30 years.

We’re ensuring consumers know how many dollars they will repay for every dollar they borrow – so they can compare this across lenders.

Consumers will be able to see and understand the true cost of a home loan, at a single glance.

This reform is all about forcing banks and other home loan providers to be honest and transparent with Australian families.

It is about promoting competition in the banking system, and doing a little bit to help all Australians meet the costs of living.

**Conclusion**

The Gillard Government is changing the way banks and other lenders do business, and putting the power back in the hands of consumers.

We worked hard through the global financial crisis to secure our financial system, and preserve the competitive foundations of our banking sector.

In December the Government announced a further reform package to help build up competition again in the banking system for all Australians.

Of course, there’s no silver bullet here, but the Bill I am introducing today is part of our commitment to always stand on the side of consumers.

I encourage all members of this House to do the same.

Debate adjourned.

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

Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Collection) Bill 2011

Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy (Consequential Amendments) Bill 2011

Combating the Financing of People Smuggling and Other Measures Bill 2011

Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further Election Commitments and Other Measures) Bill 2011

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendments made by the Senate to the bills.

Higher Education Support Amendment (No. 1) Bill 2011

Product Stewardship Bill 2011

Returned from the House of Representatives

Message received from the House of Representatives returning the bills without amendment.

**COMMITTEES**

Joint Select Committee on Australia’s Immigration Detention Network Membership

Message received from the House of Representatives notifying the Senate of the appointment of Mr Bandt to the Joint Select Committee on Australia’s Immigration Detention Network.
Economics Legislation Committee
Education, Employment and Workplace Relations Legislation Committee
Finance and Public Administration Legislation Committee
Foreign Affairs, Defence and Trade Legislation Committee
Legal and Constitutional Affairs Legislation Committee
Rural Affairs and Transport Legislation Committee

Report

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (13:40): Pursuant to order and at the request of the chairs of the respective committees I present reports from the legislation committees, except for the Community Affairs Legislation Committee, in respect of the 2011-12 budget estimates, together with the Hansard record of the committees' proceedings and documents received by the committees.

Ordered that the reports be printed.

Senator FAULKNER (New South Wales) (13:40): by leave—I move:

That the Senate take note of the report of the Finance and Public Administration Legislation Committee

I wish to highlight one aspect of the report of the Finance and Public Administration Legislation Committee on the budget estimates 2011-12, which is the evidence provided by the Department of Parliamentary Services in relation to the disposal of billiard tables. This issue is canvassed in paragraphs 1.17 to 1.20 and also at paragraph 2.9 of the report. This issue was first raised at the additional estimates hearing on Monday, 21 February 2011. Page 42 of the Hansard records this exchange:

Senator FAULKNER—How do you take account of the heritage value of these items before they are flogged off?

Ms Konig—we have a policy that requires a heritage assessment of any items that the department is getting rid of or that have been declared surplus. In this case, these were assessed as having no heritage value.

Senator FAULKNER—who by?

Ms Konig—the disposal officer.

After the issue was canvassed further at the committee, on page 43 of the Hansard the following was asked:

Senator FAULKNER—you are very confident about the heritage assessment that was made.

Ms Konig—yes.

Senator FAULKNER—Could you provide copies of the heritage assessment and the valuation of these to the committee, please?

Ms Konig—I can.

The question about providing copies of the heritage assessment was taken on notice by DPS and the answer provided included the production of two documents by the Department of Parliamentary Services described as attachment A and attachment B of question on notice 27. One document, Question 27 Attachment A, was a declaration of surplus or unserviceable items form marked with three different dates: 6 July 2010, 7 July 2010 and 21 October 2010. The second document, Question 27 Attachment B, is a photocopy of one page of a computer printout entitled 'Register of all furniture installed in the New Parliament House'. This document contains a pen-script annotation: 'Given tables purchased by PHCA—Parliament House Construction Authority—'around 1989 and are about 20 yrs old, thus no heritage value.' This annotation was signed but not dated by the disposal delegate.

The Secretary of the Department of Parliamentary Services, Mr Thompson, confirmed in evidence to the committee...
during budget estimates on Monday, 23 May—this is at page 24—that the annotation was in fact the heritage assessment. I asked Mr Thompson:

Senator FAULKNER: … Did I receive the heritage assessment or not? It certainly was not in the material that was provided to me.

Mr Thompson: The heritage assessment is essentially the handwritten note on attachment B.

Senator FAULKNER: … That is the heritage assessment, is it?

Mr Thompson: You asked for the written heritage assessment. Yes, that was it.

Senator FAULKNER: I see. When was that note written?

Mr Thompson: I cannot tell you.

A little later in the same hearing, and this is at page 43 of the transcript, Mr Kenny, also a senior officer in DPS, informed the committee that the annotation to Attachment B had been written:

… after 21 February, so it was after the estimates hearing in February.

In fact, Mr Kenny said, it was 'not long after the estimates hearings'. The following exchange—and this is at pages 43 and 44 of the transcript—then took place at the committee after that:

Mr Kenny: The tables were sold on 23 September 2010.

Senator FAULKNER: The last estimates hearing was 21 February, so the heritage assessment prior to their sale that I was told about at the last hearing—it was about six months later, for God's sake. Can someone now please explain how that could be?

Mr Kenny: I think it is clear that the advice at the last estimates was not correct, that a heritage assessment had already taken place.

Senator FAULKNER: That is the understatement of the year, Mr Kenny. It sure is true. Normally, when incorrect advice is provided to Senate committees, someone corrects the record.

Mr Kenny: I understand that. This—

Senator FAULKNER: What happened here was that this annotation was added ex post facto and sent off to me, assuming: 'He is a bit of a dill; he will cop that.'

Mr Kenny: The realisation that the heritage assessment had not taken place—I became aware of that at about 20 past one this afternoon.

Senator FAULKNER: As a result of the questions I asked this morning?

Mr Kenny: Basically, yes. You raised the matter, and, as we said before lunch, there was some more investigation being done internally as to the history, noting that the history of all the billiard tables, in terms of the records available to us, was not clear—therefore it took a little bit longer to work through—but at about 20 past one I was advised that the heritage assessment had not been done at the time of the sale.

Senator FAULKNER: That is a pretty ordinary effort, isn't it, Mr Thompson?

Mr Thompson: I am not very happy about it.

So there we have it. Precisely eight months to the day after the sale had occurred, and only after extensive questioning at the Senate Finance and Public Administration Legislation Committee—only after those processes did we find out that no heritage assessment had been made prior to the sale, contrary to DPS policy; that the Senate's Finance and Public Administration Legislation Committee had been misled; that inaccurate evidence to the committee had not been corrected and that very serious questions remain unanswered about the status of documents provided to the committee.

Some of the truth about the sale of these two billiards tables here at Parliament House has surfaced. Let me assure the Senate that I expect this issue and related matters to get a great deal more attention from, and a great deal more scrutiny by, the Finance and Public Administration Legislation Committee in weeks and months to come, because the Senate this morning agreed to refer this and other matters to the committee
for inquiry. I acknowledge that all members from all political parties in this chamber were supportive of that reference and I thank government, opposition and Greens senators for that. As I have said, this matter, and related matters, will continue to be of great interest to me and, I know, to other members of the Senate's Finance and Public Administration Legislation Committee.

The ACTING DEPUTY PRESIDENT (Senator Trood): The question is that that motion be agreed to.

Question agreed to.

Rural Affairs and Transport Legislation Committee

Report


Ordered that the report be printed.

Senator POLLEY: I move:
That the Senate take note of the report.

Senator SIEWERT (Western Australia—Australian Greens Whip) (13:51): I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Community Affairs References Committee

Report

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (13:51): On behalf of the Chair of the Community Affairs References Committee, I present the final report on the social and economic impact of rural wind farms, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator POLLEY: I move:
That the Senate take note of the report.

Senator SIEWERT (Western Australia—Australian Greens Whip) (13:53): I would like to very quickly make a few remarks, bearing in mind that this was a very controversial inquiry, and I thank the senators who participated and the secretariat for the work they have put into this committee. They received an extensive number of submissions and they did an absolutely wonderful job in helping us through his process. And of course I would like to thank the witnesses and people who made submissions. Because of the time, I will just go through the recommendations that we made. The first recommendation is:

The Committee considers that the noise standards adopted by the states and territories for the planning and operation of rural wind farms

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should include appropriate measures to calculate the impact of low frequency noise and vibrations indoors at impacted dwellings.

Our second recommendation is:

The Committee recommends that the responsible authorities should ensure that complaints are dealt with expeditiously and that the complaints processes should involve an independent arbitrator. State and local government agencies responsible for ensuring compliance with planning permissions should be adequately resourced for this activity.

We also recommend that:

... further consideration be given to the development of policy on separation criteria between residences and wind farm facilities.

We also recommend, at this is an important one:

... that the Commonwealth Government initiate as a matter of priority thorough, adequately resourced epidemiological and laboratory studies of the possible effects of wind farms on human health. This research must engage across industry and community, and include an advisory process representing the range of interests and concerns.

This is particularly important. We have found that there have been adverse health effects found in some people near wind farms. However—and this is a very, very important 'however'—we have not found that that is necessarily associated with noise or vibration. That is particularly important, because I do not want people running around saying that we have found that this is associated with some of the claims that are being made. We are saying that there is not enough information but that with people who are feeling possible adverse health effects it could be related to other factors. We had a lot of evidence around stress associated with location of wind farms. I think that is a particularly important point: we found that there is not enough evidence to show that association.

We believe and recommend that the NHMRC review of research should continue, with regular publication, and that the National Acoustics Laboratories conduct a study and assessment of noise impacts of wind farms, including the impacts of infrasound. That is a particularly important point. And we recommend that the draft National Wind Farm Development Guidelines be redrafted to include discussion of any adverse health effects and comments made by NHMRC regarding the revision of its 2010 public statement.

I know that Senator Fielding will want to make a quick few comments, and I also thank him very much for the way that he has been involved in this committee.

Senator FIELDING (Victoria—Leader and Whip of the Family First Party) (13:57):

In the short two minutes that I have got, I would like to say that this inquiry, which looks into adverse health effects from living in close proximity to wind farms, was a very emotional inquiry. We heard from many, many residents who have been adversely impacted because they are living close to wind turbines. The emotional testimony was quite heart wrenching at times. People have even had to leave their homes because of their concerns about the adverse health impacts, and they have clearly got health problems.

I want to highlight that even the developers and the industry are relying on the NHMRC's report, Wind turbines and health—A rapid review of the evidence. When the NHMRC gave evidence to the committee, they had this to say:

We regard this as a work in progress. We certainly do not believe that this question has been settled. That is why we are keeping it under constant review. That is why we said in our review that we believe authorities must take a precautionary approach to this.
That is very concerning. That is from NHMRC. They are saying that this is work in progress, still under review, and we have got the wind farms industry relying on it, saying that there are no adverse health impacts. This is still a concern, and I think that Victoria has taken a lead by increasing the distance requirements for proximity to wind farms. I urge people to go through the recommendations that I made in my additional comments to this report. I have not got time to go through all of those recommendations, but certainly Victoria seems to be tightening up, and I think that across Australia we need to tighten up on the planning controls with regard to how close people and residents are living to wind turbines, given that this is still work in progress and given that there are still concerns about the adverse impacts of living near wind farms.

I want to thank the committee for the conduct of the inquiry. We did go to quite a few places in Australia, even regional areas, listening to people's concerns. It was heart wrenching, and it is a great concern that when people come forward with adverse health impacts from wind farms. I think we need to be done more, and I think that some national guidelines would be a good idea.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Gillard Government

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:00): My question is to Senator Evans, the Minister representing the Prime Minister. Can the minister confirm that at the current Prime Minister's first press conference 12 months ago, having stabbed the previous Prime Minister in the back, she promised three things: to establish a community consensus on climate change, to fix the mining tax is not fixed and the boats keep coming? Given that after 12 months the Prime Minister has achieved none of her priorities, can the minister tell the Senate: what is the difference between the incompetent government led by Ms Gillard and Mr Rudd's incompetent government?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:01): That was a very predictable question from Senator Abetz. No doubt we will have more political rhetoric and more desperate attempts to re-argue the last election campaign as they fail to come to terms with the fact that this government was re-elected. We were able to form a government with the support of minor parties and Independents in the lower house because we had an agenda for Australia, a program of work to build Australia—its economy, its education system and its environment. We have set about that agenda and we have been very successful in making the parliament work to pass legislation for the betterment of this country.

So, while Senator Abetz may not like it, that is the reality. This government is committed to continuing to provide progressive, stable government for this country that allows us to tackle the major challenges that confront us. We are happy to stand on our record of a record increase in the pension for all pensioners in this country. We regard that as a great thing. Pensioners around Australia have a much higher standard of living as a result of that decision. The Liberal Party talked about it for 11 years but did nothing for pensioners. We are happy to talk about our work in abolishing Work Choices and providing fair industrial laws in Australia.
Senator Abetz interjecting—

Senator CHRIS EVANS: Actually, Ms Gillard was the relevant minister, Senator Abetz. It shows how little attention you pay to detail or policy. You pay no attention to policy; just rhetorical flourish and three-word slogans. This government is getting on with governing for all Australians and investing in the future of all Australians. I encourage the opposition to take an interest in policy and the future of Australia rather than just engaging in rhetorical abuse. *(Time expired)*

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:03): Mr President, I ask a supplementary question. I note the Leader of the Government in the Senate was unable to point to any benefits in the change of leadership. I refer the minister to the litany of Labor lemons, ranging from the 2020 Summit right through to its latest debacle over the handling of live cattle exports. Will the leader now confirm that, after 12 months in the job, the only positive thing the Prime Minister can claim is that there has been a seamless transition from the incompetent Rudd government to the incompetent Gillard government?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:03): I thank Senator Abetz for his totally inane, low-brow question—because quite frankly, it adds nothing to parliamentary debate and reflects the fact that he has no interest in the issues that Australians are interested in. They are interested in climate change. They are interested in a proper policy debate about it, and that is why we will bring legislation before this parliament to facilitate a proper discussion and give the parliament a chance to vote on the issue of climate change.

In terms of achievement, I am happy to take you through again the ones in my own portfolio. We have 80,000 more students at universities as a result of this government's policies; we have more students from low SES backgrounds—

Senator Abetz interjecting—

Senator CHRIS EVANS: Ms Gillard did do it actually; again, those were her policy changes. She was the relevant minister. We are driving that home. There are thousands more kids who can now go to university, get a good education and get higher paid, higher skilled jobs. We are very proud of that. *(Time expired)*

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (14:04): Mr President, I ask a further supplementary question. Can the minister tell the Senate why Ms Gillard is any better than Mr Rudd as Prime Minister, or are they just two Labor lemons?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:05): Again, I think Senator Abetz does himself no favours with the sorts of questions he asks. Ms Gillard is providing strong leadership as Prime Minister of this country. She is talking about and investing in the issues that are of concern to Australians. My colleague Senator Sherry said just before, 'Tell them about job creation.' That is a good suggestion: 700,000 jobs have been created since this government came to office. The best thing you can do for Australians is give them a chance to get work, earn their living, provide for their families and gain self-respect. We have had 700,000 more jobs created. We have low unemployment and through the budget we are creating more job opportunities for disadvantaged people. We are very proud of the record we have and we
are very proud of investing in the future of Australia.

National Broadband Network

Senator CAMERON (New South Wales) (14:06): My question is to the Minister for Broadband, Communications and the Digital Economy, Senator Conroy. Can the minister advise the Senate on any recent announcements regarding the future of the National Broadband Network?

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) (14:07): I thank Senator Cameron for his ongoing interest in this policy area. Today is a historic day. It represents the holy grail of telecommunications reform. It represents real change for the sector, with real competition resulting in a better deal for all consumers. This morning, Telstra and NBN Co. announced that they had signed the definitive agreements on the rollout of the National Broadband Network. The definitive agreements will allow for a cheaper, more efficient rollout of the NBN—

Honourable senators interjecting—

The PRESIDENT: Order! I need to hear the answer and there are two senators, one on either side, having a discussion. If they need to have a discussion they are entitled to go outside, but cease having the discussion now, please.

Senator CONROY: It will see Australians experience the NBN sooner and faster. It will accelerate the government's delivery of superfast broadband to all Australians no matter where they live across our vast country. The signing of the documents also represents a watershed in telecommunications industry reform, providing the impetus for the structural separation of Telstra—a critical reform that will finally enable real competition.

Just over 12 months ago, we signed the financial heads of agreements. Whilst it has taken a while to get to this position, we now have a legally binding agreement that will see Telstra progressively structurally separated by decommissioning its copper network and broadband HFC network capability during the NBN rollout. Before the definitive agreements can be considered by Telstra and the government, they need to receive ACCC approval. Today's deal, along with the recent announcements of the Silcar contract and the Ericsson fixed wireless—

(Time expired)

Senator CAMERON (New South Wales) (14:06): Mr President, I ask a supplementary question. Given the many exciting developments with the NBN, can the minister provide the Senate with any further information regarding the National Broadband Network rollout?

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) (14:06): Today truly is a milestone day for the Australian telecommunications industry. There was also an announcement this morning that NBN Co. and Optus had signed an agreement that will see Optus decommission its HFC network and progressively transfer its customers to the NBN. Optus has also agreed to a fixed line network preference in favour of the NBN. Optus has also agreed to a fixed line network preference in favour of the NBN within the HFC footprint subject to certain minor exceptions. I said this morning that Optus had been supportive of the NBN from day one, and they have. This deal, which will also be subject to ACCC review, will help make the superior technology of the
NBN available to Optus HFC customers as soon as possible. (Time expired)

Senator CAMERON (New South Wales) (14:06): Mr President, I ask a further supplementary question. Can the minister advise the Senate on the consequences of any misguided attempts to dismantle the NBN?

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) (14:06): As we all know, the opposition led by Mr Abbott is a policy-free zone. How do we know this? How do we know the opposition prefer spend over substance? Senator Minchin, who in his last question time deserves a mention, effectively confirmed to the press that he had advised Mr Abbott that the coalition was guilty of not supporting good policy. I have always known that Senator Minchin has had his moments of peace and clarity, and this must have been one of those times. Clearly, the NBN is a great example of good policy that should be supported. What I can say to you, Mr President, is that we on this side of the chamber do support good public policy. We will continue to advocate strongly for reforms, and this includes rolling out fast but fairly priced broadband to all Australians. (Time expired)

Government Policy

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:06): My question is to the Minister representing the Prime Minister, Senator Evans. Why, 12 months after the Prime Minister stabbed her predecessor, Mr Rudd, in the back, has the government broken its promise not to introduce a carbon tax, broken its promise to relieve cost of living pressures on working families, broken its promise to get its $107 billion of public debt under control and broken its promise to stop the boats?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:06): As I said, it is surprising that the Liberal opposition still have nothing to say about the big policy issues of the day. On a day when there is a historic announcement about the NBN and the future of telecommunications in this country, we have the announcement by President Obama of a troop withdrawal from Afghanistan, we have our defence minister’s defence posture review, and we have the anti-dumping reform launched by this government, what do the opposition want to talk about? They want to try and make silly, trivial point-scoring political points, because they have no interest in policy.

They have no interest in the big issues of the day, and they have no interest in the issues that the Australian people are interested in. They are interested in the cost of living issues, Senator. That is why they are interested in the compensation package that we will put in place when we introduce a price on carbon. They are interested in the detail and the nature of the changes that are coming. But they are also interested, as I mentioned earlier, in our record investment in pensions, the largest single pension increase in the history of the nation that we made as an acknowledgment of the cost of living pressures that were being placed on pensioners—people living on very low incomes. That is why this government did not just mouth rhetoric like the Howard government did for 11 years. We actually got in there and funded a huge increase in the pension to try and lift the standard of living of those persons.
We are also very focused in this budget on returning the budget to surplus. We are serious about returning the budget to surplus. We invested heavily in the stimulus when we needed to, and now we are returning the budget to surplus because our stimulus package got us through the global financial crisis in a manner better than almost any other nation in the world. So we are serious about issues of importance—(Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:14): Mr President, I ask a supplementary question. When she stabbed her predecessor, Mr Rudd, in the back, Ms Gillard said that the government had 'lost its way'. Does the minister regard the last 12 months of incompetence, broken promises, debt and instability as evidence that Labor has found its way, or is that just the Labor way?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:15): As I have made clear, this government is very much focused on the issues of importance to Australia and the citizens of Australia. We are interested in the cost of living issues. We are interested in trying to reduce the pressures on families. We brought down a budget very much focused on that. It was a budget focused on skills formation and opportunities in employment. As I said earlier, we have created over 700,000 jobs. This has allowed Australians to live better, to have a better standard of living, because they have been in employment. This budget invested in those people who were not getting employment opportunities—the disabled, the long-term unemployed and a whole range of groups that perhaps were not getting the opportunity to fully participate in the community.

We are focused on the issues of importance to Australians and the issues that will build a better future for them and their children—be it employment, be it education or be it national security. That is what the government is getting on with doing—and I suggest the opposition join us in focusing on these issues. (Time expired)

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (14:16): Mr President, I ask a further supplementary question. Minister, why should the Australian people trust a Prime Minister whom Mr Kevin Rudd could not, and still does not?

Government senators interjecting—

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:16): I am reminded by my colleagues that Senator Brandis’s largest claim to fame was his description of a former Prime Minister, whom he allegedly served and followed, as a 'lying rodent'. So it is a bit surprising for Senator Brandis to ask this question of me. That is one that I would have handed on to someone else, Senator Brandis. I would have said, 'That’s not really a question that I can ask, because I have a history of being disloyal to my leader and calling him names.’ So I do not think that you are the one to try to make such claims.

I suggest that you return to the issues of real importance to Australians—the issues that they are interested in—rather than this cheap, low-life, political point scoring. You think it is interesting, but I think most Australians will ask why you are not asking questions about the NBN, about the defence force posture review, about antidumping, about the cost of living and about things that they care about. (Time expired)
WORKPLACE RELATIONS

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:17): My question is to Senator Evans, the Minister for Tertiary Education, Skills, Jobs and Workplace Relations. I refer to the fact that Fair Work Australia has recently accepted that community sector workers are underpaid on the basis of gender. The tribunal called for submissions from the parties before making a final decision and has encouraged parties to negotiate. I would like to ask: what is the government doing now to engage in a genuine, meaningful way with this process?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:18): I thank Senator Siewert for the question. She is right to point to the fact that the full bench of Fair Work Australia handed down a decision on the equal remuneration case for social and community services workers in May this year. It is an important milestone in the implementation of the Fair Work Act. The government has acknowledged that SACS workers are undervalued, and this has been borne out by the findings of the full bench.

The decision is the first since the government removed the historical barriers to pay equity claims in the federal jurisdictions that required an application to prove discrimination as a prerequisite to an equal pay claim. As part of that decision, Fair Work Australia have provided parties with the opportunity to provide further submissions to assist them in formulating a remedy. The government is working with key stakeholders to provide further information to Fair Work Australia to assist in determining appropriate wage rates. We have established the Community Sector Wages Group, which will see employers, unions and the federal, state and territory governments working together to assess the implications of this case. It had its first meeting on 6 June. It is chaired by my parliamentary secretary, Senator Collins, who has been very active in trying to progress these matters. We will work with community service stakeholders to ensure a sustainable and effective community services sector.

We take pride in the fact that the changes we made to the Fair Work Act have opened up this opportunity for the Australian Services Union to pursue this equal pay case. We support equal pay. That is why we made the changes to the act and that is why we provided this opportunity. We will continue to engage in the case before Fair Work Australia in a constructive and positive way to get a good outcome for community services workers.

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:20): Mr President, I ask a supplementary question. I thank the minister, but I will try to get a bit more detail with this question. The tribunal found that the comparable rates to be that of local government and the Public Service. These are 10 per cent to 15 per cent higher than the original claim made by the union based on the Queensland rates. Considering if ordered to pay the higher amount it could cost the government up to $2.5 billion more over four years, is the government now prepared to negotiate an acceptance of the union claim?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:20): I think, Senator Siewert, that Mr Bandt asked a similar question in the House of Representatives yesterday. I think the proposition is that by agreeing to the union...
claim we will save money as compared to the decision we will get from Fair Work Australia. That seems a very odd proposition to me. It almost implies that the union has undervalued its claim—and I do not think that is right. I think it is seeking an appropriate response to the pay inequality that exists between that sector and other like sectors based on the fact that this has been driven by the large number of women employed in the sector—where there is a predominance of women—and that their work has been undervalued. So I do not accept the premise of the question.

The government remains actively engaged in the process. We are appearing at a conciliation hearing tomorrow, where we will provide further information, and we will be making a submission, as requested by Fair Work Australia, in the next few weeks.

(Time expired)

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:22): Mr President, I ask a further supplementary question. Minister, the reason I asked that question in this chamber was that the Prime Minister did not answer it in the other place when Mr Bandt asked it, and I still did not get a satisfactory answer. You did not tell me what you are doing to negotiate. While the community service providers of course want to pay their workers much more, they are worried about what increased wage rates will mean to the impact of the delivery of their services. How does the government intend to ensure that delivery of these vital services will continue? Does the government—(Time expired)

Carbon Pricing

Senator TROOD (Queensland) (14:23): My question is to the Minister representing the Prime Minister, Senator Evans. It is, indeed, a matter of contemporary importance to most Australians. I refer the minister to the Prime Minister's promises to seek community consensus on climate policy and to stop illegal immigration. Is the minister aware of recent opinion polls which show that 60 per cent of Australians are opposed to the imposition of the carbon tax, in breach of the Prime Minister's pre-election commitment? Does the government consider that it has been successful in achieving community consensus since it has successfully united the overwhelming majority of Australians—
Government senators interjecting—

The PRESIDENT: Order! On my right! Senator Trood is entitled to be heard in silence.

Senator TROOD: Does the government consider that it has been successful in achieving community consensus since it has successfully united the overwhelming majority of Australians against the carbon tax?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:25): I thank Senator Trood for what I assume is his last question. Unfortunately, it does not reflect the quality of his normal contribution. We have all been backbench senators and we have all been given questions like this, but, quite frankly, it is unfortunate. Most politicians say, when asked about opinion polls, 'I pay no attention to them.' I am not one of those. I obviously read them, like we all do, but I do not actually lead on the basis of them and neither does this government. We actually seek to implement policies we think are for the betterment of the nation. That is what we are doing by putting a price on pollution.

We have argued, since before the 2007 election, like the then Howard government did, that we need to respond to climate change. We need to make a comprehensive response to the effect of carbon pollution on our economy, so we are seeking, through this parliament, through the parliamentary processes, to get legislation in place that will allow us to put a price on carbon. As we finalise the detail of that legislation, we will obviously have to convince the parliament to support it and we will have to build understanding and support in the community. We very much understand that challenge. But, as the government, we have to lead. We are leading on what we think is a very important challenge to Australia.

We will be bringing legislation before this parliament. Senators will get a chance to vote on that, both those who believe in climate change and those who do not, and we will then seek to sell the reasons behind the package to the Australian community and build support for that. That is the sort of leadership we are going to provide. We do think these are important issues and we will continue to prosecute them both in the parliament and in the community and to build support for what we think is a very important economic and environmental reform for this country. (Time expired)

Senator TROOD (Queensland) (14:27): Flattery will usually get you everywhere, Minister, but perhaps not on this occasion. Mr President, I ask a supplementary question. Is the minister also aware of opinion polls that reveal that some 70 per cent of Australians are opposed to the government's so-called Malaysian solution? Does the government consider that it has also achieved community consensus on this issue by uniting the overwhelming majority of Australians against this policy?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:27): All I can conclude from this consideration of the impact of opinion polling on political positions is that the Liberal Party are really saying that the reason they went from accepting the science of climate change to rejecting it is that they read an opinion poll. It seems to me that you are putting the proposition today that a political party should read the opinion polls and therefore change its policy. Quite frankly, Senator, that is not our view. We think it is important that we prosecute the
case for good public policy reform. While you may have changed your policy and you may have changed your attitude to the need to tackle climate change as a result of what you saw in opinion polls, we remain committed to what we see as an absolutely necessary economic and environmental reform, and we will continue to prosecute that case because it is in the interests of Australia.

Senator TROOD (Queensland) (14:28): Mr President, I ask a further supplementary question. Is not the Prime Minister's greatest triumph in achieving community consensus her achievement in uniting the overwhelming majority of Australians in the belief that they no longer want her as Prime Minister?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:29): Because it is your last question, Senator Trood, I will try to retain my sense of humour and politeness. But, quite frankly, it is a nonsense, Senator. We had an election, the parliament was elected and we were able to form a government. We formed a government, we are governing and we are going to provide leadership on the big issues confronting Australia. The Prime Minister is providing that leadership. We are tackling the major issues confronting Australia: bringing the budget back into surplus, dealing with climate change and investing in education and jobs, and all those policies will be pursued with vigour by this government. We are not fixated on opinion polls. We are not fixated on petty political point scoring. We are focused on providing the leadership Australia needs and, by doing that, I am sure that we will convince Australians of the need for the sorts of reforms that we are prosecuting. But we will continue to act in the national interest.

Square Kilometre Array

Senator MARK BISHOP (Western Australia) (14:30): My question is to the Minister for Innovation, Industry, Science, and Research, Senator Carr. Mr President, can the minister inform the Senate on the progress of Australia's bid to host the Square Kilometre Array?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:30): Senator Bishop, I thank you very much for the question. As a senator from Western Australia, you understand just how important this project is. The Square Kilometre Array is one of the most ambitious projects the international science community has ever attempted. It will be a telescope with the power to look back to the dawn of time. The Australia-New Zealand SKA—

Honourable senators interjecting—

The PRESIDENT: Order! There is obviously a lot of interest in the minister's answer by the amount of calling out that is occurring. If we had a bit more silence, I might be able to hear the answer as well.

Senator CARR: Mr President, the SKA is a device which will look into black holes. It will search out black holes and it may well find a Liberal Party policy there. It is a pity you could not take more notice of these important issues. The SKA bid by Australia and New Zealand is a very strong one. We should not underestimate the fact that the bid from southern African states is very stiff competition. I am heading off to Canada to present the case to the international radio astronomy community and I trust that the international community will be left in no doubt about our ability to deliver this project.

Honourable senators interjecting—

Senator CARR: I hear people over there asking, 'Why are you doing it?'

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The PRESIDENT: Order! When there is silence on both sides of the chamber, we will proceed.

Senator CARR: I understood that this was a project that actually attracted bipartisan support in this parliament. I understood that there were some on the other side that actually understood—and Senator Back is one of those. I understood that this is a project that people knew would be able to help us transform the way we live. This is not just merely a question of being able to produce world-class research. It is a massive infrastructure project that will create the technologies for the future and will help us reshape the way in which we live, whether it be through the provision of off-grid power supplies or whether it be in the provision of supercomputing capacity, which will have massive implications. (Time expired)

Senator MARK BISHOP (Western Australia) (14:33): Mr President, I ask a supplementary question. Minister, what opportunities will the SKA open for industry, and what is the minister doing to help local firms claim those opportunities?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:34): Mr President, the SKA is another reminder of the transformational power of ICT. It is the enabling technology of the modern world and lies at the core of our case to the global backers of this project. That is why the NBN was very much at the heart of the project that we are developing. This is a project which will produce opportunities for Australians and for New Zealanders and for the global community as a direct result of the investments in the NBN. We have already seen the Perth-Geraldton fibre-optic link, which is the first building block of the National Broadband Network in Western Australia. This link is not just critical for the SKA; it offers faster and cheaper broadband for 35,000 people along the route. It also lays a very proud claim to being one of the most sophisticated research tools in the world. This month I launch the first of three new supercomputers. (Time expired)

Building the Education Revolution Program

Senator BARNETT (Tasmania) (14:35): My question is to the Leader for the Government in the Senate, representing the minister for schools and education, Senator Evans. I refer to the slated closure of 20 Tasmanian state schools, which have together received more than $13 million
under the Prime Minister's own Building the Education Revolution program. What is the government's intention with respect to recouping this money pursuant to the BER debt recovery guidelines?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:36): I thank Senator Barnett for the question. He is right to bring to my attention the question of the impact of the school closures on BER funding in Tasmania, but I point out to him firstly that in fact the federal government put $327 million into Tasmanian schools, the largest capital injection probably ever, and that investment has been money well spent—money that has benefited every child in Tasmania by providing new facilities for all children in primary schools in Tasmania. So it has been a tremendous investment in Tasmanian schools, it has been tremendously successful and communities are reaping the benefits of that.

It is true that the Tasmanian government have announced that they will consult with the community about closing up to 20 schools, and the Tasmanian Minister for Education and Skills, Nick McKim, did do me the courtesy of ringing me before the budget was handed down to advise me of that. We did discuss that decision's impact in terms of the investment we had made in those schools as part of BER funding. I understand the process of consultation will go on for some weeks before final decisions are made about which schools will close, and my department will continue to monitor and work closely with the Tasmanian government with regard to the affected schools, wherever they may be.

I think the media might also have highlighted today that the Tasmanian government has obtained legal advice that it has no legal compulsion to return the BER money. Can I say that what we are interested in is making sure that the funds go to support education in Tasmania and benefit schoolchildren in Australia. That will remain the government's top priority. The Commonwealth does reserve the right to recoup its expenditure on improving these educational facilities, but those decisions will be made on a case-by-case basis. (Time expired)

Senator BARNETT (Tasmania) (14:38): Mr President, I ask a supplementary question. Thank you, Minister, particularly for that last comment; I appreciate that. I refer to statements by the Tasmanian Minister for Education and Skills, Mr McKim, in the Tasmanian parliament this morning, where he said, 'Not one dollar will be repaid by the state government to the federal government.' He went on and said that he has spoken to Senator Evans about this issue personally and that 'at no time has he expressed to me that he, his department or his government has a view that we are obliged to repay the funds'. Does the Commonwealth accept that not one dollar of its funds will be returned? (Time expired)

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:39): Mr McKim's statement is consistent with mine that we spoke about these issues. He also advised me that his legal advice was that they had no obligation to repay funds to the Australian government. I understand that. Fundamentally, we invested in their schools and the state education and other funding authorities have responsibility for those schools. That was an investment in the future of Tasmanian students. But I also made it clear to him that we would be taking further advice about our responsibilities and our options and made it clear to him that our
primary objective, as I made clear to you, is to make sure that the investment is for the benefit of Tasmanian students and the broader Tasmanian community. We will continue to monitor the developments with an interest in making sure that the facilities that have been established are there for the benefit of Tasmanians. That is our primary interest. We will continue to pursue that interest. (Time expired)

Senator BARNETT (Tasmania) (14:40): Mr President, I ask a further supplementary question. Clearly, Minister, your advice is contrary to the advice of Mr McKim, including his legal advice. How is it that the government can waste $13 million of BER project funding at state schools slated for closure when not one Tasmanian state school has been connected to the NBN? Isn't this just another twist in the BER education fiasco, which is simply one of many fiascos that this government is pursuing at this time?

The PRESIDENT: Senator Evans, you should address your comments to the chair. I remind senators that shouting across the chamber is disorderly.

Senator CHRIS EVANS: Mr President, I do get cross because I am outraged that senators from the opposition, the Liberal and National parties, would regard the investment in our schools as a waste of money. This has been one of the best investments the Commonwealth has ever made. We have invested in school buildings that will provide educational support for children for the next 30 or 40 years, and every school I go to is extremely grateful and tells me about the benefits it will bring. (Time expired)

Honourable senators interjecting—

The PRESIDENT: The time for debating the issue is at the end of question time. I remind senators of that once again. I am waiting to call Senator Xenophon, who is entitled to be heard in silence.

Australian Defence Force

Senator XENOPHON (South Australia) (14:43): Thank you, Mr President. My question is to Senator Evans, representing the Minister for Defence. The Department of Defence has announced eight reviews into allegations of abuse and misconduct in the ADF. Of these reviews, one relates to the personal conduct of ADF personnel and another to the process by which incidents and complaints were managed by the ADF. These are the only two reviews run by ADF officials out of the eight. Can the minister advise why these two reviews, unlike the other six, are not being undertaken by independent parties? Does the government acknowledge that some victims of alleged abuse may be reluctant to come forward because of this lack of independence?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education,
Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:44): I thank Senator Xenophon for the question, and I can give him some information which has been supplied to me by the Minister for Defence's office. In April this year the Minister for Defence announced a series of reviews and initiatives into various aspects of the culture of the ADF. These comprehensive reviews were initiated following the raising of allegations of inappropriate conduct at ADFA on 5 April. The reviews are drawing on a range of expertise both within and external to Defence. In relation to the two reviews mentioned by the senator, the review of the management of incidents and complaints in Defence is being undertaken by the independent Inspector-General of the Australian Defence Force. The review will have specific reference to the treatment of victims, the transparency of processes and the jurisdictional interface between military and civil law, which may lead to untimely decision-making processes. The position of Inspector-General of the Australian Defence Force is appointed by the Minister for Defence under the Defence Act. That ensures the Inspector-General is independent and free of action with respect to the chain of command in that his or her tenure does not depend on any member of the ADF. So this is an independent position.

