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the Senate and committee hearings are available at

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SITTING DAYS—2011

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

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For information regarding frequencies in other locations please visit
http://www.abc.net.au/newsradio/listen/frequencies.htm
FORTY-THIRD PARLIAMENT
FIRST SESSION—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>Senator</th>
<th>State or Territory</th>
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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>Deputy Prime Minister, Treasurer</td>
<td>Hon. Wayne Swan MP</td>
</tr>
<tr>
<td>Minister for Regional Australia, Regional Development and Local Government</td>
<td>Hon. Simon Crean MP</td>
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<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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<tr>
<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>Hon. Jenny Macklin MP</td>
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<td>Hon. Tony Burke MP</td>
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<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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<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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<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. Bill Shorten MP</td>
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<tr>
<td>Assistant Treasurer and Minister for Financial Services and Superannuation</td>
<td>Hon. Gary Gray AO, MP</td>
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<td>Minister for Employment Participation and Childcare</td>
<td>Hon. Kate Ellis 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>Parliamentary Secretary to the Prime Minister</td>
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<td>Hon. David Bradbury MP</td>
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<td>Senator Hon. Jacinta Collins</td>
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<td>Minister Assisting the Prime Minister on Digital Productivity</td>
<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>
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Leader of the Opposition  
Hon. Tony Abbott MP

Deputy Leader of the Opposition and Shadow Minister for Foreign Affairs and Shadow Minister for Trade  
Hon. Julie Bishop MP

Leader of the Nationals and Shadow Minister for Infrastructure and Transport  
Hon. Warren Truss MP

Leader of the Opposition in the Senate and Shadow Minister for Employment and Workplace Relations  
Senator Hon. Eric Abetz

Deputy Leader of the Opposition in the Senate and Shadow Attorney-General and Shadow Minister for the Arts  
Senator Hon. George Brandis SC

Shadow Treasurer  
Hon. Joe Hockey MP

Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House  
Hon. Christopher Pyne MP

Shadow Minister for Indigenous Affairs and Deputy Leader of the Nationals  
Senator Hon. Nigel Scullion

Shadow Minister for Regional Development, Local Government and Water and Leader of the Nationals in the Senate  
Senator Hon. Andrew Robb AO, MP

Shadow Minister for Finance, Deregulation and Debt Reduction and Chairman, Coalition Policy Development Committee  
Hon. Ian Macfarlane MP

Shadow Minister for Energy and Resources  
Senator Hon. David Johnston

Shadow Minister for Defence  
Hon. Malcolm Turnbull MP

Shadow Minister for Communications and Broadband  
Hon. Peter Dutton MP

Shadow Minister for Families, Housing and Human Services  
Hon. Kevin Andrews MP

Shadow Minister for Climate Action, Environment and Heritage  
Hon. Greg Hunt MP

Shadow Minister for Productivity and Population and Shadow Minister for Immigration and Citizenship  
Mr Scott Morrison MP

Shadow Minister for Innovation, Industry and Science  
Mrs Sophie Mirabella MP

Shadow Minister for Agriculture and Food Security  
Hon. John Cobb MP

Shadow Minister for Small Business, Competition Policy and Consumer Affairs  
Hon. Bruce Billson MP

[The above constitute the shadow cabinet]
SHADOW MINISTRY—continued

Shadow Minister for Employment Participation
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
Hon. Sussan Ley MP

Shadow Minister for Universities and Research
Senator Hon. Brett Mason

Shadow Minister for Youth and Sport and Deputy Manager of Opposition Business in the House
Mr Luke Hartsuyker MP

Shadow Minister for Indigenous Development and Employment
Senator Marise Payne

Shadow Minister for Regional Development
Hon. Bob Baldwin MP

Shadow Special Minister of State
Hon. Bronwyn Bishop MP

Shadow Minister for COAG
Senator Marise Payne

Shadow Minister for Tourism
Hon. Bob Baldwin MP

Shadow Minister for Defence Science, Technology and Personnel
Mr Stuart Robert MP

Shadow Minister for Veterans' Affairs and Shadow Minister Assisting the Leader of the Opposition on the Centenary of ANZAC
Senator Hon. Michael Ronaldson

Shadow Minister for Regional Communications
Mr Luke Hartsuyker MP

Shadow Minister for Ageing and Shadow Minister for Mental Health
Senator Concetta Fierravanti-Wells

Shadow Minister for Seniors
Hon. Bronwyn Bishop MP

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

Shadow Minister for Housing
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
Shadow Parliamentary Secretary for Primary Healthcare  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  Senator Hon. Richard Colbeck
Shadow Parliamentary Secretary for Small Business and Fair Competition  Senator Scott Ryan
TUESDAY, 14 JUNE 2011

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Tuesday, 14 June 2011

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 12:30, read prayers and made an acknowledgement of country.

STATEMENT BY THE PRESIDENT

Regalia of Former Presidents
The PRESIDENT (12:30): On 3 February 2009 I advised that the Black Rod's Office had arranged for some artefacts including the gown, wig and lace used by former Presidents to be loaned to the Museum of Australian Democracy. Following discussions since then between museum officials and Black Rod's Office, I have recently approved the donation of these items to the museum so that they can be properly catalogued and curated for the longer term.

CONDOLENCES

Australian Defence Force Personnel: Afghanistan

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (12:33): by leave—I move:

(1) That the Senate records its deep sorrow at the death, on 23 May 2011, of Sergeant Brett Wood, MG, while on combat operations in Afghanistan, places on record its appreciation of his service to our country, and tenders its profound sympathy to his family and friends in their bereavement.

(2) That the Senate records its deep sorrow at the death, on 30 May 2011, of Lance Corporal Andrew Gordon Jones, while on combat operations in Afghanistan, places on record its appreciation of his service to our country, and tenders its profound sympathy to his family and friends in their bereavement.

(3) That the Senate records its deep sorrow at the death, on 30 May 2011, of Lieutenant Marcus Sean Case, while on combat operations in Afghanistan, places on record its appreciation of his service to our country, and tenders its profound sympathy to his family and friends in their bereavement.

(4) That the Senate records its deep sorrow at the death, on 6 June 2011, of Sapper Rowan Robinson, while on combat operations in Afghanistan, places on record its appreciation of his service to our country, and tenders its profound sympathy to his family and friends in their bereavement.

The PRESIDENT: I ask honourable senators to stand in silence to signify their assent to the motions.

Honourable senators having stood in their places—

The PRESIDENT: The motions are carried.

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) (12:34): by leave—I move:

That paragraph (1) of the order of the Senate agreed to on 11 May 2011 relating to the hours of meeting and routine of business, be amended to read as follows:

(1) On Tuesday, 14 June 2011:

(a) the hours of meeting shall be 12.30 pm to 8.30 pm;

(b) the routine of business from 4.30 pm shall be valedictory statements; and

(c) the question for the adjournment of the Senate shall be proposed at 7.50 pm.

(1A) On Tuesday, 21 June 2011:

(a) the hours of meeting shall be 12.30 pm to 8 pm;
the routine of business from 4 pm shall be valedictory statements; and
(c) the question for the adjournment of the Senate shall be proposed at 7.20 pm.

Question agreed to.

COMMITEES

Community Affairs Legislation Committee

Meeting

Senator CAROL BROWN: by leave—I move:

That the Community Affairs Legislation Committee:
(a) be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate today;
(b) be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 15 June 2011, from 10 am, to take evidence for the committee’s inquiry into the provisions of the Family Assistance and Other Legislation Amendment Bill 2011; and
(c) be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Wednesday, 15 June 2011.

Question agreed to.

Electoral Matters Committee

Meeting

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (12:35): by leave—I move:

That the Joint Standing Committee on Electoral Matters be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 15 June 2011, from 9.30 am till 11 am, to take evidence for the committee’s inquiry into the conduct of the 2010 Federal election and matters related thereto.

Question agreed to.

Environment and Communications Legislation Committee

Meeting

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (12:36): by leave—I move:

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

Question agreed to.

BILLS

Acts Interpretation Amendment Bill 2011
Aged Care Amendment Bill 2011
Child Support (Registration and Collection) Amendment Bill 2011
Corporations Amendment (Improving Accountability on Director and Executive Remuneration) Bill 2011
Crimes Legislation Amendment Bill (No. 2) 2011
Customs Amendment (Anti-dumping Measures) Bill 2011
Customs Tariff Amendment (2012 Harmonized System Changes) Bill 2011
Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011
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Migration Amendment (Complementary Protection) Bill 2011
 Migration Amendment (Strengthening the Character Test and Other Provisions) Bill 2011

Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2011

Social Security Amendment (Parenting Payment Transitional Arrangement) Bill 2011

Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011

Tax Laws Amendment (2011 Measures No. 2) Bill 2011

Tax Laws Amendment (2011 Measures No. 3) Bill 2011

Tax Laws Amendment (2011 Measures No. 4) Bill 2011

Tax Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2011

Therapeutic Goods Amendment (2011 Measures No. 1) Bill 2011

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

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

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

Question agreed to.

Bills read a first time.

Second Reading

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (12:39): I table revised explanatory memoranda relating to the Corporations Amendment (Improving Accountability on Director and Executive Remuneration) Bill 2011 and the Social Security Legislation Amendment (Job Seeker Compliance) Bill 2011 and move:

That the bills be now read a second time.

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

Leave granted.

The speeches read as follows—

ACTS INTERPRETATION AMENDMENT BILL 2011

This Bill amends the Acts Interpretation Act 1901 to improve its structure, language and application to modern technology.

The Acts Interpretation Act is the statute most commonly referred to in the Commonwealth statute book. It is a vital resource for judges, lawyers and parliamentarians to interpret Commonwealth legislation. This is the first time it has been comprehensively amended since its enactment in 1901.