The review of conduct is being conducted by Major-General Craig Orme, an experienced senior HR professional within Defence. The review is concerned with systemic issues, not individual cases, and the review team is consulting with external experts with experience and a professional background relating to military culture and organisational performance.

The two reviews of concern that Senator Xenophon has raised are reviews which we think are capable of being delivered independently by the persons I have referred to. We think this is the best course in terms of conducting those reviews. As the senator knows, the other reviews are being conducted by persons from outside the ADF.

Senator XENOPHON (South Australia) (14:46): Mr President, I ask a supplementary question. In relation to the review being undertaken by DLA Piper on behalf of the ADF to review allegations of sexual and other abuses, what consultation was undertaken as part of this process, including the terms of reference? Were victims or victims' advocates consulted?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:46): I know that Senator Xenophon is very concerned with these issues as are the many senators who have been involved in inquiries relating to these issues inside the ADF. Since the ADFA Skype incident was drawn to public attention a large number of allegations of sexual or other abuse have been made. They are all of serious concern. The minister has announced that these allegations will be dealt with methodically and at arm's length from Defence. The DLA Piper review has commenced. Its role is to determine the most appropriate way for these complaints to be addressed and whether further independent action is required. The process is underway and will report before the end of August. DLA Piper has been consulting with Dr Susan Harris Rimmer, an expert in dealing with issues of sexual abuse, and they will carry out their charter as efficiently and quickly as possible.

Senator XENOPHON (South Australia) (14:47): Some victims approached me and said they had difficulty in getting access to the terms of reference early on. Can the minister advise when the terms of reference
were written, when they were made public and why they were not made available earlier in the process?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:48): I think the formal terms of reference were formally released on Monday, 21 June but the scope of the review was first announced by the minister on 11 April. Further development and refinements were made in consultation with DLA Piper. The essential scope of the review—the allegations of sexual and other abuse—was made public to Defence personnel in early May and more widely through a departmental media release on 21 May and subsequent national advertising of the review. I think senators would have seen those ads in the paper in recent weeks. So, while the essential scope of the review has remained unchanged, issues relevant to the review have been raised and addressed iteratively. So that is the process. The final terms of reference were released on 21 June and are publicly available.

Live Animal Exports

Senator WILLIAMS (New South Wales— Nationals Whip in the Senate) (14:49): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Can the minister confirm the report in today's West Australian newspaper that he was scolded by the Indonesian government because he had not consulted with them before the suspension of live cattle exports to Indonesia? Can the minister also confirm that he did not consult with the Western Australian government before making his decision?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:49): There were many opportunities to consult through this process. Clearly that was not taken up by the MLA with their representative members. Right throughout this process the engagement through my department and through the embassy with the Indonesian authorities in relation to the suspension has been ongoing. I did have the opportunity of speaking with the Indonesian Minister for Agriculture, Mr Suswono. The meeting went well. It provided both of us with an opportunity to share views about how we can return this industry as quickly as possible. When you look at the comments the minister himself made, as reported, they provide clear encouragement that we can look to the way this trade can return on a sustainable footing whilst maintaining animal welfare outcomes.

It is important also to consider the other state and territory governments, including Queensland, the Northern Territory and WA. They too are part of the industry working group to resolve this issue as quickly as possible. I have called them together and I have continued to inform the ministers for agriculture in WA, the Northern Territory and Queensland about the suspension and the ongoing way we can return the issue.

Senator Brandis: Mr President, on a point of order: the question was about whether the minister consulted with the Western Australian minister before making the decision, not after. He should be brought to the question.

The PRESIDENT: There is no point of order. The minister is answering the question. The minister might not be answering it in the terms that you would like, but he is answering the question.

Senator LUDWIG: With respect to Minister Redman, we do have a highly
valued partnership and I have had continual dialogue with him about a range of matters within the portfolio, and subsequent to this particular issue he has been represented on the industry working group through his—

(Time expired)

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (14:52): Mr President, I ask a supplementary question. At a time when the government has suspended the $300 million beef trade to Indonesia, why has the government added to the angst within the beef industry by withdrawing the 40 per cent AQIS rebate, as of 1 July 2011, even though the government has failed to deliver the promised cost savings to the industry but has added a new level of bureaucracy instead?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:54): It is timely to be able to put clearly on the record that the Minister for Trade, the Minister for Foreign Affairs and I have been diligently working on this issue to ensure that (a) the live animal export industry is returned as quickly as possible and (b) animal welfare outcomes are upheld.

This is unlike those on the opposition side. On Sky News Mr Dutton said, 'We would have stopped them going to those abattoirs that have been highlighted,' and later he said: 'We wouldn't have had a full suspension. We would have stopped the cattle from going to those abattoirs where we saw that horrific action.' What he does not say is that without a suspension and an opportunity to reform supply chains, this approach would not have provided animal welfare outcomes at all. Without a suspension or supply chain reform in place, it would have ensured that animals would continue to be mistreated. That is what the opposition have signed up to. (Time expired)

Broadband

Senator BILYK (Tasmania) (14:55): My question is to the Minister for Small Business, Senator Sherry. Can the minister outline to the Senate how the internet is reshaping the way business is being carried out around the world? What is the contribution of e-commerce to gross domestic product and how fast is it growing? How would the Gillard government's National Broadband Network help
businesses expand, increase productivity and boost jobs?

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (14:56): Thanks to my colleague Senator Bilyk. My colleague Senator Conroy today made some very important announcements about the future of the NBN. I want to comment on the importance of the NBN to economic growth, particularly for small and medium-sized business. This is a major economic reform. It will help business across Australia, particularly in the regions, to take advantage of the enormous online opportunities.

These opportunities, the National Broadband Network online connection, have been well spelled out in a major new study, released by McKinsey Global, on the impact of the internet on jobs, growth and prosperity in the world's economies. It examined some 13 countries responsible for 70 per cent of the world's economic growth. It found that the internet is a significant job creator. In France, for example, it has resulted in a net addition of 700,000 jobs—that is, 2.4 jobs created for every job lost. In the survey of 480,000 small and medium-sized businesses across 13 countries, 2.6 jobs were created for every one lost.

It also found the internet contributed to 21 per cent of the economic growth in the last five years in advanced economies. All industries benefited from the web, and in fact small to medium-sized enterprises benefited to a disproportionately greater degree. Some 75 per cent of the economic impact was a positive result for small to medium-sized businesses. SMEs with a strong web presence grew more than twice as quickly as those with no or minimal web presence. I quote from the report. (Time expired)

Senator BILYK (Tasmania) (14:58): Mr President, I ask a supplementary question. Can the minister outline to the Senate how the Gillard government is helping small businesses go online to take advantage of the enormous growth in e-commerce and internet use.

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (14:58): The Gillard government, particularly my colleague Senator Conroy, is rolling out the NBN because it is a very important economic reform. We intend to roll it out whereas the Liberal-National Party intend to roll it back. I have heard that theme before—the roll-back theme—and we know how successful it is.

My colleague Senator Conroy and I were at the PayPal Driving Business Online program launch last week. It has received great support from small business. In the visit they made to Armidale there were 41 one-on-one consultations with small business, in Coffs Harbour it went similarly well, and I understand Lismore is booked out. The National Party should take note. This is regional Australia wanting more information about web based connection and the internet—a major economic reform that particularly benefits regional Australia. (Time expired)

Senator BILYK (Tasmania) (14:59): My President, I ask a further supplementary question. Is the minister aware of any alternative policies to the Gillard government's world-leading NBN? Do these alternative policies pose risks to Australia's long-term prosperity?

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for
Tourism) (14:59): The Gillard government has a vision for Australia to become a global digital leader. This is a major economic reform. We are aiming to put Australia in the top five advanced economies by 2020 in the percentage of businesses and not-for-profit organisations using the internet. It drives productivity, it expands customer bases and it creates jobs.

Worldwide, e-commerce is forecast to grow exponentially over the next 20 years. Currently there is $1.4 trillion—

Senator Ian Macdonald: They won’t be able to afford it in Australia, Nick; you know that.

Senator SHERRY: We cannot afford not to, Senator Macdonald. You have to come out of the past. Why does the Liberal-National Party oppose this important modernisation of the Australian economy? The NBN is going to put Australia amongst the leading five economies of the world. We are about rolling it out. All you are about is the negative, about opposition and about rolling it back. That is all you can do. (Time expired)

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

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS
Gillard Government
Live Animal Exports

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:01): Mr Deputy President, might I congratulate you on what will be your last take note debate.

I move:

That the Senate take note of the answers given by the Minister for Tertiary Education, Skills, Jobs and Workplace Relations (Senator Evans) and the Minister for Agriculture, Fisheries and Forestry to questions without notice asked by opposition senators today.

If you want the classic example of people who can walk the walk, fly the fly, travel around the world and create an absolute debacle in our trade with one of our most important neighbours, it is what the Australian Labor Party has done in regard to the live cattle trade. Not only did they fail to consult with the Western Australian government about one of the major industries in their state, not only did they fail to consult with their own colleagues in the Northern Territory about one of the major industries of the Northern Territory and not only did they fail to consult with Queensland; they also failed to consult with the country that we rely on for so much, including our border protection, the people of Indonesia.

This has been an absolute disaster, and we must note exactly where this is leading. We heard the demonstrators the other day down in Sydney and what they aspire to. What do my colleagues in the Senate aspire to? They aspire to a vegan society. We are about to all become vegans—we are about to transform ourselves from eating meat to being hunters and gatherers on the forest floor living on a diet of beetles and nuts!

Senator Boswell: Maybe nuts!

Senator JOYCE: Not beetles, yes, only nuts! But this is the absurd position.

And the damage is done. It has been an absolute blanket insult to a whole nation to say to them that we do not differentiate between those who are doing the wrong thing and those who are doing the right thing; we just think they are all doing the wrong thing. The whole nation is doing the wrong thing.

I stated this at the start: I said this would come unstuck. They have not read five steps ahead on this one, and now it is unstuck. And what do we have? We have a foreign
minister who can hardly stay home. He almost needs a passport to get back into Australia. Where is he when we really need him, when we actually need him to go to work? He is here now—it is the only time we do not want him here but he is here. He has been away for 71 days. He was guiding the Arab rise and the Arab Spring. He was over there guiding the process in Libya. He was part of what was happening in Syria. He is everywhere but he is nowhere where he is needed. When something is of real importance to our nation, where is he? So help me—he is in the building stacking up numbers for his challenge. This is how disconnected this government has become. Everything is a reflection.

We saw Kevin Rudd go to Buckingham Palace—

The DEPUTY PRESIDENT: Order! Senator Joyce, you will refer to the former Prime Minister by his proper title.

Senator JOYCE: I certainly will. I accept your admonishment, Mr Deputy President. The former Prime Minister—and well may we remember that he is a former Prime Minister, especially today—before he was ceremoniously politically assassinated by his colleagues, who then ensconced a replacement who is polling at 27 per cent, is now the foreign minister and does not seem to want to stay in Australia. When we actually need him to do a job, when he actually has to go out and earn his salary, he has decided to stay home. Where is his ticker when we really need it? Where is his ticker when we need him at something that is just slightly more important than Kate's and Will's wedding? He can make it to Sunrise to talk about Kate's and Will's wedding, but he cannot make it to Indonesia to talk about one of our major exports.

This is causing major dislocation to the Indigenous people, the Indigenous workers of Northern Australia, to the people of the Transport Workers Union, who actually cart the cattle round, and to the people of the abattoirs in Indonesia. I hope that we are not differentiating between their right to work and ours. We have actually decided to leave them out as well. Where is it all going to finish? Indonesians now, if they wish now, can start sourcing their cattle from other places. This will do nothing to help animal husbandry.

And might I remind you that Animals Australia waited; we know that they had the vision for two months. They were quite happy to let the barbarity that they saw in those certain abattoirs continue for two months, until they could get media bang for their buck. We know that even back in January they had pictures and were discussing their plan of attack. Why didn't they do something about it in January? Why did they wait? Because this is about theatre, this is about bang for your buck, this is about transforming Australia to their nirvana—a vegan society. They want us to remove ourselves from the consumption of meat! And what do we have for this? No doubt Indonesia will look quietly across the borders at us and say: 'Australia just does not understand. Australia is completely out of touch.'

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (15:06): Congratulations, Mr Deputy President, on your last question time today. Congratulations also to Senators Trood and Barnett.

Senator Joyce concentrated on the question to Senator Ludwig, and I will touch on that briefly before I go to broader questions in question time today. Cheap quips and suggestions that we are turning into a vegan society aside, perhaps the only
serious issues that Senator Joyce sought to address were those around consultation in these difficulties with live exports and Indonesia. But I do not recall the Howard government being particularly strong on consultation. I could think of countless examples of very poor behaviour and conduct. In fact, the very conduct that led the Howard government to going out of office was around its poor consultation—its very poor consultation on the Work Choices legislation, if I recall. That was the very point made the other day by Senator Minchin, I think, in his valedictory remarks.

So, if there is nothing more significant than these issues around his appraisal of poor consultation and the suggestion that Australia is turning into a vegan society, it is very hard to take Senator Joyce's comments seriously. But let me take a moment, since he was taking note of the answers to all of the questions to Senator Evans and Senator Ludwig in question time today, to appraise some of those others. I am glad to see that Senator Abetz is in the chamber at the moment, because apart from the predictable political rhetoric, as indeed Senator Evans highlighted in his response to the first question, Senator Abetz seems to suggest that the Gillard government, by setting priorities, is meant to achieve them within 12 months. We all know that priority issues such as climate change are never going to be achieved within 12 months. We all know that priority issues such as climate change are never going to be achieved within 12 months. It is good to see that this government is attempting to deal with these issues, but suggesting that there should be any resolution within a 12-month period is just laughable.

The other priority issues raised by Senator Abetz were the mining tax and boat arrivals in Australia. I seem to remember that these have been problems for the former government. They are intractable problems, and the closest I have seen in policy terms to any resolution of these problems is indeed with the avenues being explored in the Malaysian solution. The Howard government liked to try and claim that it solved the boat problem. We know they did not. We know the number of boat arrivals that appeared over the term of the Howard government, and we know that that government did not find a satisfactory resolution. But to suggest that this is a problem that the Gillard government should have resolved within 12 months is just laughable.

We went through a range of other areas where the opposition asserted promises had been made and had not been met within 12 months. Well, I am sorry, but my assessment of today's question time, apart from the usual one, which is of tedious repetition by the coalition's questions committee, is: seriously, you are starting to look a pack of Froot Loops. Lemons have become much maligned, and the pack of Froot Loops that get up in question time in this place day in, day out cannot raise serious policy issues. This opposition really does highlight the concerns that have been raised time and time again with the Abbott leadership, which is: it is a policy-free zone. There are cheap rhetoric and questions about stabbings, killings and leadership change, when this very opposition is more vulnerable—far more vulnerable—on that issue than the government: four leaders in four years.

I would like to take this moment to remind the chamber of the last leadership change of the opposition. Climate change was the issue raised by Senator Abetz today. What was the demise of the former opposition leader about? What were the issues around which Mr Turnbull failed to continue as Leader of the Opposition? I seem to recall an enormous backflip. Do I recall an enormous backflip on climate change? I think I do. But then I also recall—and Senator Abetz will recall this too—completely atrocious behaviour in respect to Godwin Grech. To see suggestions
and contemplations these days that Mr Turnbull might return as Leader of the Opposition are laughable in that context. (Time expired)

Senator Barnett (Tasmania) (15:11): Mr Deputy President, congratulations to you, in the chair for the last time today, and best wishes for your retirement.

I would like to take note of answers and support the motion moved by Senator Joyce, particularly with respect to answers given by Senator Evans on behalf of the government and specifically regarding the question I asked about school closures in Tasmania. The question related to the slated 20 closures of state public schools in Tasmania and the more than $13 million of Building the Education Revolution funding that has been provided and spent in Tasmania on those schools. Of course, if those schools close, that is taxpayers' money gone down the gurgler. For and on behalf of Australian taxpayers, we say that money has been and will be wasted if those schools are closed.

The big question relates to the advice that has been provided by the state Minister for Education and Skills, Mr McKim, a Greens minister in the Labor-Greens coalition government that is now in a rolling crisis in Tasmania and is dudding the Tasmanian economy dreadfully. His advice to the state parliament this morning was, 'Yes, I can guarantee that not one dollar will be repaid by the state government to the federal government.' He went on to say, 'That is because those buildings were part of an investment program designed to stimulate the economy and announced 2½ years ago.' So he is saying that, because it was announced 2½ years ago, not one dollar will be going back to the federal government. He said, 'Those buildings are part of state government schools on state government land, and we will decide how to operate those schools, not the federal government.'

When told, 'Senator Evans has not said what you have just alleged,' Minister McKim said, 'He has not said that we are obliged to repay funds. In fact, I have spoken to Senator Evans about this issue personally and at no time has he expressed to me that he, his department or his government have a view that we are obliged to repay the funds, so let us be very clear about that. He has not expressed those views to me.'

Senator Abetz interjecting—

Senator Barnett: Senator Abetz has interjected and confirmed that that is the advice that was made in parliament today. Frankly, this is where we have a major division now between the federal minister for education, represented by Senator Evans, the Leader of the Government in the Senate, and the state minister for education. In the answer from Senator Evans today he made it very clear that he was looking into the matter, he would deal with each school on a case-by-case basis. He did not in any way, shape or form agree with the advice of Mr McKim, the minister for education in Tasmania, that not one dollar will be repaid by the state government to the federal government. Clearly there is a division. Clearly they are way apart in their views if the federal government is dealing with these matters on a case-by-case basis.

I must also alert the Senate to the fact that in the last several days since this decision was made we have had the views of federal Labor MPs. What do they say about the school closures? For example, Senator Carol Brown, a Tasmanian Labor senator, together with the Hon. Julie Collins who is a parliamentary secretary, have either criticised or opposed the closures. They support deferral until 2013. Mr Dick Adams, the federal member for Lyons, and Mr Sid
Sidebottom again have either opposed or criticised the school closures. You have the federal Labor MPs from Tasmania saying something totally different to the state minister for education. The question is whether Senator Evans, who represents the federal minister for education, supports and agrees with the views of those federal Labor MPs from Tasmania. Clearly you have a crisis and a division between state and federal Labor. Let us make clear what the BER guidelines say:

Where funding of over $75,000 is provided for a school for the construction or purchase of facilities, we have a right to repayment of the calculated portion of the funding where, at any time during the designated use period, the facilities cease to be used principally for the approved purpose, the facilities are sold or otherwise disposed of.

That is what the funding agreement says. That is what they have signed up to. That is what the federal government stands by. The federal minister today confirmed that those are the guidelines and that is clearly contrary to the supposed legal advice obtained by Nick McKim. I have a list of the schools and there are some 20 of them with hundreds of thousands if not over a million dollars spent on them. Clearly there is a major dispute between the two and this is a problem for the federal government.

**Senator CAMERON** (New South Wales) (15:17): I add my congratulations to you, Mr Deputy President, for a very memorable career in the Senate and also the work that you have done in terms of Senate reform. You can see it has not always worked. I wish you and your family all the best for the future.

I turn to the issues before us. I think it was quite amazing to have Senator Barnaby Joyce talk about a disconnect in the Labor Party. I have always thought that Senator Joyce was disconnected from reality, but when you talk about a disconnect, how could you come this week to the Senate and ask questions of the government and not ask a question about the biggest economic change that has been made in this country for years—that is, the NBN. The NBN reached a massive milestone today, signing off with Telstra and the other companies to make sure that we have in this country modern telecommunications facilities. Not a word from Senator Joyce.

What did we hear from Senator Joyce? We heard from Senator Joyce that we are going to turn into a vegan society, that there is some kind of plot by the Left to turn everyone into a vegan. For anyone who has ever been to dinner with me, that would come as quite a surprise. I certainly would not want to live in a vegan society. Nevertheless, I think we have to be aware that when this ban was put on live exports it was done because of the massive response to the *Four Corners* report in relation to live exports. It was horrible, but I did not hear anyone from the opposition say, 'Let's do a plebiscite of the Australian community to deal with live exports.' I did not hear that being put forward because you cannot run a country based on plebiscites.

It is interesting to note yesterday's *Australian*—I do not normally quote the *Australian*—didn't Paul Kelly tell us about the lack of political understanding by the coalition in relation to plebiscites? Paul Kelly gave the coalition a lesson in what you need to do in terms of taking leadership positions and governing, not responding to these stunts that the Leader of the Opposition seems to be so good at. You cannot govern the country on stunts; it just does not work. You must be a leader and Tony Abbott, in my view, is devoid of leadership.

**Senator Parry:** The Leader of the Opposition.
Senator CAMERON: The Leader of the Opposition, sorry, is devoid of leadership. He is the Evel Knievel of Australian politics—all show and no substance. What do we have now? We have the Leader of the Opposition going to the AMEC conference in Western Australia where we will get the showman and we will get the clown—we will get Lord Monckton there. We will have the showman and the clown side by side at the AMEC conference. The only thing missing there will be Senator Bernardi to do the lead-in act for them.

We are in a position in this country where we must deal with the real issues for the young generation—the young generation that is watching us now. They expect us and they have a right to have this parliament dealing with the issues that will build a decent society for them in the future. They have a right to have us deal with climate change. The young people of this country have a right to have a decent environment. They have a right to expect us to deal with climate change and to deal with the key issues that will give them a future. All we have is the deniers on the coalition side who say there is no problem. Well, there is a problem and the Labor Party stands up for future generations. The Labor Party stands up for this country and we will continue to do so.

Senator FISHER (South Australia) (15:22): I rise to take note of answers given during today's question time and to talk about a government that does not keep its promises, because it simply cannot. It is not only a weak government; it is a government that is riven by division. This government threatens to trash our diplomatic relationship with one of our nearest neighbours—one of our nearest neighbours that needs our help, not our hindrance. It is an example of an area where this government has been cowed into submission because it is a policy-free zone. It has been cowed into submission by an organised and orchestrated campaign by lobbyists. This is a government that has been caught flat-handed, flat-footed, bereft of ideas and forced into some sort of desperate action that is all pain for no gain. Blanket suspension of live cattle exports to Indonesia is pain for cattle, because cattle are probably still being treated cruelly when slaughtered daily in Indonesia. They may not be Australian cattle but they are cattle and animals nonetheless. A government genuinely concerned about cruelty to animals would not take an approach that seems to say, 'Out of sight is out of mind.' This decision stands to do nothing but damage to our relationship with Indonesia.

Minister Ludwig today tried to say, in answer to Senator Williams, that he had consulted with the Indonesian government. What he failed to commit to was having consulted with the Indonesian government prior to deciding to suspend live cattle trade to Indonesia. He failed to commit to that. Why? Because he did not do it. Had he done it, he should have said so today. Minister Ludwig clearly failed to consult with the Indonesian government before deciding to suspend our live cattle trade with that country. He also failed to explain to Senator Williams why he has not sought the help of his ministerial colleagues, such as former prime minister Kevin Rudd: Kevin-everywhere, except for 'Boganville'.

Minister Ludwig also failed to explain why he has not sought the help of his colleague the Minister for Trade, Dr Emerson. This government is riven by division. Why didn't Minister Ludwig seek
the help of his colleague Minister Emerson? It is pretty clear: Minister Ludwig's big dad, big Bill Ludwig, said of Minister Emerson that he is a rat, that he is ‘friggin hopeless’—actually, big Bill Ludwig used another word, but that is pretty close to it—that he is not a team player and that he has never done his bit for anyone except his own ambition to be Prime Minister. So why would Minister Ludwig even hope to get any help from Minister Emerson, the man who Minister Ludwig's own father has said is a rat? Had Minister Ludwig gone to his colleague Minister Emerson, he hardly would have got a helping hand. This is a government that is riven by division, a government that is breaking its promises to govern the country because it is a government that cannot govern itself.

Question agreed to.

PERSONAL EXPLANATIONS

Senator FORSHAW (New South Wales) (15:26): I seek leave to make a personal explanation.

Leave granted.

Senator FORSHAW: I thought I had already made my last speech, but I have to rise today because I believe I have been very grievously misrepresented in the media. I refer particularly to an article in today's Australian by the contributing editor, Peter van Onselen. The article is titled 'Senate repainted shades of green'. In the article he refers to some of the departing senators. I quote:

On the Labor side, two senior members of the Right faction are departing: Senators Steve Hutchins and Michael Forshaw, a former NSW party president and parliamentary convener of the Right respectively.

The section I particularly want to refer to is this:

Both men were early movers against Rudd's leadership after they felt he had stopped listening to the caucus.

That is totally untrue. I was never a mover against Kevin's Rudd leadership as Prime Minister. I have never spoken publicly about this, but I am forced to do so now. Everybody on my side and I think many in this parliament know where I stood in regard to that issue. This is not the first time that Peter van Onselen has written something about me that is incorrect. It seems to be an increasing habit. The journalist makes statements in the media without even bothering with the courtesy of ringing the individuals concerned.

MINISTERIAL STATEMENTS

Superannuation

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:28): On behalf of the Minister for Financial Services and Superannuation, Mr Shorten, I table a ministerial statement on superannuation.

COMMITTEES

Economics References Committee

Migration Committee

Government Response to Report

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:28): I present government responses to committee reports as listed on today’s Order of Business. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.
The documents read as follows—

Australian Government Response to the Senate Economics References Committee Report
"Foreign Investment by State-owned entities"
June 2011

Introduction

Foreign investment has been an important component of Australia's growth in the past and will continue to make a positive contribution to Australia's economic growth and prosperity in the future. This is because Australia's domestic savings are not sufficient to meet the demands of domestic business for investment funds. Foreign capital represents the necessary call on overseas resources that fill this gap. It contributes to our capacity to develop and improve living standards.

Foreign investment also brings additional benefits, including:
- creating new job opportunities and supporting existing jobs;
- encouraging innovation and skills development;
- introducing new technologies; and
- promoting healthy competition amongst our industries.

While foreign investment enters Australia in a variety of guises, the last few years have seen an increase in investments being made through sovereign wealth funds and state-owned enterprises (SOEs). This has sparked public and media interest.

The Government has investigated whether significant changes were required to Australia's foreign investment regime to appropriately deal with increasing flows of investments from SOEs and sovereign wealth funds. Our assessment was that Australia's existing regime was already well-placed to deal with any national interest concerns arising from such investments.

Nevertheless, the Government recognised that it has a role in assisting SOEs to better understand our foreign investment regime, as well as helping the Australian public understand the Government's approach to foreign investment from sovereign entities.

That is why in February 2008 the Government first published principles that are used when evaluating the national interest implications of foreign government related investments. These were updated and expanded in June 2010 when, as part of the release of the Government's Foreign Investment Policy, the Government explained the national interest considerations for all investment proposals to buy Australian businesses or companies. For foreign governments and related entities, these considerations emphasise independence and commerciality.

The Government appreciates that more work can be done to improve communication of our foreign investment policies. In that regard, we welcome the Senate Economics References Committee report on 'Foreign Investment by State-Owned Entities'.

The Australian Government has carefully considered the recommendations of the Committee's report and we have provided our response below.

MAJORITY REPORT

Recommendation 1 – The committee recommends that FIRB develop a more effective communication strategy to improve public understanding of the risks and benefits of foreign investment to Australia. This strategy should also provide additional information about how foreign investment decisions are made and provide information about the emergence of sovereign wealth funds and state-owned entities internationally.

The Australian Government agrees with this recommendation.

The Australian Government has asked the Foreign Investment Review Board (FIRB) to review and improve communication of Australia's Foreign Investment Policy. The first task that FIRB undertook was to draft an easy-to-read version of the Foreign Investment Policy for prospective investors. The Government released that new Policy on 30 June 2010.

This new Policy has been made available in other languages including Chinese, Japanese and Bahasa.

The Government has also asked FIRB to engage directly with embassies in Australia – as it
has done from time to time – to explain how the Policy is applied. FIRB has also rolled out a new stakeholder awareness program to educate and disseminate information to individuals and organisations affected directly and indirectly by the Government's Foreign Investment Policy.

Recommendation 2 – The committee recommends that the Minister require FIRB to be more assiduous in producing a timely annual report.

The Australian Government agrees with this recommendation and has requested FIRB to prioritise the timely release of its annual report. The Government recognises the importance to the Australian public of releasing information on foreign investment applications and trends.

It has been the usual practice of FIRB to produce its annual report early in the following year. This allows time for all data to be compiled and rigorously checked for accuracy before it is released.

Recommendation 3 – The committee recommends that the government tighten the FATA legislation to deal with complex acquisitions where takeovers of smaller strategic assets may be masked by an application which, in total, does not represent more than 15 per cent, and therefore does not trigger review. The committee would like FIRB to give adequate consideration to the interaction between the various components of an acquisition.

The Government agrees in principle with this recommendation.

Related foreign investors cannot avoid screening by each buying small stakes (below 15 per cent) in an Australian company and using the total investment to wield control. This is because the existing 'associates' provision in the Foreign Acquisitions and Takeovers Act 1975 (the FATA) is already broad enough to ensure such activities are caught by the regime.

However, the Government was concerned that investors could use complex financial instruments to avoid the intended operation of the FATA. For that reason, the Government introduced the Foreign Acquisitions and Takeovers Amendment Act 2010 to remedy this matter.

This Act clarifies that convertible notes and similar instruments will be treated in a similar fashion to shareholdings for the purposes of the foreign investment regime. The Act has retrospective effect from 12 February 2009.

MINORITY REPORT

Recommendation 1 – A foreign government shall not use any corporate vehicle which they control to be allowed to purchase any strategic assets within Australia.

Further, for a non-state-owned entity, a related entity test will be applied so that different corporate entities with the same ultimate majority controlling influence represented by equity, debt or other mechanisms will be deemed as the one entity for assessment as to whether it will result in more than 10 per cent of control of any strategic asset market in Australia.

The Australian Government does not support this recommendation.

The Government is committed to a case-by-case examination of all foreign investment proposals. This approach ensures that Australia can maximise investment flows while protecting Australia's national interest.

The Government recognises that sovereign wealth funds and SOEs are increasingly a part of the global financial system. The Government notes that Australia has its own sovereign wealth fund. Reflecting this trend, the Government supports the efforts of the International Monetary Fund and the International Forum of Sovereign Wealth Funds to develop a set of voluntary, best-practice principles to maintain the free flow of cross border investment.

The Government applies a rigorous national interest test to all SOE investments. This is designed to examine whether SOE investments are transparent and commercial in manner and that investment and sales decisions are driven by market forces. Blanket bans on certain types of investment could risk unnecessary job losses and provoke retaliation against Australian investors overseas.

As outlined above, the ‘associates' provision in the FATA prevents related foreign investors from avoiding screening by each buying stakes below
15 per cent in an Australian company and using the total investment to wield control.

**Recommendation 2** – The Foreign Investment Board will be required to, as a point of consideration in its decision, assess whether Australia has reciprocal rights of investment in the proposer's country.

The Government notes this recommendation.

The Australian Government does not consider it appropriate to penalise foreign investors for the investment policies of their home country government. This would be inconsistent with Australia's international obligations, including with the Organisation for Economic Co-operation and Development (OECD), the World Trade Organization (WTO) and Australia's free trade agreement (FTA) commitments.

The role of the FATA is to provide for screening of incoming investment, it has no role in outwards investment. Assessment of the national interest could include such considerations but in general, reciprocity is not a useful guide to Australia's national interest.

However, the Australian Government will continue to advocate for foreign governments that have restrictive investment policies to liberalise their regimes for the benefit of Australian investors. We do this in a variety of ways, including through FTA negotiations, as FTAs cover a variety of issues including the investment regimes of each negotiating party.

**Recommendation 3** – The Government must look to enact effective laws to prevent creeping acquisitions of Australian businesses and assets owned by state-owned entities.

The Government notes this recommendation.

The Australian Government already has laws in place to monitor 'creeping acquisitions' of Australian companies and businesses by foreign investors.

The FATA allows the Government to review any increase in ownership beyond 15 per cent of an Australian company or business valued above $231 million.

For investments by SOEs and other entities with links to foreign governments, the Foreign Investment Policy allows the Government to review any direct investments in Australian companies or businesses regardless of the value of the company or business. This includes investments that increase an existing stake.

**Recommendation 4** – The Foreign Investment Review Board needs to provide clear criteria of what the 'national interest' test is and that abbreviated versions of FIRB advice to the Minister be tabled in both houses of Parliament.

Further, that the Government defines what it means by 'community interest' and 'common standards of business behaviour' and subject major investment proposals to rigorous public scrutiny to ensure that they meet genuine common standards of business behaviour.

The Government notes this recommendation.

In June 2010, the Australian Government published its Foreign Investment Policy, which explains the factors we consider when evaluating the national interest.

Specifically, the Government considers national security concerns, competition issues, the impact of the investment on Australia's revenue base and other policies, the impact of the investment on the Australian company, our economy and the broader community and the character of the investor. For foreign governments and their related entities, the Government also looks for evidence of a commercial basis for the investment.

The Government takes seriously the commercial-in-confidence nature of the investment proposals that it receives. It is not appropriate for the Government to release potentially market sensitive information on behalf of investors. This would undermine investor confidence and risk Australia's standing as a desirable investment destination.

The Government will continue, however, to release a statement whenever it determines that a foreign investment proposal raises national interest concerns.

**Recommendation 5** – That the human rights records of the country of state-owned entity seeking to invest in Australia be a key factor during consideration by the Foreign Investment Review Board. Similarly, that all foreign non-state-owned entities be subject to consideration of
their other investment activities and whether these conflict with Australia's ethical positions.

The Government notes this recommendation.

The Australian Government does not consider it appropriate to hold investors accountable for actions taken by its home country government, except in limited circumstances where Australia maintains formal sanctions against that country.

However, if there is evidence that the investor itself has breached human rights or undertaken other unethical behaviour, such actions will be considered when determining if the investment would be contrary to Australia's national interest. This has always been the case.

Parliamentary Joint Standing Committee on Migration

Negotiating the Maze: Review of arrangements for overseas skills recognition, upgrading and licensing

Government response - June 2011

Please note that since the release of The Joint Standing Committee report, the Department of Immigration and Multicultural Affairs (DIMA) has been renamed the Department of Immigration and Citizenship (DIAC). Where recommendations require input from DIMA, responses have been provided by DIAC. Similarly, the Departments of Employment and Workplace Relations (DEWR) and Education, Science and Training (DEST) are following machinery of government changes now the Department of Education, Employment and Workplace Relations (DEEWR).

Recommendations and Responses

1 Overview

Recommendation 1

The Committee recommends that, as part of its long term research on migration outcomes, the Department of Immigration and Multicultural Affairs collect enhanced data on migrant utilisation of overseas qualifications and other indicators of the effectiveness of overseas skills recognition processes.

Government response

Accepted

The Government notes this recommendation. The Australian Government does not consider it appropriate to hold investors accountable for actions taken by its home country government, except in limited circumstances where Australia maintains formal sanctions against that country.

However, if there is evidence that the investor itself has breached human rights or undertaken other unethical behaviour, such actions will be considered when determining if the investment would be contrary to Australia's national interest. This has always been the case.

Information on these issues has been collected by the Department of Immigration and Citizenship (DIAC) through the Longitudinal Surveys of Immigrants to Australia (LSIAs) and more recently the Continuous Survey of Australia’s Migrants (CSAM). These surveys measure the rate at which skilled migration principal applicants who have had their qualifications assessed are finding jobs related to their qualifications. This information is valuable in analysing the effectiveness of the skilled selection and assessment processes.

Response to recommendation 19 provided further, data from CSAM that suggests migrants who go through the skill recognition process have good skilled outcomes.

DIAC will continue to give careful consideration to incorporating other indicators of the effectiveness of overseas skills recognition processes in the CSAM including monitoring the experiences of migrants in negotiating the skill recognition processes. The information gathered in this way would then be used to help assess the effectiveness of the skill recognition processes and to improve them where necessary.

Recommendation 2

The Committee recommends that the fee charged for assessing Australian qualifications for the purpose of independent overseas student and skilled Australian sponsored visas (subclasses 880, 881 and 882) be waived, where that qualification is sufficient in and of itself to allow the applicant to qualify for their profession or trade.

Government response

Not accepted

One of the threshold criteria for the grant of a skilled migration visa is that the applicant has...
applied for an assessment of their skills for the skilled occupation they nominated in their application by a relevant assessing authority. This is a legislative requirement regardless of whether the applicant has obtained their qualifications in Australia or at an educational institution overseas. While the assessing authorities charge fees for skills assessment on a not-for-profit basis, the fees charged are at the discretion of the individual assessing authorities.

The Department of Education, Employment and Workplace Relations (DEEWR) undertakes to monitor each assessing authority annually, including looking at the fees they charge, the Government does not have a regulatory role in relation to fees charged for skills assessments and cannot direct the assessing authorities to charge differentially for skills assessments.

### 2 Policy coordination issues

#### Recommendation 3

The Committee recommends that the industry outreach officer network collect information on skills recognition barriers from an employer perspective, including feedback on delays, bridging requirements, work experience and other skills issues, and that the Department of Immigration and Multicultural Affairs incorporate this information into further policy development.

**Government response**

**Accepted**

DIAC has 13 Industry Outreach Officers (IOOs) working across 19 Industry groups on full time and part time placements.

The IOOs work with peak industry bodies to promote skilled entry mechanisms to employers. The IOOs meet with members and officers of the associations as part of their information delivery program.

The roles of the IOOs include reporting on difficulties that members have with the immigration arrangements. The feedback covers all aspects of the immigration requirements and may include difficulties with qualification assessments. The peak industry bodies and associations are also encouraged to bring these concerns to the Department’s attention directly.

The details of concerns and difficulties are discussed with the relevant assessing bodies or with the appropriate government agency.

#### Recommendation 4

The Committee recommends that the Department of Immigration and Multicultural Affairs and other stakeholders use the skills expos to provide clearer and more detailed information on overseas skills recognition processes to users, particularly licensing and registration requirements.

**Government response**

**Accepted**

Australia Needs Skills (ANS) expos form part of the overall promotional strategy for skilled migration undertaken by DIAC.

ANS expos are held overseas to facilitate opportunities for potential skilled migrants to meet with Australian employers including state and territory governments, with a focus on sponsorship opportunities.

ANS expos are highly targeted to attract skills in critical shortage. DIAC invites the attendance of relevant assessing authorities (eg Engineers Australia, the Nursing and Midwifery Council of Australia, CPA Australia and Vetassess). These bodies provide invaluable information on the skills recognition process to expo attendees.

DIAC is working in close consultation with state and territory governments to ensure the future expo program continues to be effective in targeting skills in need.

#### Recommendation 5

The Committee recommends that the Department of Immigration and Multicultural Affairs establish a mechanism to better capture information from the Migrant Resource Centres on the barriers faced by migrants in seeking skills recognition.

**Government response**

**Accepted**

DIAC has a close relationship with a range of settlement service providers, including Integrated Humanitarian Settlement Strategy contractors, Migrant Resource Centres and other settlement grant recipients. DIAC is in regular contact with
these service providers to discuss ways of improving the settlement outcomes of newly arrived humanitarian entrants and family stream migrants. DIAC is happy to share any information on the barriers to getting skills recognition with DEEWR and other government agencies involved in assessing skills recognition.

**Recommendation 6**

The Committee recommends that the Department of Employment and Workplace Relations (DEWR) work more closely with assessing authorities, industry groups and other stakeholders to ensure the Migration Occupations in Demand List (MODL) reflects, as precisely as possible, occupations and specialisations in demand at any particular time. To facilitate this, DEWR should develop a process to more regularly review the MODL - on a three monthly basis, at a minimum - and improve feedback on its accuracy and currency.

**Government response**

**Not Applicable**

On 8 February 2010, and following a formal review which included extensive stakeholder consultation, the Government announced the immediate revocation of the Migration Occupations in Demand List (MODL).

The Government also announced a review of the General Skilled Migration (GSM) points test to evaluate its effectiveness and ensure it selects migrants with skills the nation needs in the future. The review resulted in the development of a new points test to come into effect from 1 July 2011. The employer-sponsored temporary and permanent migration arrangements continue to provide a framework for meeting skill shortages which cannot be met through domestic employment and training.

**Recommendation 7**

The Committee recommends that the Department of Education, Science and Training accelerate the process of expanding and updating the Country Education Profiles and develop a process to periodically review and formally receive feedback on the accuracy and currency of that information.

**Government response**

**Partially accepted**

Country Education Profiles (CEPs) are an online product which are updated regularly as we receive information from other official government sources. The production schedule for new CEPs is determined by analysing factors such as source countries for international students, and stakeholder enquiries. Key internal and external stakeholders involved in international education provide input into the process to assist with determination of the priorities.

In addition to producing CEP updates, Australian Education International (AEI) also offers a free email advice service to educational institutions and professional bodies that subscribe to the CEPs Online.

All CEPs were reviewed prior to being published online in October 2005. In particular, the Lists of Institutions for all CEPs were updated as a priority, as these are critical to the assessment process by third parties.

**3 Overseas skills recognition framework**

**Recommendation 8**

The Committee recommends that the Department of Education, Science and Training implement a change of title for Australian Education International-National Office of Overseas Skills Recognition (AEINOOSR), with it to be referred to in future as Australian Education International (AEI). AEI should continue to perform the full range of functions currently undertaken by AEI-NOOSR.

**Government response**

**Not accepted**

AEI-NOOSR has a positioning brand within the network of assessment authorities, education institutions and other stakeholders. Changing the name would require extensive consultation and communication and a phased implementation. It may also cause potential confusion with the broader AEI grouping, which undertakes a range of functions far wider than those associated with skilled migration.
Recommendation 9

The Committee recommends that the Department of Education, Science and Training:

(a) take over the management of the Vocational Education Training and Assessment Services contract from the Department of Immigration and Multicultural Affairs (DIMA);

(b) improve its oversight, coordination and monitoring of assessing authorities;

(c) enhance its liaison and support role of assessing authorities; and

(d) improve its communication flows with assessing authorities, particularly concerning notice of policy changes by DIMA and the Department of Employment and Workplace Relations that may affect assessment processes.

Government response

Partially accepted

(a) This part of the recommendation has largely been overtaken by events. There have been significant changes in the skilled stream of the migration program since the report was published. This has included substantial changes to the skills assessing regime administered by VETASSESS, which followed detailed discussions with DIAC. DIAC’s formal contract with VETASSESS ceased on 30 June 2006. DIAC and DEEWR continue to cooperate closely in the administration of assessing bodies, including VETASSESS.

After extensive consultations and communications with assessing authorities in 2006, DEEWR implemented the new guidelines for monitoring professional assessing authorities in December 2006.

(b) Underpinning the consultation process was the importance of liaison with and support to assessing authorities. The new monitoring approach has formalised the liaison and support role by including an annual conference and ongoing contact by Departmental officers with assessing authorities.

(c) DEEWR is conscious of the need to keep assessing authorities for which it is responsible well informed about developments in policy that affect assessment processes. To this end, DEEWR has developed a regular newsletter that is sent to assessing authorities every two months. DEEWR also convenes an annual conference to inform assessing authorities of changes in policy impacting on their work. Attendees and presenters include assessing authorities and key Government departments, including DIAC. The new monitoring and support initiatives have been predicated on the need to improve further communication flows with assessing authorities.

(d) Considerable work has taken place to improve communication with assessing authorities. As an example, in the lead up to the change to the Points Test to be implemented from 1 July 2011, DIAC officers have visited or tele conferenced with all assessing authorities and held a conference to discuss the policy changes.

Recommendation 10

The Committee recommends that the Department of Immigration and Multicultural Affairs regularly update and continually monitor the content of the new Australian Skills Recognition Information website to ensure that it meets the varied needs of the different groups requiring overseas skills recognition, particularly with regard to ensuring the information is user-friendly to people from non-English-speaking backgrounds.

Government response

Accepted

The ASRI website has been designed to be user-friendly for all people including those from non-English-speaking backgrounds. While the majority of users of the website are potential skilled migrants who are required to have good English language skills to be accepted for migration, people with lower English skills are assisted to use the ASRI website through a summary of its purpose and function in seven major community languages – Arabic, Chinese, Dari, Hindi, Indonesian, Korean and Vietnamese. These are the top languages in common across the Skill and Family Streams and the Humanitarian Programme. These translated summaries allow non-English speakers to identify whether the ASRI website could be of use to them and then engage the assistance of an interpreter if necessary to find information relevant to them. It would not be practical to provide translation of all
material on the website as the site comprises many thousands of pages of content.

Professional user testing of the ASRI website involved 22 test subjects, specifically including two recently arrived humanitarian migrants from Africa, formerly holding skilled occupations. Both, with some assistance, were able to successfully navigate the website and locate information pertaining to skills recognition for their occupations.

DIAC receives regular feedback from users and stakeholders through the feedback mechanism on the ASRI website. DIAC will continue to monitor user friendliness through normal processes. The vast majority of feedback takes the form of advice of change of contact details for the organisations listed on the website. There has been no feedback at this time relating specifically to the issue of its user friendliness to people from non English speaking backgrounds.

**Recommendation 11**
The Committee recommends that the Department of Immigration and Multicultural Affairs add a ‘frequently asked questions’ section to the Australian Skills Recognition Information website.

**Government response**
Accepted in Principle

The vast majority of ASRI feedback emails received are notification of change of contact details for the organisations listed on the website. No direct questions have been posted as feedback regarding skills recognition processes; however, DIAC will continue to monitor and gather feedback data and if the need for a set of FAQs becomes apparent, a ‘frequently asked questions’ section will be added to the website.

**Recommendation 12**
The Committee recommends that the Department of Immigration and Multicultural Affairs ensure the Australian Skills Recognition Information website includes a link to other key DIMA documents relating to overseas skills recognition — for example:

- Form 1121i, the Skilled Occupation List, which indicates the assessing authority for each occupation and their assessment procedures; and
- fact sheets such as ‘How do you get your skills assessed’?

**Government response**
Accepted in Principle

The ASRI site has incorporated all the elements of Form 1121i. Links to ASRI are available from information pages on skilled migration. The ASRI site provides links to the relevant assessing authority allowing users to contact the assessing authority directly to obtain information on how to get their skills assessed. This allows the user to obtain relevant up-to-date information from the appropriate assessing authority. There is no longer a specific fact sheet on skills assessment – this has been overtaken by ASRI.
Recommendation 14
The Committee recommends that the Department of Immigration and Multicultural Affairs ensure key documents relevant to the migration process contain links to the Australian Skills Recognition Information website.

Government response
Accepted

There are numerous links throughout the DIAC website to the ASRI pages, including from all main pages to do with skilled permanent and temporary visas and from Settlement content. There are also links to ASRI from other Australian Government websites and ASRI is now cited on numerous other websites around the world.

Recommendation 15
The Committee recommends that the Departments of Immigration and Multicultural Affairs and Education, Science and Training work together to remove duplication between the Australian Skills Recognition Information and the Australian Education International-National Office of Overseas Skills Recognition websites—in particular, the occupation specific information.

Government response
Accepted

The part of the AEI-NOOSR website that duplicated information on ASRI was reference to Individual Professions Guides under the Guide to Professional Recognition:


To address possible confusion and to encourage the development of a single authoritative information portal, DEEWR, after consultation with DIAC, will remove the Individual Profession Guides and will link to ASRI.

Recommendation 16
The Committee recommends that the Department of Education, Science and Training update the introductory information on overseas skills recognition on the Australian Education International-National Office of Overseas Skills Recognition website to include a reference to registration and licensing.

Government response

Partially accepted

DEEWR has no role in the way professional bodies undertake registration and licensing as these activities take place under state law. DEEWR does acknowledge however that, because registration and licensing issues can influence the way skilled migration processes are perceived, it has a role in ensuring that assessing authorities provide clear and accessible registration and licensing information to clients where appropriate.

The AEI-NOOSR website refers individuals to the DIAC ASRI website to obtain registration and licensing information.

Recommendation 17
The Committee recommends that the Department of Immigration and Multicultural Affairs and the Department of Education, Science and Training (DEST), together with the assessing authorities overseen by DEST, continue to review the pre-migration information they provide on overseas skills recognition to ensure that:

- skills stream migrants understand they have only been assessed for migration purposes;
- sufficient detail is provided on licensing, registration and professional membership requirements; and
- additional information is provided on ways for potential migrants to build their employment readiness in Australia.

Government response

Accepted

The Government agrees that DEEWR, DIAC and assessing authorities will continue to collaboratively review pre-migration information on overseas skills recognition to ensure General Skilled Migration program information is comprehensive, clear and accurate.

Recommendation 18
The Committee recommends that, as part of its long term research on migration outcomes, the Department of Immigration and Multicultural Affairs and...
Affairs (DIMA) collect data, where privacy concerns allow, on:

- the experience of migrants in meeting registration, licensing and professional membership requirements, following completion of skills assessment processes; and

- any undue delays or other impediments to achieving successful employment outcomes because of these requirements.

DIMA should coordinate with the Department of Education, Science and Training and assessing authorities/professional bodies to assist in tracking this information.

Government response

Accepted

The Government agrees that the experiences of migrants in negotiating the registration/licensing and professional membership process should be better monitored, not least because DIAC places a high premium on client service and client feedback.

DIAC will continue to carefully consider the option of monitoring skills assessment and licensing experience of skilled migrants in the CSAM surveys.

The results of the latest published CSAM data show good outcomes for skilled migrants in employment and skilled employment. The unemployment rate of skilled migrants was just 5 per cent (a figure below the 5.7 per cent national unemployment rate at the time of the survey) and their participation rate was 95 per cent. The vast majority of skilled migrants have therefore in a short period of time become active participants in the Australian labour market. For independent General Skilled Migrants from offshore, more than 90 per cent were in skilled job (www.immi.gov.au/media/research/surveys/CSAM).

Recommendation 19

The Committee recommends that the Department of Education, Science and Training increase the transparency of its monitoring arrangements and foster improvements in procedures by:

(a) immediately formalising its monitoring of assessing authorities, including establishment of an annual reporting arrangement, and communicating details of the full scope of this role to all stakeholders;

(b) arranging for a statement clarifying full details of its monitoring role to appear on the Australian Skills Recognition Information website, with a contact point for complaints handling;

(c) working with the professional bodies to agree on appropriate monitoring, reporting and accountability arrangements to cover overseas skills recognition processes undertaken by these bodies for other groups with overseas qualifications (family stream migrants etcetera) outside of the skilled migration stream, with these arrangements to be communicated to all stakeholders; and

(d) arranging for the performance and other statistical reporting data it collects from the assessing authorities, where privacy concerns allow, to be made publicly available.

Government response

Partially accepted

(a) The response to 9b above addresses this recommendation.

(b) ASRI will contain a link to the following information after it is posted on the AEI website:

 DEEWR supports Australia’s General Skilled Migration program by approving, recommending for gazettal and monitoring the following professional assessing authorities:

 Architects Accreditation Council of Australia
 Australasian Institute for Teaching and School Leadership
 Australasian Podiatry Council
 Australasian Veterinary Boards Council
 Australian and New Zealand Society of Nuclear Medicine
 Australian Association of Social Workers
 Australian Computer Society
 Australasian College of Physical Scientists and Engineers in Medicine
 Australian Dental Council
 Australian Institute of Medical Scientists
 Australian Institute of Quantity Surveyors
Australian Institute of Welfare and Community Workers
Australian Nursing and Midwifery Council
Australian Pharmacy Council
Australian Physiotherapy Council
Australian Psychological Society
Certified Practising Accountants of Australia
Council of Occupational Therapists Registration Boards
Council on Chiropractic Education Australia
Dietitians’ Association of Australia
Engineers Australia
Institute of Chartered Accountants of Australia
National Accreditation Authority for Translators and Interpreters
National Institute of Accountants
Optometry Council of Australia and New Zealand
Osteopaths Registration Board of Victoria
Spatial Sciences Institute
Speech Pathology Australia
(c) DEEWR supports Australia’s General Skilled Migration program by facilitating the approval of professional assessing authorities in accordance with the Migration Regulations 1994. There has been no discussion of expanding the work of assessing authorities to include “groups with overseas qualifications (family stream migrants etc) outside of the skilled migration stream.”

(d) Assessing authorities submit General Skilled Migration statistical information to DEEWR biannually in the context of DEEWR’s monitoring and support role. DEEWR, DIAC and individual assessing authorities are the appropriate audience for the data. Collated information is not available for release to the public domain.

Recommendation 20
The Committee recommends that the Department of Immigration and Multicultural Affairs include a link on the Australian Skills Recognition Information website to the Department of Education, Science and Training’s Good Practice Guide for the Assessment and Recognition of Overseas Qualifications and Skills for the Purposes of Migration.

Government response
Not Accepted
DEEWR’s annual program of monitoring and support initiatives has subsumed publication of the The Good Practice Guide.

4 Professions: skills recognition issues

Recommendation 21
The Committee recommends that the Department of Education, Science and Training, as part of its monitoring of assessing authorities, review the occupational specific concerns relating to overseas skills assessment procedures raised in the evidence in Figure 4.1 and, as appropriate, address those concerns, with a report back to the Committee.

Government response
Accepted
DEEWR’s annual program of support activities takes into consideration the issues raised in the evidence in Figure 4.1.

It should be noted that DEEWR does not have responsibility for all the parties and assessing authorities cited in Figure 4.1. Those that lie outside DEEWR’s purview are Anaesthetists, Law, Library Management, Medical and Planning.

Recommendation 22
The Committee recommends that the Department of Education, Science and Training review inconsistencies in the skills assessment procedures of assessing authorities, with reference to the first section of Chapter 4 of the Committee’s report, and work with assessing authorities to remove such inconsistencies, where appropriate, to ensure efficient and effective assessment processes.

Government response
Accepted
DEEWR acknowledges the importance of consistency in skills assessment practices within and across the assessing authorities for which it is responsible.
Recommendaition 23
The Committee recommends that the Department of Education, Science and Training review assessment completion times across all the assessing authorities with a view to expediting decisions.

Government response
Accepted
DEEWR’s annual program of support activities includes review of assessment completion times. Assessing authorities have established average handling times and continue to seek to improve these where possible.

Recommendation 24
The Committee recommends that the Department of Education, Science and Training (DEST) monitor assessment fees and work with assessing authorities to ensure these fees are reasonable and have been determined on a not-for-profit basis. DEST should also monitor exam failure rates and work with assessing authorities to address, as appropriate, any significant anomalies in this area.

Government response
Partially accepted
Through its support role, DEEWR advocates fees for General Skilled Migration program skills assessments and related services to be determined on a not-for-profit basis. Unreasonably high fees may pose a barrier to migration. Assessing authorities must notify DEEWR of their intent to change fees, providing a justification and likely impact on prospective applicants.

Exam failure rates are problematic to monitor. Many exams conducted by assessing authorities are for registration and membership/professional development purposes rather than migration purposes. Some of these are conducted under state and territory law. As such, DEEWR has no direct influence in the way they are conducted. However, because exams may link with how an assessing authority is perceived and by implication, the perceived efficiency of the General Skilled Migration program, it is in DEEWR’s interest to work with assessing authorities, to the extent that it is able, to ensure that the assessing authority’s processes are efficient and transparent. Through its support activities, DEEWR is also able to work as an information conduit, facilitating the sharing of information between assessing authorities that have exam issues in common.

Recommendation 25
The Committee recommends that Commonwealth agencies involved in implementing the new accreditation body for the health professions clarify as soon as possible how the development of a national approach for the assessment of the education and training qualifications of overseas trained health workers will impact on the current roles of the assessing authorities/professional bodies in this area, as well as on the Department of Education, Science and Training in its monitoring role for these authorities.

Government response
Accepted
On 26 March 2008, the Commonwealth was party to a COAG signed Intergovernmental Agreement to implement the National Registration and Accreditation Scheme for the health professions (the Scheme). Under the Scheme, the Australian Health Practitioners Regulation Agency has the responsibility to engage external accreditation entities for the respective professions under the Scheme. Existing external accrediting authorities will continue for at least the first three years of the Scheme.

DEEWR continues to work with those assessing authorities included in the National Registration and Accreditation Scheme for the health professions, to ensure there is minimal impact of the Scheme’s implementation on 1 July 2010 on prospective migrants.

Recommendation 26
The Committee recommends that, in light of the serious concerns that have been raised with the Committee about overseas skills assessment processes for overseas trained doctors (OTDs), the Department of Health and Ageing should ensure initiatives announced by the Council of Australian Governments (COAG) to establish a national process for the assessment of OTDs are
implemented by the COAG agreed timetable of December 2006.

**Government response**

**Completed**

The Department of Health and Ageing has worked closely with jurisdictional representatives to complete the implementation of national assessment processes for overseas trained doctors (OTDs).

On 9 October 2008, AHMAC noted the final report of the Technical Committee for Nationally Consistent Assessment of OTDs that demonstrated implementation by Health Ministers and Health Departments of the July 2006 COAG decision.

The new national Medical Board of Australia supports the adoption and application of nationally consistent processes and pathways under the National Registration and Accreditation Scheme for the health professions.

**Recommendation 27**

The Committee recommends that the Department of Health and Ageing urgently address, as part of the recently announced Council of Australian Governments initiatives, the provision of:

(a) orientation and support services to overseas trained doctors (OTDs), particularly those located in rural and remote areas; and

(b) targeted bridging courses for OTDs.

**Government response**

**Completed**

The Department of Health and Ageing funds programs to assist OTDs and overseas trained specialists with up-skilling, orientation, mentoring and bridging courses to aid their transition into the Australian workforce. The COAG, under the National Partnership Agreement on Hospital and Health Reform (NPA), agreed to implement an International Recruitment Program. The International Recruitment Program is intended under the NPA to facilitate training and employment services for international health professionals.

**Recommendation 28**

The Committee recommends that the Department of Education, Science and Training work with the Department of Immigration and Multicultural Affairs to add a new section on training to the Australian Skills Recognition Information website. The website should emphasise the need to consult with assessing authorities before undertaking any education and training to ensure that the course will actually contribute to a successful skills assessment in their profession.

**Government response**

**Accepted in principle**

The ASRI site explains the processes persons must undertake before they can get their skills recognised, licensed or registered. This may include additional training and the site encourages people to check requirements with the assessing authorities or State/Territory licensing bodies. Links to the Overseas Qualifications Unit (OQU) in every state and territory are provided; this may include additional training information. They also hold the most up-to-date local skills recognition and training information. This approach was agreed on by state and territory government stakeholders during the consultative development of the website.

**Recommendation 29**

The Committee recommends that the Department of Education, Science and Training, as part of its international education policy oversight role, monitor education and training, including bridging courses, undertaken in Australia for skills assessment and migration purposes to improve communication to users.

**Government response**

**Accepted**

DEEWR as part of its domestic and international role monitors education and training, including bridging courses, undertaken in Australia and maintains a dialogue with DIAC in relation to migration related issues.

DEEWR will continue to work with assessing authorities to ensure that information they provide to clients about education and training, including bridging courses, is accurate and accessible.
Recommendation 30
The Committee recommends that the Department of Education, Science and Training, in its monitoring role of assessing authorities, work with the Australian Council of Physiotherapy Regulating Authorities (now the Australian Physiotherapy Council) to ensure its processes are consistent with best practice, and report back to the Committee on this matter.

Government response
Accepted
The Department of Education, Employment and Workplace Relations (DEEWR) works with the Australian Physiotherapy Council (APC) to ensure its migration skills assessment processes are consistent with good practice. Through its annual program of assessing authority support activities DEEWR has in place mechanisms to facilitate APC to establish processes to provide a transparent and effective service to prospective migrants. This has seen APC implement a suite of initiatives to standardise and improve information and support resources, both on shore and offshore, for prospective migrants seeking assessment from APC. APC will evaluate the outcomes of these initiatives in due course.

Department of Health and Ageing response
Note that physiotherapy is included in the National Registration and Accreditation Scheme for health professions under which the APC is assigned as the accreditation authority for the physiotherapy profession. The Physiotherapy Board of Australia will approve accreditation standards developed by the APC.

Recommendation 31
The Committee recommends that the Department of Education, Science and Training, in its monitoring role of assessing authorities, work with the Council on Chiropractic Education Australasia to ensure its processes are consistent with best practice, and report back to the Committee on this matter.

Government response
Accepted
Through its annual program of assessing authority support activities the Department of Education, Employment and Workplace Relations works with the Council on Chiropractic Education Australasia (CCEA) to ensure its processes are consistent with good practice. This includes implementation of short and longer term strategies to address issues raised in the JSCM report ‘Negotiating the Maze’.

Department of Health and Ageing response
Note that chiropractics is included in the National Registration and Accreditation Scheme for health professions under which the CCEA is assigned as the accreditation authority for the chiropractic profession. The Chiropractic Board of Australia will approve accreditation standards developed by the CCEA.

Recommendation 32
The Committee recommends that the lead Commonwealth agencies responsible for migration, employment and international education policy—the Departments of Immigration and Multicultural Affairs, Employment and Workplace Relations, and Education, Science and Training—implement processes to ensure:

(a) a rapid response to concerns raised by assessing authorities/professional bodies about specific occupational oversupplies or undersupplies that might impact on successful migration and employment outcomes; and

(b) there is improved coordination between migration employment policy and international education policy to avoid occupational oversupplies such as those that have occurred in accounting and information and communications technology.

Government response
Accepted
The Government announced a number of reforms to the skilled migration program in February 2010, following the Government’s review of the Migration Occupations in Demand List. The reforms aim at delivering a more responsive and targeted skilled migration program. Key reforms have included:

- The introduction of a new Skilled Occupation List, based on annual advice from the independent statutory authority Skills Australia. Skills Australia uses a combination of economic data, labour market data and
detailed information to identify those occupations which will target Australia’s skilled migration program towards skilled migrants who will deliver the high value skills Australia needs,

- A review of the points test that has led to a new points test to come into effect from 1 July 2011,
- Revocation of the Migration Occupation in Demand List, and
- The development and introduction of state and territory migration plans to allow them to address skills shortages specific to their jurisdiction.

These reforms have resulted in a program designed to better meet Australia’s varied skilled labour needs, including specific employer needs, regional needs and medium to long term skills requirements.

**Recommendation 33**

The Committee recommends that the Department of Education, Science and Training, as the new manager of the Vocational Education Training and Assessment Services (VETASSESS) contract, review VETASSESS processes to enable it to broaden its skills assessment regime to allow competency based assessment and recognition of work experience.

**Government response**

Not Accepted

This recommendation is predicated on the acceptance of recommendation 9a) of this report which deals with the proposed transfer of the management of the VETASSESS contract from DIAC to DEEWR. For the reasons outlined in the response to recommendation 9, the government is not able to accept the recommendation without substantial consultation. Until such time as a decision is made regarding the contract management of VETASSESS, DEEWR is unable to consider undertaking the review of VETASSESS processes contained in this recommendation.

**Recommendation 34**

The Committee recommends that the Department of Immigration and Multicultural Affairs update:

(a) the occupational specific information for librarians and library technicians on the Australian Skills Recognition Information (ASRI) website to notify potential migrants of the need to contact the Australian Library and Information Association to obtain information on membership requirements of the professional body necessary to gaining employment in these occupations in Australia; and

(b) the generic information across all occupational entries on the ASRI website to ensure there is a reference to membership of professional bodies being a formal requirement to work in certain professions.

**Government response**

Accepted

(a) DIAC has incorporated the amendment regarding librarians and library technicians.

(b) The ASRI website meets this requirement. Under the heading “Industry Association Memberships” for every occupation, the following advice is provided, in addition to all contact details for professional organisations of which we have been made aware:

“You may benefit from becoming a member of a relevant industry association for your occupation. This could help you with your employment prospects, networking, contact with industry and professional development and may provide you with important information and support.”

Advice as to the need in some occupations for membership of a professional body is most appropriately provided by the relevant assessing body.

**5 Trades: skills recognition issues**

**Recommendation 35**

The Committee recommends that the Skilled Occupation List be amended to include a prominent statement at the start of the document that additional assessments for registration or licensing purposes may be required on arrival in Australia, before an applicant can commence work, and that additional training might be required.
Government response

Accepted in Principle

While agreeing that it is important that applicants are aware of the difference between a skills assessment for migration purposes and assessments that may be required for registration or licensing, the government considers that the ASRI website is a more appropriate location for such a statement than on the Skilled Occupation List (SOL). Indeed, the current version of ASRI advises whether there is a licensing requirement in the entry level requirement section.

Recommendation 36

The Committee recommends that the Department of Immigration and Multicultural Affairs, along with the Department of Employment and Workplace Relations and the Department of Education, Science and Training, review the assessing authorities in the trades and technical areas to ensure some consistency of approach in allocation of trades to either the Vocational Education Training and Assessment Services or Trades Recognition Australia.

Government response

Noted

It is considered that the implementation of ASRI has greatly reduced any potential for confusion in this area.

Recommendation 37

The Committee recommends that the operation of the new system of overseas assessment due to be in place in the five target countries by July 2007 be assessed by a tripartite group comprising industry, union and public service representatives.

Government response

Accepted and Implemented

A new system of overseas assessment was implemented from 1 September 2007 in five high volume source countries for ten trade and associated supervisory occupations. The program has been run on behalf of the Australian Government by a consortium of Registered Training Organisations (RTOs), operating under the National Skills Framework (including the Australian Quality Training Framework and Training Packages). The lead Consortium member entered into a Service Deed with the Australian Government, and was also gazetted as the Authorised Assessing Authority for the trades and countries included in the Program.

Key stakeholders, including Commonwealth and State/Territory representatives, peak industry and employer groups and unions were involved in the program development. Employer and union representatives have participated in offshore monitoring activities with TRA. An evaluation of the new system is currently being finalised.

Recommendation 38

The Committee recommends that Trades Recognition Australia transfer officers to state and territory Overseas Qualifications Units (or their equivalent), where justified by demand, to provide direct liaison with all stakeholders to assist in the implementation of the Council of Australian Governments reforms.

Government response

Not accepted

Out posting of TRA officers to state OQUs is not under consideration. TRA consults with stakeholders including OQUs as required.

Recommendation 39

The Committee recommends that, during the period leading up to the introduction of new offshore processing arrangements, Trades Recognition Australia (TRA) expand its international telephone service hours to improve access for the five main source countries for trades. In addition, TRA should ensure that telephone contact from within Australia can be made to both its Canberra and Melbourne offices during normal business hours.

Government response

Accepted

TRA conducted a trial of extended opening hours of both its domestic and international application stream telephone enquiry lines in the last half of 2006. As a result of the trial, phone hours were extended.

Recommendation 40

The Committee recommends that the Tradesmen’s Rights Regulations Act 1946 be repealed, and Trades Recognition Australia cease
to conduct domestic assessments of skills in the electrical and metal trades.

Government response
Noted
TRA administers the Act to provide national recognition in prescribed metal and electrical trades for Australian residents who developed their skills through means other than an Australian apprenticeship.

Recommendation 41
The Committee recommends that Trades Recognition Australia confine its activities to the international assessment of overseas qualifications for migration purposes, in line with the Council of Australian Governments directives to guarantee the quality of assessments and protection of Australian standards.

Government response
Noted
TRA is committed to ensuring the quality of assessments undertaken and protecting Australian standards.

Recommendation 42
The Committee recommends that, subject to the Council of Australian Governments’ agreement, a state-based trade recognition system be instituted, based around the Australian Qualifications Framework, for those trades currently covered by the Australian Recognised Trade Certificate system.

Government response
Noted
The Tradesmen’s Rights Regulations Act 1946 is currently under review.

6 International practice and agreements
Recommendation 43
The Committee recommends that the Australian Government continues to encourage and assist professional regulatory authorities to expand their use of bilateral and multilateral international mutual recognition arrangements, while ensuring that Australian standards are not compromised. In particular, the Committee recommends improved policy oversight to facilitate this initiative.

Government response
Accepted and In Progress
Australia has had a longstanding agenda to improve qualifications and professional recognition systems and has pursued this agenda through a number of different fora in the regions including the Australia Pacific Economic Cooperation (APEC) Human Resource Development Working Group (HRDWG) and more recently through the Australian initiated Asia-Pacific Ministers of Education meeting.

The absence of effective recognition systems represents a significant behind the border barrier to trade and investment in the APEC economies. Australia will continue to use the HRDWG to identify opportunities and propose initiatives for professional associations and the education and training industry to pursue mutual recognition agreements with their counterparts in APEC economies and to facilitate transferability of higher education qualifications, particularly in priority areas identified by industry.

The inaugural Asia-Pacific Ministers of Education meeting in Brisbane in April 2006 saw agreement on four broad goals contained in the official document of the meeting, the Brisbane Communiqué. The recognition of educational and professional qualifications was acknowledged as fundamental to improving mobility and has been articulated as one of the four goals to progress. Australia has taken a leadership role in supporting the achievement of these goals in the establishment phase of this process.

Recommendation 44
The Committee recommends that the Department of Foreign Affairs and Trade coordinate, on behalf of the Australian Government, an annual report to be tabled in parliament on international skills recognition and licensing arrangements. The report should cover the progress in establishing, implementing and monitoring inter-governmental and mutual recognition arrangements, including the Trans-Tasman Mutual Recognition Arrangements, the Asia-Pacific Recognition Convention, the Lisbon Recognition Convention, the recognition measures in the free trade agreements and the General Agreement on Trade in Services.
Government response
Noted

The primary responsibility for international skills recognition and licensing arrangements lies with professional bodies themselves and with State authorities. Many mutual recognition arrangements are negotiated directly between respective professional bodies without the involvement of the Department of Foreign Affairs and Trade (DFAT) or other Australian Government agencies. It would therefore not be appropriate that DFAT prepare an annual report of the kind suggested by this recommendation. The role of the Department is to facilitate such agreements where appropriate, for example in free trade agreements, and where applicable, to provide guidance on relevant international obligations, including the General Agreement on Trade in Services.

DEEWR has the responsibility of following most of the international recognition programs mentioned in the report. In terms of the Trans-Tasman Mutual Recognition Arrangements (TTMRA), which establishes equivalencies for the registration or licensure of occupations, implementation is facilitated through the registration requirements set by professional bodies, which are established under state/territory legislation. Under the Australian Government’s Administrative Arrangements Order, the role of DEEWR with regard to TTMRA is to support the development of policy advice and to respond to issues raised concerning administration of the legislation where appropriate, limited to professional occupations.

Through DEEWR’s participation in the implementation of international cooperative arrangements, such as the Lisbon and Asia-Pacific Recognition Conventions, relevant progress and issues raised through their implementation can be monitored. DFAT provides support to DEEWR where appropriate in following the implementation of these arrangements.

7 Other issues in overseas skills recognition
Recommendation 45

The Committee recommends that:

(a) applicants under the skills stream, employer sponsored (including Labour Agreements) and temporary visa categories such as the 457 visa be required to have vocational English as a minimum standard;

(b) the Department of Immigration and Multicultural Affairs specify the manner in which language proficiency is assessed; and

(c) an independent evaluation be conducted to ensure that consistent standards of English language competence are being applied.

Government Response: Partially accepted

The Government has announced changes to policy settings relating to English language proficiency that will achieve a higher degree of consistency across the suite of temporary and permanent skilled migration visa products than exists at present. However, the Government considers that some flexibility in the policy settings is desirable and consistent with the different dynamics and the different target groups that apply to various visa classes.

There have been a number of changes to policy settings on English language proficiency since the Negotiating the Maze report was finalised. The English language requirement for GSM was increased to International English Language Testing System (IELTS) 6 (Competent English – ie above vocational) for most occupations (professional, managerial and technical) in September 2007. From 1 July 2009, the English language requirement for all GSM applicants who nominate a trade occupation has also been increased, to a minimum of IELTS 6.0 in each of the four components of the IELTS test. For provisional GSM visa subclasses, the threshold English language standard for applicants with Concessional Competent English who are sponsored and have enrolled in an English language course will be raised from an average of 5.5 to an average of 6.0. This change affects offshore GSM visa subclasses from 1 July 2009 and onshore GSM visa subclasses from 1 January 2010.