Former High Court Chief Justice Gleeson aptly summarised the main purposes of this Act, as well as Interpretation Acts in general when he said:

For drafting convenience, they set out certain ground rules...[which] save unnecessary repetition and explanation.... Parliament enacts legislation upon an assumption that the meaning of what it says will be understood in accordance with those general rules. Interpretation Acts [also] set out the working assumptions according to which legislation is framed by Parliament, and applied by the courts.'
What the Bill does

The main purpose of this Bill is to re-structure the Acts Interpretation Act to make the important rules and definitions contained within it much easier to find. For example, the Part 2 proposed in this Bill brings together the majority of definitions that are currently scattered throughout the Act. Terms such as ‘document’, ‘Government printer’ and ‘Proclamation’ will now be collocated and listed in alphabetical order.

The Bill also updates the Act to bring it into the 21st century. For example, it amends the provisions about meetings so that participants can be in different locations and can dial in using technology such as Skype and video-conferencing. This reflects the exponential advances in technology that have been achieved over the past 110 years.

Drafting practices have also evolved. The Bill reflects this by clarifying that all material in an Act, from the first section to the last Schedule, is part of an Act. This takes account of current practice of the Office of Parliamentary Counsel to include section headings and explanatory notes as part of Bills introduced into Parliament. Formerly, these were added later by the Government Printer.

Including rules and definitions in the Acts Interpretation Act means they do not need to be repeated in other Commonwealth Acts. This reduces the size of the Commonwealth statute book. Most Commonwealth Acts contain references to the Acts Interpretation Act so that readers are aware of and can easily find the definitions and rules that apply to the relevant provisions of legislation.

Conclusion

This is consistent with the Government’s commitment to improving the accessibility of the civil justice system. Modernisation of one of the first Commonwealth Acts will help to reduce the complexity of legislation that has developed since federation.

I would like to thank the Office of Parliamentary Counsel for the significant time and effort that went into preparing this Bill. In addition to the substantial amount of drafting undertaken, a number of drafters were also involved in testing the workability of new definitions and rules to make sure they would operate as intended, by testing their application to Bills they had recently drafted.

I would also like to thank the individuals and organisations who made comments on the Bill when it was released as an exposure draft earlier this year.

Finally, I would like to mention the 1993 report of the House Standing Committee on Legal and Constitutional Affairs – Clearer Commonwealth Law – which recommended that a public review of the Acts Interpretation Act be undertaken and led to the amendments that are included in this Bill.


AGED CARE AMENDMENT BILL 2011

The Australian Government has a strong commitment to caring for our older Australians. In line with this commitment, the Gillard Government will spend around $10.9 billion on aged care in the 2010-11 financial year. Moreover, the Government is delivering on a range of significant aged care reforms to enhance the delivery of recipient-centred aged care services.

In tandem with these reforms, ensuring that appropriate safeguards are in place to adequately protect older Australians living in residential aged care, is of paramount importance to this Government.

The Government takes this responsibility seriously and is committed to working with aged care residents, and industry to identify areas where improvements can be made.

In the 2010-11 Federal Budget, the Government announced it would increase protection for accommodation bonds and strengthen complaints management in aged care as part of its commitment to providing better health and better care for older Australians through the national health reform agenda. I am
pleased to be delivering on these promises today by introducing the Aged Care Amendment Bill 2011.

Essentially, the amendments contained in the Bill increase protection for residents’ in two ways: First, it strengthens protections for accommodation bonds held by providers of residential and flexible aged care services and, second, it improves complaint management in aged care.

In addition, the Bill makes other minor amendments to remove redundant provisions relating to aged care which are no longer operational and can be misleading to aged care stakeholders.

Protecting aged care residents’ savings

Accommodation bonds were established to give approved providers a source of capital funding for investment in residential aged care infrastructure.

Accommodation bonds are essentially an interest free loan from the aged care resident to an approved provider. The provider has the responsibility to repay the bond when the resident leaves the aged care service. In the event that an approved provider goes into liquidation owing bond refunds, the Australian Government makes refunds through the Accommodation Bond Guarantee Scheme.

Since the introduction of the Aged Care Act in 1997, there has been strong growth in the value of accommodation bonds held by the aged care sector. As at 30 June 2010:

- approved providers held more than $10.6 billion in bonds on behalf of more than 63,000 aged care residents;
- the average total bond holding held by an individual approved provider was $11.2 million; and
- the average new accommodation bond charged during the financial year was around $232,000.

The total value of accommodation bonds held by approved providers has more than doubled since 2004-05 – equating to an average increase of 20% per annum.

This is a significant amount of funds held by aged care providers on behalf of their residents. And, as the Australian population continues to age and the demand for aged care increases, the funds loaned to approved providers through accommodation bonds will continue to grow.

Given the significant funds loaned by residents to their approved providers, it is important that this money is directed to residential and flexible aged care infrastructure and there are robust accountability mechanisms in place to underpin confidence in the safety of residents’ funds.

To date, the majority of approved providers have effectively met their obligation to refund bonds to their residents. However, since the introduction of the Accommodation Bond Guarantee Scheme in May 2006, it has been activated on five occasions with around 150 accommodation bonds refunded at a cost of approximately $24.5 million.

This experience, together with that of the Department of Health and Ageing in undertaking prudential monitoring and compliance activity, has demonstrated that regulation of accommodation bonds could be further enhanced. In particular, there is a need to reinforce the role of bonds in financing capital investment in aged care.

This Bill provides greater clarity about the uses of accommodation bonds and strengthens the link to aged care. Specifically, the Bill reinforces that bonds taken after 1 October 2011 should be used for capital expenditure at aged care services, repaying debt associated with capital works and refunding existing bonds. The Bill also makes it clear that accommodation bonds can be used for financial investment. For example, a number of approved providers invest bonds in term deposits prior to building a new facility.

Importantly, the reforms are structured to ensure that crucial investment in aged care infrastructure is maintained. A broad approach is taken to capital expenditure and includes costs for activities directly associated with capital expenditure. The design of the reforms also ensures that regulation does not unduly impact on effective corporate structuring and business arrangements.

For many approved providers, the reforms are not expected to have a significant impact as they
will already be using bonds for the permitted purposes. However, a two-year transition period will be implemented to ensure that those approved providers that need to make changes have sufficient time to act to meet the new requirements.

Unfortunately, the risk that some entities may not act appropriately in dealing with accommodation bonds cannot be completely removed by regulation. Therefore, it is important to have strong incentives in place to discourage this type of behaviour. Under the new arrangements, offences will apply when misuse has been identified. New criminal offences will apply where an approved provider has used bonds for a non-permitted purpose, is insolvent and unable to repay accommodation bonds when they fall due.

In the very worst of cases, criminal offences will also apply to individuals within the organisation. Individual offences will only apply in circumstances where (a) the approved provider has used bonds for a non-permitted purpose, is insolvent and unable to repay accommodation bonds and (b) where an individual was complicit in this. For example, where the individual was a key personnel of the approved provider (that is, in a senior position), knew the bonds were being used for a non-permitted use and were in a position to, but had not, taken reasonable steps to prevent the misuse.

The introduction of offence provisions for the misuse of bonds demonstrates the Government’s commitment to addressing the serious moral culpability of those who choose to misuse bonds which are essentially loans to approved providers by people in vulnerable positions. Aged care residents need to be confident that their funds are being used for the intended purposes, that there is transparency about that use, and that there is sound regulation in place to monitor and protect their savings.

As I have mentioned, the focus of the enhanced protection for accommodation bonds is to reduce the risk that approved providers are unable to make refunds to residents. Given this emphasis, the Bill removes the current restrictions on the use of the income derived from bonds and accommodation charges. Currently, these restrictions are more significant than those related to the actual bond itself, but by removing the restrictions this will free up these funds for use by approved providers, reduce regulatory burden and ensure that regulation better targets the area of greater risk.

To support all of the new arrangements, the Bill will also introduce information gathering powers in circumstances where, for example, concerns exist regarding the capacity of an approved provider to repay accommodation bonds. This will improve the capacity of the Department of Health and Ageing to actively manage or monitor risks as they emerge.

**Improving the Handling of Aged Care Complaints**

The second key element of the Bill relates to the management and resolution of complaints about aged care services.

The Aged Care Complaints Investigation Scheme (the Scheme) provides a means through which concerns relating to the delivery of residential, community and flexible aged care services subsidised by the Government can be investigated.

In July 2009, in response to industry and community concerns about the Scheme’s operation, an independent review to identify areas of improvement was completed. A key outcome of that review was the recommendation to increase the consumer focus of the Scheme and strengthen the focus on resolution of complaints rather than investigation of complaints.

While many of the review’s recommendations have already been implemented administratively, amendments proposed through this Bill will enable the implementation of the reforms to continue.

To this end, the Bill proposes to enable the “Investigation Principles” to be replaced with new “Complaints Principles.”

The proposed new Complaints Principles will describe the improved complaints scheme and will have a stronger focus on resolution of complaints. This will provide consumers with a more flexible scheme where a range of options are available for assisting to resolve a complaint, including: early resolution, conciliation and mediation.
Other Amendments

Other amendments contained in the Bill will make some minor, operational changes to remove redundant provisions relating to aged care, which have the potential to confuse the public.

Timing

Subject to the passage of the Bill through Parliament, it is proposed the reforms relating to bonds take effect from 1 October 2011. A two year transition period will be in place until the end of October 2013 to allow the sector time to become familiar with the new requirements relating to the permitted uses for bonds. This will assist to ensure a smooth transition.

Changes relating to Complaints Principles take effect on 1 September 2011.

Minor amendments and removal of redundant provisions will take effect on Royal Assent. These changes have been the subject of consultation with the aged care industry, banking and finance industry and consumer representative groups. Their views have been instrumental in shaping these reforms. To ensure smooth implementation, the Government will continue to work collaboratively with key stakeholders, providers, care recipients and their families, and listen closely to their views.

Conclusion

I am very pleased to introduce this Bill. The amendments it contains ensure, as far as possible; that the financial interests of residents are protected, that effective regulatory safeguards are in place for accommodation bonds, and that a regulated source of capital funding is provided for investment in aged care infrastructure.

This Bill provides a regulatory framework that is commensurate to the risks associated with the strong growth of bond holdings in the aged care sector, which is currently over $10 billion. It also provides for a shift in the way aged care complaints are dealt with, from one of investigation to one of resolution, facilitating pragmatic, resident-centred outcomes for all concerned parties. By doing so, this Bill will help promote public confidence in the aged care system.

CHILD SUPPORT (REGISTRATION AND COLLECTION) AMENDMENT BILL 2011

I am pleased to introduce the Child Support (Registration and Collection) Amendment Bill 2011. The Bill has two objectives. Firstly, the Bill proposes to allow the Child Support Registrar to delegate certain powers and functions to individuals outside the Department of Human Services. Secondly, the Bill amends several criminal penalty provisions to ensure the offences in those provisions can be prosecuted successfully.

The Government believes it is vital that the children of separated parents receive the emotional and financial support they need. While most parents do the right thing and pay their child support in full and on time, not all parents meet their child support obligations.

The Child Support Program has identified that having the ability to outsource debt collection activity to external service providers on occasions should increase the successful collection of outstanding child support liabilities.

The first amendment in the Bill will enable the Child Support Registrar to delegate certain powers and functions to external service providers. This approach is currently utilised by Centrelink for collection of outstanding liabilities.

This approach aims to improve the collection of child support by using the expertise of skilled external providers for specific collection activities. The outsourcing of collection activities is expected to lead to an increase in the successful identification and collection of outstanding child support debt.

Additionally, the outsourcing of collection activities allows Child Support Program staff to concentrate on other compliance activities and better serve other Child Support Customers.

The amendments to the delegation provisions under the Child Support (Registration and Collection) Act 1988 are based on equivalent provisions under the Social Security (Administration) Act 1999 and the Paid Parental Leave Act 2010. As the Department of Human Services moves towards an integrated model between its various agencies, these amendments will enable the Child Support Program to ensure
The second group of amendments are to certain criminal provisions under the Child Support (Registration and Collection) Act 1988. These provisions relate to the obligations of an employer when they are required to withhold money from an employee.

Employer withholding is a process whereby an employer withholds amounts from a paying parent’s wages or salary, only as required by the Child Support Program, to be paid to CSA in satisfaction of a child support liability.

The current offences relating to employer withholdings in the Child Support (Registration and Collection) Act 1988 are somewhat ambiguous. The offence provisions create an obligation and provide a penalty, but do not specify whether the offence is created by an act or omission.

A literal reading of these provisions suggests that an employer could indeed be penalised for complying with the section. This makes it difficult for the Commonwealth Director of Public Prosecutions to prosecute an employer who is doing the wrong thing.

The proposed amendments will make it clear that an offence is committed when an employer fails to take a certain action.

The Commonwealth Director of Public Prosecutions has been consulted in the making of the proposed amendments.

These amendments will improve the prospect of successful prosecution under the Act. They make it clear that it is an offence when an employer fails to deduct or remit child support payments for the benefit of children. Improving the ability of the Child Support Program to successfully prosecute employers who fail to comply with requirements under the Child Support (Registration and Collection) Act 1988 will also help protect the integrity of the Child Support Program, and, at the end of the day, better support the children of separated parents.

**CORPORATIONS AMENDMENT (IMPROVING ACCOUNTABILITY ON DIRECTOR AND EXECUTIVE REMUNERATION) BILL 2011**

Today, I introduce a Bill to strengthen the accountability and transparency of Australia’s executive remuneration framework and give shareholders more power over the pay of company directors and executives.

The Bill implements the Gillard Government’s response to the recommendations made by the Productivity Commission in its recent inquiry into Australia’s remuneration framework.

It is important that we have a system of remuneration that is not only internationally competitive, but that also appropriately rewards executives for their work and for the value that they bring to a company.

At the same time, directors should be accountable to shareholders for the level and composition of executive remuneration.

Shareholders are the owners of a company. They take on the risk of investing their capital and they share in a company’s profits and losses.

Shareholders, therefore, deserve more say over how the pay of company executives is set.

The Government has sought to encourage shareholder engagement through the transparent disclosure of the details surrounding remuneration. This ensures that shareholders have the information they need to convey their views through the non-binding shareholder vote, and to hold directors accountable for their remuneration decisions.

While Australia’s remuneration framework is relatively strong, the global financial crisis highlighted a number of issues relating to remuneration structures.

In particular, it illustrated the dangers of remuneration structures that focus on short-term results, reward excessive risk-taking and promote corporate greed.

In March 2009, the Government responded to these concerns by announcing reforms to curb excessive termination benefits or ‘golden handshake’ payments given to departing directors and executives. At the same time, the Gover-
The Productivity Commission undertook a thorough and comprehensive inquiry. Over the nine-month review process, the Productivity Commission received a total of 170 submissions and conducted a series of roundtables and public hearings.

Overall, the Productivity Commission found that Australia’s corporate governance and remuneration framework is highly ranked internationally.

However, it also recommended a range of reforms to further strengthen Australia’s remuneration framework.

The Government, in its response to the inquiry, supported and further strengthened the majority of the recommendations. This Bill implements many of these recommendations, and will put in place measures that will empower shareholders to influence the remuneration decisions of their company.

**The ‘two-strikes’ test**

A key measure in the Bill is the ‘two-strikes’ test. This measure will subject the board of a company to greater accountability through the re-election process if it has not adequately responded to shareholder concerns on remuneration issues over two consecutive years.

The Corporations Act currently requires listed companies to put their remuneration report to a non-binding shareholder vote at the annual general meeting. While the introduction of the non-binding vote has seen a change in the way companies approach the compilation of their remuneration reports, shareholders currently have little recourse if boards choose to ignore strong ‘no’ votes.

The ‘two-strikes’ test gives shareholders more power to have their say.

Under this measure, the first strike is triggered where a company’s remuneration report receives a ‘no’ vote of 25 per cent or more. If this occurs, the company is required to explain in its subsequent remuneration report the action it has taken to address shareholders’ concerns. Alternatively, if those concerns have not been addressed, the company must outline the reasons why.

Some boards have already put in place processes to provide explanations of the issues surrounding remuneration to their shareholders, but it is not mandatory for them to do so. Formalising this practice for all listed companies will promote improved communication and engagement with shareholders.

If shareholders are still dissatisfied and the company receives another ‘no’ vote of 25 per cent or more at the following year’s annual general meeting, the second strike is triggered.

Once the second strike is triggered, shareholders are then given the opportunity to vote on a resolution to spill the board and subject the directors to re-election. If this spill resolution is passed by more than 50 per cent of eligible votes cast, then a spill meeting is to be held within 90 days, at which shareholders will be given the opportunity to vote on the re-election of the directors, one by one.

The Productivity Commission consulted extensively on this measure, particularly on the threshold level of a 25 per cent ‘no’ vote. The Productivity Commission concluded that a threshold of 25 per cent for each of the strikes was appropriate and is in line with the 75 per cent majority required for the passage of special resolutions.

A threshold of 25 per cent would better align with levels commonly accepted as demonstrating serious shareholder concern about remuneration, particularly in light of current voting patterns.

Whilst the threshold for each of the strikes will be set at 25 per cent, it should be noted that the threshold for the spill resolution will be set at 50 per cent.

This proposal targets the small number of boards that have not adequately addressed shareholder concerns over two consecutive years. The Government believes that it is appropriate that these boards be subject to this additional scrutiny and accountability.

This measure sends a clear signal that unresponsive directors will be held accountable for their decisions on executive remuneration.
Remuneration consultants

The Bill also contains measures to facilitate the independence of remuneration consultants.

The Productivity Commission inquiry concluded that the potential for conflicts of interest can arise where remuneration consultants report directly to the company executives and where they provide other services to the same company. Improved disclosure will help shareholders assess the independence of the advice that remuneration consultants provide to boards and their remuneration committees.

While the advice of remuneration consultants may be influential in determining a company's remuneration decisions, it is important to recognise that the primary responsibility for remuneration arrangements rests with company directors.

The Bill contains measures to require boards or remuneration committees to approve the engagement of a remuneration consultant. The remuneration consultant will be required to declare that their recommendations are free from undue influence and must provide their advice to non-executive directors or the remuneration committee, rather than directly to company executives.

In addition, boards will be required to provide an independence declaration, stating whether, in their view, the remuneration consultant’s recommendations are free from undue influence, and the board’s reasons for reaching this view.

The company will also need to disclose in its remuneration report key details regarding the consultant, such as the consultant used, the amount they were paid for providing remuneration recommendations as well as other services to the company.

These measures will deliver greater transparency for shareholders, as they will be in a better position to assess potential conflicts of interest associated with the use of remuneration consultants. By placing the onus on boards to demonstrate to shareholders the steps taken to ensure the independence of remuneration advice, the Government also hopes to bring about a cultural change towards greater accountability around the use of remuneration consultants.

Prohibiting KMP from voting in remuneration matters

The Bill also addresses conflicts of interest by prohibiting the company’s directors and key executives (or key management personnel) and their closely related parties from voting their shares in the non-binding vote on the remuneration report.

Currently, the Corporations Act does not prohibit key management personnel who hold shares in the company from participating in the non binding shareholder vote on remuneration.

There is a real, as well as perceived, conflict of interest when key management personnel vote on their own remuneration packages.

As these directors and executives have an interest in approving their own remuneration arrangements, allowing them to participate in the non binding vote may result in a higher approval rating on the remuneration report than might otherwise be achieved.

The Bill prohibits key management personnel and their closely related parties that hold shares from participating in the non-binding vote on their own remuneration arrangements, as well as the spill resolution.

Key management personnel and their closely related parties would also be prohibited from voting undirected proxies on the remuneration report and spill resolution, except when they are acting as the chair of the meeting and the shareholder has indicated their informed consent on their proxy voting form for the chair to exercise the proxy. This exception for the chair is intended to apply to the non-binding vote required under section 250R of the Corporations Act.

Key management personnel continue to be permitted to vote directed proxies on remuneration related resolutions.