GSM applicants who are not sponsored by an employer are expected to compete in the skilled labour market. Relevant research suggests that English language proficiency is a critical determinant of labour market outcomes for skilled
workers in these labour market sectors. The raising of the GSM IELTS requirements will support better outcomes for these migrants.

A new English language requirement introduced to the Subclass 457 – Business (Long Stay) visa program on 1 July 2007 required applicants to have proficiency in English equivalent to an average score of 4.5 across the four test components in the IELTS test (applicants must meet a higher level of English proficiency where this is required for licensing or registration in their nominated occupation). On 14 April 2009 further changes increased the minimum English language requirement from IELTS 4.5 to IELTS 5 for the Subclass 457 Visa program. The increased English language requirement will help to ensure overseas workers are able to respond to occupational health and safety risks, raise any concerns about their welfare with appropriate authorities and benefit Australia by sharing their skills with other workers.

In relation to 45b of the Committee’s recommendation, the Government does prescribe the manner in which English language proficiency is assessed.

In relation to 45c of the Committee’s recommendation, the Government has a number of formal consultative arrangements which aim to evaluate the effectiveness of various elements of the range of skilled migration visas including the English language proficiency requirements. These arrangements include the Skilled Migration Consultative Panel which meets regularly and includes state governments, unions and industry representatives.

Recommendation 46

The Committee recommends that the Department of Immigration and Multicultural Affairs extend its fee-free document translating service, to provide for three documents in each category for each eligible visa holder.

Government response

Accepted

The Department’s Fee-Free Translating Service supports positive settlement outcomes for clients in the areas of education, employment and community participation by providing fee-free translation of personal, settlement-related documents during their first two years of settlement in Australia. The policy allows for a potential, 20 documents per eligible individual to be translated under the following categories:

- **Identity and Relationship** - up to 6 documents (eg birth certificates, marriages certificates, change of name, divorce certificate, custody documents and death certificates).
- **Facilitation** - up to 4 documents (eg drivers licence, medical certificates, police certificates).
- **Education & employment** - up to 7 documents (eg highest academic achievement, trade certificates, employment certificates, references, transcript of academic record).

Usage statistics for the fee-free translating service in 2009-10 indicate that close to 82 per cent of all individuals accessing the service had only one document translated, less than seven per cent had more than two documents translated, and less than one percent of individuals had more than five documents translated.

Recommendation 47

The Committee recommends that the Department of Immigration and Multicultural Affairs explore local work experience initiatives in a further review of migrant settlement services in 2007. The review should consider the development of new service options for migrants and humanitarian entrants that would allow them to gain work experience early on in their job search and provide them with scope to combine work experience with English language and other training elements, with a particular emphasis on workplace culture and use of technology. The role of professional bodies in providing transition to work programs should also be considered. This review would also look at English language training, particularly industry specific language courses.

Government response

Accepted

The Australian Government committed $49.2 million in the 2008/09 Budget over four years to strengthen measures to help refugees and other migrants to gain the language skills needed to join the Australian workforce. Of this, $40 million was provided for the Employment Pathways
Program and $9.2 million for the Traineeships in English and Work Readiness Program.

The Employment Pathways Program aims to help people with low levels of literacy to learn English in formal and informal settings while gaining familiarity with Australian workplace culture and practices. It includes work experience, occupational health and safety training and other employment preparation skills.

The Traineeships in English and Work Readiness Program aims to help new arrivals transition into their professional field or into vocational training by offering them a combination of vocation specific English language tuition, together with work experience and mentoring.

The goal for clients undertaking these programs is direct employment, further vocational training or a traineeship. Both programs are available on a full or part-time basis, but it is expected that participants will complete the program within 6 months. Vocational Counsellors counsel participants about their employment goals and options, organise work placements and provide support.

Successful features of the Employment Pathways Program and Traineeships in English and Work Readiness Programs will be combined in a Settlement Language Pathways to Employment/Training Course (SLPET) which will be delivered from 1 July 2011 through the AMEP's new business model.

Recommendation 48

The Committee recommends that the settlement process for those who have not undergone a skills assessment prior to arrival should include a listing of their qualifications and previous work experience, and that, subject to the individual’s agreement, this information be made available to those involved in provision of settlement services and to the relevant state or territory OQU.

Government response

Accepted in Principle

All applicants for a visa under the Offshore Humanitarian Programme complete the form 842 Application for an Offshore Humanitarian Visa.

The 842 application form requests information about an applicants’:
- employment history in the past 15 years, including periods of unemployment
- main language, other languages and level of spoken English
- education - primary to post-secondary

However, this is generally a self assessment, and eligibility for a humanitarian visa is not determined by an applicant's skills, employment experience or knowledge of English. It is primarily determined by the strength of their humanitarian claims. Many humanitarian applicants have minimal, and sometimes no, education or employment skills.

Some information related to applicants' education and skills is recorded in IRIS, the offshore visa processing system which records details of all Humanitarian and other visa applications. These information fields in IRIS allow for the reporting of occupation code, main language, reading ability, English ability, number of years of schooling, further education, rural or urban background.

This information is used to help DIAC determine where to settle unlinked humanitarian entrants (those without family or community links in Australia). It is also passed on to the settlement service provider who is responsible for settling new arrivals. Service providers are responsible for facilitating successful settlement using a case management approach. Settlement services include (but are not limited to) providing information and referral services to link the new arrival to the appropriate government services.

In the case of Family Stream migrants, partner forms do ask people to list their current occupation. However the information they provide is based on a self assessment made by the applicant. The visa office makes no assessment of this declaration. When entering case data in IRIS, the Australian Standard Classification of Occupations (ASCO) field requires mandatory completion, however based on the self defined information provided on the form, any report on ASCO codes for partner applicants would not be very reliable. Also, as it is not mandatory to complete the occupation question on the
application form, any report generated would include a large number of non-stated.

Consideration has been given in the past to including additional questions in the application form, relating to occupation, skill/education levels, however this has not been pursued, because of concerns it may raise unnecessary angst among applicants if they thought that the information they provided on skill levels and/or, occupations may have some bearing on the assessment of their visa.

Recommendation 49
The Committee recommends that the Departments of Education, Science and Training, and Immigration and Multicultural Affairs undertake a scoping study on the potential of an online professional mentoring program targeting prospective skilled migrants in Australia. Such a program would recruit industry volunteers to provide general advice to prospective migrants on skills recognition, licensing, employment and related matters, based on the Canadian model described in Chapter 6 of the report.

Government response
Accepted in Principle
With appropriate resourcing, DEEWR agrees to undertake this work.

Recommendation 50
The Committee recommends that, given the lack of consolidated information on bridging courses around Australia, the Department of Education, Science and Training undertake a detailed audit of the availability of such courses, the costs and time commitments involved, the uptake rate of various courses and, most importantly, the success rates of bridging courses in enabling individuals with overseas qualifications to gain successful skills recognition. The results of the audit should be made publicly available—for example, on the Australian Skills Recognition Information website.

Government response
Noted
This work is not currently undertaken by DEEWR. The issue is complex, crossing Commonwealth and State and Territory jurisdictions and private and public sector providers. Considerable resources would be required to scope and develop a system to provide the requested information.

Recommendation 51
The Committee recommends the creation of a Higher Education Contribution Scheme type system to allow humanitarian stream entrants with some level of trade qualifications to undertake appropriate courses to enable them to work in their trade occupations.

Government response
Accepted
Vocational Education and Training fee-help was introduced in the 2007/08 Budget, and was further extended in Victoria in August 2008.

Recommendation 52
The Committee recommends Job Network contracts be revised to enable the agency to assist eligible overseas qualified job seekers pursue (through additional training, for example) occupations in which they have existing skills and experience, rather than immediately place them in any position available, including unskilled positions.

Government response
Not accepted
Finding and securing employment is a key component to successfully settling in Australia. Job Services Australia (which replaced Job Network in the delivery of Government employment service assistance on 1 July 2009) offers a range of services tailored to meet the individual needs of eligible jobseekers. Humanitarian and refugee entrant jobseekers have immediate access to the full range of services provided by Job Services Australia. Other migrant jobseekers have a two year waiting period to access the full range of services, and are eligible for Job Search Support only.

Recommendation 53
The Committee recommends that the Department of Education, Science and Training conduct a review of the Assessment Fee Subsidy for Disadvantaged Overseas Trained Australians to determine how well it is meeting the needs of humanitarian entrants and what could be done to
improve its operation in this area, in terms of communication, coverage of occupations and the criteria for eligibility.

**Government response**
**Not Accepted**

Humanitarian entrants who are permanent residents are eligible to apply for funding assistance through the Assessment Subsidy for Overseas Trained Professionals Program (ASDOT) to support the assessment of their professional qualifications and skills gained overseas, in order to enter their profession in Australia.

A communication strategy to improve the level and breadth of information publicly available on the ASDOT program, including eligibility requirements, approved professions and the application process, has been implemented jointly between the Department of Education, Employment and Workplace Relations and Centrelink.

The program continues to fully expend its financial year appropriation and as such, will not be reviewed or expand in its scope.

**Recommendation 54**

The Committee recommends that the Department of Immigration and Multicultural Affairs monitor the use of English language tuition by humanitarian entrants and review the Adult Migrant Education Program to ensure that it meets the needs of humanitarian entrants.

**Government response**
**Accepted**

The Adult Migrant Education Program (AMEP) has a long tradition of providing English skills in a specifically settlement context, teaching English while introducing eligible migrant and humanitarian entrants to Australian social norms and practices, services, and the rule of law.

The Adult Migrant Education Program (AMEP) is available to eligible clients, who are entitled to up to 510 hours of tuition or until they reach functional English, whichever comes first. Additional tuition of up to 400 hours is available to humanitarian entrants with low levels of formal schooling or those who have had difficult pre-migration experiences, such as trauma or torture.

In addition to the 510 hours of tuition, eligible clients can also undertake an employment focused course which assists them to learn vocational-specific English while gaining familiarity with Australian workplace culture and practices. To achieve this, the course employs workplace visits, simulated work environments and work experience placements.

The AMEP is not mandatory and the decision to participate in the course resides with the client. However the program is intentionally structured to be accessible to clients and adaptable to their needs. AMEP classes are available in more than 250 locations in metropolitan, rural and regional Australia. Flexible delivery is a key component of the AMEP and clients can choose to undertake full or part time courses in a class environment in a learning centre or a community setting. Alternatively, clients are able to participate in the program in their own home through distance learning or the home tutor scheme. The AMEP also provides free childcare services, education counselling and referrals to other Government and community programs to encourage access and benefit clients.

The AMEP was subject to review in 2008. The review considered all aspects of the program, in particular, whether the program is meeting the needs of its clients, including humanitarian entrants. The findings of the review were incorporated into the new AMEP business model, put to tender in late 2009.

As part of the new business model the number of AMEP counsellors is being increased. The role of the counsellor is to provide AMEP clients with increased support at entry and exit to AMEP, by identifying agreed learning pathways for students throughout their tuition and providing referrals to other appropriate services, as required.

DIAC has awarded a new single national contract to deliver distance/e-learning services for the Adult Migrant English Program to the AMEP Flexible Learning Network (AMEP FLN). The contract will commence on 1 July 2011.
Recommendation 55

The Committee recommends that the Departments of Immigration and Multicultural Affairs and Education, Science and Training review the current processes followed by assessing authorities to determine if further steps need to be taken to combat document and identity fraud.

Government response

Accepted and in progress

Integrity screening (including document and identity fraud detection and prevention) is a central component of the skills assessment process. There is ongoing dialogue between DIAC and DEEWR on fraud prevention issues in both the skills assessment system and the broader visa system. The process of appointing new assessing authorities and monitoring existing authorities includes evaluation of their capacity to manage integrity processes.

Importantly, on a practical level, there is ongoing interaction and information sharing between DIAC and DEEWR and various skills assessing authorities on document and identity fraud issues, trends, detection and prevention strategies.

On 2 April 2011, an amendment to the Migration Regulations 1994 (the Regulations) took effect, introducing a new Fraud Public Interest Criterion (PIC) 4020. This PIC enables DIAC to refuse a visa application where the applicant has supplied to the Department or to a third party (including an assessing authority) false, misleading or incorrect information or bogus documentation in conjunction with their visa application or in relation to their skills assessment.

Assessing authorities are strongly encouraged to report to the Department, emerging trends in relation to possible false or misleading information or bogus documentation being presented by the client, to achieve a positive skills assessment.

AUDITOR-GENERAL’S REPORTS

Report Nos 54, 55 and 56 of 2010-11

The DEPUTY PRESIDENT: In accordance with the provisions of the Auditor-General Act 1997, I present the following reports of the three reports of the Auditor-General:

No. 54—Financial statement audit—Interim phase of the audit of financial statements of major general government sector agencies for the year ending 30 June 2011.

No. 55—Performance audit—Administering the character requirements of the Migration Act 1958: Department of Immigration and Citizenship.

No. 56—Performance audit—Administering the character requirements of the Citizenship Act 2007: Department of Immigration and Citizenship.

BILLS

Sex and Age Discrimination Legislation Amendment Bill 2011

Assent

Message from the Governor-General reported informing the Senate of assent to the bill.

MOTIONS

National Library of Australia

The DEPUTY PRESIDENT (15:29): The President has received a letter from the Leader of the Opposition in the Senate (Senator Abetz) nominating a senator to be a member of the Council of the National Library of Australia, consequent on the retirement of Senator Trood.

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:29): by leave—I move:

That, in accordance with the provisions of the National Library Act 1960, the Senate elect Senator Humphries to be a member of the Council of the National Library of Australia on and from 1 July 2011, for a period of 3 years, consequent on the retirement of Senator Trood.

Question agreed to.
Parliamentary Retiring Allowances Trust

The DEPUTY PRESIDENT (15:30): The President has received a letter from the Leader of the Opposition in the Senate (Senator Abetz) nominating Senator Macdonald to serve as a trustee on the Parliamentary Retiring Allowances Trust, consequent on the retirement of Senator Ferguson.

Senator WONG (South Australia—Minister for Finance and Deregulation) (15:31): by leave—I move:

That, in accordance with the provisions of the Parliamentary Contributory Superannuation Act 1948, the Senate appoints Senator Macdonald as a trustee to serve on the Parliamentary Retiring Allowances Trust on and from 1 July 2011, consequent on the retirement of Senator Ferguson.

Question agreed to.

BUSINESS

Matters of Public Importance

The DEPUTY PRESIDENT: I inform the Senate that Senator Fifield has withdrawn the matter of public importance which he had proposed for today.

Consideration of Legislation

Senator PARRY (Tasmania—Chief Opposition Whip in the Senate and Deputy Manager of Opposition Business in the Senate) (15:32): I seek leave to move a motion so that a private senator's bill can be considered under a limitation of debate. As I seek leave, Mr Deputy President, I cannot help but pass comment that this might be your last time in the chair presiding over the chamber. Congratulations and fare thee well.

Leave not granted.

Senator PARRY: In congratulating you, I hate to give you so much extra pain for your last session in the chair. But, pursuant to contingent notice of motion standing in the name of the Leader of the Opposition in the Senate, Senator Abetz, I move:

That so much of standing orders be suspended as would prevent me moving a motion to provide for the consideration of a matter—namely, a motion to provide that a private senators' bill be considered under a limitation of debate.

I wish to speak a little bit about the process, and my colleagues Senator Colbeck and Senator Boswell will be speaking about the substance of this motion for the suspension of standing orders. This morning we understood that this bill would be proceeding under difficult time constraints. The bill has not been concluded. Senators were speaking on the bill for lengthy times. We asked in the whips meeting under the private senators' bills arrangements if we could time manage this bill. This was denied. We believe this bill is of considerable importance and we would like to facilitate the passage of this bill through all stages today.

The process that I would like to propose—if the suspension of standing orders is agreed to—is that we take up one hour only of the Senate's time. As you have notified the Senate, Mr Deputy President, Senator Fifield has withdrawn the matter of public importance that was listed for this afternoon in this time slot that we are now speaking in. That motion was withdrawn in consideration of the one hour that would then ensue with this debate. In fact, it may be completed in less than one hour if we can have a time managed debate, which is what we have been seeking from the moment this bill has appeared on the Notice Paper.

Time allotted for private senators' bills is a new thing and in effect this is a trial. You would be aware, as Chair of the Procedure Committee, that we have agreed to some guidelines; however, the guidelines still do not allow for a bill to be completed. This is a bill that the coalition has put forward. We accept that the bill may or may not be
passed; that is not the issue. The issue is that we want a bill that is a private senator's bill completed. We want to test the bill on the floor of the chamber. The only way we can do this and effect this bill is by debating this bill today.

I understand from my colleagues that this bill has a time-sensitive aspect—there are some 1 July matters that are impacted by this bill. There are some amendments that Senator Boswell wanted to put forward. We would like to facilitate those amendments going through. Once the bill, in its amended or unamended form, is completed, we would like all stages finished and the bill concluded this afternoon. We are being very generous with our time and our management of this process. We did have an agreement that we would split the time of the private senators' business this morning by allowing, in the two hours and 20 minutes that is allocated, one hour and 10 minutes for Senator Xenophon and one hour and 10 minutes for us. That was an agreement whereby we divided our time, as discussed in our normal whips meetings. This did not eventuate this morning. Senator Xenophon's bill went overtime slightly. There were senators speaking on the bill who, I am sure, had genuine interest, but it was a little bit disproportionate. There were a number of additional Labor senators scheduled to speak compared to the opposition.

Again, we indicated that we would like speakers to be kept to a minimum to enable that bill to progress—allowing sufficient debate—and Senator McLucas in the committee stage did ask some detailed and probing questions which were answered quite well, I think, by Senator Xenophon supported by the Greens. If private senators' business time will not facilitate the carriage of a bill through to its final stages—again, not determining the outcome of the bill but allowing the bill to reach its final stage so that we can vote upon the bill—then we are wasting our time by having private senators' bills debated without a logical conclusion.

The whips meetings have been very congenial in many respects in allowing many matters to take place. We would agree that under private senators' bills arrangements that, if there are more complex matters, we would allow longer debate. We get one shot at this every sitting Thursday, and some of these bills could then roll over into consecutive Thursdays. So it may take several weeks to get a private senator's bill passed through the chamber. They are the issues that we are concerned about in relation to the process, and I would urge all senators to support us in facilitating one hour of debate for this private senator's bill.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (15:38): The loudness of my voice does not underscore the incredulousness with which I rise to respond to what is an outrageous stunt. I am certain Senator Parry is not behind this; it is Senator Boswell's mad idea, by the look of it.

What it does and what it is intending to do is up-end the Senate on the basis of a private senator's bill when we have before us appropriations and other important bills to be dealt with on the last sitting day before the end of the financial year. Notwithstanding that, it spoils what were very meaningful discussions about how we could have private senators' bills dealt with at a particular time by an arrangement between the parties to ensure that private senators could bring bills forward into this place, have them dealt with sensibly and appropriately during that period and have them brought to a vote, as we saw this morning with the palm oil bill. It was
brought to a vote, which then allowed that debate to be had. In the past, it could only happen in general business or, alternatively, through this process. So the government, opposition and other people sought—and I think Senator Bob Brown wants the credit; I do not mind who gets the credit—time to allow private senators' bills to be debated. We have agreed to that, with quite generous time being allowed for that process each week. The next time we come back here, if the opposition, the Greens or the Senate want to debate Senator Boswell's bill they can. If it is not his time slot then he can debate his private senator's bill in the following week.

What Senator Boswell seeks to do, though, is jump the queue and say, 'No, my bill is more important; it is more urgent than government business; it is more urgent than any other private senators' bills.' Why? Because he is a spoiler. That is the only thing I can think of, quite frankly. He wants to spoil the process of having private senators' business dealt with on a Thursday morning, the appropriate time, and allowing parties to come to a concluded view, because it is all about you, Senator Boswell. It is all about you, because you think you take urgency, you take precedence, over everything else—

**The DEPUTY PRESIDENT:** Minister, you should address the chair.

**Senator LUDWIG:** Thank you, Mr Deputy President, I will. The opposition want to undertake this private senator's bill during this time for that purpose. It is an outrageous suggestion. This government does not agree with it. Senators should not agree with it. Private senators' business should be confined to where it is. In addition, the opposition has effectively said that it would gag and guillotine the debate to allow Senator Boswell's bill to be dealt with. It is effectively saying to the Senate, 'We accept a confined debate,' notwithstanding others may want to make a contribution to the debate. But, no, Senator Boswell will then say: 'I don't want people to speak on this for very long because I want it brought to a vote. I want to have a vote in relation to this bill. I want to cut people off. I want to gag them so that I can have my way.' It is very selfish, in my poor view, to have that opinion. But it does seem that Senator Boswell is saying that to the Senate.

The Senate should reject that view outright. The Senate should not accept that position. It is an outrageous imposition. It is not well thought out. It is not a clever plan. It is simply an outrageous stunt from those on the opposite side, and it should be called as such. Quite frankly, they should withdraw it and not proceed with it.

**Senator COLBECK (Tasmania) (15:42):** It is interesting that the government talk about management of legislation through the place, yet today we have indicated that we will give up the hour that the parliament gives us to debate an urgency motion. We have already given the government some other time today—an extra couple of hours—so that they can get their own legislation debated. It is interesting that they bring their appropriations bills on late on the last night of the sitting. This is so that it is unlikely that people will want to speak to the appropriations bill, but that is going to happen tonight.

In relation to this piece of legislation, it is interesting that Senator Ludwig refers consistently to Senator Boswell. I do acknowledge Senator Boswell's passion for this piece of legislation, but it does happen to have my name on it, Senator Ludwig—as you leave the chamber. It is quite a simple mechanism. It is not an unusual mechanism to be seen in legislation. In my experience, it is very, very responsibly used. In fact, one interesting piece of evidence that came to the
Senate inquiry was from a former Labor speaker in the Victorian parliament, whose view was quite strongly that this legislation should be supported, because one thing that a disallowance provision does is promote proper consultation. If the government is guilty of anything in the development of its marine protected areas it is its failure to properly consult. This has been abysmal to the extent where it was a major issue at the last election—and perhaps that is why the government does not want this piece of legislation debated. There were attempts through the committee stage to put this bill off to report without there being any opportunity for us to debate it in private members' business. I have to thank Senator Cameron for at least conceding that we could get it reported last week, but there were attempts to push it back beyond this week. It is quite an important piece of legislation. We are talking about impacting on a significant area of Australia's marine environment. Senator Siewert seemed to imply that we were against marine protected areas. Nothing could be further from the truth. In fact, after the evidence to the inquiry presented by the Pew Foundation, and after the glowing description of our efforts in protecting the environment, I was asking Senator Siewert to give me her preferences. Indeed, I had a personal involvement with the south-east marine protected areas. When we undertook a process after the draft maps were released, and the Greens and the media all said that we were going to try to shrink it, we actually delivered 20 per cent more area. We delivered 20 per cent more area than the department put up, but we actually reduced the impact on industry by 90 per cent.

Senator Siewert also talked of science. Some of the science that has been presented in this debate is what genuinely concerns people like Senator Boswell. We had a report provided by the Ecology Centre—used extensively by NGOs to promote the process. The report said that 50 per cent of the south-west zone needed to be locked up, based on the science in this report, to effectively protect marine stocks and ecosystems in the south-west. We then find in the fine print that 50 per cent is an input to the report, not an output to the model. That is the sort of thing that we need the opportunity to be able to investigate and have a look at. It is absolute rubbish.

We do support the process of marine protected areas. We support the process of them being done responsibly and with proper consultation. But we do believe that the parliament should have the opportunity if there are problems with the consultation process and within the system to deal with those problems. To that extent, when I discovered that there was an error and some concerns about the drafting of the legislation, I wrote to the committee before inquiry. I put that on the table before the inquiry so that the committee could actually deal with that. Yet during the inquiry it was very difficult to get the chair to actually focus on it. I think we have been really upfront about this all the way through, and I think it is reasonable that we get the opportunity to debate this properly and have it put to a vote in this chamber.

Senator SIEWERT (Western Australia—Australian Greens Whip) (15:47): The Greens will not be supporting this motion. For a start, regarding this issue about private members' time, we did debate a bill this morning and we got a whole bill through. The Independents were always due to have a slot during this sitting. In fact, as I recollect, it was the previous week that they were due to have a slot on a program—the whole slot. Senator Xenophon was very generous in giving up some of the time for this morning's debate to start the debate on this particular bill.
It is quite obvious why the opposition has brought this debate on at 3.50 pm on the Thursday that we are rising. It is because they know very well what is about to happen in the Senate as of 30 June. So do not pretend anything else; that is exactly why you want to do it. All this talk that it is time dependent on 1 July is nonsense. Admit why it is time dependent. It is not because there are time dependent divisions in the legislation. Be honest: you got the drafting wrong and that is why you had to make amendments. The original drafter of the bill tried to amend the wrong piece of the Environment Protection and Biodiversity Conservation Act and it very rightly got sent off to committee.

Senator Colbeck needs to be fair about what happened in the committee. We all agreed that it should be reported and not pushed out beyond July. We all agreed at that discussion in the committee. As to the comments that Senator Colbeck made in terms of consultation, I think that I went through this pretty clearly this morning when I spoke about the extended period of consultation that had been occurring around the south-east process—during which time the coalition was in government—and the very extensive consultation process that is going on in the south-west areas.

If it sounds like I am backing up the government there, I do not want them to think that we are happy with the plans. We are on the record saying, 'No; we think it needs to improve.' But we do think that there has been a lot of consultation with every stakeholder. As for the backlash during the election, we know very well who was stirring up a whole lot of that. The untruths and misrepresentations of various people's positions that were articulated were outrageous—for example, about the Greens' position on fisheries. There were outlandish statements being made that we want to ban fisheries—which is so far from the truth; it is nonsense. We are the ones who care about the future of fishing because we are the ones who believe we should have adequate marine protected areas so that fisheries can be protected for the long term. In fact, since having that debate this morning, I received an email that once again highlighted the peril that our oceans and our fisheries are in.

To get back to the science, the science continues to highlight the importance of marine protected areas. The fact is that at the moment the act allows a lot of consultation. The management plans are disallowable instruments. In fact, you used that measure yourselves—and I am obviously referring to the coalition—to try to disallow the process for the Coral Sea. So you made use of that process yourselves. It did not get through, but you made use of that process yourselves as a disallowable instrument for the zoning of the management plans. So the ability to have the debate in here quite plainly works.

You want to circumvent the consultation process that happens in the community. When all that process is negotiated you want to then come in and circumvent that and make it a political process so that certain people in the community—and I am not pointing any fingers here—can tell mistruths and half truths about what impact those particular zonings have and say that it will stop fisheries forever and that certain people want to ban fisheries, which is nonsense. That is what will happen if you try to do that with marine protected areas.

Your party felt the process outlined in the EPBC Act was satisfactory at the time. Now, all of a sudden, it is changing, because 11 years down the track those provisions are finally starting to be used to get some conservation outcomes and a proper planning process. This talk about bioregional plans and the planning process delivering
uncertainty is nonsense. They deliver certainty because there has been extensive committee consultation and everybody knows where the lines are drawn. That is certainty; it is not uncertainty. What you want to do is further destabilise the process.

Senator BOSWELL (Queensland) (15:52): Mr Deputy President, I congratulate you, too. I am not going to respond to the Labor Party and the Greens. What I am going to say is that this needs to be debated, because there are four million blue-collar workers who normally vote for Labor. I will read one of the submissions to the committee again. It should be absolutely compulsory reading for everyone in the Labor Party. The Labor Party is getting ripped to pieces. This is just a classic example of why you have to listen to the people, and you do not. The vote is dividing now, at 27 per cent, and the people who want those bioregional zones, in the form that they are, are voting for the Greens. The four million people who fish and normally vote Labor are coming over to us, and that is why we won every seat down the east coast of Australia, in Queensland. You ignore this at your peril and you continue to ignore it.

This bill covers twice the land area of Australia—16 million square kilometres—and it is in the hands of only one person. The minister, Mr Burke, has the power of life and death over fishing, mining, boating and anything that happens in those zones, and he can do what he likes. This bill does not want to ban bioregions—not at all. It is saying: give the parliament a vote; let the parliament have the right of disallowance. It is the same in every declaration, bar this particular one.

We had a number of submissions to the inquiry, something like 31. Out of those 31 there would have been 28 that represented professional fishermen or boat users, such as the Cairns Professional Game Fishing Association and the Haines Group, which provides boats. The boating industry is worried; it is in the doldrums because of all the closures that are going on. I will read from Cameron Talbot’s submission. It is an absolute cry in the wilderness from a Labor voter. He said:

I’m concerned that lobby groups like PEW WWF—

that is, the World Wildlife Fund—and AMCS seem to get access to Ministers and control of what happens. The Department does not consult us or simply ignores what we have to say. I feel that democracy has been lost and further more my faith in the Labour party has gone with it. I along with all labour supporters that I know who also fish, are so disenfranchised with this government that at the next election we will do what I never thought we would and vote LNP. This is the last chance I will give labour, if this falls thru so does my vote—for good. Fishermen (and there are a lot of us) will not forget this if it is swept under the carpet.

Those are the people I am appealing for—the people who are voiceless. Yes, they have consultation: ‘Sit down here. We’ll tell you what we’re going to do, and if you don’t like it don’t worry about it. But, if you’re on the Pew group or if you’re on a green group, you get the ear of the minister.’ This is what the four million people are saying: ‘We want the same rights as Pew. We want the same rights as the World Wildlife Fund. That is what we want and we’re not getting it. We voted for the Labor Party, but we’re not going to do it anymore.’ You are going to be torn to pieces and you should understand this, but you keep walking into the fire.

We had a couple of submissions from recognised scientists who said that drawing lines on maps does not really help the fishing industry. I will read one to the Senate by Steve Oxley from the department. He said:

I think it would be fair to say that, relative to other parts of the marine environment—and
bearing in mind that the marine environment is generally not well understood—we have a relative dearth of information about the biodiversity of the Coral Sea … This will be the next cab off the rank to be declared a zone. The Labor Party have to realise this: how do you go when your vote goes below 27 per cent? (Time expired)

The DEPUTY PRESIDENT: Before I call Senator McEwen, I just thank senators for the kind words they have expressed to me this afternoon. This will be the last time I am in this chair. I have appreciated the courtesy shown to me by all senators.

Senator McEwen (South Australia—Government Whip in the Senate) (15:58): I, too, would like to extend my congratulations to you on your illustrious career in the Senate and on your sterling representation of the people of South Australia over that long period of time and for your excellent chairing when you were President and Deputy President. I would also like to thank you for our many chats on aeroplanes to and from Canberra. I have appreciated that very much. You were first coalition member I ever sat next to on the plane to Canberra, on my first trip. You were very kind to me then. I also remember that you told me on that day that it would not be too long before I would be a government senator, so thank you very much.

The DEPUTY PRESIDENT: You shouldn't have told them that!

Senator McEwen: The government is opposed to the motion moved by Senator Parry to suspend standing orders. As Senator Parry said, the opposition's intention is to bring back the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill, which was on the Notice Paper and, indeed, debated this morning during private senators' bills time, which was the appropriate place for a private senator's bill to be placed and debated. It is not the appropriate time to be debating a private senator's bill now when the Senate is in the last hours of the last day of the last sitting week of June and there is significant government legislation that needs to be debated, including the incredibly important appropriation bills and other time-critical legislation that has to be implemented by 1 July.

But no, we have seen, as Senator Ludwig has quite rightly pointed out, a stunt on the part of the opposition, trying to accommodate one of its members whose only interest, I believe, is to force the Senate into a vote one way or the other on this very important bill so that he can, I presume, issue a press release or something before the media takes off at approximately five o'clock. People listening should be well aware that this is a stunt by the coalition to try to force something to happen with this bill.

Senator Colbeck in his contribution rightly pointed out that this is significant legislation. I admire Senator Colbeck's dedication to this issue. He is usually a very reasoned and thoughtful contributor to debates and was a good participant in the Senate committee. He is right. It is significant legislation and it should be given the dignity of significant legislation and be allowed to be debated in full, and the debate should be able to be contributed to by all senators who want to make a contribution to it.

I am one of those. I participated in the inquiry on this bill and I have been walking around all day with my speech ready to give. But I was prepared to give it in private senators' bills time. Now is not the time for me to be making a speech about this bioregional plans bill—and I know that there are government senators who also wanted to
contribute, because we understand how important it is.

We also understand how the people of Australia have been misled by the fear campaign whipped up by those opposite on the basis of their claim that, if this bill is not passed, somehow Armageddon is going to be visited upon the marine industry, on commercial operations that rely on the marine environment and on recreational fishers and other people who use our beautiful marine environment for many and varied purposes.

As Greens whip I should also say that, while the intent of this stunt is painfully obvious to everybody here, it is not correct, as Senator Boswell continually says, that there was some arrangement entered into by the government to ensure that private senators' bills are brought to a vote. There was never an agreement that that would happen. There was an agreement that there should be private senators' bills time, and in fact in that time we have seen a number of government bills brought to the vote including, I clearly remember, a vote on the Defence Force retirement incomes bill. I clearly remember a vote on Senator Nash's social security legislation, and I clearly remember a vote just this morning on Senator Xenophon's palm oil bill. So it is outrageous for the coalition to claim that somehow the government is not allowing private senators' bills to be debated to fulfilment. It has happened and it will continue to happen.

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

Question put:

That the motion (Senator Parry's) be agreed to.

The Senate divided. [16:07]

(The PRESIDENT—Senator Hogg)

Ayes.................31
Noes.................31

Majority.............0

AYES

Abetz, E
Back, CJ
Birmingham, SJ
Boyce, SK
Bushby, DC
Colbeck, R
Ferguson, AB
Fifield, MP
Humphries, G
Joyce, B
Mason, B
Minchin, NH
Payne, MA
Scullion, NG
Trood, R
Xenophon, N

NOES

Arbib, MV
Bilyk, CL
Bishop, TM
Brown, RJ
Collins, JMA
Farrell, D
Feeney, D
Forshaw, MG
Hanson-Young, SC
Hurley, A
Ludlam, S
Lundy, KA
McEwen, A (teller)
Moore, CM
Polley, H
Siewert, R
Sterle, G

Adams, J
Barnett, G
Boswell, RLD
Brandis, GH
Cash, MC
Eggleston, A
Ferravanti-Wells, C
Fisher, M
Johnston, D
Macdonald, ID
McGauran, JJJ
Parry, S (teller)
Ronaldson, M
Troeth, JM
Williams, JR

Arbib, MV
Bilyk, CL
Bishop, TM
Brown, RJ
Collins, JMA
Farrell, D
Feeney, D
Forshaw, MG
Hanson-Young, SC
Hurley, A
Ludlam, S
Lundy, KA
McEwen, A (teller)
Moore, CM
Polley, H
Siewert, R
Sterle, G

Bilyk, CL
Brown, CL
Cameron, DN
Crossin, P
Faulkner, J
Fielding, S
Furner, ML
Hogg, JJ
Hutchins, S
Ludwig, JW
Marshall, GM
Milne, C
O'Brien, K
Pratt, LC
Stephens, U

NOTICES

Presentation

Senator HANSON-YOUNG (South Australia) (16:11): by leave—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that after the Tiananmen Square massacre in 1989 the Hawke Labor Government allowed many thousands of Chinese students studying in Australia to stay after their visas had expired; and
(b) calls on the Government to:

(i) provide an extension of student visas on humanitarian grounds to the students of the conflict-ridden countries of Libya, Syria and Bahrain, allowing them to stay in Australia until it is safe to return home, and

(ii) lift the current work restrictions, to allow these students, who have had their assets and bank accounts frozen, an increased ability to work and access basic entitlements in Australia.

The PRESIDENT: I welcome Senator Troeth to the chair; I believe it may well be your last occasion in the chair as Acting Deputy President.

The ACTING DEPUTY PRESIDENT (Senator Troeth): It will indeed, Mr President. Thank you very much.

BILLS

Family Assistance and Other Legislation Amendment Bill 2011
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (16:12): Madam Acting Deputy President, I also acknowledge your last time in the chair.

The ACTING DEPUTY PRESIDENT (Senator Troeth): Thank you.