Prohibiting hedging of incentive remuneration

The Bill also ensures that executive remuneration remains linked to performance by prohibiting key management personnel from hedging their incentive remuneration.
Incentive remuneration aligns the interests of management with the interests of shareholders. However, it is currently possible for directors and executives to hedge their exposure to incentive remuneration.

This is a practice that is inconsistent with a key principle underlying Australia’s remuneration framework that remuneration should be linked to performance.

Under the new law, key management personnel and their closely related parties will be prohibited from hedging the key management personnel’s incentive remuneration.

**No vacancy**

The Bill also contains a measure to prevent boards declaring ‘no vacancy’ without explicit shareholder consent.

The ‘no vacancy’ rule allows a board to declare that it has no vacant positions even though the maximum number of directors allowed by the constitution has not been reached.

The ‘no vacancy’ rule provides boards with considerable power over the composition of the board, making it difficult for non board-endorsed candidates to be elected.

The Bill enhances the accountability of boards by ensuring that companies will be required to obtain the approval of their members for a declaration that there are no vacant board positions. A board may choose to declare ‘no vacancy’ where: its constitution allows such a declaration; there are fewer directors than the maximum number; and where a non board-endorsed candidate has nominated for a board position.

**Cherry Picking**

This Bill also introduces amendments which ensure the enfranchisement of each shareholder who chooses to exercise their vote at an annual general meeting or extraordinary general meeting.

Proxies are allocated to directors or the Chair by shareholders that are not able to attend a company meeting but still wish to vote. Shareholders can vote directed proxies, which specify how they wish to vote on a resolution. However, under the current law all directors except the Chair have the ability not to exercise proxy votes that do not accord with their own views on a resolution, and to exercise only those proxy votes that do support their position. This is called cherry picking. Cherry picking disenfranchises shareholders who made specific declarations about their intentions to vote and can result in outcomes that do not clearly reflect shareholder views on a resolution.

This Bill ensures that all proxies will be voted. Either the nominated proxy holder will vote as directed or, if a proxy holder does not register at the meeting or the proxies are not voted by the proxy holder, the proxies will default to the Chair, who has a duty to vote them as directed. This Bill ensures that the wishes of shareholders can no longer be ignored.

**Range of individuals named in the remuneration report**

The Bill also contains a measure to limit the remuneration details required to be disclosed in the remuneration report to the key management personnel of the consolidated entity. This will simplify the disclosures in the remuneration report to enable shareholders to better understand the company’s remuneration arrangements. This will also reduce the regulatory burden on companies, while maintaining an appropriate level of accountability.

**Government amendment to the application date of three measures**

The Bill also contains Government amendments, agreed by the House of Representatives, that would delay the application date of three of its measures from 1 July 2011 to 1 August 2011. These measures are the prohibition on key management personnel and their closely related parties from voting their shares in the non binding vote on remuneration and exercising undirected proxies on remuneration related resolutions, and the prevention of ‘cherry picking’ of proxy votes.

The amendments respond to concerns raised by business. They provide transitional relief to firms facing difficulties in their preparations, during May and June, for annual general meetings scheduled for July 2011, because the Bill remains subject to Parliamentary consideration. As the delay in application affects only three measures,
the broad policy purpose of the Bill would continue to be applicable from 1 July 2011.

**Conclusion**

While Australia’s current remuneration framework is strong, it is important that we are not complacent.

The Productivity Commission, while noting that Australia’s remuneration framework is highly ranked internationally, has recommended that the framework be further strengthened.

This Bill will give unprecedented power to shareholders, improve the accountability of company directors on remuneration issues, address conflicts of interest that exist in the remuneration setting process and promote a culture of responsible remuneration practices.

These are significant but responsible reforms that will maintain Australia’s international competitiveness, while ensuring that boards are accountable to shareholders and the processes for remunerating executives are transparent.

Finally, I can inform the Senate that the Ministerial Council for Corporations was consulted in relation to the amendments to the laws in the national corporate regulation scheme, and has approved them as required under the Corporations Agreement.

**CRIMES LEGISLATION AMENDMENT BILL (No. 2) 2011**

I am pleased to introduce the Crimes Legislation Amendment Bill (No. 2) 2011. This Bill contains amendments that are integral to the Government’s efforts to tackle serious and organised crime, and to ensure the integrity of our law enforcement processes.

Firstly, the Bill contains amendments to the Law Enforcement Integrity Commissioner Act 2006 to bring the Australian Customs and Border Protection Service (Customs) within the jurisdiction of the Australian Commission for Law Enforcement Integrity (the Commission).

The Commission was established in 2006 to investigate allegations of corruption and to enhance the integrity of Commonwealth law enforcement agencies.

It currently oversees all of the activities of the Australian Federal Police, the Australian Crime Commission and investigates allegations of corruption relating to the former National Crime Authority.

From 1 January 2011, the Commission has had oversight of the law enforcement functions of Customs, following the prescription of Customs in Regulations made under the Law Enforcement Integrity Commissioner Act.

The Bill being introduced today will amend the Act to enable the Commission to oversee all Customs’ functions.

It is important to ensure that the Commission has oversight of all Customs’ functions because of the close relationship between Customs’ law enforcement functions and many of its non-law enforcement functions. For example, administrative staff and employees employed in other areas of Customs provide support or have access to the agency’s law enforcement functions, information and systems.

The Government considers it is appropriate, therefore, that Customs be brought under the Commission’s purview on a whole-of-agency basis. And this can only be achieved by including Customs in the Act.

Placing Customs within the Commission’s jurisdiction will also give effect to a recommendation of the Parliamentary Joint Committee on the Australian Commission for Law Enforcement Integrity in its interim report on the inquiry into the Law Enforcement Integrity Commissioner Act.

The Government is committed to ensuring the integrity of federal law enforcement agencies in Australia, and equipping the Commission with the powers necessary to oversee these agencies.

Schedule 2 of the Bill contains the other key element of the Bill, and delivers an important Gillard Government election commitment to combat serious and organised crime.

Organised crime is estimated to cost Australia $10-15 billion each year. This is money that is created outside of the legal economy, is diverted from legitimate services, and often, is the result of fraud or theft from Australian citizens.
The Government has provided a comprehensive response to this threat; we established the Organised Crime Strategic Framework in 2009, and developed the Organised Crime Response Plan in 2010, both of which recognise the need for a multi-agency approach to combating organised crime. This Bill is the next step in this work.

Schedule 2 of the Bill will support the newly established Criminal Assets Confiscation Taskforce, led by the AFP, which will strike at the very heart of organised crime, its financial motivation.

The Taskforce commenced operations in January of this year, bringing together expertise in intelligence, operations, forensic accounting, litigation and specialist law enforcement to ensure a highly integrated approach to criminal asset confiscation. Its main objective is to enhance the identification of potential criminal asset confiscation matters and strengthen their pursuit.

To support this work, Schedule 2 of the Bill will amend the Proceeds of Crime Act 2002 to enable the Commissioner of the Australian Federal Police (AFP) to commence proceeds of crime litigation on behalf of the Government’s Criminal Assets Confiscation Taskforce.

Currently, the Commonwealth Director of Public Prosecutions (DPP) is the only authority that is able to conduct proceedings under the Proceeds of Crime Act. The amendments contained in this Bill will ensure that the AFP has that same power.

Extending the Act to include the AFP will enable the Taskforce to become a specialised unit focused on proactively investigating and litigating proceeds of crime matters, which will lead to the more effective pursuit of criminal assets. And ultimately, the objective is to ensure that more proceeds of crime money is returned to the community for crime prevention and diversion initiatives.

Under these amendments, the DPP and AFP will also have the ability to transfer responsibility for proceeds of crime matters between the two agencies, allowing either authority to take over matters initiated by the other, where appropriate.

In addition, the Bill contains proceeds of crime-related amendments to the Family Law Act 1975. The Family Law Act currently sets out procedures for the stay of proceedings when action is being taken at the same time under the Commonwealth Proceeds of Crime Act. The amendments will make these same procedures available when action is being taken under State or Territory proceeds of crime legislation. This will allow family law proceedings relating to property and spousal maintenance to be stayed or set aside where there are Commonwealth, State or Territory proceeds of crime proceedings on foot. These amendments are consistent with the Government’s commitment to ensuring that proceeds of crime are vigorously pursued.

Schedule 2 also contains two amendments to the Proceeds of Crime Act to extend the definition of ‘property tracking document’ to ensure a Magistrate can issue a production order for documents relevant to unexplained wealth proceedings, and to improve the interaction between collection of tax related liabilities and proceeds of crime proceedings. These measures are aimed at ensuring the full picture is before the court when orders are made.

These elements of the Bill show the Government’s clear commitment to addressing serious and organised crime in our community, by targeting the proceeds of their illicit activity.

We know that organised crime crosses both state and national borders. We also know that organised crime groups rely on the profits from their crimes – money is the lifeblood of their organisations. The Taskforce is aimed at attacking the architecture of organised crime groups by taking the profit out of crime.

These changes are fundamental to achieving the proactive and dynamic approach to asset confiscation needed to detect and deter organised criminal activity in Australia, and I am confident the results will speak for themselves.
Customs Act 1901 concerning reviews of anti-dumping measures. In brief, the amendments will clarify the circumstances in which the Minister may revoke anti-dumping measures as a consequence of such a review.

The bill responds to a decision from last year of the Full Federal Court in Minister of State for Home Affairs [and] Siam Polyethylene (the Siam decision), which considered the review provisions, and, in particular, the test for determining whether anti-dumping measures should be revoked.

The Government believes the decision will lead to outcomes inconsistent with the objects of Australia’s anti-dumping system, and it is appropriate that we seek to rectify it.

The Siam decision is problematic for two reasons.

First, the case highlighted a lack of clarity in the current review process, whereby affected parties must request one of three things: either (a) a complete revocation of existing anti-dumping measures, (b) an adjustment to existing measures, or (c) both a revocation or failing that, an adjustment, based on changed circumstances.

Secondly, the Court in its decision formulated a new test for determining whether anti-dumping measures ought to be revoked. The formulation will likely lead to measures being revoked where they remain warranted.