Senator FIFIELD: I rise to speak on the Family Assistance and Other Legislation Amendment Bill 2011. This bill encompasses 2011-12 budget measures including provisions to freeze the indexation of family assistance income thresholds and family tax benefit part A and B supplements. The bill also makes changes to the way people are assessed for the disability support pension, creating a two-speed, two-track process for DSP applicants. It also brings forward the implementation date for some measures from 1 January 2012 to 3 September 2011. The bill also lowers the maximum age of eligibility for family tax benefit part A, extends the Cape York welfare reform trial and makes technical amendments to the Aboriginal Land Rights (Northern Territory) Act 1976. Schedule 1 of the bill amends the A New Tax System (Family Assistance) Act 1999 to lower the maximum age of eligibility for family tax benefit part A from 24 to 21 on 1 January 2012. This will bring it into alignment with the age a person becomes independent for youth allowance purposes.

The bill will also freeze indexation until 1 July 2013 for the higher income free area—that is, the adjusted taxable income someone may have before their rate of family tax benefit is affected by the income test for FTB part A. This freeze includes both the basic amount of family income of $94,316 and the additional amount for each FTB child after the first $3,796. What this means is that families in which both partners work and earn average incomes of $50,000 to $60,000 each will be affected by the government's measures. Many of the families that will be affected by the FTB freeze in this bill are struggling to make ends meet on a mere $45,000 a year. The rate of indexation for the family tax benefit part B income limit, the baby bonus income limit and the FTB A and B supplements will also be frozen for three years from 1 July 2011.

One disturbing detail about the substance of this bill was uncovered by Samantha Maiden in the News Limited Sunday papers. She disclosed that confidential government emails showed that the Labor government had been planning to freeze indexation well before the last election. Not only had the government been planning to slug Australian families with a carbon tax despite vowing not to; they had been planning to slug ordinary Australian families through this freeze since before the last election.
At the most recent Senate estimates I pursued the issues raised by Ms Maiden. What I discovered was that Minister Macklin's office had sought and received advice on freezing the family benefits in this bill as early as January 2010 and had updated advice as late as one minute before the caretaker provisions commenced. The email that was sent to Minister Macklin's office advised that the department had completed 'a new version of the spreadsheet with updated numbers for the pause supplements option'. As I mentioned, this email advice was received one minute prior to the caretaker period coming into effect.

What this means is that the Australian Labor Party had been planning this hit on Australian families from the first official day of the election campaign, from the first formal day of the caretaker period. The government did not give the Australian people the opportunity to cast a ballot, to give their verdict, on the merits of the particular proposal. This again represents the government being less than straightforward with the Australian public, as was the case with the carbon tax.

We also discovered during Senate estimates that the department is in the process of costing policies from the Greens. I cannot help but wonder whether Senator-elect Rhiannon, before she takes her seat in this place, will, for example, submit her boycott, divestment and sanctions policy for costing and consideration—or, for that matter, whether the Greens policies currently being costed by the government include their policy on reintroducing death duties. I guess time will tell.

Many of the families that will be affected by this freeze are struggling to make ends meet. They will be hit by these changes. Unfortunately, the government is seeking to give the impression that these families are rich families when many, many, many of them are anything but rich. Indeed, over 2.1 million families will lose some support as a result of the real value of the FTB supplement being cut. That is the 'pause supplements option' that appeared in the email that the government received a minute before the caretaker period started before the last election.

Even without the government's proposed carbon tax, electricity prices are already rising. They have risen by an average of 51 per cent across Australia since December 2007. The overall cost of food has increased by 13 per cent and education costs such as school fees have increased by an average of 24 per cent across Australia.

The FTB, parts A and B, the baby bonus, paid parental leave and other measures such as these are designed to support families. Labor should not be using these sorts of measures to search for savings to accommodate what has been an incredibly reckless period of fiscal management by this government.

Schedule 2 of the bill amends the Paid Parental Leave Act 2010 such that a person can only be eligible for parental leave pay if they meet the requirements of section 31, which include satisfying the income test. The PPL income limit before 1 July 2012 is $150,000 and it is then subject to indexation. This measure will extend the commencement date for indexation of the paid parental leave income limit to 1 July 2014. As I understand it, the aim of this schedule is to maintain some consistency with the pause in indexation for the baby bonus income limit under the Family Assistance Act.

Of particular interest to many in the chamber is schedule 3, which makes some quite significant changes to the way disability support pension applicants are assessed. I should point out firstly that the
elements found in this schedule first appeared in the 2010-11 budget under the heading ‘Job capacity assessment: more efficient and accurate assessments for disability support pension and employment services.’ Under that measure, DSP claimants without sufficient evidence of future work capacity of less than 15 hours per week could be referred to an alternative income support payment. Others may be offered employment assistance through Job Services Australia or Disability Employment Services. That measure was due to come into effect from 1 January 2012.

At the time, the government pointed out that this measure was going to be in alignment with the introduction of the revised impairment tables. They were to come into effect on the same day. Presumably, the government believed that there was a legitimate need for alignment between these two reform measures. I doubt that the alignment between the two measures was part of a government commitment to a policy-making aesthetic; I am sure that there was a reason for having them in alignment. The 2011-12 budget measure Building Australia’s Future Workforce, the implementation of more efficient and accurate assessments for disability support pension, brings forward the implementation of the 2010-11 measure from 1 January 2012 to 3 September 2011. This measure was originally in alignment with the new impairment tables, and I would be interested to hear the government’s rationale now for the decoupling of those measures.

Schedule 3 introduces a new requirement that if someone has not been assessed as having an impairment of 20 or more points on a single impairment table they must satisfy the secretary that they have actively participated in a program of support. What this will do, as I touched on briefly before, is create a two-track, two-speed assessment process which will have some similarities to reforms in the United Kingdom. One group will go through a more thorough testing of their capacity to work, as a result of these changes, and if they still satisfy the relevant criteria they will go on to the DSP; if not, they will be offered an alternative income support payment like Newstart.

Schedule 4 amends the Social Security (Administration) Act 1999 to enable a proposed 12-month extension of the welfare reform trial in the Cape York area. The Cape York Welfare Reform trial is a partnership between a number of communities on Cape York, the Australian and Queensland governments and the Cape York Institute for Policy and Leadership, which has done so much good work in this area. The intention is to restore local Indigenous authority, to support the local community, to increase individual engagement in the real economy and to reinforce and restore positive social norms.

A key element of the Cape York trial is the Family Responsibilities Commission, established under Queensland government legislation, and the role of local family responsibility commissioners. These commissioners will hold conferences with community members, refer people to support services and, when necessary, arrange income management for people who need it. They will help provide a better social fabric for these communities in need. At present, a person can only be subject to income management under the trial after a decision by the Family Responsibilities Commission made before 1 January 2012. This schedule pushes the date out to 1 January 2013, to enable income management to continue in Cape York for a further 12 months.

Schedule 5 amends the Aboriginal Land Rights (Northern Territory) Act 1976 in order to clarify that the Public Works
Committee Act 1969 does not apply to Aboriginal land trusts. Schedule 5 makes some changes that clarify that Aboriginal land trusts are not authorities of the Commonwealth for the purposes of the PWC Act.

I have raised a number of issues relating to this bill, with particular reference to changes to the family tax benefit. This is a matter that the government was clearly examining, anticipating and intending to introduce before the last federal election. Key changes to public policy, such as the freeze and such as the intention to introduce a carbon tax despite telling the Australian people the opposite, go to the democratic deficit in the current government. This government is really starting to put serious pressure on the compact of trust that there should be between an elected government and the voting public. This is yet another deeply disappointing example of that growing trend in this government to say one thing and do another—or to say nothing to hide an intention and then to reveal it after an election.

There are also some significant changes to the disability support pension. I know that I and a number of colleagues on this side, including Senator Boyce, will be very carefully monitoring how these play out in the lives of the Australians who rely on these benefits and who need to go through these processes. Obviously, we all want to do whatever we can to encourage people and support them in moving from payments back into the workforce. The government has spoken of that as well—there has been plenty of rhetoric around that—but we will have to wait and see and examine what the real effect of these particular measures are. I indicate that the coalition will not be opposing this bill.

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:28): I say from the outset that the Greens do not support two aspects of this bill, as we articulated in our dissenting report to the inquiry by the Community Affairs Legislation Committee. There are many reasons why we have some concerns with particular aspects of the bill. Not only does it cut costs at the expense of low-income families and people with disabilities but it has been rushed through this place without adequate time for proper consultation or consideration of the detail. I will go into some of those concerns shortly.

We are particularly concerned with schedule 2, which is freezing the indexation of the FTB supplements, and schedule 3, on qualification for the disability support pension. On the supplements, freezing of indexation will impact on 629,000 recipients of family tax benefit and income support. It will impact on additional families on low wages and the working poor. But, although I asked for those figures, unfortunately they were not provided. They were provided in terms of those numbers on income support, which was, as I said, 629,000. So it will be impacting on more families that are on a low income.

Although it sounds, in theory, like not indexing the supplement only amounts to a few dollars a week, it becomes particularly important for those families that are living on low incomes—as I said, not just those on income support but also those on low incomes. These families often use the supplements for large-sum expenses, such as appliance repair, bonds, moving house and car registration. ACOSs pointed that during the limited inquiry that we had.

I am also concerned about the cumulative impact of this particular measure and other budget measures which the Senate is yet to consider—for example, the changes to the parenting payment for those parents that
were grandfathered onto parenting payment (single) under the Welfare to Work measures. One of the measures the government announced in the budget was to change the age of dependants at which parents transfer out of parenting payment (single) and on to Newstart from 16 to 12. That will drop their income $56 a week. If you factor in this measure as well, you start to have an impact on families.

I asked the government on two occasions, first at estimates and then at the inquiry to this bill: what are the calculations for the cumulative impact of all these budget measures on Australian families, in particular low-income families and those on income support? As yet, I have not received that piece of information. In fact, I was quite shocked that the government had not done that calculation. I asked what the overall impact of all the different measures the government wants to implement through the budget measures is, and they could not tell me. So we are extremely concerned about the impact on low-income families of that particular measure. Of course, if you receive FTB A and FTB B you will cop a double impact through these measures. So we do not support that particular measure, and I have several amendments, one of which is to take that particular schedule out of the bill altogether and, if that does not succeed, to try and make sure that the lowest income families are quarantined from this measure. I will talk about that more in committee.

However, our greatest concerns are around schedule 3, which is around changing the process for qualification for the disability support pension. This requires people with disabilities to prove their incapacity to work by participating in training or work related activities, the new definition of that program of support before they are eligible for DIP. We believe this is deeply problematic for a number of reasons. For a start, the method of determining serious disability is an issue. To be determined to have a severe disability is essential for exemption from the lengthy program of support requirement. It is far too narrow. To be judged to have a severe impairment a person must—and I am taking this on my understanding of the ME—be assigned an impairment rating of 20 points or more under a single, and this is very important, impairment table. This means that a person with co-occurring disorders may not be classified—I say ‘may’ because they may have multiply occurring disorders where one of them is above 20 points on one table. If that is not the circumstance and they have co-occurring disorders they will not be classified as having a severe impairment unless one or both of the disorders rates above 20 under a single table. As Frank Quinlan, the CEO of the Mental Health Council said in his evidence to the committee:

Several Australian and international studies have shown that people with disabilities such as mental disorders and substance abuse disorders will usually have co-occurring disorders, and a person with co-occurring disorders is likely to have greatly exacerbated negative impacts. A person with two or more moderate level disorders occurring across the tables when combined could result in a total equivalent of a severe impairment, when you combine substance, mental and physical disorders. The current amendment does not allow for cumulative totals across the tables and therefore does not take account of co-occurring disorders.

What this means is that people suffering from a co-occurring disorder will most likely be placed on Newstart and could be unable to meet the requirement for participation in a program of support. It is unclear what would happen to people in this situation. The legislation does not give any discretion to assessors when qualifying people to go straight onto DSP other than if they meet the requirement for serious impairment that I
just outlined. The legislation does not give any discretion to assessors when qualifying people to go straight onto DSP other than if they meet the requirement for serious impairment that I just outlined.

We are also concerned about the fact that the legislation does not take into account or give adequate consideration to the episodic nature of some disabilities, such as mental illness and substance abuse disorders. Episodic symptoms can often be misinterpreted as noncompliance. If a person is assessed when they are functioning at a healthy or high level, they will not be deemed to be severely impaired. It is unclear what will happen if they later on become unwell and are not able to participate in a program of support. According to the evidence given at the hearing, there was no information provided about the right to appeal or to be reassessed.

During the hearing, FaHCSIA appeared to misunderstand my concerns and simply repeated that not all new DSP applicants will have to achieve 20 points under one table, but rather that the 20-points clause ensures that people with a severe disability are not referred to services where it is unlikely that there will be any benefit. I must say that I knew that already, and that is the problem. It is clear that if the only qualifying factor for severe disabilities is 20 points under one table and there is no discretion to assess this, many people could be placed on a program who would not be able to derive any benefit from it. In fact, it will have even greater negative impact on those people.

The department, in the inquiry, went on to outline other ways individuals might be exempt from the program of support, including participation in employment services or an inability to work for more than 15 hours a week. It is encouraging that the department considers these factors, but they do not provide much reassurance without this being in the legislation. Finally, it has been very difficult to fully evaluate concerns relating to severe impairment when not only are there revised impairment tables not completed yet, but the process of current review has not been made public. The speed with which this bill is being pushed through indicates the bringing forward of the start date is clearly only a cost-saving measure designed to cut $49 million out of the budget and makes little sense when the very tables designed to be used in implementing the measure have not yet been completed.

We are also concerned that there is a great deal of ambiguity in this legislation around what the maximum amount of time is that a person could wait before being reassessed for disability support. At the inquiry, DEEWR gave evidence that the longest programs could probably go for 18 months. Considering the impact of these measures on people with disabilities, 'probably' is not acceptable. There is no time limit in the legislation, and the length of participation would appear to be at the discretion of the government. It is also unclear what exactly the program of support contains. Some information was provided by FaHCSIA at the inquiry, but no detailed information is in the legislation. Such measures, which have such massive potential impact on vulnerable people, need to be subject to parliamentary review and public scrutiny. They should not be at ministerial discretion.

Essentially, this bill unnecessarily subjects people with disabilities to financial hardship for an extended, undefined period of time. At the inquiry I tried to get some concrete numbers on how many people this measure would impact and then, specifically, on how many would eventually end up on DSP after initially being rejected—because, basically, everybody is going to be rejected when they apply, other than those who meet the criteria
that I have already outlined about a severe impairment and 20 points on one table. During the hearing the department stated that 3,000 of the 6,000 people rejected between September 2011 and January 2012 would eventually end up on DSP. This equates to over half the applicants who should be on DSP ending up on Newstart.

I am sorry, but I cannot work out how that helps those people. It will not help; it will actually probably make them feel even worse, because for 18 months or whatever period of time they will have failed in a participation program—but the government will have managed to save 128 bucks a week for 18 months for 3,400 people. That is what it is about: people who should be on DSP from the beginning who will just sit on Newstart with worse taper rates—and I will come back to the taper rates. The government have acknowledged that taper rates are a barrier to people getting work on DSP. They have made moves to fix that and I congratulate them on that, but they have not fixed it for people with disabilities who are on Newstart.

Figures provided later by the department differed and, despite my trying to find out some more detail, it still was not clear. I could not find where the 6,000 or the 3,400 comes from, because the subsequent figures that we were given in answer to a question on notice was, I think, around 2,900 people who would then go onto DSP in 2011-12. But at the hearings they said there would be 3,400 just in the first period. So I found that a little bit confusing and it has not been cleared up. Perhaps it could be cleared up during the committee process. However, even those figures that we were given subsequently showed that by 2014 over a third of the yearly applicants would eventually end up on DSP. Again, this is a savings measure.

These findings are not surprising, considering the impact of other punitive measures. Six months after the first DSP applicants were put onto Newstart as part of the Welfare to Work reforms, less than one-fifth of them were off income support and in paid employment. We believe it is unacceptable for the government to continue down this punitive path when its effectiveness has not been proven. You are setting people up to fail, and it is not the way you encourage people into work. We believe that these figures indicate that this is essentially a cost saving exercise at the expense of those people with a disability.

Considering that at least one-third of the applicants will eventually be placed on DSP, it seems as if the legislation is setting people up to fail. Eighteen months of trying and not succeeding in training or work related activity could be extremely damaging to already vulnerable people, and we believe it is unnecessarily cruel. People with disability who are placed on Newstart will suffer significant financial hardship as a result of this, as ACOSS made comment on in its submission.

Since the alternative payment, Newstart allowance, is at least $128 per week less than the pension, the bill would deprive the majority of applicants—those with low employment prospects who still have an ongoing need for income support—of additional income to help them meet basic living expenses. At $237 per week for a single adult, the Newstart allowance is inadequate to pay for the essentials of life. Given that most people with a disability face additional costs—for example, transport and medication—and will occur additional costs such as travel costs when participating in a program of support, it is likely that many applicants would struggle financially until such time as they either secure employment or are granted a pension. People placed on
Newstart instead of DSP are subject to a double disadvantage. Not only do they receive $128 a week less but also they are subject to the higher taper rates. This barrier to work is ironic considering the government's aim to encourage people with disabilities to engage in the workforce. It is interesting to note, as I said earlier, that this is one of the barriers that has been addressed by the government by lowering the taper rate for those on DSP. Now we have this bill which puts more people on lower payments and higher taper rates. I am really unclear as to how they think they are going to meet the aim of encouraging more people with a disability into work.

Another area of ambiguity in this bill is the role of the job service providers. It was unclear during the inquiry how the providers would be required to contribute to the ongoing DSP qualification assessment process and how and when they would provide information as to whether people were not coping in the process. There will be an increased workload for the providers. Mr Baker from the NDS articulated to the Senate inquiry concern about the fact that the rates paid to people delivering disability employment services had fallen from 4,108 in 2003-04 to 3,621 in 2008-09. I am aware that those budget figures have changed again, but he was saying that he was extremely concerned about whether they would be able to cope with the extra workload and provide quality support. It is unclear how and when reassessment for DSP will take place, and I have ongoing concerns about the assessment process. There is ambiguity about how long a person will have to be on the program of support, what criteria will be used, if and when people will be reassessed to go on DSP and what role the job service providers will play in that decision.

Finally, I greatly object to the way in which this bill has been rushed through this place. It is clearly designed to save $49.7 million at the cost of people with disabilities. There has been inadequate time for community organisations to get involved in this legislation, to express their opinion and for them to consult low-income families and people with disabilities. We are greatly concerned about this. This is a substantial change for people with disabilities, and we are deeply concerned that it is being rushed through in this manner. It is unclear how the government will be ready to roll this out in a matter of months, particularly when you consider the issue of the impairment tables. We do not believe that this schedule should proceed.

As I articulated earlier, I have some amendments that I have circulated. We believe that the bill should be divided and that schedule 2 item 2, which is the indexation of FBT supplements, should be removed from the bill. Given the way that this process has been rushed through, I believe there would be room to amend schedule 3 to make it more acceptable and to genuinely help people on DSP. This is going to have massive unintended consequences for those living with disabilities. You have rushed this through. It is going to unnecessarily impact on those living with a disability. It will not help them. It will hinder them purely to save $128 a week from somebody who should have been on DSP and is placed on Newstart. There are more creative ways of helping people find work than this.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (16:48): I foreshadow that I will move a motion to adjourn these proceedings.
to allow a motion to deal with sitting hours this evening. I have advised everybody in the chamber, the parties and the Independents. I move:

That the debate be now adjourned.

Debate adjourned.

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

BUSINESS

Days and Hours of Meeting

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (16:48): I seek leave to move a motion to vary the hours of meeting and routine of business for today.

Leave granted.

Senator LUDWIG: I do not suspect we will need this amount of time, but this allows sufficient time for these important bills to be debated. I move the motion in the terms circulated in the chamber:

That the order of the Senate agreed to on 11 May 2011 relating to the hours of meeting and routine of business, be amended to provide that:

On Thursday, 23 June 2011—

(a) the hours of meeting shall be 9.30 am to 6.30 pm, and 7.30 pm to adjournment;

(b) the order of consideration of government business orders of the day for the remainder of today be as follows:

No. 1 Family Assistance and Other Legislation Amendment Bill 2011

No. 2 Tax Laws Amendment (2011 Measures No. 5) Bill 2011

No. 6 Remuneration and Other Legislation Amendment Bill 2011

No. 5 Appropriation (Parliamentary Departments) Bill (No. 1) 2011-2012

Appropriation Bill (No. 1) 2011-2012

Appropriation Bill (No. 2) 2011-2012;

(c) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) shall not be proceeded with;

(d) divisions may take place after 4.30 pm;

(e) the question for the adjournment of the Senate shall be proposed after the Senate has finally considered the bills listed in paragraph (b); and

(f) if the Senate is sitting at 10 pm, the sitting of the Senate be suspended till 9.30 am on Friday, 24 June 2011.

Question agreed to.

BILLS

Family Assistance and Other Legislation Amendment Bill 2011

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator BOYCE (Queensland) (16:50): We are looking at yet another example of this government's complete inability to manage any sort of legislative program. It is incredible that they cannot seem to get anything organised when it involves timing. What is particularly serious in regard to this particular piece of legislation is the very severe vulnerability of the people that it affects. As Senator Fifield pointed out, we will not be opposing this legislation—it is a government budget measure—but we will be watching very carefully. It is a small example of how poorly this legislation has been thought through, developed and put into parliament that the government's own members of the Community Affairs Committee which had a speed-read—you could not call it an inquiry—of the bill recommend that '… an Advisory Group engaging community organisations be established to work with government on the implementation of the DSP changes.' What a great shame that they could not quite manage
to set up an advisory group to look at implementation of DSP changes before they put this legislation through, before they ended up with so many ridiculous and possibly very serious unintended consequences which will come from this legislation. Every one of the seven submitters to our inquiry on this legislation made the point that it had been rushed through, that there was no time to put together a real submission, and raised questions about what was proposed. In fact, some demonstrated a misunderstanding of what was proposed—not because they do not have expertise in the field but because of the complete lack of information from the government on the point. We even had the very bizarre situation of Minister Macklin writing to a witness, after the inquiry—the speed read—had finished, to try to correct some of the information. This is the information that should be in regulations. It is information that should be available to people. We went through some of the most ridiculous inquiries, and all we have ended up with is, ‘Take it on faith from me,’ says Minister Macklin about a number of issues that are very, very concerning to a lot of people in this area.

One of the smaller areas of effect is the 25,000 sole parents with children aged between 12 and 15 who will now lose up to $56 a week for each child due to the changes. Can we think about these people. Firstly, they have been grandfathered since 2006. They are sole parents. There is a requirement on them already that they seek to work for up to 15 hours a week. They have all been in this situation since at least 2006. Let us think about why these 25,000 parents might not yet be employed for up to 15 hours a week. I do not think it is going to be because they have not tried to get a job. Could it be because there are not jobs available to suit their skills? Could it be because they have a disability or a dependant with a disability? Could it be because of a chronic illness? We have a system that has encouraged these sole parents into work. They are supposed to be working up to 15 hours a week; they are not. So what does this government do? They do not go out and try to find out why; they just change the rules for people who have been grandfathered. Fifty-six dollars a week is a significant amount of money for those sole parents. Every OECD survey and every other survey sees sole parents with young children as the most impoverished people in our communities, and yet this happens without any investigation whatsoever.

We also have the cuts of $43 a week for young unemployed people aged 21. I must admit that I have to agree with Senator Siewert that so many of these measures just seem to be a ‘Quick, what’s a way to save some money.’ From July, these young people would lose access to Newstart and stay on youth allowance for a year after their 21st birthday. They are anticipating that over four years they will save $184 million with this, but it is a cut of $43 a week for young unemployed people living independently of their parents. It is just bizarre that yet again we have another very vulnerable group who have been targeted by this government to achieve some savings. The learn or earn requirements certainly are something that we would espouse. It is something that has been espoused and has been applied, but the sudden change in age and the sudden requirement that this move up: what is it designed to do? Send young unemployed young people who are not at university back home? Gee, that is great, if they have got a home to go to. Did we think about some of the reasons why this group in particular might be people who are not living at home? There have got to be other issues here, as there are in the area of the sole parents who
have had a requirement to work since 2006 and yet have still not made it.

Then we come to the most bizarre measure of all, and that is the requirements regarding the disability support pension. I would like the government to seriously consider whether they can delay the introduction of this measure until they have had a look at the impacts of it and any potential benefits. Senator Siewert talked a little about the figures on how much this is going to save the government and that it seems quite strange. They seem to be not only quite strange but also quite cruel. The government talks about encouraging people into work by providing programs of support, but let us look at the way this scheme has been engineered to work. You apply for a disability support pension. According to various figures, between 6,000 and 18,000 people a year who apply will be told, 'No, you cannot have disability support pension. Give us evidence about your capacity to work.' The way to get the disability support pension, of course, is to fail in having a capacity to work. This is a fantastic way to talk about creating dignity for people by giving them jobs. Instead of setting up a system that allows people to work to the best of their ability and receive a disability support pension depending on the level of work that they can achieve and their costs, what we have here is the appalling and disgusting situation of people being set up to fail. You apply for the disability support pension. You get knocked back. You are encouraged to undertake a program of support—whatever the heck that is, because no definition has yet been provided, although some ideas about what it might be were given to us during the speedy inquiry. You undertake this program of support. If you fail the program of support, then you can reapply for the disability support pension. And that is exactly what the figures that the department has given us are supposed to demonstrate: that they are expecting a high failure rate on capacity to work.

As I understand it—as Senator Siewert said earlier, we have seen several lots of figures—the government is expecting that between September this year, the new early start date, and January 2012 there will be 6,000 people rejected for the disability support pension. But, over the subsequent 12 months, 3,400 of those 6,000 will end up being eligible for the disability support pension. More than half of them will have gone through the little hoops and jumped into whatever program of support they have been told to go to. And then they will be told, 'Sorry, you don't have a capacity to work. You can reapply for a disability support pension.' All this does is save the government $128 a week.

One presumes that this more than 50 per cent case is based on the current impairment tables which will be used between September and 1 January, when the new impairment tables, which no-one has yet seen, will come into force—another brilliant move on the part of this government. What allegedly will happen in 2011-12 is that nearly 15,000 people will be initially rejected, and almost 3,000 of those will end up on DSP. And these figures continue to go up. But what is particularly worrying is that in 2013-14 and 2014-15 we will end up with 7,500 people eventually going onto DSP, despite the fact that around 18,000 people will have applied. So in the last two years of this estimates period, one-third of the people who apply and are rejected the first time will get the little badge the second time—and they have failed programs of support—according to the figures that we have been given. As I said, I am appalled that such a program could have been engineered in this way, to set people up for failure.
As Senator Siewert also mentioned, there is the extremely worrying issue that there are no time frames whatsoever within this. We are told that the longest job building capacity program goes for 18 months. I think the suggestion was that that is some sort of an end figure to put on it. But these figures suggest people are coming on and off within 12-month periods. We are told there are 13-week courses. There is nothing here that would suggest that you could not be sent from one program of support to another program of support and to another program of support by the government. If we have people rushing around on wheels, why not put them on several wheels and see what happens?

The coalition absolutely supports the principle of assisting everyone to work to their abilities—to have a job and to be supported into that job. But this piece of legislation—which has been brought forward, which is being rushed through, of which there is no detail and which appears to have been engineered simply to save money and hurt vulnerable people at the same time—is not worthy of anybody who would call themselves a government in this country.

I am disgusted by it and I very much join Senator Fifield in making the point that we, along with every organisation that assists people on income support and people with disabilities in this country, will be watching this like hawks. The unintended consequences of it could be horrific. We will be there. I hope we do not get the chance to say, 'I told you so,' but I am less than confident that that will not be the case.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (17:05): I thank senators for their comments. I thank coalition senators and coalition members of the other place for their support for this bill.

The bill introduces a number of 2011-12 budget measures and one non-budget amendment. This legislation was passed by the House of Representatives yesterday—and again I thank the opposition for their support. The government is a strong supporter of the family payment system and has added to the system since coming to government: through the 50 per cent childcare rebate; Australia’s first national paid parental leave scheme; the education tax refund, which in this budget includes school uniforms from 1 July; and, in this year’s budget, substantial increases to family payments for families with older teenagers in secondary education. The government also believes in a sustainable and targeted family payment system that will continue to support Australian families for many years to come.

This bill delivers a number of measures to help make the family payment system more sustainable for the long term. The first measure lowers the maximum child age of eligibility for family tax benefit part A from 24 to 21 from 1 July 2012. This change will bring family tax benefit part A into line with the reduction in the youth allowance age of independence from 1 July 2012. This change will bring family tax benefit part A into line with the reduction in the youth allowance age of independence from 1 July 2012. This will ensure that the family payment system continues to support families while the dependent children are in study or training, while recognising that young people aged 22 and over are considered independent. The second measure builds on reforms announced in the 2009-10 budget that better targeted the family payment system to focus on low- and middle-income families. In the 2009-10 budget, indexation on the upper income limits for family tax benefit parts A and B and the baby bonus was paused. This bill will extend indexation pauses on higher income limits for some family assistance payments for a further two years. In addition,
indexation of the paid parental leave income limit will not commence until 1 July 2014.

Under the third measure, indexation of family tax benefit end of year supplements will also be paused for three years, from 1 July 2011. This will keep the end of year supplements at their current level for the next three entitlement years. The current supplement amounts are $726.35 per child for family tax benefit part A and $354.05 per family for family tax benefit part B.

The bill also introduces a 2010-11 budget measure which reforms assessments for the disability support pension. It has been brought forward as part of the 2011-12 budget to start on 3 September 2011 rather than 1 January 2012. The new assessment procedure for the disability support pension will help people with disabilities return to the workforce, wherever possible, by focusing on their ability rather than their disability. The new assessment procedure will require most people to have tested their future work capacity by participating in training or work related activities in order to be qualified for the disability support pension. This requirement will not apply to people with a severe impairment. People with a severe disability or illness who are clearly unable to work will be fast-tracked so that they receive financial support more quickly and will not need to have participated in a program of support.

The final 2011-12 budget measure contained in this bill is an amendment that enables the extension of the income management element of the Cape York welfare reform trial and is a partnership between the communities of Aurukun, Coen, Hope Vale and Mossman Gorge, the Australian government, the Queensland government and the Cape York Institute for Policy and Leadership. The Queensland government is currently leading a process of consultation with Cape York communities in relation to a proposed extension of the trial for an additional year, to 1 January 2013. In the 2011-12 budget, the Australian government provided $16.1 million for this extension.

While these consultations take place, the government is moving to put in place the amendments required to Commonwealth legislation to enable any extension of the trial. It is important to proceed with these enabling legislative changes so that any extension of the trial is not delayed and the four Cape York communities are not adversely affected. Changes to Queensland government legislation would also be required in order for the trial to be extended.

This bill also includes a minor non-budget measure which clarifies that the Public Works Committee Act 1969 does not apply to Aboriginal land trusts established in the Northern Territory under the Aboriginal Land Rights (Northern Territory) Act 1976. Land trusts were never intended to be Commonwealth authorities to which the Public Works Committee Act applies, and this amendment puts that position beyond doubt.

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:11): I move Greens amendment (1) on sheet 7104:

(1) Clause 2, page 2 (table item 4), omit the table item.

This amendment proposes to remove changes to the disability support pension. As I articulated in my second reading contribution, the Greens have great concerns with the changes. We believe they will have very significant unintended consequences and that they should be excluded. More time needs to be put into developing a much more
sensitive approach to helping people with a disability. I could be generous and give the government credit for thinking this is the way in which you help people with a disability. In that case, I urge them to reconsider their amendments, because they will have very significant unintended consequences.

But I think what the government is about here is saving money. I do not believe this is the way to do it. Research clearly shows that punitive approaches do not work. The government has recognised that there are barriers to people with disabilities finding work, and it has made significant changes in addressing taper rates and introducing disability brokers. These are good steps. On the one hand the government is making positive moves in addressing barriers to employment for someone living with a disability. But these amendments are not a good step. The government has not worked out the detail. It is rushing them through in order to save nearly $50 million. I do not think these measures are appropriate. Even if the government brought them in at the end of the year, I do not think they are the way to go. This is a particularly bad time and this is a particularly bad way of doing things.

The government are rushing these changes through. They have not completed the impairment table. They do not know—and they admitted this; I had a bit of a to and fro with the department over this—what role the providers will have. They are still making it up, quite frankly, as they go along. They should withdraw these measures. They should at least start them when they said they were going to—although, as I said, I do not agree with the changes; but at least a delay would maybe blunt some of the most dramatic of their potentially unintended consequences.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (17:13): I want to indicate that the opposition will not be supporting the Greens amendment. As I indicated in my remarks and as Senator Boyce did in hers, we will nevertheless be watching very closely how this particular measure works in practice. It is something that I am sure we will be examining closely at Senate estimates.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (17:14): I thank Senator Siewert for accepting that our intent is to try to ensure that Australians can access employment. This is about trying to ensure that people with a disability get the support they need to get a job.

I would also add, Senator Siewert, that the government welcomes the Senate committee's recommendation to establish an advisory committee of community organisations to consult on the implementation of the measure. The government will move on this very quickly to ensure it is established and it will also involve the employment service providers.

I would also note, as a former employment participation minister, that we have done a great deal to expand our disability employment service, including the uncapping. So a great deal of work has been going on at the employment end as well to ensure that the disability employment service meets the needs of job seekers. Also, the Job Service Australia model has been expanded and improved in terms of stream 3 and stream 4 regarding outcome payments.

Question put:

That the amendment (Senator Siewert's) be agreed to.
The committee divided. [17:20]

(The Temporary Chairman—Senator Mark Bishop)

Ayes............... 6
Noes............... 38
Majority.......... 32

AYES
Brown, RJ            Hanson-Young, SC
Ludlam, S           Milne, C
Siewert, R (teller)  Xenophon, N

NOES
Adams, J            Arbib, MV
Back, CJ            Barnett, G
Bernardi, C         Bilyk, CL
Birmingham, SJ      Bishop, TM
Brown, CL           Bushby, DC
Cameron, DN         Cash, MC
Colbeck, R          Conroy, SM
Cormann, M          Eggleston, A
Farrell, D          Feeney, D
Ferguson, AB        Fielding, S
 Fifield, MP         Furner, ML
Heffernan, W        Hurley, A
Hutchins, S         Ludwig, JW
Lundy, KA           Marshall, GM
McEwen, A (teller)  McGauran, JJJ
Moore, CM           O’Brien, K
Parry, S            Polley, H
Pratt, LC           Stephens, U
Sterle, G           Troeth, JM

Question negatived.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:22): The Greens oppose schedule 3 in the following terms:

(4) Schedule 3, page 6 (line 1) to page 8 (line 31), Schedule TO BE OPPOSED.

The TEMPORARY CHAIRMAN: The question is that schedule 3 stand as printed.

Question agreed to.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:22): The Greens oppose schedule 2 in the following terms:

(2) Schedule 2, item 2, page 5 (lines 9 to 15), item TO BE OPPOSED.

This relates to the freezing of the indexation of family tax benefit A and B. As I articulated in my speech during the second reading debate, we do not believe this is a good measure in that it focuses disproportionately on the members of our community on the lowest income, both those on low wages and those on income support. I acknowledge that the more well off Australians will not really notice it, but low-income families will notice it because every single penny counts for people on a low income. As I said in my speech, this money is often used to meet the lump-sum expenses that people have been accumulating through the year or when they need to replace a piece of equipment, pay bonds and things like that. I commend the amendment to the Senate.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (17:24): I indicate that the opposition will not be supporting the Greens amendment. While we have great sympathy with the intent and objective of the Greens amendment, the opposition has to deal with the budget situation as it is. The government have put the budget into deficit. They have done so with great consistency. They have racked up three budget deficits and I am sure they are on track for a fourth. They are nothing if not consistent. We have to recognise the fiscal situation that the government has placed the nation in. For that reason, it is with great reluctance that we adopt this course of action.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (17:25): We also have to reject the amendment by the Greens. I start by rejecting everything that Senator Fifield said in relation to our economic manage-
ment. We could debate that all day, Senator Fifield, and I note you constantly forget about the global financial crisis, but we will leave that for another day.

This measure delivers savings to the budget of $803.2 million over the forward estimates and is part of the government’s reforms to make the family payment system sustainable into the future. I talked about a number of measures that the government has already taken. As a result of the change, the forgone increases in 2011-12 would be: for family tax benefit part A, $18 per child for the year, which is equivalent to 35c a week; and, for family tax benefit part B, $11 per child for the year, which is equivalent to 21c a week. The fortnightly family payments that families rely on week to week will continue to be indexed.

Senator Siewert raised concerns about very low income families. I can advise the Senate that the impact on the maximum rate for a low-income single parent with two young children who receives both family tax benefit part A and part B will be $47 for the year 2011-12. As I previously noted, fortnightly family tax benefit payments will continue to rise with normal indexation. For this family, the total family tax benefit part A and B will increase by $12.32 a fortnight, or $321.20 a year, on 1 July 2011. That means that this family will still receive at least around $321 more in their family payments next year, depending on the age of their children. The increase could be higher.

The TEMPORARY CHAIRMAN: The question is that schedule 2 stand as printed.

Question agreed to.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:27): I move Greens amendment (3) on sheet 7104:

(3) Schedule 2, item 2, page 5 (line 15) after “1 July 2013”, add “except in relation to a FTB recipient who is receiving a social security pension, a social security benefit, service pension or income support supplement”.

Senator Fifield, this one will not cost as much, so can I persuade you? As I said earlier, this particular measure will impact hardest. I make my point again: every cent counts for low-income families. This measure specifically exempts the freezing of the indexation in relation to FTB recipients who are in receipt of a social security pension, a social security benefit, a service pension or an income support supplement. In other words, it exempts those on a very low income.

Before the government use the argument that this will be hard to implement because of administration, I remind the government that they introduced the measure that we debated just yesterday on child health checks that require FTB supplement payments to be linked to a health check. So there will be a system in place that traces those particular people. You could use the same system to make sure you do not freeze indexation of the supplement for people on income support or those on a very low income, because that will ensure that they get the indexation to help them a little more. I commend the amendment to the Senate.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (17:29): Senator Siewert's points are very well made, but if we had been in government we would have a different fiscal starting point today. We would have managed the budget in the previous years very differently. This government seems to have the worst luck of any government I have known. Every year there is always some bad luck. I do not accept the government's justification for why the budget is in the state that it is in, but nevertheless we have to accept the current state of the budget as a reality to be dealt with. Again, reluctantly, we indicate that we
will not be supporting the Greens amendment.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (17:30): This amendment would add significantly to the complexity of the system and would have substantial cost implications. The proposed amendment would have the effect of creating two supplement payment amounts: one for those on income support and another for those not on income support. I am advised that Senator Siewert raised this proposal along these lines during the inquiry hearings into the bill last week and Centrelink advised that there would obviously be a level of complexity with trying to make that differentiation because the limits would be currently applied across all. We would have to consider that and then advise the department, if that were the policy angle taken, and my initial reaction would be that that would be pretty tricky. Although a significant proportion of families receiving FTB are on income support, there are also many low-income families who do not receive income support. This amendment would therefore create inequities between low-income families receiving income support and those not in the income support system.

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:31): I cannot let that one go. I was actually making those arguments around the child health checks just yesterday. I was making the point that you are applying those requirements for the bill that we dealt with yesterday, the further election commitments bill. The child health checks were being linked to those on income support and not other families—but all Australian families—and particularly other groups of families. So you can do it for that bill but you cannot do it for this one?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (17:32): There is a difference here. This is with regard to a payment. Again, we do also have Centrelink comments concerning the complexity, and that is what we are basing this on.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator ARBIB: I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Days and Hours of Meeting

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (17:34): I seek leave to move a motion relating to the hours of meeting today.

Leave granted.

Senator ARBIB: I move:

That the Senate continue to sit between 6.30 pm and 7.30 pm.

Question agreed to.

BILLS

Tax Laws Amendment (2011 Measures No. 5) Bill 2011

Debate resumed on the motion:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (17:34): It is my great pleasure to be speaking to this Tax Laws Amendment 2011
I will make some comments upfront. This is a government which has completely mismanaged our public finances. This is a government which has inherited a very strong fiscal position and a budget which was $22 billion in surplus. This is a government which inherited a net asset position of $70 billion and which has taken us to a position where we had a $55 billion deficit last year and a $50 billion deficit this year, and where we are on track to go to a net debt position of $107 billion over the current forward estimates. This is a government which is borrowing $135 million a day just to fund its day-to-day expenses. It is a government which will pay $26 billion just to pay the interest on the debt that it is accumulating over the current forward estimates. It is a government that has completely lost control of our public finances, which is why it always has to look around for another tax grab, for another way to raise more money.

The budget in May was no different. Senator Wong, the finance minister, said the day before the budget that it was a typical Labor budget. It was a high-spending, high-taxing budget with more debt, more deficit and of course it was sprinkled with some ideologically driven attacks on those Australians that aspire to improve their station in life.

This bill includes a number of revenue measures, and I just want to make the point here that when the Treasurer delivered the budget on budget night he talked about the tough decisions that had been made and how the government had made $22 billion of savings. The government knew very well that, when he talked about $22 billion of savings, in the media the next day it would be sold as $22 billion worth of spending cuts. Sure enough, the media played along with the government. The front page of the Financial Review, even, had a big headline stating there was $22 billion worth of spending cuts. Of course, the biggest single spending cut, so-called, was the $1.7 billion flat tax. In this bill there are a number of other tax and revenue measures which are part of the $22 billion of so-called savings.

There are a number of measures in this bill that are not controversial and that the coalition supports. There are in schedule 1 some changes to trust laws regarding income averaging and farm management deposits. There are some changes in relation to trust income streaming in schedule 2; some changes to the National Rental Affordability Scheme in schedule 3; and, of course, the two significant revenue measures, which relate to the phasing out of the dependent spouse tax offset and the changes to the car fringe benefits tax rule.

Turning to the schedule 5 changes for a moment, the changes that the government is proposing in this legislation are changes to the current statutory formula method for determining the taxable value of car fringe benefits by replacing the current statutory rates with a single rate of 20 per cent, which would apply regardless of the distance travelled. This measure increases government revenue by about $961.9 million over the forward estimates, so it is a sizable increase in revenue as a result of this measure. These changes were announced in the 2011-12 budget, as I have mentioned. It will mean that those who drive less than 15,000 kilometres a year will now pay less fringe benefits tax; those who drive between 15,000 and 25,000 kilometres a year will pay...
about the same; and those who drive more than 25,000 kilometres will pay more fringe benefits tax. This measure will have a negative impact on those Australians who rely on their motor vehicle to earn their income and have to travel long distances, including tradespeople, salespeople, couriers, primary producers and small business people—the sorts of people that Labor always targets when it is in government to pay the price for the consequences of its mismanagement of our finances.

The official figures also show that there are 570,000 cars operating under the existing statutory formula and, according to evidence given at Senate estimates, of the users of those 570,000 cars some 60 per cent will be worse off, about 15 per cent will be better off and 25 per cent will experience business as usual. But 60 per cent of the users of the 570,000 cars operating under the existing statutory formula will be worse off. So those figures mean that 342,000 individual Australians will be worse off as a direct result of these changes which the government is making to the FBT rules for cars.

The people most affected by this measure, of course, will be those Australians and small businesses that are located in outer metropolitan and rural areas, because they need to drive longer distances. So this is yet another Labor Party tax grab which will punish people who live and work in outer metropolitan and rural areas through no fault of their own. It is just one more example of a government that just does not understand the cost of living pressures on Australian families and is not prepared to assist Australian families to deal with these pressures.

There is also the change, of course, in relation to the phasing out of the dependent spouse tax offset. It will mean that the dependent spouse tax offset will no longer be available for spouses of 40 years old or younger. Over time it will mean the rebate will be phased out as fewer and fewer people are left claiming it. These changes, as I am advised, do not affect dependent spouses who are invalids or permanently unable to work or those currently eligible for the rebate because of geographic isolation or other location issues. The rebate was never available to those claiming family tax benefit part B or if the income test for family tax benefit part B was exceeded. This schedule is expected to increase government revenue by $755 million over the forward estimates.

What we have here is a government that has been very bad in managing our public finances. We have had waste and mis-management right across government. We have a government that has taken a strong and sound fiscal position and turned it into a position where we are now looking at record levels of government net debt, where we had the biggest deficit in the history of the Commonwealth last year, where we are going to have the second biggest deficit in the history of the Commonwealth this year and where we are going to have a significant deficit of about $22.3 billion next year, a deterioration of about $10 billion just compared to the figures that we were given seven or eight months ago in the Mid-Year Economic and Fiscal Outlook for the 2010-11 budget. Of course, we are supposed to believe that the following year, miraculously, on the back of the mining tax, the budget is going to experience a significant turnaround.

The coalition will not be opposing this legislation, not because we are happy with what the government is doing or because we support it but because, in the circumstances, it would be irresponsible to add to the fiscal pressure that this government has created. However, people across Australia need to understand that they are paying the price for
Labor's mismanagement of our budget. People across Australia, whether Australians with private health insurance who are about to lose their private health insurance rebate or people that are caught up in the measures in this legislation here today, are paying the price—and Labor wants them to pay the price—for Labor's mismanagement of the budget.

As I flagged, the coalition does intend to move a second reading amendment, and I now move the coalition's second reading amendment to the Tax Laws Amendment (2011 Measures No. 5) Bill 2011:

At the end of the motion, add:

and the Economics References Committee is to undertake a review of the operation of the amendments made by Part 1 of Schedule 5 of the bill 12 months after the commencement of that Part and report to the Senate on that review no later than 12 months after commencing the review.

With those few remarks, I conclude the contribution on behalf of the coalition.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (17:44): I rise today to support the Tax Laws Amendment (2011 Measures No. 5) Bill 2011 and to say how extremely pleased I am that at last the perverse incentive which was in the tax system and encouraged people to drive their cars more in order to qualify for a tax concession is gone. This is something I have been campaigning for since I got into the Senate. It was identified in the Senate inquiry that I instigated on Australia's future oil supply and alternative fuels. It is absolutely ridiculous that in an age of peak oil—and we have reached peak oil—we should have embedded in the tax system a fossil fuel subsidy that encourages people, effectively, to waste oil in a world where we are going to see upward pressure on oil prices and real dislocation in oil economies around the world as there is a recognition that cheap, accessible oil has run out. We are going to see increasing dislocation in the food production system, particularly, and also in transport in cities.

So the first thing is that we should be looking at all fossil fuel subsidies and getting rid of the lot of them across government. If you are serious about addressing climate change and greenhouse gas emissions and if you are serious about preparing for peak oil then you would instigate a plan for the whole country: a plan to get off fossil fuels and to move to a transport system that is not dependent on imported oil. President Obama has recognised that and moved rapidly in the United States, realising the vulnerability of the United States's economy to its exposure to imported oil. That is why he spent billions in their recent stimulus package to try to encourage the use of biofuels in the United States in order to get off their dependence on imported oil. The problem, of course, with the disproportionate influence of biofuels is that it has led to distortions in agricultural production, and that will happen here in Australia unless we get some good rules around biofuels and focus on second- and third-generation fuels.

But what we are going to see rapidly is the electrification of the transport fleet. The passenger vehicle fleet will become electrified, and the challenge for government is to think about a transport plan for Australia in the age of peak oil and climate change—a transformational plan to get more public transport, more rail for freight and a very fast train for passenger commuting. We need more of those throughout the country. This I see as a beginning.

When I negotiated the luxury car tax changes through the Senate in the last period of government, that was the first time that we had a shift. Instead of just taxing luxury we were taxing vehicle fuel inefficiency. What
we said then is that we should be looking at the efficiency of the vehicle and driving people to more efficient vehicles, and that should be the way that we consider taxing wasteful resource use. That was the first. As part of that arrangement I got an agreement from the government that the Treasurer, Mr Swan, would write to the Henry tax review and ask about this whole issue of moving the excise system into looking at efficiency and carbon embedded energy in fuel, in particular the fringe benefits tax concession on motor vehicles. I was very pleased, then, when the Henry tax review came out and recommended getting rid of this subsidy.

Senator Brown, as Leader of the Australian Greens, asked for a costing from Treasury on reform arrangements for the fringe benefits tax of motor vehicles in November last year. We got that costing back, and of course what we see is that it is a substantial saving to the budget. It improves the underlying cash balance by $953.9 million over the forward estimates. So for people who say that, with the Greens taking the balance of power, they might be concerned about fiscal responsibility: the Greens are extremely fiscally responsible, and for everything we want to spend money on we are prepared to find savings measures. I can inform the government at this point that every time they bring in a measure to get rid of a fossil fuel subsidy it will not only improve the bottom line in the balance sheet over the coming years; it will be great for the environment. It will reduce fossil fuels.

Just today I noticed, in looking at the Auditor-General's report into the fuel tax credits—I have to say that they are very firmly in my sights, having now got rid of the fringe benefits tax concession for motor vehicles, as I would call it, and saving more than $1 billion over the forward estimates—where we can now have megasavings is in the fuel tax credits scheme. What you have there is about 1,500 mining companies getting $1.7 billion per annum in fuel tax credits at a time when they are making profits they could never have dreamt of. They are making extraordinary record profits and, frankly, they were allowed to get away with their ridiculous advertising campaign and reduce the tax take with the mining tax concession that they achieved without people realising that we are $1.7 billion worse off in this country every year because 1,500 mining companies get that fuel tax credit. I make the point of it being 1,500 companies because in the research and development spend in this country—and I have just supported and negotiated with the government a change to the research and development measures—we currently have less than 100 companies in Australia getting more than 60 per cent of the R&D spending in Australia. Here comes another major subsidy: 100 companies getting 60 per cent of the R&D funding and, of those 100 companies, 37 are miners. So the mining companies are hogging the research and development budget and hogging the fuel tax credit scenario while, at the same time, out there sponsoring the tour of a climate sceptic in Australia and putting ridiculous amounts of money into advertising budgets to undermine the national interest.

I want to inform the government as I stand here tonight, having had a substantial success in getting rid of one of the most blatant fossil fuel subsidies and perverse outcomes in this year's budget, that we are coming to do the government a great big favour and free up billions of dollars. We estimate there are something like $8 billion worth of fossil fuel subsidies given out every year, and they include everything from exploration subsidies to tax concessions and goodness knows what. We are here ready and willing to help on that bottom line, to get in there and not only make a better outcome for
Australia in terms of greenhouse gas emissions but accelerate the day when we plan for a low and then a zero carbon economy based on a magnificent transition to public transport, to electrification of the vehicle fleet, to getting more rail in this country, to getting freight off the roads and back onto the rail. This could be a very exciting future for Australia in the transport sector, rather than having the focus, as we always have, on road transport, on more highways, on more flyovers, on more dual carriageways et cetera. What are we going to do on those dual carriageways when oil hits $200 a barrel and we are still making cars in this country that are fuel guzzlers?

I also want to say that it is a terrible policy for a country to have its free trade agreement with Saudi Arabia on the basis that we sell them six- and eight-cylinder cars to roar around the desert and use up more oil. What a thing to be proud of! Whereas on the other foot we have got China moving for very high vehicle fuel efficiency standards, setting an objective of increasing its global market share of the electrified transport fleet, and setting up fuel efficiency standards for motor vehicles that mean that no car produced in Australia would meet Chinese standards today. That is because China wanted to build itself a global position so that the Europeans have got global market share for luxury vehicles and the Chinese are building massive market share for the mainstream passenger vehicle of the future. Where is Australia? Stuck at the bottom, with poor vehicle fuel efficiency standards and a trade agreement with Saudi Arabia to send our six- and eight-cylinder vehicles there. What a disgrace.

We want to see mandatory vehicle fuel efficiency standards in this country that get us to a point where we are manufacturing vehicles which are competitive. If you want a strategy to make sure we have no vehicle industry in Australia, the best strategy is to do what we currently do, and that is to have such low standards that we produce mediocre cars in terms of efficiency so that, as the oil crisis proceeds, Australian consumers will want to buy imported cars and not locally produced cars. The only market for locally produced cars will be governments, again propping up cars that just do not cut it, and putting them into government car fleets. This is ridiculous. Again, we will be stuck with a massive subsidy to the car industry to produce cars that nobody wants to buy. That is not a strategy for efficiency or jobs. If you want to keep jobs in the car industry in Australia, we should be making highly efficient vehicles for the Australian market. That is why I will continue to campaign for very high, mandatory vehicle fuel efficiency standards.

At the same time we need to shift the excise system in Australia so that it truly reflects the energy content, the carbon content, of the fuel: the most expensive fuels would be the worst in terms of greenhouse gas emissions, right through to electric vehicles which would not be paying any fuel excise. If a government was truly thinking of a national transport plan for the future it would be looking at setting the fuel excise to cover all of those in specific terms. That process has been started, but it is by no means finished. We need to accelerate the review of that excise and at the same time negotiate with the states on a road use charge; otherwise we are going to reach a point where people will be driving electric vehicles generating energy from their own rooftops in order to have plug-in electrics and they will not be paying anything for the roads they use. The government will then be in a crisis in terms of its revenue take. So now is the time to be thinking about how we are going to think about the future. Already here in Canberra we have people installing
electric recharging stations. In China there will be 10 million of these electric charging stations across that huge nation. They know where the future is in vehicles, and it is in electrification.

This is a first step. It is a really good step. It is a step we have been campaigning for and it gives me great satisfaction, having campaigned for this since I got here in 2005, to be standing here in 2011 and seeing a government deliver a reform that was laughed at five years ago. When we recommended it in the oil inquiry report that time ago, people said it was ridiculous. Now we are actually doing it. We need to have as a philosophical view that we should be encouraging people to drive less and, when they do drive, to drive more efficiently. This is the first step in saying: we want people to drive less.

We want to end the March 'rally' in Australia where people would stand in offices, put the car keys on the table and say, 'If anyone's going to the coast this weekend or needs to go to Queensland, take my car, drive it there, because I need to get the tax concession for vehicle use.' Getting rid of this means people who genuinely need to drive long distances will still have their logbooks, will still be able to demonstrate that and will have it recognised, but we will not have this perverse incentive that requires people to drive round and round and anywhere they need to go in order to get themselves up to a level where they qualify for a tax concession. So I could not be happier. And I know the tax office will be delighted to know that, as we come into the balance of power, the Greens stand ready and willing to produce billions for you in getting rid of tax concessions, getting rid of fossil fuel subsidies. We are the most economically rational when it comes to fossil fuel subsidies.

**Senator Ian Macdonald:** Ha-ha!

**Senator Ludlam:** It is true, Senator Macdonald.

**Senator MILNE:** It is true, Senator Macdonald, that the irony of all this is that the most economically rational people in this place in an age of climate change and oil depletion are the Greens. We are going to stand here and help this government meet its bottom line by saving itself up to $8 billion. Those of you from the tax office that are listening: we are here ready to go on this. As you will have seen when you did the costing for us on getting rid of this, the Greens have made a substantial contribution to this year's budget by, as I said, improving the underlying cash balance by $953.9 million over the forward estimates.

Those senators who worked with me back in 2006 on the inquiry into Australia's future oil supply and alternative transport fuels, which looked at Australia's exposure to imported foreign oil, can feel vindicated today because one of the recommendations of that inquiry has finally made it into law in this country and it will start to be a driver of change.

The G20 has asked every nation to identify its fossil fuel subsidies and to engage in a process of getting rid of them. It is lamentable that Australia identified, through the Treasury, 17 fossil fuel subsidies that we could get rid of but then the government redefined what a fossil fuel subsidy is so that, by the time we got to the G20, we had no fossil fuel subsidies in Australia at all. Well, we agree with the Treasury. There are 17 fossil fuel subsidies that are pretty evident and we are coming to remove them to improve the bottom line, to work with anyone who will work with us to get rid of them because we need to be incentivising the future. We need to get to the low-carbon economy.
We need to focus on energy security. Anyone who wants to maintain a dependence on imported foreign oil is, frankly, risking the energy security of Australia into the future. This has now become a much bigger issue than just the price of petrol. This is about securing our future energy. Everybody recognises that most of the oil left in the world is now owned by countries, not companies. Those countries are going to be exercising their geopolitical weight as the world gets more and more desperate for dwindling resources. It is going to come to a choice of which is more expensive: do you go out and try and find more oil in deeper water with greater risks—and we saw with Montara and the oil well in the Gulf of Mexico what happens when you get into deep water and deep drilling—or do you go the other route and say, ‘Let’s get off oil and go to efficiency and electrification, and not take those risks’? That is the choice we have to make. The Greens have made that choice. Let’s forget all the featherbedding for exploration. Let us get into incentivising efficiency, transformation, new technology, innovation and real competitiveness. We are on the side of efficiency and competitiveness. I really congratulate the government for actually doing this at last. I hope we can accelerate the rate of change, because there are 16 other fossil fuel subsidies. We are ready to legislate them and so improve the bottom line.

Senator LUDLAM (Western Australia) (18:03): I also rise to speak briefly on the Tax Laws Amendment (2011 Measures No. 5) Bill 2011, mostly on schedule 3, after first acknowledging the huge amount of time and energy that Senator Milne has put into pursuing this particular perverse incentive in our tax system. By the end of that very long road, it was really difficult to find anybody who would speak in favour of it, so it is good that the government has taken this opportunity to finally just kick it over. There are many others there.

Schedule 3 of this bill relates to the National Rental Affordability Scheme, NRAS, which was designed to stimulate the construction and supply of affordable rental dwellings. It is a good initiative. It is not a homelessness initiative as such but is designed to increase the supply of affordable housing for key workers and low- to middle-income earners, and to encourage investment on a large scale, an institutional scale—that is, to get investors back into the business of funding affordable housing rather than the kinds of property investments which investors, large and small, have been making over the last couple of decades.

The measure that we are debating this evening will provide certainty to investors participating collectively in the NRAS. Schedule 3 of this bill amends the Income Tax Assessment Act 1997 to provide a legislative solution to allow NRAS consortia to receive their full entitlement to the NRAS incentive. These incentives were designed to be received tax-free by participants in the scheme, and this bill extends this to joint-venture operations, as we thought the government had originally intended.

The introduction of this bill has been a long time coming. It is a great relief for NRAS investors and for the sector at large. The issue has been in play since late 2009 when the ATO made an interpretation that prohibited investors from receiving the NRAS tax offset if they leased their properties to an NRAS entitled entity for sublease to eligible tenants. Treasurer Swan responded in January of last year with an administrative solution that resolved the tax issues for joint ventures until regulatory and legislative amendments could be introduced later that year to effect a permanent fix. Investors and people wanting to get into the
sector to help provide affordable housing have been waiting until this evening for that instrument and for that permanent fix to come about.

We have been very concerned to learn of several instances where projects were in jeopardy of falling over—and we know of one instance where an investor did in fact withdraw—because investors and financiers felt that, in the absence of legislation or further government assurances, the Australian Taxation Office might not grant NRAS joint-venture investors the full offset benefit on their incentives.

There are two examples that I will briefly touch on tonight to demonstrate the effect of these delays: one from right here in Canberra and one from a bit further afield in Queensland. Canberra, we know, is now one of the most stretched housing markets in Australia. Rental houses here are the most expensive of any capital city after Darwin with a median price of $500 a week for a house and $425 a week for a unit. CHC is a not-for-profit development company that delivers affordable properties for both sale and rent to the ACT community. CHC Affordable Housing Canberra has a number of NRAS properties, so they were involved in the scheme. They have developed 95 per cent of their allocations—that is, they are tenanted—and have another 34 incentives in progress in a new Canberra greenfield suburb. In the suburb of Holt, they have two NRAS developments: one with 24 units and a smaller one with eight. In both cases they own the properties and will retain them, and they are able to rent them at less than 80 per cent of market rent that is required for NRAS—they are actually renting them at just under 75 per cent of market rent. That is the scheme operating as the government intended. That was what it was designed to do.

One of the larger projects was Edge, a 104-unit development that combined both rental and owner-occupied options and included lower cost affordable homeownership properties. Seventy-six of these were to be NRAS dwellings but the legal structure was not in place at the time to provide the assurance that the NRAS incentive in this joint venture would actually get passed on to them. Without that proper structure in place it was deemed too difficult administratively and too expensive to pursue a private ruling from the ATO to provide the assurances to the investors that they were needing. Instead, 67 incentives were transferred to another project and the units were sold to investors for rental in the private market. This bill, which we are very happy to support tonight, will prevent that from happening again. We believe and understand that CHC Affordable Housing will revisit the model now that that certainty is in place in future projects.

In Queensland the very tight housing market was made disastrously worse when the floods affected three-quarters of the state, at least 70 towns and over 200,000 people. One large development project in Queensland, which has been pending, specifically awaiting the passage of this legislation, I understand will now go ahead. It is a project to build 186 units, and 45 of them will be NRAS properties. It is worth $84 million. So far, half of the NRAS residences have been sold off the plan on the condition that this legislation gets up. So we are very pleased tonight to support this legislation, which provides the necessary assurances to finalise that project.

For investors in these examples in Canberra and Queensland this bill cannot come soon enough. After a two-year wait we are all very relieved to finally have the certainty. We also welcome the government's
assurances that the benefits of the tax offset will be retrospective.

There are a number of other changes that could be made to the way that NRAS is implemented that would further promote the scheme, including streamlining the application and assessment process. The last time I raised this issue in budget estimates the people processing the incentives through the government's approval process were basically being swamped. Although the scheme has been criticised for moving too slowly, at the moment the people doing the assessment work cannot keep up. This is certainly one thing we think could be improved. There are huge delays between the time of application and announcement.

You cannot obviously talk about providing certainty and ending the delays that NRAS applicants are facing without talking about the bigger picture, so what of NRAS beyond the 50,000 target? The Australian Greens are strong supporters of NRAS. We would like to see a commitment to a second round of 50,000 incentives past 2015, when the first 50,000 incentives allocation will be completed, because that really will provide certainty to the big institutional investors that you can get into affordable housing markets in Australia, that the return stacks up, that that can be banked on and that we will finally be increasing supply.

We know that is only a tiny part of the affordable housing picture in Australia. Senator Milne just spoke eloquently about the perverse incentives in the tax system, and that is true in housing more so than any other sector. That is something we will be pursuing later this year.

This is not the first time that the ATO has held the affordable housing sector hostage over its interpretation of what it deems to be acceptable NRAS activities. We had a long and anxious wait for the last three years on the issue of whether the provision of affordable housing through NRAS was deemed to be a charitable purpose. To me the threat by the ATO that charities could have their charitable status revoked if they were in the business of providing affordable housing through this scheme was quite perverse, and yet it has been so since 2009. People are basically participating now on the basis of goodwill. The day after the federal budget was released we finally saw the ruling come out that the provision of a rental dwelling under NRAS is deemed by legislation to be a charitable purpose. Finally people were given that certainty.

On the issue of confusing messages coming from the government, you will recall that out of left field—we certainly did not see it coming—the government's flood reconstruction package for Queensland basically swiped a third of the final funding for the National Rental Affordability Scheme. The affordable housing sector and their allies, from superannuation funds right through to people running community housing organisations, really should be congratulated for their very swift action. We were very pleased to support them and to lead the charge on giving the department time to process the applications that were already afoot and then restoring that funding after 2014. We are very proud that we achieved the goal of at least restoring the original program funding.

We want to see this continue. I remind government senators here tonight that the government's original intention was to treat NRAS as though it were a 10-year project and to double the target to 100,000 if the scheme were successful. I suspect by this time next year there will not be any further argument about whether the scheme is successful. It will be more: what happens when the 10-year scheme comes to an end?
Will there be more incentives? What will happen to affordable housing when the incentives no longer apply?

We have enjoyed tracking the inception of NRAS and advocating for its success, including ways to improve it. We certainly will not give up on an announcement for another 50,000 incentives, as former housing minister Ms Plibersek promised when she introduced the scheme. We look forward to working with the government on the ways that NRAS can be used to fill the desperate gap in the three key areas where we believe the scheme currently falls short. These are obviously housing for our students, housing for our key workers in boom towns and housing for our ageing population. There is a long way to go in the housing affordability agenda, but I congratulate the government for at least bringing this scheme forward and for committing to its continuation.

Senator IAN MACDONALD (Queensland) (18:13): I want to address a few remarks on the Tax Laws Amendment (2011 Measures No. 5) Bill 2011 and to support the amendment moved by my colleague Senator Cormann in relation to a review of the operation of the fringe benefits tax elements of the bill. I do want to talk about the fringe benefits tax on motor vehicles, but before I do that I want to highlight to those listening to this debate that Senator Milne proudly said to the Australian Taxation Office: 'You want more taxes. You've come to the right people.' You can imagine what sort of a hiding the Australian public and the Australian taxpayers are in for when the Greens are out there effectively inviting the Labor Party to tax more and more and are telling the tax office that they have a friend in the Greens.

The cost of living pressures on ordinary Australians at the moment are becoming unbearable. If the carbon tax does come in—and I still hope and pray that sanity will prevail and it will not be imposed upon the Australian public—it will add to the cost of living pressures. It does not mean much for people in this chamber—public servants, all of whom are on pretty good incomes—but for those who are struggling in Australia the carbon tax and all of these additional taxes, such as the flood levy tax, are all extra burdens increasing the cost of living, restricting their enjoyment of life and making it a lot harder for many families just to provide the basic necessities of life. Here we have a Labor-Greens alliance—a coalition of Labor and the Greens—running the government and proudly boasting that they are there to increase taxes.

I am looking forward to getting a copy of the Hansard of Senator Milne's address—and I will make sure it is distributed—where she proudly boasts to the ATO: 'Want more taxes? You've got the right people there.' The Labor Party has a propensity for taxing, they cannot help themselves. That is because they are such bad financial managers. Their debt blows out all the time on stupid programs like the pink bats program. They basically cannot handle money. There is the old adage: where money is concerned you cannot trust Labor. Now they have the Greens in an even more relevant position than they are today inviting the Labor Party to go ahead and increase the taxation burden on ordinary Australians.

I noted with some amusement Senator Milne telling us that in China there were going to be 10 million electric charging stations. One wonders what is going to power those electric charging stations. If they are like the ones that we use for the little vehicles that run around this parliament house, you plug them into the wall and your electricity charges these vehicles, which I assume is the sort of thing Senator Milne is talking about—10 million new electric vehicles.
charging stations. Where does the electricity come from? In China in particular it comes from more and more coal-fired power stations that are being built every day. There are a couple of windmills, sure, and a few solar panels but China is increasing its energy from coal-fired power stations, many of them of course using coal from central Queensland, the state that I and you, Madam Acting Deputy President Boyce, represent in this chamber. Again the Greens are a bit confused in the messages they give at times.

The thing I really did want to talk briefly on tonight was the increases that will impact upon those people, tradesmen, salesmen, couriers, primary producers and small business people, who use their vehicles for more than 25,000 kilometres every year. If you live in Hobart like Senator Milne does, Perth like Senator Ludlum does, Melbourne or Brisbane like opposition speakers do, sure, you can cut down the usage of your car and that is good for everything—good for emissions, good for pollution, good for looking at alternatives—but if you live in country Australia, particularly if you live in Northern and remote Australia, you really do not have much alternative. If you live in Laura, where I was the other day for the Indigenous dance festival, and you want an electrician, that electrician has to come from Cooktown, I think 170 odd kilometres away, or from Mareeba, 250 kilometres away. If your motor vehicle breaks down and you have to get a mechanic out to fix it, the tradesmen coming out to do that of necessity has to drive long distances. So this bill is going to add costs not just to people in the cities, who might use their vehicles but have an alternative, but to people in remote Australia, Northern Australia and in rural Australia generally—the farmers, who do not have an option.

The Labor Party and the Greens have no interest in those sorts of people and that is why you get this sort of legislation. I understand the Senate Economics Legislation Committee in a rather quick inquiry had a look at the bill. This whole legislation has been framed in such a way as to make it impossible for the coalition to oppose it, particularly at five minutes to midnight on practically the last sitting day of the financial year, when these things are always rushed through. As Senator Cormann has mentioned, we will be supporting this bill, but Senator Cormann's amendment is very appropriate and it arises from the Senate committee—that is, the amendment requires the Economics References Committee to undertake a review of the operation of the amendments made by the bill 12 months after commencement and report on them so that we can actually see the impact.

But I can tell you now that the impact is going to mean that people living in rural, regional and remote Australia are going to pay more. Does the Labor Party care about that? No. They get few votes out there. Following the carbon tax they will get no votes out there. Following the fiasco of the live cattle ban I warn any Labor Party politician not to go into Cape York, the Gulf country, the Northern Territory or the north of Western Australia because they will be literally lynched by people involved in the live cattle trade. People in those areas have found their livelihoods have disappeared overnight. The Labor Party are not interested in that, as I say, they get few votes there and the few that they did get, they will not get now. They just look after the capital city people and this sort of thing is not too bad for them, because there are alternatives. But there are no alternatives for tradesmen or professional people wanting to get assistance, as I say, using the example again in Laura when they have to get their tradesmen from 200 or 300 kilometres away. I despair for those people who do live in
rural and regional Australia. These sorts of fringe benefits tax concessions did try and bring a bit of justice and equity. They tried to level the playing field, so to speak, so that Australians living in those more remote areas had some opportunity to get ahead.

These people need a champion. They are not big numerically and therefore are not of interest to the Labor Party in the political system. You, Madam Deputy President Boyce, I know are aware of this. You understand the issues, but I cannot believe that the Labor Party people can be so insensitive, so ignorant or so uncaring when it comes to the additional burdens that country people—people living in remote Australia—have to carry. The bill that is being put through and that meets commitments made in this year's budget will make it more and more difficult for those of us who live in the country removed from the major capital cities to get the basic services of life. I hope that one day the Labor Party will understand this and bring a bit of equity, fairness and justice into the way they tax Australians.

Senator JACINTA COLLINS
(Victoria—Parliamentary Secretary for School Education and Workplace Relations) (18:23): First, I would like to thank those senators who made a constructive contribution to this debate. The amendments in schedule 1 of this bill allow trust beneficiaries to continue to use the primary production averaging and farm management deposits provisions in a trust-loss year. The amendments broadly restore the position that existed before the High Court decision in Bamford v Commissioner of Taxation, which necessitated the commissioner withdrawing a public ruling that in certain circumstances the beneficiary could be eligible for the primary production averaging and farm management deposits rules in a trust-loss year. The amendments secure continuity for taxpayers because they apply from the 2010-11 income year, and the commissioner's ruling applies up to and including the 2009-10 income year.

The amendments in schedule 2 of this bill ensure that, where permitted by the trust deed, the streaming of capital gains and franked distributions, including any attached franking credits, of a trust to specified beneficiaries can be effective for tax purposes. The amendments also introduce specific anti-avoidance rules to address the inappropriate use of exempt entities to shelter the taxable income of a trust. These amendments will provide more certainty for the trustees and beneficiaries of trusts that stream capital gains and franked distributions, including any attached franking credits. The government is committed to a broader review of the taxation of trust income. It is important to simplify and rewrite the rules, which will give more certainty to the users of trusts, particularly small businesses and farmers.

Schedule 3 of the bill amends the provisions in the taxation law related to the National Rental Affordability Scheme tax offset provisions. The amendments simplify the operation of NRAS for participants by introducing the concept of an NRAS consortium which allows a broader range of arrangements to participate in NRAS. The amendments provide some additional flexibility to NRAS participants in how the incentive is shared between members of the NRAS consortium. The amendments do this by establishing an election to allow approved participants to relinquish their entitlements to an NRAS tax offset in favour of other members of their NRAS consortium. The amendments also address minor technical issues that have arisen from the interaction of the tax law and the National Rental Affordability Scheme Act 2008 and also ensure that certain payments provided under

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NRAS indirectly, such as through the NRAS consortium, are treated as non-assessable non-exempt income.

Schedule 4 of this bill implements an important measure to help encourage more Australians into paid employment by removing the disincentive for younger dependent spouses without children to remain out of the workforce. From 1 July 2011, taxpayers with a dependent spouse born on or after 1 July 1971 will no longer be eligible for the dependent spouse tax offset. This means that the offset will be gradually phased out as the population ages. Dependent spouses aged 40 or over will not be affected by this measure, nor will dependent spouses with children or taxpayers whose dependent spouse is a carer, an invalid or permanently unable to work. Taxpayers eligible for the zone, overseas forces and overseas civilian tax offsets are also not affected by this measure.