In relation to the first problem; it was established practice for Customs and Border Protection, prior to the Siam decision, to conduct reviews consistent with the nature of the review request. If there was no request for measures to be revoked, Customs would not consider whether measures ought to be revoked.

The Siam decision changed this by leaving open the question whether revocation must be considered in every case. It has led to a situation in which revocation is considered even in cases where an applicant has not specified that revocation is sought.

In the case of Siam; that was a matter in which a request for revocation was made, but received late in the process of a review into whether measures ought to be adjusted. There was nothing explicit to prevent the revocation request being made at that point in time, but the lateness of the request constrained Customs in its ability to undertake a worthy examination of the relevant issues.

As a result of the Siam decision, where an affected party lodges a request for revocation, the Minister is obliged to properly consider that request, no matter when in the review process the request for revocation is received.

The intention of these amendments is to make the process of applying for a revocation review clear to all affected parties.

The amendments clarify that if affected parties want the Minister to revoke measures, they must apply for it, and they must do so at the outset of a review process or within forty days of a review commencing.

The amendments cement Customs’ existing practice to treat revocation reviews as different in kind from reviews adjusting or updating the level of the measures, and will require an affected party to provide evidence that there are reasonable grounds for asserting that measures are no longer warranted.

The amendment will also improve procedural fairness, by giving affected parties advance knowledge of the process for seeking the revocation of measures, and will ensure that investigators have time to consider the issues before reporting to the Minister. Importantly the amendments will give interested parties adequate time to defend their interests.

The second problem raised by the Siam decision was the Full Federal Court’s construction of the revocation test.

In the absence of a legislative test, the Court determined that the Minister must revoke anti-dumping measures, unless satisfied that there would be dumping causing material injury to the Australian industry if measures were not in place.

The formulation is problematic because, where dumping measures are in place, it will be difficult to establish dumping causing material injury. In fact, if dumping measures are effective, then, at least in theory, there should be no injurious dumping.

As a result of the Siam decision, it is now much more likely that a finding of no dumping or
no injury during a review period will lead to revocation.

For these reasons it is appropriate to amend the review provisions to clarify the circumstances under which dumping measures should be revoked.

The proposed amendments insert a new test which will provide that the Customs CEO must recommend that the Minister revoke measures unless satisfied that the removal of the measures would lead, or be likely to lead, to a continuation of, or recurrence of, the dumping or subsidisation and the material injury that the anti-dumping measures are intended to prevent.

It is a clearer test, which will avert the unnecessary revocation of effective anti-dumping measures.

The Government is committed to its anti-dumping system. These amendments will ensure that where measures have been put in place to address injury faced by Australian industry as a result of unfair trading practices, those measures remain effective.

CUSTOMS TARIFF AMENDMENT (2012 HARMONIZED SYSTEM CHANGES) BILL 2011


These amendments implement changes resulting from the World Customs Organization fourth review of the International Convention on the Harmonized Commodity Description and Coding System, commonly referred to as the Harmonized System.

Australia is a signatory to the Harmonized System and since 1988, the Harmonized System has formed the basis of Australia’s commodity classifications for traded goods, both imports and exports.

The Harmonized System is a hierarchical system that uniquely identifies all traded goods and commodities. Over 200 countries use the Harmonized System.

Australia has implemented the Harmonized System domestically through the Customs Tariff Act 1995 for imports and the Australian Harmonized Export Commodity Classification for exports.

As a signatory to the Harmonized System, Australia is required to implement the changes resulting from the fourth review on 1 January 2012.

The amendments concentrate on environmental and social issues that are of global concern, including the use of the Harmonized System for identifying goods that are of importance to the food security programme of the Food and Agriculture Organization of the United Nations such as certain fish species and products.

The Harmonized System changes will create new subheadings for specific chemicals. These include pesticides such as tributyltin compounds and ozone-depleting substances such as halogenated derivatives of hydrocarbons. This will facilitate the monitoring and control of international trade in these products under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Montreal Protocol on Substances that Deplete the Ozone Layer.

The Bill will clarify texts to ensure the uniform application of the Harmonized System.

The Customs Tariff Amendment (2012 Harmonized System Changes) Bill 2011 will also amend Schedules 5, 6, 7 and 8 of the Customs Tariff Act 1995.

These schedules give effect to the application of customs duty on imported goods in accordance with Australia’s bilateral free trade agreements with the United States, Thailand and Chile and Australia’s regional agreement with ASEAN and New Zealand.

The Bill will preserve existing levels of industry protection and margins of tariff preference that apply to imported goods, including goods imported under the free trade agreements.

This Bill will provide certainty for Australia’s importers and exporters and ensures that Australia classifies its goods and commodities in...
accordance with the Harmonised System and in a manner that is consistent with its major trading partners.

FAMILY LAW LEGISLATION AMENDMENT (FAMILY VIOLENCE AND OTHER MEASURES) BILL 2011

The Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 addresses a matter of paramount concern to the Australian community.

It is about the safety of our children.

This Bill seeks to protect children and families within the family law system from family violence and child abuse.

[Introduction]

Children are the most vulnerable members of our community

Many children thrive in happy and cohesive families who put the best interests of their children first. Unfortunately, some children are not so lucky and experience significant conflict, fear, isolation and harm.

Their experiences often occur within the confines of the family home and involve trusted family members. Conflict often escalates during family breakdown increasing the risk to these children.

Often there are strong intergenerational effects.

It is not in any way proper or moral or beneficial to allow a child to suffer, to witness or hear, or to learn violence.

As a Government, we cannot tolerate family violence or child abuse.

[Evidence base for the legislative reforms]

The damaging effects of family violence and child abuse have been recorded in a range of reports commissioned by the Government in recent years.

In an evaluation of the 2006 family law reforms released by the Government last year, the Australian Institute of Families Studies found that two-thirds of separated mothers and over half of separated fathers reported experiencing abuse, either emotional or physical, by the other parent.

The Institute also found that one in five separated parents surveyed reported safety concerns associated with ongoing contact with their child’s other parent.

A report by the Family Law Council highlights data that victims of family violence receive more psychiatric treatment and have an increased incidence of attempted suicide and alcohol abuse than the general population. Violence is also a significant cause of homelessness.

These are disturbing findings.

Perhaps more importantly, various research reports by leading social scientists and academics clearly show that exposure to family violence and child abuse leads to poor developmental outcomes for children.

Former Family Court judge, the Honourable Professor Richard Chisholm AM, in his Family Courts Violence Review, identified the importance of disclosing, understanding and acting where there is family violence.

Professor Chisholm has stated that many families before the family courts face the victim’s dilemma: ‘Do I report family violence to the court and risk losing my children, or should I stay silent?’

It is unacceptable that our laws place people in this predicament.

There is no dilemma for this Government.

This Bill will help to break those ghastly silences by encouraging disclosure of family violence; it will improve the understanding of what family violence is by clearly setting out the types of behaviour that are unacceptable; and it will ensure that appropriate action is taken to prioritise the safety of children.

[Key Features of the Bill]

The Family Law Legislation Amendment (Family Violence and Other Measures) Bill will positively address family violence and child abuse in the family law system.

The Bill will amend the Family Law Act 1975 (Cth) to promote safer parenting arrangements for children.
Firstly, the Bill will prioritise the safety of children in family law proceedings. This Government continues to support shared care and a child’s right to a meaningful relationship with both parents. However, where family violence or abuse is a concern, the courts will be required to prioritise the safety of the child over maintaining a meaningful relationship with each parent.

Once amended, the Act will include an additional object to give effect to the United Nations Convention on the Rights of the Child, to which decision-makers may have regard to when dealing with children’s matters under the Family Law Act.

Second, the Bill will change the definitions of ‘family violence’ and ‘abuse’ to better capture harmful behaviour. Family violence takes many forms and can affect any family member, adult or child, male or female.

The definition of ‘family violence’ is consistent with the recommendations of the Australian and New South Wales Law Reform Commissions. Behaviour such as assault, sexual assault, stalking, emotional and psychological abuse, and economic abuse are explicitly referenced in the definition.

The definition of ‘abuse’ in relation to a child will include serious psychological harm as a result of exposure to family violence, and serious neglect.

This is a vital first step in helping the family law system to identify these problems and respond appropriately to them.

Third, the Bill will strengthen the obligations of lawyers, family dispute resolution practitioners, family consultants and family counsellors to prioritise the safety of children.

Under the proposed reforms, advisers must encourage families, in reaching parenting arrangements, to focus on the best interests of the child and in doing so prioritise the wellbeing and right to safety of their children.

Fourth, the Bill will ensure that courts get the information that they need to make safe parenting arrangements. To this end:

- courts dealing with children’s matters will have to ask the parties to proceedings about family violence and child abuse
- parties will have to report their concerns about those matters to the courts
- other people interested in the proceedings will be able to make similar reports to the courts
- courts will be relieved of considering the extent to which a parent is ‘friendly’ according to the current definitions, and
- families will no longer need to fear being saddled with a costs order for reporting family violence to the courts.

With all relevant information being made available, the courts can ensure that parenting orders will protect children from harm.

Finally, the Bill will make it easier for Commonwealth, State and Territory child welfare agencies to participate in family law proceedings.

The measures proposed in this Bill have received overwhelming support from the community and bodies and professionals working in the family law system.

Over 400 submissions were received in a public consultation conducted between November 2010 and January 2011.

A massive 73 per cent of people making submissions supported measures proposed in the exposure draft Bill. Another 10 per cent made no comment on the Bill but offered information about their personal experiences.

The Government has taken account of all submissions that were received in the public consultation and refined the measures that are proposed today in light of that process.

Part of the reason the Bill has received such support is because it keeps in place key reforms that encourage meaningful relationships between parents and their children where they are safe.
Various research reports have found that shared care generally works well where the parents have little conflict, can cooperate and live relatively close together.

This Government supports creating happier, healthier outcomes for children.

**[Other non-legislative measures]**

In addition to this Bill, the Government is taking other actions to combat family violence and child abuse.