Schedule 5 amends the tax laws to reform the current statutory formula method for determining the taxable value of car fringe benefits by removing the current incentive for people to drive salary sacrificed and employer provided vehicles further to increase their tax concession. Under the current statutory formula method the calculated fringe benefit from a salary sacrificed car decreases as the distance travelled by the vehicle increases. People can therefore increase their taxation concession by driving their vehicle further. This reform will replace the current statutory rates with a single rate of 20 per cent that applies regardless of the distance travelled. This reform implements another recommendation of the Australia's Future Tax System review.

This reform will apply to new contracts entered into after the budget announcement of 10 May this year and will be phased in over four years. This bill deserves the support of the parliament, and I commend the bill to the Senate.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT (Senator Boyce): Before I call the minister to move the third reading, does any senator wish to have a committee stage on the bill to ask further questions or clarify further issues? If not, I call the minister.

Senator JACINTA COLLINS: I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

BUSINESS

Rearrangement

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (18:30): I move:

That intervening business be postponed till after consideration of government business order of the day no. 5 (Appropriation (Parliamentary Departments) Bill (No. 1) 2011-2012, and related bills).

Question agreed to.

BILLS

Appropriation (Parliamentary Departments) Bill (No. 1) 2011-2012

Appropriation Bill (No. 1) 2011-2012

Appropriation Bill (No. 2) 2011-2012

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator CORMANN (Western Australia) (18:30): The coalition will, of course, not oppose these bills. However, let me just make a number of observations on behalf of...
the opposition. Budget time is always the
time to take stock of how the government
has been performing. When it comes to the
management of public finances, this
government has performed very badly
indeed. This government inherited a very
strong budget position back in 2007 when
Kevin Rudd first became Prime Minister.
The budget was $22 billion in the positive
and we had $70 billion worth of net
government assets. But last year we had a
budget that was $55 billion in the red and
this year we have a budget that is $50 billion
in the red—and it is going to be $22.3 billion
in the red next year. We are now on track for
$107 billion worth of net government debt—
the highest ever.

You have got to remember that back in
1996 the then Howard government inherited
$96 billion worth of Labor Party debt.
Through hard work, good government and
sound financial management the Howard
government was able to pay off that debt,
return the budget to surplus and deliver tax
cuts. But what we have had under this
government is wasteful spending, more taxes
and record levels of debt and deficit. In fact,
this year we will have the second-

highest deficit on record, after we had the highest
deficit on record last year.

The people of Australia have to pay the
price for this bad financial management. The
people of Australia have to pay the price
through the proposals in this budget by the
Labor Party to abolish the private health
insurance rebate for hundreds of thousands
of Australians and reduce the private health
insurance rebate for hundreds of thousands
of Australians through means testing. People
across Australia will pay the price for this
government's reckless spending and
mismanagement of our public finances.

Under the appropriation bills that we are
asked to support here tonight, this Labor
government will pay $26 billion over the
next four years just to pay the interest on the
debt that they have accumulated over the last
four years. It is just extraordinary. Back in
2007 the government was paying $0 in
interest on net government debt. Today, the
government is paying $26 billion just on the
interest to service the debt that they have
accumulated since they came into
government in 2007.

We have had four Labor budgets and they
have been four successive deficit budgets.
This Labor government has not delivered a
single surplus budget. In fact, Labor has not
delivered a surplus budget since 1989-89.
We have had nine successive deficit budgets
from the Labor Party.

Minister Wong has made it into the
chamber. She keeps lecturing us about what
she perceives to be our record in relation to
fiscal management. I say to Minister Wong
that people across Australia well understand
that it is always the coalition that has had to
fix up the fiscal mess that Labor govern-
ments have created in Australia again and
again and again. That is what happened last
time—we had to come in and fix up the
mess—and that is what will happen next
time. The longer Labor stay in government
the greater the mess they are making—and
the more people across Australia have to pay
the price for Labor's fiscal mismanagement.

In relation to Appropriation Bill (No. 2)
the government is seeking an increase in its
gross debt ceiling from $200 billion to $250
billion. It is important to pause to reflect on
this. It is just over two years ago that the
government asked for the debt ceiling to be
more than doubled—to $200 billion—and
now the parliament is being asked to increase
the gross debt ceiling by another $50 billion.
And the parliament will have to agree with
that because by the end of June, according to
the budget papers, according to the face
value indicated that is being used for this, gross debt will already be at $192 billion.

The day before the budget, Senator Wong went out into the media and said that this year's budget will be a typical Labor budget. And she was right. It was a typical Labor budget. It was a high-spending, high-taxing Labor budget with more debt and more deficit, and it was sprinkled with a whole series of ideological attacks on Australians who have aspirations to get ahead. This is what Labor governments do when they get the chance. They spend beyond their means and then have to find some targets and some people across Australia that can pay the bill. Invariably, the people whom Labor wants to pay the bill for their reckless spending and incapacity to manage public finances are those who are working hard to make a contribution and to get ahead, and are a key part of driving the economic prosperity of Australia. This government is currently borrowing $135 million a day just to fund its day-to-day expenses. In the week after the budget, the Minister for Finance and Deregulation tried to make a virtue of the fact that it had been able to keep spending growth, in real terms, below two per cent. What she did not mention—and what was excluded from the graphs in the budget papers—was that over the last two years spending in real terms had gone up by 17 per cent. It has been the highest increase in spending, in real terms, since the Whitlam government: 17 per cent. If you start off from an inflated base, of course it is easier to keep your spending growth limited to below two per cent.

What Labor has done in this budget is establish what was described as crisis level stimulus spending as the new base. We had two years where the government was dishing out the money—it was spending money on pink batts and school halls and sending out cheques to people—and that inflated level of spending, spending at record levels, has become the new base. The government somehow wants us to think that it is being disciplined and doing a great job just because it is able to bring spending growth from that inflated base to below two per cent. That is not an achievement. It would be extraordinary if the government were not able to keep it below two per cent.

Incidentally, I have been asking some questions on notice in relation to this and they have been on notice for nearly 100 days. For more than three months there has been a question on notice to the Treasurer asking him how much of the fiscal stimulus spending for this year and next year remains uncommitted. I have not had an answer. For more than three months the Treasurer has failed to answer a question about how much of the fiscal stimulus spending has not been either spent or committed.

This is the one-year anniversary of the ascension of Prime Minister Gillard to the prime ministership. It was today, a year ago, that we all watched the new Prime Minister, Julia Gillard, tell us that she was going to fix the mining tax, fix the climate change mess that she had inherited from her predecessor and fix the border protection fiasco she had inherited from her predecessor. It is a bit like groundhog day, because if you look at the debates we have been having today, last week and the week before that—in fact, if you look at the debates we have been having every single week over the last 12 months—there has been no moving forward at all. The Prime Minister was going to move forward, but I think we are just stepping on the same step every day. It is like every day we wake up and it starts again.

We talk about the broken promise on the carbon tax, because the Prime Minister promised not to have a carbon tax and now we are going to have one. We talk about the
mining tax mess. The more scrutiny that is applied to it the more obvious it becomes that it is a complete mess. It is a mining tax which came out of a flawed process, an exclusive, secretive negotiation with the three biggest mining companies, which of course is not a sound foundation on which to develop a tax policy. Then we have the border protection fiasco. The Prime Minister told us about the East Timor solution 12 months ago. That was going to be the big fix. Remember the East Timor solution? What has happened to that? Now we are talking about the Malaysian solution. That is not going anywhere either.

This is a government that has completely lost control of all aspects of government. It is a government that has lost control of the financial management situation. It is a government that has lost control wherever you look. Look at live cattle exports. Why would you impose a blanket ban on live cattle exports if you were concerned about some rogue operators doing the wrong thing? Why wouldn't you target those rogue operators and allow all the other abattoirs in Indonesia and other places that are complying with appropriate standards to continue operating? This government, being driven by the Greens in this chamber into one corner after another, does not seem to care when real people across Australia are getting hurt. This government seems to be a lost cause when it comes to that.

We also have to remember that this budget does not include the carbon tax. Even though we are told the carbon tax is going to start on 1 July 2012, the carbon tax is not included in the budget. Why is that? The government says, 'Oh, well; we don't know yet what we're going to do.' But the mining tax, which is supposed to start on the same day, 1 July 2012, has been in the budget for 12 months. Why do you think that is—why do you think the mining tax has been in the
budget for the last 12 months and the carbon tax has not been? The reason is that the mining tax, which was developed through a deeply flawed process with no consultation and no engagement with state and territory governments—even though the mining tax in its original iteration was supposed to replace state and territory royalties—is supposed to generate significant revenue to help the government create the illusion of an early surplus.

It talks about all the associated budget measures, which the government says will be part of its reform agenda. They do not start to come into effect until a bit later, and the cost of the related measures will only really play out during the years beyond the forward estimates. But, of course, the mining tax revenue is in this budget. The mining tax revenue is what is required to help the government make its claim of an early surplus. But the carbon tax would raise $11.5 billion worth of revenue if the government stuck to similar parameters as were on the table in the context of the Carbon Pollution Reduction Scheme.

Now the minister will say, 'We don't know yet; we haven't made decisions yet,' but we were told that the Carbon Pollution Reduction Scheme parameters were the benchmark from which they started their discussions. I suspect it will be very difficult for the Greens to vote in favour of a carbon tax which imposes a lower carbon price than the Carbon Pollution Reduction Scheme. Why did they not vote for the Carbon Pollution Reduction Scheme if they are now prepared to vote for a price on carbon than is lower than what was in that legislation?

The point here is that this appropriations bill, this budget, is actually inaccurate; it is wrong. From 2012-13 onwards the information is wrong, because we have the wrong revenue figures, the wrong expenditure figures, the wrong employment data and the wrong economic growth forecasts, because all of that is going to change once we know what the government's plans are in relation to the carbon tax—the carbon tax the Prime Minister promised before the election would not be introduced.

This budget is essentially a lie, because the carbon tax is not included, and neither is the National Broadband Network expenditure. The government said: 'Well, that's an investment; we are going to make a return on it. Trust us; we're a Labor government. We're going to put $50 billion of taxpayers' money on the table and we're going to make some money for government. We're going to be running things again. We have to get back into the telecommunications business and we're going to make some money for you, so we can take it off the budget. We don't have to be accountable for what we are doing with this; we're just going to hide it. We're not going to allow you to scrutinise it as part of the budget process. Trust us: we're going to make some money out of it.'

Labor plans to borrow $18.2 billion for the NBN over the forward estimates. The potential for waste here is frightening. But they say, 'Oh, no, we will manage it very wisely; we will manage it very carefully.' Remember the pink batts? Remember the school halls? As I said earlier, people across Australia know that it takes a coalition government to bring the public finances back in order. It seems that the Labor government knows that too, because when they wanted to put a package together toward the reconstruction effort in Queensland, what did they do? They went to John Fahey, a former coalition finance minister, to make sure that there was going to proper scrutiny and proper processes. Labor does not trust itself to manage public finances properly, so how can the Australian people trust them?
Obviously the coalition will not be opposing the appropriations bills, but we do have very severe concerns about where this government is taking the country, given the record levels of debt and deficit that they have accumulated in just four years.

Senator IAN MACDONALD (Queensland) (18:50): I rise tonight to speak with a sense of excitement. I cannot wait for tomorrow. It is like all your birthdays coming at once. It is 'Assassination Day' tomorrow, and I just cannot wait. My invitation obviously is still in the mail; I have not quite got it, but I think most Australians—

Senator Moore: Madam Acting Deputy President, I rise on a point of order on relevance in terms of the previous content. I would like to know how it links to the appropriation bills.

The ACTING DEPUTY PRESIDENT (Senator Boyce): There is no point of order, Senator Moore. Senator Macdonald, we are debating the appropriation bills.

Senator IAN MACDONALD: Of course, and thank you, Madam Acting Deputy President. Senator Moore, wait and see the connection, but you have been in the parliament long enough to know that on appropriations any subject is a matter for discussion. But I do want to confine my remarks to money matters, as you will see. I had spoken for a full 23 seconds before the Labor Party took a point of order. It shows that the Labor Party are certainly very sensitive about the great celebrations tomorrow of 'Assassination Day'. And why shouldn't they be? The most rueful political assassination in the history of this parliament occurred one year ago tomorrow.

The parties, I am sure, in the Labor Party particularly, will be interesting to be at. I suspect that 'Assassination Day' tomorrow will be a day to cement the plans for the next assassination, and we know with the Labor Party down at 27 per cent in the opinion polls that, being as ruthless as they are, being only interested in power for power's sake, that the Labor Party will be plotting now to get rid of Ms Gillard and install the next one on the revolving roundabout in the shades of New South Wales.

One of the problems with Ms Gillard, as it was with Mr Rudd, as it is with Labor anywhere, is the inability to manage money. I want to continue mentioning that, because some of my colleagues here were not around in 1996, when the government changed from the last Labor government to the Liberal government. We were told that there was to be a surplus in that year on the current account. When we got into government, of course, we found there was a $10 billion deficit. Not only did it show bad financial management, but it showed an inability to tell the truth and an action by the Labor government to do everything possible to keep the truth from the people of Australia—shades of, I might say, 'There shall be no carbon tax under a government I lead'. A promise to the Labor Party means absolutely nothing. Telling untruths when it comes to financial matters is part of their DNA.

Not only was that bad enough, but when the new government came in we found that in fact there was a $96 billion debt owed by the Australian people which it then took the next Howard-Costello government almost nine years to pay off—and we did pay it off. It took a lot of constraint. A lot of the programs we would have liked to have funded we could not fund, but we understood the importance of paying off debt and getting surpluses. Of course, in our last several budgets we had annual surpluses, and those surpluses were put aside in the moneybox, so to speak. When we were defeated at the election, we handed to the incoming government a surplus of $60 billion, set
aside for a rainy day. That, of course, was spent in less than two years, and we now find ourselves in a situation where Commonwealth net debt levels will rise from $82 billion this year to $107 billion next year, largely to fund the budget deficit and helping to drive up the liabilities incurred for Australia under this Labor government from $200 billion to $227 billion.

While Labor Party people—or some of them—are out celebrating tonight, we are debating a bill that, at five minutes to midnight before the end of the financial year, has this provision in it to allow the debt liabilities to increase beyond what they are now to allow the Labor Party to continue borrowing. I am sure not many Australians would be aware of that. Our current debt, $227 billion, is going to increase. Under the rules and regulations for the governance of Australia there is a limit on what they can borrow, but this bill today will allow the Labor Party to increase the amount of their borrowing beyond what it is at the present time.

David Murray, the former Future Fund boss and former chief executive officer of the Commonwealth Bank, sounded a warning the other day about European and US governments and their sovereign debt crises. He urged governments to heed the lessons of Europe and the US as growing state and federal borrowing pushes their financial liabilities past half a trillion dollars in the new financial year. The net debt levels in the states—all of them Labor states until very recently and, of course, the financial mess that all of the states are in is a result of decades of Labor government—have risen from $102 billion this year to $135 billion next year. This will put their net financial liabilities at a record $285 billion. If you add to that the $227 billion that the Commonwealth has then you understand why people like Mr Murray are sounding warnings. Mr Murray said that these huge debt levels could force private sector to compete for funds as the resource sector booms. Of course, we know what happens when there is competition for money.

The lesson from Europe and the US is that high public indebtedness can lead to significant structural difficulty. The debt crisis in Europe has forced governments to cut public services and pensions, while the US is struggling to raise the $14.3 trillion debt ceiling it has—they want to try and increase that; they are not having much success in Congress—to avoid the United States, would you believe, from defaulting on its debt. We are not quite to that stage, but leave a Labor government here for another few years and we will be. Labor Party people who are oh so concerned, so they say, about the poorer people and the working people should have a look at what is happening in Europe after years of socialist and left-wing governments. They are now cutting pensions in Greece. They are cutting services because the government simply cannot pay for it any longer. That is what is happening and what will happen in Australia if Labor continues to govern in this country.

We have already seen how taxes just keep coming. The carbon tax, the mining tax, the flood levy; on and on it goes. Labor is addicted to debt; it is in their DNA. But they have to understand that you just cannot keep borrowing. You cannot do it in your own household and the country is the same. Someone has to pay back the debt, someone has to pay the interest and someone has to keep borrowing the money to pay the interest so that Australia can keep up the basic services.

That is where I despair. The Labor government has been one continuous episode of mismanagement and waste. We know about the pink batts and we know about the
school halls. How much have we spent on the climate change debate in the last term of government, ending up in that failed Copenhagen conference that became a laughing stock? The whole Copenhagen climate change thing was so mismanaged by Australia. Just the sheer money, as well as the carbon footprint that others have written about, of going through the routine under the last Labor government's failed approach to climate change. It goes on and on.

I am concerned at the increase in the liabilities from the federal government. Again, I am concerned that in typical form this Labor government is bringing in—sneaking in—at five minutes to midnight before the end of the financial year this bill to further increase the ability to borrow, at a time, as I say, when people are out celebrating the assassination a year ago.

I know the news media tomorrow will be all talk about 'Assassination Day'—the one a year ago. There will be a lot of commentary about the 'Assassination Day' coming up. We know from discussions with our Labor Party friends that the situation is getting to an extent where something will happen. When the next assassination happens I think even the Labor Party will have to go to an election, so Labor friends are telling us to look towards September or October: get a new leader, try to get the carbon tax off the agenda, try to get the illegal boat people off the agenda and try to get people to forget about the mining tax so that we can go to an election this year.

It is just becoming untenable. As you heard from the previous debate, the Greens are out there boasting about what they have done to increase taxes yet again, and saying to the Labor Party and the Taxation Office, 'You want more money? You want more taxes? We're here to help.' I cannot believe that, but I suppose those of us who have followed the Greens for a while at least appreciate their honesty, unlike the Labor Party. At least the Greens are open about it: 'We want to increase taxes, we want to make it more difficult for families in Australia to exist. We want to put more and more pressure on the cost of living.' That is something, of course, that we in the coalition do not want to do.

For the reasons Senator Cormann indicated, we will not be opposing this bill we will continue to highlight the financial excesses of this government and their simple inability to deal with money.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (19:04):
Tonight I cannot help myself: I must speak on this issue. This is an issue that has disturbed me for quite some time with this current government. It has disturbed me to such an extent that I lost my finance portfolio. But at the time, I said the outrageous thing that our debt was starting to get out of control. I also made comments that the position of America with their debt was becoming untenable. I have received some sort of succour now that those same comments are reported and repeated by David Murray, Noel Ferguson and John Roskam. There have been articles written on it—too late for me, but not too late for Australia.

I think we should really flag exactly what is going on here. Debt does not lie. Debt is the absolute key performance indicator of how you are going financially. You can have all the beautiful stories you like—all the wondrous stories that I used to see as an accountant and in my five years in banking—about how things are actually going. But you just say to them, 'What do you owe the bank? Are you paying off your debts? Are you getting further into trouble?' Because debt does not lie: you cannot get
around it. It is there, on your bank statement. You can give wonderful stories about net debt and this debt and that debt but it is your gross figure, easily pronounced on your bank statement.

The gross figure for our nation comes from a thing called the Commonwealth Inscribed Stock Act. That is where it comes from. Australian government securities outstanding: easily found at the Australian Office of Financial Management website. Currently it is $187 billion. Actually, in the last week they paid a little bit of it back, but that is just because it is the interim period between the roll of bills and it will blow right back out to where it was at $196 billion. The reason we are in here tonight, and the reason they sneaked in this extension of debt is because if we did not extend this debt the government would close down. It would all finish; the cheques would bounce and we would have no money. They said as much in Senate estimates, where they clearly said, 'Oh, that would be so irresponsible not to extend the debt limit,' because if you did not extend the debt limit the place would just come to a conclusion.

So we are extending the debt limit; we are extending the overdraft to try to keep the place running. But we are not paying the money back. There is always the promise of paying the money back but they never actually deliver on their promise of paying the money back. I remember reading back in 2009 that the Treasurer, Wayne Maxwell Swan, was going to give us a temporary increase in the limit—from $75 billion, up by $125 billion to $200 billion. It was temporary, he said, because China was going to fall backwards. It was basically going to go into recession, along with India. Neither China nor India missed a beat. They charged ahead. Not only did they charge ahead but our debt charged ahead and went from a temporary increase to a permanent increase.

The premise of the Treasurer's wish for an extension was not there, but the debt certainly was. You could see where it was. If you could see a source and application of funds statement—'Where is the money?', that is what they always ask—you would see that it is in ceiling insulation for the rats and the mice to sleep on at night. It is in school halls. It was in that manic $22.8 billion they sent out in $900 cheques. I would like to remind the Senate that I voted against each one.

Where has this led us? We have a gun held to our head to basically take this debt ceiling out and, at the same time as that debt ceiling is going out, we have all the other fiascos around this nation—all caused by the Australian Labor Party. We have Queensland heading towards a net debt position of about $85 billion in 2014-15. We have New South Wales heading to a net debt position of $71 billion. We have Victoria heading towards a net debt position of $47 billion. With all these structural dislocations the debt adds up. Then we have this other fiasco: NBN, the next budget nightmare. We are going to borrow $27 billion and then another $10 billion on top of that and then, magically, we are going to make money. We will magically find the rest of the money to get us out to a $56 billion spend. I can tell you one thing: the Treasurer will not find the money; he will be borrowing that money as well—or shutting it down. That debt also gets added in, and on and on it goes.

David Murray clearly stated the other day in the paper that we have to really watch ourselves. I seem to remember saying something very similar myself a couple of years ago. He mentioned half a trillion. Isn't this marvellous? Under this crowd, we have got ourselves into the trillion club. We can actually start talking about our debt as a portion of a trillion.
What is happening to private enterprise? Money is being sucked out of the economy. On the news tonight we hear that the people in Sydney, the businesses, just do not have the cash. It is not there. We hear it in Brisbane. We even hear it in small regional towns, such as Dalby, that the money is not there—because he is sucking the money out of the economy. Is it just the view held here that the debt is out of control? No. I have got a paper from Dr Ken Rogoff, from the Harvard Centre for Economic Policy Research. He has got no barrow to push. I do not know him; I have never met him. What does Dr Ken Rogoff say? He talks about the cumulative increase in real public debt since 2007—surprise, surprise, that is when the Labor Party got voted in. Let us go through them. The worst was Iceland; that stands to reason. The next was Ireland, the next one—not Spain, not the US, not the UK, not Greece, not Portugal, not Chile, not Mexico—is Australia. Congratulations! You are No. 3. You have done an incredible job. Since you have been here, you have brought about the third-biggest cumulative increase in real public debt since 2007. Well done! He is a genius, our Treasurer. What an omnipotent light! What an orb of financial wonder! The debt has got to be paid back. There are real people who really want their money back. The Chinese really want their money back. The people we owe the most money to are the Chinese government. What a wonderful position we have got our nation into. They want their money back. The people in the Middle East and the super-annuation funds of Japan—they all want their money back. We have to roll this money. We have to reapply with our begging bowl and say, 'Please give us the money.'

We say, 'It's all right, because we have got a mineral based economy and it's bullish and we are sucking in funds because we are a commodity-based economy.' Well may that be the case, but I hope it stays that way, because if it does not you are going to be a beggar with a bowl in the international money market trying to prop up your budget. You did it to us. The Labor Party did this to us.

The Australian people have got to realise what happens when this comes unstuck. What happens when it comes unstuck? What happens to us is exactly what happens everywhere else. There is a complete constriction on the availability of funds for public expenditure. There is a complete restriction on the capacity to meet your Pharmaceutical Benefits Scheme requirements. So the pensioner, when they go to the chemist and ask for the script, believing it will be subsidised by the government, will find out that, because of the stuff-up that the Labor Party has created, the money is just not there. So they will have to pay the full price, the actual price. Instead of the $4 script it will be the $400 script. Instead of the $200 cancer treatment it will be the $20,000 cancer treatment. You will have to pay the real price. Access to free and public hospitals: if the money is not there, you cannot afford them. Close them down or make people pay. That will certainly fix up the waiting queues in public hospitals, because they will not be public anymore, because you will have to pay, because we will not have the money. The Defence Force: you will be able to see your ships all the time. You will be able to get a marvellous sense of pride, because our fleet will always be in port, because it will not be able to afford to go to sea. Pensions: forget about pension rises; forget about pensions altogether. This is what happens when you get out of control.

As I have said to so many clients, when they start going out of control, when you see this course of action—this addiction to debt—and you ask them, 'Does your son or
daughter have a caravan?" They ask, 'Why?' You say, 'Because that is where you are going to live, unless you get it under control.' The Labor Party can smirk, but I do not want you to smirk; I want you to show me how you can pay the money back. I want you to prove to the Australian people that you can pay debt back, because you have a commodity based economy and you have got debt in boom times. God help us when you have to pay it back when times are not so good. If you cannot make your two ends meet now, what hope have you got in the future? I would love to make the Labor Party sweat on this. I really would. I would really like to ring a bell for the Australian people about exactly what you are doing and where it is all going, so they could understand the sort of strife we are getting ourselves into. But apparently that is irresponsible—and I understand that. But the Australian people have to understand that under this crowd—with all their stories, like they are going to cool the planet; they are going to build a new, multibillion dollar telephone network; they are going to do this; they are going to do that—you always have to go to the article of truth. The key performance indicator for any government or organisation is whether your debt is going up or down. Do you have the capacity to pay your bills as and when they fall due? I might remind the Australian people that the way we pay out interest bill in this nation is that we just borrow more money. Capitalise your interests. In accounting terms it is called 'economic palliative care'. But we do it. We just naively stumble along, with this group of people who have no hope. There is no hope and no competence. We lay this at the feet of Wayne Maxwell Swan, of Julia Gillard, of Kevin Rudd and of whomever they pick next—Stephen Smith. But the unfortunate thing is that the people who end up paying all this back, the people who have to suffer for their stupidity, are the Australian people.

Senator WONG (South Australia—Minister for Finance and Deregulation) (19:16): I thank all senators for their contributions to this debate. I will briefly—given the hour—respond to a few issues. Obviously, senators would be aware that these are the appropriation bills and they form the core of this, the fourth, Labor budget, a budget that builds a more productive workforce, including a $3 billion training package. This budget delivers a plan for better schools, hospitals and health care, including a significant spend on mental health services and regional health services. It will also ensure that we remain on track to get in the black by 2012-13.

There have been a number of comments made about debt, and I just want to respond briefly to them. I would make the point that this is a budget that returns to surplus by 2012-13, with the budget growing both in size and as a share of GDP by 2014-15. This does represent the fastest fiscal consolidation since at least the 1960s, around 3.8 per cent over two years. This has been achieved despite significant revenue weakness from the legacy effects of the global financial crisis, an event which had an extraordinarily significant effect on the global economy and particularly on many developed economies but which the opposition appears to forget.

In terms of real spending growth, Senator Cormann made an assertion about two per cent. The two per cent cap is part of one of our fiscal rules. We have actually done better than that over the forward estimate periods. The average across the forward estimates averages one per cent per year, which is the lowest average real growth in expenditure over a similar period since the 1980s. And, of course, that is compared with real spending growth in excess of two per cent
for most of the period the coalition were in government—an average growth of 3.7 per cent. The budget achieves savings of $22 billion in addition to the $83.6 billion identified in the last three Labor budgets. It delivers a net improvement to the bottom line of $5.2 billion across the forward estimates.

In many ways the following two facts are most important. Government spending as a share of the economy falls. So, for those on the other side who like to speak about the importance of small government, it is a Labor government that is actually delivering a reduction in government spending as a share of the economy to 23.5 per cent of GDP by 2014-15. And, in case people suggest that is just because it is at a higher level because of the GFC, I would make the point that that is actually less than the average of the 10 years preceding the global financial crisis.

A number of comments were made about net debt. Australia's net debt is forecast to peak at 7.2 per cent of GDP in 2011-12. This compares to an average net debt position of around 90 per cent of GDP in 2016 for most major advanced economies. Our peak net debt position is less than one-tenth that of comparable economies.

Senator Cormann made some comments about the government seeking to hide the debt cap. I think that is somewhat disingenuous, given that it is in the legislation before the parliament and being debated. The senator also made some comments about the carbon price. We previously discussed that at length in estimates and in other fora. I would again make the point that the government have said very clearly: we will account for the carbon price in the usual way, after the package has been finalised—just as former Prime Minister Howard accounted for the GST well after he first announced it.

Senator Macdonald stated that someone has to pay back the debt. We agree, which is why we have put forward a budget with savings measures. I would make the point that in fact it is the coalition blocking a range of savings measures in this parliament that have an impact on the budget bottom line. If they are keen on a surplus, they need to demonstrate that by voting the right way.

I do welcome the comments that were made in the other place in recent times, including comments made by Mr Andrews yesterday:

We have said that, if we are going to oppose measures which the government puts forward and that opposition will lead to a cost to the budget, we will identify where the savings are going to be made in the budget in order to compensate for that loss to the budget.

If that is the new coalition position, I welcome it, because it is a new position and it is not the position that they have previously held. In fact, as I indicated prior to this debate, if the coalition's position in terms of their voting record and their $10.6 billion black hole were included, the coalition would in fact be in deficit in every year of the forward estimates—not the party of surpluses but the party of deficits.

Senator Joyce made some comments. I am not sure if they are able to be responded to. He did make a point about debt and I thought he might like to be reminded of what Moody's ratings agency said after the budget: Moody's notes that Australia's government debt remains among the lowest of all Aaa-rated governments.

Goldman Sachs in their report state:

In order to avoid further interest rate rises it—the government—proposes a Budget that represents the biggest fiscal contraction since 1970 when comparable data commenced.

…...
The Budget makes a genuine attempt to keep its commitment to return the Budget to surplus.

CBA Economics Update of 10 May 2011 states:

... the Budget is dominated by savings measures—new spending is limited and any significant revenue initiatives are largely deferred to the Tax Forum ...

... ...

The Budget meets all the requirements of the government’s medium-term fiscal strategy and it adheres to the exit strategy from the GFC-stimulus period.

On that basis, I commend the bills to the chamber.

Question agreed to.

Bills read a second time.

Third Reading

Senator WONG: I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

Remuneration and Other Legislation Amendment Bill 2011

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (19:23): I rise to speak on the Remuneration and Other Legislation Amendment Bill 2011. This bill contains measures that extend and reinforce the authority and independence of the Remuneration Tribunal. When the Remuneration Tribunal was established in 1973 it had the sole authority to determine the base remuneration of parliamentarians. However, the Remuneration and Allowances Act 1990 removed this authority. This bill will restore that.

One of the key impacts of this bill will be that the determinations of the Remuneration Tribunal will no longer be subject to tabling or disallowance motions by members of parliament. Indeed, members of parliament will play no role in determination of remuneration. The coalition believes that an independent tribunal that is free from the political process is best placed to make determinations about members of parliament. An independent tribunal is an important measure to ensure that the public can have confidence in the process by which the remuneration of their elected representatives is determined. The process must be transparent and free from political connotations, and this bill will help the tribunal achieve that objective.

This bill will also extend the Remuneration Tribunal’s authority to determine the remuneration of the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Treasury. Furthermore, the president of the tribunal will also, with the secretaries of those two departments and the Public Service Commissioner, decide upon the remuneration of other departmental secretaries. Additionally, it will also be the responsibility of the Remuneration Tribunal under this bill to determine a classification structure for departmental secretaries. These deliberations regarding the remuneration of departmental secretaries would also no longer be subject to disallowance motions by the parliament. The Remuneration Tribunal will be allowed to operate in a framework that allows it the independence to determine the most appropriate level of remuneration for members of parliament and senior departmental secretaries.

Another provision contained in this bill will require the tribunal to publicise its decisions and to provide reasons for each decision. This is an important accountability mechanism and should go some way to ensuring that the public can have faith in the
remuneration system for their elected federal representatives. This bill was referred to the Senate Finance and Public Administration Legislation Committee for inquiry and report. The inquiry has been completed and the committee supported the measures contained in the bill. The report stated:

In relation to the removal of the provision for disallowance of Tribunal determinations relating to parliamentary entitlements, the committee notes this decision will reinforce the independence of the Remuneration Tribunal and ensure the integrity of the process to determine the remuneration of parliamentarians. The committee supports the view that this is an important mechanism to remove opportunities for political intervention.

The reforms contained in this bill are based on the recommendations of the Committee for the Review of Parliamentary Entitlements, also known as the Belcher review, whose findings were made public earlier this year. That review did present a compelling case for reform.

The bill has the support of the coalition and we will not be opposing the amendments circulated by the government.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:27): I thank Senator Fifield for his contribution. The problems with the current parliamentary entitlements framework have been clearly documented. The Australian National Audit Office in its 2009-10 report Administration of parliamentarians' entitlements by the Department of Finance and Deregulation noted that the entitlements framework is difficult to understand and manage for both parliamentarians and the Department of Finance and Deregulation. The report of the Committee for the Review of Parliamentary Entitlements, known as the Belcher review, established in response to the ANAO's report, similarly notes:

... existing arrangements are an extraordinarily complex plethora of entitlements containing myriad ambiguities.

The administration, clarification and streamlining of parliamentary entitlements is an ongoing and important task. The government will continue to seek to improve and make more transparent both the framework and the service delivery in this area. It is important work because it is critical to the enabling of members and senators in how we do our work representing our constituents in our system of representative democracy.

Parliamentarians that are supported by an effective, efficient and transparent system of remuneration and entitlements will do their jobs better. This bill is an important initiative in the reform of that framework. The bill will restore the power of the independent Remuneration Tribunal to determine the base salary of parliamentarians. It will allow the tribunal to determine the remuneration and other terms and conditions of departmental secretaries and the remuneration and recreational leave entitlements of other officers established under the Public Service Act 1999. In restoring the tribunal's power to determine the base salary of parliamentarians, the bill will implement the cornerstone recommendation in the report of the Committee for the Review of Parliamentary Entitlements. It will restore the power to set parliamentary base salaries to the independent Remuneration Tribunal, beyond the reach of any potential political interference. The committee made a range of recommendations around parliamentary entitlements. The government has agreed to the cornerstone recommendation of the review. This bill implements this recommendation and, by doing so, will provide more transparency and, importantly,
independence in the determination of parliamentarians' base salary. As I have indicated, the government has agreed to the first recommendation of the report and is implementing it in this bill. The remaining recommendations of the report have been referred to the Remuneration Tribunal, which will provide advice to the government in due course.

Parliamentarians have been remunerated for their service to the Commonwealth parliament since Federation. Pay was initially set by the Constitution and then by the parliament itself, under the auspices of the Constitution. With the enactment of the Remuneration Tribunal Act in 1973, the Remuneration Tribunal became responsible for setting parliamentarians' base salary. However, the tribunal's authority to determine parliamentarians' base salary was removed by the Remuneration and Allowances Act 1990. The bill restores the Remuneration Tribunal's role of conclusively determining parliamentary base salary. This change will enable parliamentary base salary to be determined in its own right, rather than by the current arrangement, where it is set by reference to a figure determined for another purpose and a matter for decision by the government of the day.

The current situation has resulted in outcomes on parliamentarians' salaries being determined by political considerations, to the detriment of considered and informed decision making on appropriate remuneration. The government notes that Remuneration Tribunal determinations on parliamentarians' remuneration were disallowed or varied by legislation in 1975, 1979, 1981, 1982, 1986 and 1990, prior to the passage of the Remuneration and Allowances Act 1990. Since this enactment, parliamentary base salaries have been determined by the executive arm of government. The pre-1990 situation, where determinations were subject to regular disallowance, was also unsatisfactory. It was also inconsistent with the independent nature of the tribunal. Accordingly, the government has decided that, in addition to the restoration of the Remuneration Tribunal's power to determine parliamentarians' base salaries, the tribunal's determinations of parliamentary remuneration will, in future, not be disallowable. This will reinforce the independence of the tribunal and ensure the integrity of the scheme for determining the remuneration of parliamentarians by removing, to the greatest extent possible, opportunities for intervention in the implementation of the tribunal's determinations by the beneficiaries of those determinations.

The Remuneration Tribunal will continue to determine the additional salaries of parliamentary office holders, such as the President of the Senate and the Speaker of the House of Representatives, and provide advice to the government on the additional salaries of ministers and members of the executive. To ensure openness and transparency of the Remuneration Tribunal's decision making, the tribunal will be required to make its decisions public and publish reasons for them.