Substantial inroads will continue to be made through:

- the National Framework for Protecting Australia’s Children 2009-2020 which was developed under the auspices of the Council of Australian Governments
- the National Plan to Reduce Violence against Women and their Children 2010–2022 recently endorsed by Commonwealth, State and Territory Governments
- the development of a national scheme for recognition of domestic violence orders across Australian jurisdictions under the Standing Committee of Attorneys-General
- a training package designed to equip mediators, family counsellors and lawyers to better identify family violence and to work with families to keep children safe
- piloting a supportive model of family dispute resolution for safe mediation where violence is present, and
- establishing a common framework to assess and screen for violence within the family law system.

**[Technical amendments]**

The Bill also includes a number of technical and procedural amendments to the Family Law Act and also to the Bankruptcy Act 1966. These will improve the efficiency and effectiveness of family law proceedings generally, and correct certain anomalies.

**[Conclusion]**

In conclusion, the Australian public and hard-working members of the family law system have spoken overwhelmingly in support of the Bill.

Family violence and child abuse are too common in separating families.

It is time for the Honourable Senators of this Parliament to confront these disturbing issues and to make a difference that is long overdue.

**INTELLIGENCE SERVICES LEGISLATION AMENDMENT BILL 2011**


The proposed amendments in this Bill have been identified through practical experience as measures that will improve the operation of key provisions in the legislation.

I will briefly outline the key measures in the Bill.

**Amendments to the ASIO Act**

The Bill amends the definition of ‘foreign intelligence’ in the ASIO Act to ensure consistency with the Intelligence Services Act and the Telecommunications (Interception and Access) Act 1979. This follows on from a similar amendment to the Interception Act, which was made last year by the Anti-People Smuggling and Other Measures Act 2010. The amendments ensure a consistent approach to the collection of foreign intelligence, and reflect that the modern national security context encompasses threats from both state and non-state actors.

The Bill also amends the ASIO Act to clarify that computer access warrants authorise ongoing access to the computer during the life of the warrant. This amendment is not intended to change the operation of the provision.

Amendments are also included to exclude the communication of information relating to employment within the intelligence community from the operation of the security assessment provisions in Part IV of the ASIO Act. This will put ASIO on the same footing as other intelligence agencies when it comes to communicating such information.
Amendments to the Intelligence Services Act

The Bill also contains an amendment to the functions of the Defence Imagery and Geospatial Organisation (DIGO). It will provide a specific function for DIGO to cooperate with and provide assistance to the Australian Defence Force. This is consistent with a similar function of the Defence Signals Directorate.

The Bill contains amendments to provide a new ground for granting Ministerial Authorisations for producing intelligence about Australian persons. The new ground covers intelligence regarding activities related to the contravention of United Nations sanctions. It will complement the existing ground that covers activities relating to the proliferation of weapons of mass destruction or the movement of goods listed on the Defence and Strategic Goods List.

Clarification of the immunity provisions in the Intelligence Services Act and the Criminal Code computer offence provisions are included. These amendments make it clear that the immunity provisions can only be overridden by express legislative intent. This will ensure that those provisions are not vulnerable to being inadvertently overridden by later in time legislation.

Finally, the Bill contains amendments relating to the status of certain instruments under the Legislative Instruments Act 2003. Consistent with the Government’s commitment to clearer laws, the Bill moves existing exemptions from the Legislative Instruments Regulations to make these exemptions express on the face of the Intelligence Services Act.

Oversight and accountability

I would like to take this opportunity to remind Members that Australia’s intelligence and security agencies continue to be subject to a range of important oversight and accountability measures.

These include the Parliamentary Joint Committee on Intelligence and Security, and the Inspector General of Intelligence and Security.

The Government is committed to ensuring that national security oversight bodies are well-equipped to undertake their vital roles.

Members would recall that amendments to increase the size of the Parliamentary Joint Committee on Intelligence and Security were recently passed as part of the Telecommunications Interception and Intelligence Services Legislation Amendment Bill 2010. The Committee plays a vital role in providing parliamentary oversight of the administration and expenditure of the agencies.

The mandate of the Inspector General of Intelligence and Security was recently expanded in the National Security Legislation Amendment Act 2010, so that the Inspector General can extend inquiries outside the intelligence community in appropriate circumstances. I note that this extended power has since been utilised for an inquiry currently being undertaken by the Inspector General.

Conclusion

Ensuring our national security and law enforcement agencies have the ability to respond to threats to our national security is a key priority for this Government.

This Bill, while small, is an important step in the Government’s ongoing review of National Security legislation, and will improve the practical operation of a number of provisions.

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2011

Today I introduce this Bill which will amend the International Tax Agreements Act 1953 in two ways:

Firstly, Schedule 1 to the Bill will modify and streamline the structure of the Act and remove the majority of its existing Schedules, which contain the texts of Australia’s bilateral tax treaties. This will simplify the presentation of the operative provisions of the Act and incorporate the treaty texts by reference to accessible online resources.

This amendment is not intended to alter the entry into force or application of Australia’s tax treaties but it will substantially reduce the size of the Act, which has become one of the largest Acts on the Commonwealth’s statute books.

Secondly, Schedule 2 to the Bill will give the force of law in Australia to new bilateral taxation
agreements, with Aruba, Chile, the Cook Islands, Guernsey, Malaysia, Samoa and Turkey

**Chile and Turkey**

The agreements with Chile and Turkey are comprehensive tax treaties that will promote closer economic cooperation between Australia and Chile and Australia and Turkey, by reducing taxation barriers to bilateral trade and investment, in particular by eliminating double taxation of income arising from overlapping tax jurisdictions.

The Chilean and Turkish treaties will also improve the integrity of the tax system by providing the framework through which the Commissioner of Taxation can cooperate bilaterally with his Chilean and Turkish counterparts to prevent tax evasion.

The internationally accepted approach to meeting the above policy objectives is to conclude a bilateral tax treaty. These two treaties are largely based on the OECD Model Tax Convention on Income and on Capital and the United Nations Model Double Taxation Convention between Developed and Developing Countries, with some mutually agreed variations reflecting the economic, legal and cultural interests of Australia, Chile and Turkey.

**Malaysia**

The agreement with Malaysia is a Protocol which will amend the current Australia-Malaysia tax treaty to update the exchange of information article in that treaty to the current international standard, as endorsed by the OECD, the G-20 and the United Nations.

The updated exchange of information provisions are an important tool in Australia’s efforts to combat offshore tax evasion and will make it harder for taxpayers to evade Australian tax by increasing the probability of detection of abusive tax arrangements.

**Aruba, the Cook Islands, Guernsey and Samoa**

The agreements with Aruba, the Cook Islands, Guernsey and Samoa seek to eliminate double taxation on certain income derived by individuals, in particular government workers, students and business apprentices, and pensioners and retirees.

Aruba, the Cook Islands, Guernsey and Samoa are required to provide reciprocal taxation treatment in relation to Australian government employees, students and business apprentices, retirees and pensioners.

These four agreements will also provide a mutual agreement procedure for the resolution of taxpayer disputes involving transfer pricing adjustments.

These agreements were prompted by Australia’s desire to conclude tax information exchange agreements (TIEAs) with Aruba, the Cook Islands, Guernsey and Samoa. TIEAs establish a legal basis for the exchange of taxpayer information between two countries and are an important tool in Australia’s efforts to combat tax avoidance and evasion.

The agreements contained in this Bill are part of a package of additional benefits offered to Aruba, the Cook Islands, Guernsey and Samoa in order to secure the TIEAs signed in 2009 with each of those jurisdictions.

Each of the new agreements with Aruba, Chile, the Cook Islands, Guernsey, Malaysia, Samoa and Turkey will enter into force after Australia exchanges diplomatic notes with each of the other countries advising of the completion of their respective domestic law requirements.

**MIGRATION AMENDMENT (COMPLEMENTARY PROTECTION) BILL 2011**

The Migration Amendment (Complementary Protection) Bill 2011 amends the Migration Act to eliminate a significant administrative hole in our protection visa application process.

Under the Migration Act, as it currently stands, only those people fleeing persecution for one of the five reasons outlined in the Convention Relating to the Status of Refugees – race, religion, nationality, social group or political opinion – are eligible to receive a protection visa through the usual process.

Applicants who fall outside these categories are not considered refugees and, consequently, their applications must be rejected by the
Department of Immigration and Citizenship and also by the Refugee Review Tribunal.

But some of these people are fleeing significant harm – be they women fleeing so-called “honour killings”, or homosexuals fleeing persecution on the basis of their sexual preference.

These people can fall outside the categories recognised by our current protection visa process.

So their applications will be rejected at first instance – and again at review – even where Australia’s non-refoulement obligations under other international treaties ensure that we cannot and will not send them back to their countries of origin.

These treaties are the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) and the Convention on the Rights of the Child (CROC).

Protection from return in situations that engage our non-refoulement obligations under these treaties is known as “complementary protection”, in the sense that it is “complementary” to the protection given under the Refugees Convention.

Under the current system, these people, who have often fled their countries in fear of their lives, must go through our administrative processes knowing they’re going to be rejected.

But at present we make them go through a process of applying, failing, seeking review and failing again, just so they are then able to apply to the Minister for personal intervention.

As things stand, the decision to grant a visa in such cases may only be made by the Minister personally. The Minister cannot be compelled to exercise this power; there is no requirement to provide reasons if the Minister does not exercise the power; and there is no merits review of the Minister’s decisions.

As a result, as you can understand, the current lengthy process is very time-consuming and extremely stressful.

So what this Bill does is to align our protection visa process with our existing international obligations and practices.

In 2009, a previous bill, the Migration Amendment (Complementary Protection) Bill 2009, was introduced into Parliament and was considered by the Senate Legal and Constitutional Affairs Committee. That bill lapsed when Parliament was prorogued for the 2010 election.

The present Bill is based on the 2009 bill and incorporates certain changes to address matters raised in the report by the Senate Legal and Constitutional Affairs Committee.

The introduction of complementary protection into Australia’s protection visa process is supported by domestic and international stakeholders. It has been recommended by the Australian Human Rights Commission and several Parliamentary Committees.