The bill also contains amendments to the Remuneration Tribunal Act 1973 and consequential amendments to the Public Service Act 1999 to make the Remuneration Tribunal responsible for determining a classification structure for departmental secretaries and related matters, which may include pay points and guidelines on the operation of the structure. Those amendments implement the government's 2007 election commitment to make the Remuneration Tribunal responsible for determining the remuneration of departmental secretaries and other public office holders under the Public Service Act 1999.
The Remuneration Tribunal will also be responsible for determining the classification to which each office of departmental secretary will be assigned and for determining the full range of departmental secretaries' terms and conditions. The Remuneration Tribunal would determine the amount of remuneration that is to be paid to the Secretary of the Department of the Prime Minister and Cabinet and the Secretary of the Treasury. The Secretary of the Department of the Prime Minister and Cabinet would, in consultation with the president of the tribunal and the Public Service Commissioner, assign all other departmental secretaries to an amount of remuneration consistent with the classification structure determined by the Remuneration Tribunal. As is the case currently with determinations made by the Prime Minister, the Remuneration Tribunal's determinations of the remuneration and other conditions of departmental secretaries would not be subject to disallowance.

Consistent with these changes and the 2007 election commitment referred to above, the bill will also give the Remuneration Tribunal responsibility for determining the remuneration and recreation leave entitlements of the Public Service Commissioner, the Merit Protection Commissioner and the heads of executive agencies created under the Public Service Act.

The Belcher review of parliamentary entitlements, which I referred to previously, also recommended that the government take preventative measures to ensure that any future folding-in of allowances did not provide a windfall retirement benefit to members of the scheme established under the Parliamentary Contributory Superannuation Act 1948. The government will be moving an amendment to the bill to implement these measures. The measures contained in this bill restore independence and transparency to the remuneration of parliamentarians, departmental secretaries and the other office holders I have mentioned. As I said earlier, a system that sees parliamentarians supported by an efficient, effective and transparent system of remuneration and entitlements, removed from political interference, will allow public servants to do their job better. The measures in this bill are an important step towards that goal.

Question agreed to.
Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:36): I table a supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber earlier today.

Senator XENOPHON (South Australia) (19:36): I did not get an opportunity to make a brief contribution in relation to the second reading debate, and I apologise for that, but I would like to raise a couple of issues with the minister. I am grateful for the discussions that I have had in general terms with the Special Minister of State's office in relation to these issues broadly. I just want to clarify a few things. Firstly, schedule 2 contains amendments in relation to the salaries of parliamentarians and implements the recommendation of the committee for a review of parliamentary entitlements—the Belcher review—which proposed to restore the ability of the tribunal to determine parliamentary base salary, require the tribunal to publish reasons for its decisions in relation to parliamentary remuneration and remove parliament's ability to disallow parliamentary remuneration determinations.
made by the tribunal. I note that my colleague Senator Bob Brown, in his minority report for the Australian Greens, along with Senator Siewert, has a different view in relation to the last aspect.

My concern is about transparency and accountability in the process. That relates to the extent to which there can be appropriate public input into the process to ensure some openness so that, if politicians are seeking a pay rise or a change in their conditions, there must be some transparency in the process, in the same way, I guess, that Fair Work Australia may work. To what extent can the Remuneration Tribunal in its current form have a process that is seen to be more inclusive and transparent with respect to the setting of parliamentarians' pay? Is that something that is covered within the scope of the current powers of the tribunal, in addition to the proposed amendments?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:38): I am not sure whether you were in the chamber when I gave my speech earlier, but I did say that the changes that are outlined in the bill also refer to the Remuneration Tribunal having to publish their decisions and also reasons for the decisions that they make. In terms of transparency, this is a big step in the right direction and certainly one of the intentions of the other bill.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:40): My understanding is that the tribunal would take submissions from any interested member. In the new bill, they would be required to print the reasons for any decision making. In terms of any of their processes, that would be a matter for the tribunal to make themselves. The tribunal, as I have said and as Senator Fifield has said and everyone has noted, are independent in terms of their decision making, but they are also independent in terms of their processes.

Senator XENOPHON (South Australia) (19:41): I appreciate the frankness of the minister's answer. Does that mean that the tribunal does have the power, given its independence, to, for instance, decide that the mechanism by which it calls for submissions is a public one and it could seek submissions quite broadly—from the community, from parliamentarians, from interest groups and from the general public? Also, does it have the capacity, should it so wish, to hold public hearings in relation to its process of making a determination?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development
and Minister for Social Housing and Homelessness) (19:42): I am advised that that would be a matter for the tribunal to decide as they see fit.

Senator XENOPHON (South Australia) (19:42): I know this is a difficult issue because you do not want to be seen as interfering with the independence of the tribunal, in terms of the final decisions they make. Maybe this is a question I could put to the opposition as well, and I presume that Senator Fifield is hanging onto my every word. If the tribunal had a process whereby they did have public hearings into their determinations, is that something that the government would be comfortable with, regarding the way the tribunal operates? It is a similar issue to that of the opposition—if there were an additional level of openness.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:44): Again, the tribunal is independent. In terms of their processes and how they see submissions and the extent of their work, that is really a matter for them to determine. But we take on board your comments and I am sure that the tribunal will note your concerns.

Senator XENOPHON (South Australia) (19:45): I am grateful to Senator Arbib for his forthright answers in relation to this. I just want to leave it at this: I will write to the tribunal and ask them whether they will seek to open up the process—and I believe it ought to be—and to have a much more public process in the determinations. I do welcome what the government is proposing for a publication of reasons. That is of course welcome. I think it would be fair to say that, if you open up the process, that does not impede or compromise independence as a tribunal and it may well be that this matter will be revisited. I will leave it at that and I look forward to corresponding with the tribunal to see what they say about opening up their process so that it is seen as much more transparent than many in the community believe is currently the case.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (19:46): The Australian Greens do not support the legislation. While we do support the restoration of the ability of the tribunal to determine the base salaries of parliamentarians, we do not support the removal of the ability of parliament by disallowance to override the Remuneration Tribunal. Members will recollect that as we went into the global downturn, the last Prime Minister, Kevin Rudd, withheld a recommendation by the Remuneration Tribunal to increase parliamentary salaries.
Senator Ferguson: That was to curb inflation.

Senator BOB BROWN: It draws interjections straight off from the coalition. But I do not know of any determination by the tribunal that parliament has interfered with to increase. What this legislation is about is the government and the opposition supporting a recommendation which takes away not only the right but also the responsibility of parliament to curb a grant of extra payments to parliamentarians at a time when the rest of the community is not getting them. That will come down the line again. Sure, it is good that we have an independent tribunal looking at parliamentary salaries and entitlements, but it is beyond common sense that we remove from parliament the right and responsibility written into the Constitution that we determine ultimately the salaries of parliamentarians. This is a cosy and convenient piece of legislation to say that the Remuneration Tribunal should keep parliamentarians' salaries increasing above the level of salaries and income for the rest of Australians, because that is the trajectory, but please shield us from the responsibility of keeping that in check. This is just an easy way for MPs to say, 'We do not want controversy as we get increases which are out of kilter with the average worker in this country.' I for one, and on behalf of my colleagues, am prepared to take on that responsibility. We have always had it and we should retain it.

What is next? Is the next thing going to be a further recommendation going through the Remuneration Tribunal that our electoral allowances be rolled into the salaries so that we no longer have an obligation, at least an implicit obligation, to spend money on our electorates and have it go instead straight into our pockets?

Senator Xenophon: I think it might be—

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (19:49): Yes, Senator Xenophon, I think it might be, and I am not going to support that, and the Australian Greens will not support that process.

Senator XENOPHON (South Australia) (19:49): Further to Senator Brown's contribution, I would be grateful if the minister could clarify. As I understand it, the amendments do give the power to the tribunal to roll parts of a parliamentarian's salary package, in terms of the electoral allowance, into a salary package. Is that the case? Is there the potential for the tribunal to do so?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:50): My understanding is that it is giving them the discretion to roll in or take out for the purposes of superannuation.

Senator XENOPHON (South Australia) (19:50): That is my understanding. As I understand it, it means that for those members of parliament elected prior to 2004, who are in a different superannuation scheme from those elected post 2004, it means therefore that there is that ability to roll various allowances including a travel allowance into the remuneration package by virtue of these amendments. I think that was one of the issues that Senator Brown was concerned about.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:51): Yes, Senator, that is correct. But the stated intention of the government at the moment is to remove the
possibility of unintended benefit being accrued by members of the 1948 scheme.

Senator XENOPHON (South Australia) (19:51): I understand that. For the three people that might be listening to this on News Radio, what it means is that people cannot get an additional benefit by virtue of salary being increased by the rolling in of some of these allowances. I think that is the idea, and that of course is the right thing to do. The issue is that this does not mean that there will be changes post 1 July; it means that the changes may occur should the tribunal so decide at some subsequent stage. Is that right?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:52): I am sure there are more than three people listening, but that is correct, yes.

Senator XENOPHON (South Australia) (19:52): I am sorry if I misled the Senate, then. It might be five! This is a significant change. In my time as a member of the Legislative Council of the South Australian parliament, I think that on one or two occasions the local tribunal had a questionnaire: 'What did you spend your electoral allowance on?' I recollect that I was very happy to fill that out, and I think I probably spent more than the electoral allowance on various activities, but at the moment there is no obligation to do so. Does the government have a view on—

Senator O'Brien: You can argue that. If it's transparent, you can argue it.

Senator XENOPHON: Yes, that is right. So does the government have a view as to the accountability of current electoral allowances, for instance, or whether it would be simpler to have it rolled into one? Similarly, for the international travel allowance for members of parliament after they have completed one term, is there any policy view or are you suggesting that this is a matter that the tribunal will deal with in due course?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:53): Again, these are matters that really should be dealt with by the tribunal themselves. What we are talking about tonight is independence and transparency. In terms of those sorts of deliberations, they are matters that the tribunal should come to under their own investigation. Of course, Senator, you are very welcome to provide a submission to the tribunal outlining your position, and I am sure that your comments tonight will be noted.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (19:54): Yes, of course, but there will not be any parliamentary responsibility for the outcome. For example, $30,000 or $40,000 of electorate allowance is going to go straight to salaries under this trajectory that we are seeing in this parliament now. MPs can currently spend their electorate allowance on themselves if they want to, but the at least implicit obligation is going to be removed. We all know what that means: it is going to mean that in the electorates where there will not be an electorate allowance there will be less money going to the electorates. There are people who spend more than their electorate allowance on their electorates at the moment, and there are some who spend almost nothing of that electorate allowance on their electorates, but what this does is validate the second component of that: it validates that money being transferred into MPs' packages with no strings attached, not
even an inherent obligation to spend the money on the electorates.

I know what will happen next: there will be legislation coming into this parliament a couple of years down the line to restore electorate allowances on top of the new salaries. That is something for the majority in this house and the other house to do if they wish. I believe that this legislation removing our responsibility and, indeed, the debates that have regularly occurred about MPs' salary increases are a shedding of our own responsibility to the electorate to be moderate in our assessment of our own worth. We are paid well and we do have good allowances compared to other parliaments around the world, but we have a responsibility, after an independent tribunal makes recommendations, to ensure, for example, that that is in keeping with what other people, who have voted us into the parliament, are getting.

I will not labour this point. I support the new measures of accountability of the tribunal—that it should publish its reasons and that it should be able to assess base salaries—but really the crucial point of this legislation is ridding ourselves as parliamentarians of the need from time to time to get up and contribute to a debate about how much we are worth, how much we should be paid and how closely that is related to the value of other workers in our community. I reiterate that the Constitution puts that obligation on us very early, and it is one that we should be keeping, not trying to shed off our shoulders through this piece of legislation.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (19:57): I note the comments made by Senator Brown, and I also note that this does not stop politicians from being involved in the debate. Of course, politicians and members of parliament can make submissions to the tribunal, and also they can make public statements at any time about what they believe is appropriate, but in the end what we are attempting to do as a parliament is to ensure that the independence and transparency are there for the deliberations of the tribunal. At the same time, parliament still retains the right to amend the legislation at any time. The right is obviously there and is something that could be considered in future.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (19:58): I have never in my recollection—I might be wrong—had the tribunal ask my opinion. I have sent submissions to the tribunal, and I almost always found they got little reception. Maybe it should be this way. It is an obscure tribunal that is out there somewhere, divorced from any close working relationship with MPs. Maybe that is a good thing. But, Senator—through you, Chair—on your suggestion that we send submissions to the tribunal, I found that a process that has not been very rewarding in the past. Maybe after this legislation it will improve.

Senator XENOPHON (South Australia) (19:59): This is a question both to Senator Fifield and to the minister. Given the proposed new powers of the tribunal—which from my point of view, in terms of their accountability provisions, are obviously welcome—what is the position of the government and the opposition in relation to making submissions to the tribunal with respect to the new powers it will have to roll in components of a member of parliament's entitlements into the overall salary package? For instance, could Senator Fifield indicate the approach the coalition will take in its dealings with the tribunal in relation to these
matters. Presumably, there will be some submissions, one way or the other, as to the tribunal's new powers and in terms of its deliberations.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (20:00): This is an unusual practice. I guess it is good practice for when we assume a position on the other side of the chamber! I do not have that knowledge, but I will happily convey your request to our shadow.

Senator XENOPHON (South Australia) (20:00): I am just trying to help Senator Fifield. As the shadow minister responsible can he advise whether the coalition has written to the tribunal about remuneration issues in the past.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (20:01): Yes.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (20:01): I have answered the question in terms of politicians and parliamentarians making submissions. That is obviously something that is available, and everyone is encouraged to do that if they see fit. I seek leave to move amendments (1) to (7) together.

Leave granted.

Senator ARBIB: I move:

(1) Schedule 2, item 1, page 14 (lines 14 and 15), omit paragraph (d) of the definition of *parliamentary allowance* in subsection 4(1), substitute: (d) parliamentary base salary (within the meaning of the *Remuneration Tribunal Act 1973*), less any portion determined under subsection 7(1A) of that Act.

(2) Schedule 2, item 6, page 15 (lines 24 and 25), omit paragraph (b) of the definition of *parliamentary allowance* in section 3, substitute: (b) parliamentary base salary (within the meaning of the *Remuneration Tribunal Act 1973*).

(3) Schedule 2, item 14, page 16 (lines 20 to 23), omit the definition of parliamentary allowance in clause 1A of Schedule 3, substitute:

*parliamentary allowance* means parliamentary base salary (within the meaning of the *Remuneration Tribunal Act 1973*).

(4) Schedule 2, page 17 (after line 2), before item 17, insert:

16A Subsection 3(1)
Insert:

*parliamentary base salary* means so much of the allowances determined under subsection 7(1) as: (a) represents the annual allowance payable for the purposes of section 48 of the Constitution; and (b) is identified in the determination as base salary.

(5) Schedule 2, page 17 (after line 4), after item 17, insert:

17A After subsection 7(1)
Insert:(1A) The Tribunal may determine that a portion of parliamentary base salary is not *parliamentary allowance* for the purposes of the *Parliamentary Contributory Superannuation Act 1948*.

(6) Schedule 2, item 19, page 17 (line 14), after "subsection (1)", insert ", (1A)".

(7) Schedule 2, item 20, page 17 (line 25), after "subsection 7(1)", insert ", (1A)".

I move these amendments because it has become clear that, under the bill as drafted, any additional salary determined by the Remuneration Tribunal would become part of a member or senator's parliamentary allowance. As senators and members would know, their parliamentary allowance is effectively their salary for superannuation purposes. Without the amendments current and former parliamentarians who are members of the Parliamentary Contributory Superannuation Scheme, established under the *Parliamentary Contributory Superannuation Act 1948*, could also receive increased superannuation benefits if the...
tribunal decides to incorporate any allowances into their parliamentary allowance. This would occur as, under the scheme, the benefits of former parliamentarians and eligible dependants are linked to the salaries of current parliamentarians.

As a consequence, each increase in the salary payable to current parliamentarians increases the superannuation income of members of the PCSS who are no longer in the parliament. This benefit would also flow to PCSS who subsequently leave the parliament. The amendments provide the tribunal with the authority to determine that a portion of parliamentary base salary is not 'parliamentary allowance' for the purposes of the 1948 act. Accordingly, a person covered by the 1948 act would not be entitled to receive superannuation benefits based on those amounts. The intention of the amendments is to ensure that the independent Remuneration Tribunal, should it be granted responsibility for determining parliamentarians base salaries, will be able to exercise that responsibility without creating unintended benefits for members of the 1948 act scheme. These amendments are consistent with a recommendation in the report of the review of parliamentary entitlements and further demonstrate the government's commitment to an efficient, effective and transparent system of remuneration and entitlements for parliamentarians.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (20:05):

I move:

That this bill be now read a third time.

Senator XENOPHON (South Australia) (20:05): I would like to make a short contribution in relation to the third reading vote. I acknowledge the minister's openness in the answers he has given me. I have had some frustrations in my dealings with the Remuneration Tribunal. Again, this is not a criticism, but I believe there is scope to further improve this once we see how the tribunal deals with its new powers. I foreshadow that I will be moving amendments to ensure that the processes of the tribunal are more open and transparent—I will firstly correspond with the tribunal but, if the response is not satisfactory from my point of view, I will do so. I think the more transparent it is, the greater the confidence the Australia people will have in the process by which politicians' pay is set. I acknowledge how hard every one of my colleagues in the chamber works, but I think it is important that there is a much better process in terms of openness and transparency. That may be the case with the tribunal's new powers. If the tribunal's response is not satisfactory, I will be moving a bill to amend this further. But I look forward to having further discussions with the opposition and, indeed, the government in relation to the openness of the process for setting the remuneration of members of parliament.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (20:06): I will not hold the chamber to a division but I wish it to be recorded that the Greens oppose this legislation for the reasons I have outlined.

Question agreed to.

Bill read a third time.
COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Boyce) (20:07): Order! I have received letters from party leaders seeking variations to the membership of various committees.

Senator ARBIB: by leave—I move:

That senators be discharged from and appointed to committees with effect from 1 July 2011, in accordance with the list circulated in the chamber.

The list read as follows—

Australian Commission for Law Enforcement Integrity—Joint Statutory Committee—

Discharged—Senator Marshall
Appointed—Senator Singh

Australia’s Food Processing Sector—Select Committee—

Appointed—

Senators Sterle, Stephens and Urquhart
Participating members: Senators Bilyk, Bishop, Carol Brown, Cameron, Crossin, Edwards, Faulkner, Fawcett, Gallacher, Marshall, McEwen, McKenzie, Moore, Polley, Pratt and Thistlethwaite

Australia’s Immigration Detention Network—Joint Select Committee—

Appointed—

Senators Crossin and Sterle
Participating members: Senators Edwards, Fawcett and McKenzie

Community Affairs Legislation Committee—

Discharged—Senator Boyce
Appointed—

Senator McKenzie
Participating members: Senators Boyce, Edwards, Fawcett, Gallacher, Singh, Thistlethwaite and Urquhart

Community Affairs References Committee—

Discharged—Senator Coonan
Appointed—

Senator McKenzie
Participating members: Senators Coonan, Edwards, Fawcett, Gallacher, Singh, Thistlethwaite and Urquhart

Corporations and Financial Services—Joint Statutory Committee—

Appointed—Senator Thistlethwaite

Cyber Safety—Joint Select Committee—

Appointed—Senators Bilyk and Parry

Economics Legislation Committee—

Discharged—Senator Pratt
Appointed—

Senators Bishop and Urquhart
Participating members: Senators Edwards, Fawcett, Gallacher, McKenzie, Pratt, Singh and Thistlethwaite

Economics References Committee—

Discharged—Senator Pratt
Appointed—

Senators Bishop, Cameron and Williams
Participating members: Senators Edwards, Fawcett, Gallacher, McKenzie, Pratt, Singh, Thistlethwaite and Urquhart

Education, Employment and Workplace Relations Legislation Committee—

Appointed—

Senator Thistlethwaite
Participating members: Senators Edwards, Fawcett, Gallacher, McKenzie, Singh and Urquhart

Education, Employment and Workplace Relations References Committee—

Appointed—Participating members: Senators Edwards, Fawcett, Gallacher, McKenzie, Singh, Thistlethwaite and Urquhart
Electoral Matters—Joint Standing Committee—
[for the purposes of the committee’s inquiry into the funding of political parties and election campaigns]
Appointed—
Senator Birmingham
Participating members: Senators Edwards, Fawcett and McKenzie

Environment and Communications Legislation Committee—
Discharged—Senator McEwen
Appointed—
Senators Gallacher, McKenzie and Singh
Participating members: Senators Cameron, Edwards, Fawcett, McEwen, Thistlethwaite and Urquhart

Environment and Communications References Committee—
Discharged—Senator Cameron
Appointed—
Senators Gallacher, McKenzie and Singh
Participating members: Senators Cameron, Edwards, Fawcett, Thistlethwaite and Urquhart

Finance and Public Administration Legislation Committee—
Discharged—Senator Fifield
Appointed—
Senator Ryan
Participating members: Senators Edwards, Fawcett, Fifield, Gallacher, McKenzie, Singh, Thistlethwaite and Urquhart

Finance and Public Administration References Committee—
Discharged—Senators Faulkner and Fifield
Appointed—
Senators McEwen and Ryan
Participating members: Senators Edwards, Faulkner, Fawcett, Fifield, Gallacher, McKenzie, Singh, Thistlethwaite and Urquhart

Foreign Affairs, Defence and Trade Legislation Committee—
Appointed—
Senators Fawcett, McEwen and Stephens
Participating members: Senators Edwards, Gallacher, McKenzie, Singh, Thistlethwaite and Urquhart

Foreign Affairs, Defence and Trade References Committee—
Appointed—
Senators Edwards, Fawcett and Stephens
Participating members: Senators Gallacher, McKenzie, Singh, Thistlethwaite and Urquhart

Foreign Affairs, Defence and Trade—Joint Standing Committee—
Appointed—Senators Fawcett, McEwen, Parry and Stephens

Gambling Reform—Joint Select Committee—
Appointed—Participating members: Senators Edwards, Fawcett and McKenzie

Intelligence and Security—Joint Statutory Committee—
Appointed—Senator Bishop, pursuant to the Intelligence Services Act 2001

Law Enforcement—Joint Statutory Committee—
Appointed—Senator Furner

Legal and Constitutional Affairs Legislation Committee—
Discharged—Senator Parry
Appointed—
Senators Boyce and Humphries
Participating members: Senators Edwards, Fawcett, Gallacher, McKenzie, Parry, Singh, Thistlethwaite and Urquhart

Legal and Constitutional Affairs References Committee—
Appointed—
Senators Boyce and Humphries
Participating members: Senators Edwards, Fawcett, Gallacher, McKenzie, Singh, Thistlethwaite and Urquhart

Migration—Joint Standing Committee—
Discharged—Senators Boyce and McEwen
Appointed—Senators Cash and Singh
The Acting Deputy President (Senator Boyce): Order! I propose the question:
That the Senate do now adjourn.

Live Animal Exports

Senator O'BRIEN (Tasmania) (20:08): The Rural Affairs and Transport References Committee has been charged with the responsibility of inquiring into certain matters relating to live exports and the situation with live exports into the Indonesian market. I have been a member of the committee and its predecessors for some time but will not be part of that inquiry. I want to take this, my last, opportunity to make some comments about the circumstances which the Australian industry now faces and which will no doubt be the subject of examination by the committee, and perhaps others, in the coming months.

I looked at the LiveCorp website recently and at some of the media releases on that
website. I noted that LiveCorp has appointed Mr Cameron McDonald as Animal Welfare Manager, effective from May 2010, based in Jakarta. There are also repeated reports on the website of LiveCorp since that time about the importance of animal welfare and the talk of encouraging better practices and the use of stunning in the process for slaughter of those animals.

I also had a look at the Meat & Livestock Australia website, which does not contain any particular information, that I could find, about their role in Indonesia other than statistics about the proportion of Australian meat which finds its way into the Indonesian market. I do note that Meat & Livestock Australia is funded by and represents red meat producers in Australia and, if one is to believe its website, has a duty of care to Australian farmers, particularly to helping them meet community and consumer expectations with regard to their industry.

I do not think it is questionable at all that those bodies know, and have known for some time, about the importance of the live export trade to Indonesia and the importance of the animal welfare outcomes in relation to that trade and the animal welfare movement's concerns and activism about that very trade, as with the trade in other parts of the country.

This country has seen some very tawdry events in relation to live exports. In 1990-91 the live sheep trade to Saudi Arabia was ended. It did not resume until the year 2000. In 2003, a vessel known as the MV Cormo Express was left without a destination for its cargo of live sheep because of disease on board the ship, and there were no arrangements to offload that cargo anywhere. Those animals were in effective purgatory while a destination was found. In 2006, the live sheep trade to Egypt was banned until 2008—for almost three years. So neither the MLA nor LiveCorp could have been under any illusion that, if there were concerns about the trade into Indonesia, that trade would be anything other than in jeopardy. There was no reason for them to conclude that the trade could continue if there was evidence of significant animal welfare concern in that market.

Given the circumstances of the placement of a LiveCorp officer in Indonesia in May of last year, all the events about animal welfare activism in the trade and a detailed knowledge about the market in Indonesia, why would they have been surprised by the findings that we saw so recently in the Four Corners report? It is particularly curious when one looks at the report of the agriculture FAO, which is publicly available and which details the circumstances of meat processing in Indonesia as well as in many other places. I found this on the internet. In talking about the number of facilities, for example, it says that Indonesia tops the list of the number of slaughter facilities, with 800 officially registered slaughterhouses. The report makes particular remarks about the country of Indonesia. It says:

The former centralized government initiated the construction of a high-capacity central abattoir in Jakarta, capable of slaughtering up to 2,000 head of cattle per night in two lines, using electric stunning (locally acceptable for Halal standards) and other modern equipment. The shift to a market economy and decentralization led to the opening of many small, private slaughter facilities with poor hygienic standards but which attracted the majority of livestock due to the lower cost. Although offering much better hygienic standards, the central abattoir in Jakarta now operates only at 10 percent of its capacity. Some municipalities (Bogor and Yogyakarta) recently built good medium-sized abattoirs with line slaughter for cattle. Both have not gone operational as yet because of disputes with the local butcher communities who prefer to continue slaughtering in the traditional way.
This is FAO, a responsible and reputable organisation. It goes on in the report to say: The free-market economy stimulated the mushrooming of many small private slaughter facilities, mostly with obsolete technical and hygienic equipment or practically none at all. These small slaughterhouses operate more cheaply than the large abattoirs primarily because of that lack of expenditure on maintenance, hygiene measures and energy. Thus, the butchers or meat dealers are charged less and have won over a large portion of the business from the established facilities.

That is quite knowable for LiveCorp and MLA, for quite some time. So how could those organisations turn a blind eye to what was taking place in Indonesia, a market which last year took three-quarters of a million live cattle from Australia? Clearly, it is fundamentally important to cattle producers in Northern Australia and there is not one reasonable sized processing facility in the line between Geraldton and Townsville.

How could those organisations, with regard to their constituencies, not have taken action, and how can they now expect the Australian public and certainly the farming community to forgive them for their neglect of their responsibility? As I said, live exports have been closed off for years to particular markets where there has been exposure of unacceptable animal welfare circumstances. They know that.

The Australian public is not prepared to accept those sorts of circumstances, and both sides of this parliament have known that for some time. The bodies charged with the responsibility of representing the live export industry, LiveCorp, and meat producers in Australia, MLA, ought to be condemned by their membership. If the opposition in this place takes a reasoned and responsible position on this matter they will ensure that those bodies bear the opprobrium that they should bear in relation to this matter because it is those bodies who are primarily responsible for the livelihoods of Australian farmers, particularly in Northern Australia, who may for some time lose markets in Indonesia because of the unacceptable practices which have been developing for some time in that market and clearly have gone without any reasonable interruption. If you have a reasonable interruption, if you have an industry with 800 processing facilities, many operating at very basic standards, there can be no guarantee of reasonable animal welfare standards.

You only have to look at the FAO report, which is available on the web, and see pictures of what takes place in all sorts of places in South-East Asia to know that those processes are unacceptable. To see that combined with the report on Four Corners and the Animals Australia footage I think is a depiction that we have been receiving a misrepresentation from the industry representatives about what has really been going on in Indonesia. They ought to be condemned. We need to get the matter fixed. It will take action from government and some regulation to do it but we should not forget who is responsible for letting the situation get out of hand.

Senate adjourned at 20:18

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Aged Care Act—

Aged Care (Residential Care Subsidy – Adjusted Subsidy Reduction) Determination 2011 (No. 1) [F2011L01152].
Aged Care (Residential Care Subsidy – Amount of Enteral Feeding Supplement) Determination 2011 (No. 1) [F2011L01159].

Aged Care (Residential Care Subsidy – Multi-Purpose Services) Determination 2011 (No. 1) [F2011L01160].

Appropriation Act (No. 1) 2010-2011—Advance to the Finance Minister—No. 4 of 2010-2011 [F2011L01128].

Banking Act—
Banking Exemption No. 1 of 2011 [F2011L01146].
Banking (Foreign Exchange) Regulations—
Direction relating to foreign currency transactions and to Libya; variation of exemptions – amendment to the annexes, dated 16 June 2011 [F2011L01111].
Direction relating to foreign currency transactions and to Syria, dated 16 June 2011 [F2011L01115].
Variations of exemptions, dated 16 June 2011—
[F2011L01113].
[F2011L01114].
Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—
AD/DHC-1/22 Amdt 4—Tailplane Structure [F2011L01129].
AD/DHC-1/25 Amdt 3—Wing Flaps [F2011L01132].
AD/DHC-1/28 Amdt 10—Undercarriage Mounting Casting [F2011L01119].
AD/DHC-1/31 Amdt 3—Fin Rear Spar [F2011L01126].
AD/DHC-1/39 Amdt 1—Flap Operating System Latch Plate [F2011L01125].
Corporations Act—ASIC Class Order [CO 11/557] [F2011L01141].
Customs Act—Tariff Concession Orders—
0839787 [F2011L01112].
0908361 [F2011L01127].
0911232 [F2011L01139].
0919012 [F2011L01136].
0919527 [F2011L01143].
0921209 [F2011L01134].
0924758 [F2011L01154].
0925639 [F2011L01117].
0925651 [F2011L01140].
0926784 [F2011L01121].
0941410 [F2011L01150].
0948193 [F2011L01144].
0948791 [F2011L01122].
1000123 [F2011L01130].
1010349 [F2011L01157].
1014366 [F2011L01138].
1029910 [F2011L01108].
1030736 [F2011L01096].
1037721 [F2011L01085].
1038747 [F2011L01101].
1041369 [F2011L01109].
1044726 [F2011L01158].
1045550 [F2011L01120].
Fuel Tax Act—Road User Charge Determination (No. 1) 2011 [F2011L01164].
Health Insurance Act—
Health Insurance (Gippsland and South Eastern New South Wales Mobile MRI Service) Amendment Determination 2011 [F2011L01155].
Instrument No. RPB 1 of 2011—Declaration of Relevant Professional Bodies [F2011L01116].
Migration Act—Migration Regulations—Instruments IMMI—
11/007—Payment of visa application charges and fees in foreign currencies [F2011L01110].
11/042—Level of salary and exemptions to the English language requirement for Subclass 457 (Business (Long Stay)) Visas [F2011L01131].
National Health Act—Continence Aids Payment Scheme Variation 2011 (No. 3) [F2011L01162].
National Rental Affordability Scheme Act—Select Legislative Instrument 2011 No. 95—National Rental Affordability Scheme Amendment Regulations 2011 (No. 1) [F2011L01124].
Private Health Insurance Act—Private Health Insurance (Benefit Requirements) Amendment Rules 2011 (No. 3) [F2011L01145].

Return to Order

I present correspondence from the Minister for Small Business (Senator Sherry) relating to an order of the production of documents concerning mining tax.
QUESTION ON NOTICE

The following answers to questions were circulated:

**Finance and Deregulation: Travel**
(Question No. 565)

Senator Ludlam asked the Minister for Finance and Deregulation, upon notice, on 4 April 2011:

With reference to travel undertaken by departmental staff: can a list be provided by the department itemising all air travel completed across each department of the Australian Government; if not, where are such costs itemised annually.

Senator Wong: The answer to the honourable senator's question is as follows:

For the period 1 July 2010 to 31 March 2011, 557,771 airline bookings have been made at the whole of government level (Financial Management and Accountability Act 1997 (FMA Act) Agencies and the participating Commonwealth Authorities and Companies Act 1997 (CAC Act) bodies). Itemising all air travel across each Australian Government agency would be a large and unreasonable volume of information to collate.

The new travel arrangements, which came into effect on 1 July 2010, are delivering on their intended objectives by reducing costs and improving competition in the industry.

An analysis of 30 most travelled domestic routes for the March Quarter (representing about 74 per cent of domestic travel) shows that on average savings of approximately 30 per cent were achieved on cost of airfares, using 2007-08 data as the baseline.

The savings are based on the reduction in unit cost prices achieved though the whole of government contract tender process.

**Australian Radiation Protection and Nuclear Safety Agency**
(Question No. 653)

Senator Ludlam asked the Minister representing the Minister for Health and Ageing, upon notice, on 5 May 2011:

With reference to the Audit and Fraud Control Branch and the department's current review of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA):

(1) What are the terms of reference for this review.
(2) Who is leading and serving on the panel.
(3) With whom has the panel conducted interviews.
(4) At what locations has the panel conducted inspections.
(5) When did the review commence and when will it be completed.
(6) Will the review report be made public.

Senator Ludwig: The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

(1) There is no formal review being undertaken of ARPANSA.

At the request of ARPANSA's CEO, the Audit and Fraud Control Branch (AFCB) of the Department of Health and Ageing (the Department) is undertaking an initial investigation into ARPANSA's handling of the Yttrium 90 and Molybdenum 99 incidents at the radiopharmaceutical site at ANSTO, with specific regard to those matters relating to impartiality.
AFCB will also provide advice to ARPANSA on whether any further investigation is warranted and if so, how such an investigation could be undertaken.

(2) There is no panel. Mr Colin Cronin, Assistant Secretary, AFCB of the Department is carrying out the investigation, with assistance as required from Departmental lawyers.

(3) Discussions have been held with current and former staff of ARPANSA and Mr David Reid.

(4) No inspections have been conducted.

(5) The investigatory work commenced on 31 March 2011 and is expected to be completed by the end of May 2011.

(6) Advice from AFCB will be provided directly to ARPANSA.

**Attorney-General: Accommodation**

(Question No. 668)

Senator Abetz asked the Minister representing the Attorney-General, upon notice, on 24 May 2011:

Has the department undertaken any building works at its offices on National Circuit, Canberra, in the past year; if so: can a detailed list be provided of these works, together with their individual cost.

In response to the Senator Abetz's question 668,

Senator Ludwig: The Attorney-General has provided the following answer to the honourable senator's question:

The following information is provided for the 2010-11 financial year (current to 24 May):

The Attorney-General's Department (AGD) undertook fitout changes to 3-5 National Circuit, Barton to accommodate a Departmental restructure. The cost of these fitout changes was $146,057.09.

The building owner of 3-5 National Circuit (ISPT) and AGD are sharing the cost of constructing an outdoor cover area for staff. This permanent structure is required to address potential OH&S issues (protection from the sun and rain) so that AGD can utilise the outdoor space for training, meetings and functions. Prior to its construction, staff could not utilise the area due to the extreme hot or cold conditions, reflection of light from the pavement and exposure to the elements. Expenditure for this project to 24 May 2011 is $542,190.90 of which the AGD component is $340,863.64. ISPT is responsible for any remaining expenditure (not expected to exceed $25,000).

Various minor fitout works were completed within the premises at 3-5 National Circuit at a total cost of $62,956.24. No single item exceeded $8,000.

AGD has committed to lease 8,000sqm of office space in a new building being constructed at 4 National Circuit, Barton. Expenditure to 24 May 2011 on this project is $3m against a total fitout budget of $18m. The project was approved through the Public Works Committee on 24 February 2011. Through this project AGD will achieve cost savings from:

- reduced overall rental (occupied floor area from existing buildings [aside from 3-5 National Circuit] will decrease from 9,467sqm to 8,000sqm). (Of the 8,000 sqm leased by AGD at 4 National Circuit, 500 sqm will be sub leased to a portfolio agency, further reducing AGD's footprint. The rental savings alone will exceed $650,000 per year.)

- increased productivity of staff, and

- savings through environmental and security efficiencies.

All costs provided above are GST exclusive.