The 2009 bill received positive feedback from external stakeholders including the United Nations High Commissioner for Refugees (the UNHCR), the Refugee Council of Australia and leading academics.

The Bill also brings Australia into line with many like minded countries, including New Zealand, Canada, the United States of America and many European countries.

Let me briefly run through some key aspects of the Bill.

Protection visa applicants will continue to have their claims first considered against the Refugees Convention-related criteria set out in Australia’s migration legislation.

Applicants who are found not to be refugees under the Refugees Convention will have their claims considered under the new complementary protection criteria.

This approach recognises the primacy of the Refugees Convention as an international protection instrument and is supported by the UNHCR.

The Bill establishes new criteria for the grant of a protection visa in circumstances that engage Australia’s non-refoulement obligations under human rights treaties other than the Refugees Convention.

Australia will not return a person to a place where there is a real risk that a person will suffer
particular types of significant harm contained in the relevant human rights treaties, namely:

- the arbitrary deprivation of life;
- having the death penalty carried out;
- being subjected to torture;
- being subjected to cruel or inhuman treatment or punishment; or
- being subjected to degrading treatment or punishment.

The prohibitions of these types of harm are found in Articles 6 and 7 of the ICCPR and in the Second Optional Protocol to the ICCPR.

Non-refoulement obligations may also be implied under the CROC, to the extent that the CROC contains obligations in the same terms as the ICCPR. In addition, an express non-refoulement obligation in relation to torture is contained in Article 3 of the CAT.

The Bill defines many of these concepts to assist assessing officers to interpret and implement these international obligations.

These definitions will enable Australia to meet its non-refoulement obligations, without expanding the relevant concepts in a way that goes beyond current international interpretations.

Non-refoulement obligations are not engaged in every case in which a person claims that they will suffer some type of harm if returned to another country.

In each case, there must be substantial grounds for believing that, as a necessary and foreseeable consequence of being returned, there is a real risk that a person will suffer significant harm.

The risk of significant harm must go beyond mere theory or suspicion to give rise to a non-refoulement obligation.

A real risk of significant harm has been found in instances where there is a personal or direct risk to the specific person. This is as opposed to a general risk faced by the population of the country that is not faced personally by the person claiming protection. A personal or direct risk can be found in instances where the significant harm is faced by a broad group, so long as that harm is personally faced by the person seeking protection.

The risk must also be a real one that the person would face throughout the country. If a person can reasonably be expected to relocate within their own country to access protection, then international protection is not required.

Similarly, Australia’s protection will not be necessary if the person can obtain protection from the authorities of their own country, such that there would not be a real risk of significant harm occurring.

Australia’s protection will also be unnecessary if the person can safely relocate to another country where they have a right of entry and residence.

This legal threshold for Australia’s non-refoulement obligations to be engaged is reflected in the Bill.

The Bill contains provisions to ensure that only applicants who are in need of Australia’s protection will be eligible for a protection visa on complementary protection grounds.

Unlike obligations under the Refugees Convention, Australia’s non-refoulement obligations under the ICCPR, CAT and CROC are absolute and cannot be derogated from.

While Australia accepts that this is the position under international law, the Government is committed to maintaining strong arrangements for protecting the Australian community. This Bill is specifically designed to ensure Australia does not become a safe haven for persons who have committed war crimes and others of serious character concern.

For this reason, specific provisions have been included in the Bill to refuse the grant of a protection visa:

- where there are grounds for considering that the applicant has committed war crimes, crimes against humanity, serious non-political crimes or other particularly serious crimes; or
- where there are grounds for considering that the applicant is a danger to Australia’s security or to the Australian community.

These provisions mirror the existing exclusion provisions under Articles 1F and 33(2) of the Refugees Convention which apply to refugee claims.
By incorporating these exclusion provisions into the Migration Act, Australia will be following general international practice, particularly in the European Union, where similar clauses have been incorporated into most countries’ respective legislative versions of complementary protection.

International law does not impose an obligation on Australia to grant a particular type of visa to those people to whom non-refoulement obligations are owed.

In the small number of instances where non-refoulement obligations would arise for persons who are excluded on security or serious character grounds, determinations as to post-decision case management will remain with the Minister personally.

In all circumstances, Australia is committed to meeting its non-refoulement obligations in a way that best protects the Australian community.

Where a person’s protection visa application has been refused, including on the new complementary protection grounds, that person will be able to seek independent merits review of the decision within the existing merits review framework.

There are a range of consequential amendments throughout the Migration Act that are to be inserted by the Bill.

Amendments to the Migration Regulations 1994 will also be required to complete implementation of complementary protection in the protection visa subclass.

Moreover, once this Bill comes into effect, assessments under the Protection Obligations Determination process for Offshore Entry Persons will also take into account complementary protection.

The Gillard Labor Government is proud to introduce this Bill, which will provide a protection visa decision-making process that is more efficient, transparent and accountable.

It does so by enabling claims raising Australia’s protection obligations under the Refugees Convention, and claims raising Australia’s non-refoulement obligations under the ICCPR, CAT or CROC, to be considered under a single integrated and timely protection visa process.

Australia has a long and proud tradition as a protector of human rights and this Bill presents us with the opportunity to continue in this tradition.

I urge everyone in this place to support it.

MIGRATION AMENDMENT (STRENGTHENING THE CHARACTER TEST AND OTHER PROVISIONS) BILL 2011

The purpose of this Bill is to ensure that a visa applicant or holder will fail the character test should they be convicted of any offence committed while they are in immigration detention; and to increase the maximum penalty for the manufacture, possession, use or distribution of weapons by immigration detainees from 3 to 5 years imprisonment. These amendments are proposed in part to address issues arising from the recent criminal damage and riots at the Christmas Island Detention Centre in March and the Villawood Immigration Detention Centre in April 2011. Major damage was caused to the facilities as a result of these disturbances and there was significant risk of harm to other detainees and to staff at the facilities as well as more broadly to public order and safety.

The Bill is also intended to strengthen the powers under the Migration Act to provide a more significant disincentive for this sort of destructive behaviour now and in the future. The new provisions will apply to all people who are or have been in immigration detention: onshore and offshore arrivals, asylum seekers, or otherwise.

Under these new provisions, a person who has been convicted of a criminal offence while in immigration detention could be refused a visa or have a visa cancelled. In keeping with Australia’s international protection obligations, in such cases we will not return people to a place where they have a well-founded fear of persecution. Where it is not appropriate to remove people from Australia because they are owed protection, consideration could be given to the grant of a temporary visa to place them in the community until their removal from Australia is appropriate.
The public announcement on 26 April 2011 of this legislative change put all detainees on notice that the Australian government takes criminal behaviour by people in immigration detention very seriously and will take appropriate measures to deal with it.

It is essential that anyone convicted of an offence in relation to the recent events at Australian immigration detention centres is covered by these new provisions and has the amended character test applied to them.

The Australian community expects there to be consequences for unlawful behaviour. Commencing these amendments to the character provisions on 26 April 2011 ensures this Bill delivers those consequences and the Government's objectives are met. These changes will apply for the purposes of making a decision on or after 26 April 2011, whether the conviction or offence concerned occurred before, on or after that date.

The Australian community also expects non-citizens who seek to remain in Australia to be of good character. To meet this expectation, the Government must not only have the ability to act decisively and effectively, wherever necessary, to deal with criminal behaviour by immigration detainees, but also have the legislative basis to effect a refusal to grant a visa, or a cancellation of a visa for those non-citizens who are not of good character. The Government must be able to remove those non-citizens who have convictions for crimes committed in immigration detention in Australia, where possible and consistent with our international obligations.

Among other things, section 501 of the Migration Act currently deals with matters that constitute serious criminal offences where a person can fail the character test. Non-citizens will fail the character test where they have been sentenced to a term of imprisonment of 12 months or more, or where the length of several sentences aggregates to two years or more. If a person fails the character test, this can be used as a basis for the refusal of a visa application or the cancellation of a visa that is held by a person. The proposed measures will amend the character test in section 501 of the Migration Act so that a person will fail the character test if the person is convicted of any offence committed while they are in immigration detention, regardless of the sentence imposed. The intended amendment will not limit the application of the existing provisions relating to the character test. This Bill therefore seeks to establish an additional benchmark for criminal behaviour that will automatically lead to a visa applicant or holder failing the character test if they are convicted of an offence committed while they are in immigration detention.

Similarly, section 500A of the Migration Act provides that the Minister may refuse the grant of a temporary safe haven visa or may cancel a temporary safe haven visa if a person has been sentenced to imprisonment of 12 months or more. Without limiting the application of the existing character provisions relating to section 500A of the Migration Act, the proposed measures will amend section 500A of the Act so that the Minister may also refuse to grant a safe haven visa, or may cancel a safe haven visa if the person is convicted of any offence committed while they are in immigration detention.

For both the section 501 and section 500A amendments it is intended, if a person escapes from immigration detention, that any conviction for the offence of escaping or for an offence committed during or following their escape – up to the time of their being returned to immigration detention – be included.

The amendments to sections 501 and 500A have been drafted to ensure that they apply only to persons who have been convicted of an offence by a court. The amendments made to sections 501 and 500A will not apply to a person who is charged before a court with an offence or offences and the court is satisfied in respect of that charge, or more than one of those charges, that the charge is proved, but has discharged the person without a conviction on that charge, or any of those charges. That is, there must be at least one conviction for the amendments to sections 501 and 500A to apply.

Currently section 197B of the Migration Act provides that an immigration detainee is guilty of an offence if he or she manufactures, possesses, uses or distributes a weapon. A weapon includes a thing made or adapted for use for inflicting bodily injury; or a thing where the detainee who
has the thing intends or threatens to use the thing, or intends that the thing be used, to inflict bodily injury. The current maximum penalty is imprisonment for 3 years. The proposed amendment to section 197B of the Migration Act will increase the maximum penalty to 5 years imprisonment. The manufacture, possession, use and distribution of a weapon by a detainee puts at risk the personal safety of others in the immigration detention environment, including other detainees, Commonwealth officers, contracted detention services staff and visitors. The Australian community expects that there be robust sanctions to deal with people in immigration detention who threaten or inflict harm on other people and the intended increase in the maximum penalty for this offence reflects the seriousness with which the community views this offence.

Conclusion

In summary, people in immigration detention who might contemplate criminal behaviour, including the manufacture, possession or use of weapons need to clearly understand the seriousness of such behaviour and legal consequences that could follow from that behaviour in terms of criminal convictions and visa outcomes. These changes will: strengthen the character test in section 501 of the Migration Act; strengthen the power to refuse or cancel a temporary safe haven visa in section 500A of the Migration Act; and provide further disincentive in relation to the manufacture and possession of weapons by detainees by increasing the maximum penalty in section 197B of the Migration Act. These measures are intended to send a strong and clear message; that the kind of unacceptable behaviour recently seen at immigration detention centres will not be tolerated by the Government.

SAFETY REHABILITATION AND COMPENSATION AND OTHER LEGISLATION AMENDMENT BILL 2011

This Bill implements the Government’s response to the review of the Comcare scheme, as well as introducing certain other associated amendments.

The Comcare scheme provides workers compensation and occupational health and safety arrangements for employees of the Australian Government and for some private sector corporations that self-insure their workers compensation liabilities under the scheme.

In late 2007, federal Labor undertook to review the Comcare scheme, in particular, its self insurance arrangements which provide for the entry of private sector corporations into the scheme. The review was to ensure that the Comcare scheme has suitable occupational health and safety and workers compensation arrangements for self insurers and their employees.

On 25 September 2009, the then Minister for Workplace Relations, Minister Gillard, announced a number of improvements to the Comcare scheme arising out of the review. On 26 November 2009, the Occupational Health and Safety and Other Legislation Amendment Bill 2009 was introduced into Parliament to implement these improvements; however the Bill lapsed when the Parliament was prorogued.

The Bill I am introducing today will implement the improvements arising from the review of the Comcare Scheme through amendments to the Safety, Rehabilitation and Compensation Act 1988 (the SRC Act).

The Bill also makes amendments to respond to policy issues unrelated to the Review to address Comcare’s access to the consolidated revenue fund and also workers’ compensation coverage for employees working in high risk environments overseas.

To encourage timely determination of workers compensation claims, the Bill amends the SRC Act to enable the setting of statutory time limits within which claims must be determined. Claims determined quickly tend to be shorter in duration and less costly.

The Bill also reinstates workers compensation coverage for off-site recess breaks. This will realign the Comcare scheme with most jurisdictions and remove the inequity in coverage for employees whose employers do not provide on site facilities for meal breaks.
This amendment will cost Comcare $1.7 million in 2010-11, indexed for the out years. However since these injuries are currently only claimable through Medicare and the Pharmaceutical Benefits Scheme, reinstating coverage will result in a net saving to the PBS of $136,000 in 2010-11, also indexed for the out years.

Furthermore, the Bill amends the SRC Act so that medical and related costs will continue to be paid where a worker’s weekly compensation benefits are suspended for refusing to participate in the rehabilitation process.

Suspending weekly compensation benefits can be a useful incentive to encourage claimants to comply with the requirement to undergo appropriate rehabilitation and return to work programs. However, suspending medical and related payments can be counterproductive to early rehabilitation and return to work.

This reform will have a negligible financial impact on Comcare’s premiums pool of around $24,000 per annum in 2010-11, indexed for the out years.

Also as part of the response to the review, in early 2010, the then Minister for Workplace Relations, Minister Gillard, directed Comcare to strengthen its OHS prevention and enforcement approach, including through more proactive interventions and improving the expertise of its investigators.

The Minister also requested Comcare to develop guidance material for employers to improve consultation with all workers on occupational health and safety matters. This was intended to ensure that consultation arrangements reflect the modern workplace, and extend beyond the traditional employer/employee relationship.

Separately, under federal Labor the lump sum and weekly death benefits for the Comcare scheme were increased substantially from May 2008 to align them more closely with death benefits payable under the majority of state and territory workers compensation schemes.

These measures, as well as the measures proposed in the Bill, are designed to improve the Comcare scheme by reducing injuries; strengthening the focus on rehabilitation and return to work; and increasing benefits for injured workers.

The Bill also seeks to make a number of additional reforms to address issues that have arisen separately to the Comcare review.

In particular, the Bill amends the SRC Act to provide workers’ compensation coverage for injuries sustained while an employee is working in a ‘declared place’ outside Australia, or where the person is a member of a ‘declared category’ of employees whose work requires deployment to places outside Australia.

It does this by enabling the Minister to declare certain high risk places, for example, Afghanistan or Iraq, to be places where the SRC Act will be deemed to provide continuous coverage for all Commonwealth employees.

The Bill will also allow the Minister to declare certain classes of employees to be covered while outside Australia. The need for this flexibility arises specifically in relation to the establishment of the Australian Civilian Corps, who will assist in disaster relief, stabilisation and post-conflict resolution in developing countries and failed states.

The effect of these changes will be to provide 24/7 coverage under the SRC Act for employees exposed to unusually high risk while working outside Australia. The fiscal impact of these amendments will be in the order of $2 million per annum.

Other amendments to the SRC Act contained in the Bill will restore Comcare’s access to the consolidated revenue fund to pay for its workers’ compensation liabilities and associated expenses arising from long latency injury claims, such as those related to asbestos exposure.

Comcare’s access to the consolidated revenue fund was closed off as an indirect result of a Federal Court decision in 2006.

However, the intention of the SRC Act had been—and still is—that the consolidated revenue fund should fund these claims because they relate to employment-related injuries not covered by Comcare’s premium system.

The Bill also contains technical amendments to the SRC Act, the Occupational Health and Safety (Maritime Industry) Act 1993 and the

SOCIAL SECURITY AMENDMENT (PARENTING PAYMENT TRANSITIONAL ARRANGEMENT) BILL 2011

The Government’s Social Security Amendment (Parenting Payment Transitional Arrangement) Bill 2011 represents the first stage of the income support payment reforms contained in the Building Australia’s Future Workforce package. This package will provide greater incentives for parents to engage in the workforce, reduce their dependency on welfare, and will provide families with a greater measure of financial security.

Joblessness among families represents one of the most immediate challenges facing Australia as an inclusive society. In a time of increasing national wealth, many Australian families risk being left behind and many Australian children are in danger of missing out on the opportunities that a dynamic and growing society has to offer.

Evidence indicates that joblessness is closely linked with higher rates of poverty, lower achievement in education and training, and poorer health outcomes for both parents and their children. Families in which neither parent works, or in which single parents rely on welfare payments as their sole source of income, can produce entrenched problems leading to intergenerational disadvantage. This is especially a concern for single parent families who constitute 70 per cent of the total number of jobless families in Australia.

In order to break the cycle of joblessness and welfare dependence, the Government is enacting a range of measures to help parents address the barriers which prevent them and their children from taking advantage of the opportunities which Australian society has to offer.

To this end, the Government is introducing changes to Parenting Payment and Newstart Allowance for single principal carer parents that will provide greater incentive for single parents to engage in paid work, to reduce their reliance on welfare, and to promote self-sufficiency. This will in turn serve to provide positive role models for the children of income support recipients and help reduce the chance of welfare dependence passing onto their children.

Under the Building Australia’s Future Workforce reforms, single principal carer parents on Newstart Allowance will be able to retain more of their income support as their employment income rises. This will mean that single parent families will be able to earn almost $400 extra per fortnight before they lose eligibility for Newstart Allowance. This provides a strong incentive for single parents to undertake or increase their hours of work, and allows their family to see the immediate benefit of their labour.

These changes further build upon the Government’s More Flexible Participation Requirements for Parents reforms that were introduced in July 2010 which allowed parents greater flexibility in engaging in meaningful participation whilst balancing their parenting responsibilities.

As part of the broader changes to Parenting Payment, in this Bill the Government is taking a positive step towards reducing the inequity that exists between different Parenting Payment recipients based upon when they first applied for payment. This inequity is a legacy of the 2006 Welfare to Work reforms of a previous Government.

In July 2006, the Parenting Payment provisions in the Social Security Act were amended such that a person who claims Parenting Payment from 1 July 2006 can only qualify for Parenting Payment until their youngest child turned 8 (if they are single) or 6 (if they are a member of a couple). Prior to July 2006, a person could qualify for Parenting Payment until their youngest dependent child turned 16.

However, people who were in receipt of Parenting Payment immediately before 1 July 2006 were allowed to remain under the previous rules. These “grandfathered” recipients can continue to qualify for Parenting Payment until their youngest child turns 16. A full 8 years longer than new recipients if they are single or 10 years longer if they are partnered.
In order to achieve more equitable and consistent eligibility rules for Parenting Payment, this Bill will amend the Social Security Act so that only children who were born to or came into the principal care of their parent before 1 July 2011 will count towards the grandfathered status of the Parenting Payment recipient.

This change will limit the ability of Parenting Payment recipients to extend their grandfathered status and will ensure that all Parenting Payment recipients will be treated equally in a shorter timeframe than would otherwise have been the case.

This Bill is just the first step towards creating more equitable treatment for Parenting Payment recipients. Further changes will take effect from 1 January 2013 and will be included in a separate Bill which will be introduced later this year.

Overall, these changes will form an important element of the income support reforms that the Government is undertaking as part of the Building Australia’s Future Workforce Package. These reforms will encourage more parents to participate in and share in the benefits of paid work, provide better support and assistance to parents, and is an important step to making the system fairer.

SOCIAL SECURITY LEGISLATION AMENDMENT (JOB SEEKER COMPLIANCE) BILL 2011

This Bill delivers on our Government’s election commitment to modernise Australia’s welfare system and introduce tougher measures to ensure more unemployed people are getting back into work.

Our Government believes that the task of managing the Australian economy is important because it helps ensure that all Australians who are capable of work, have the opportunity to do so.

The Prime Minister has said that a job provides more far more than just a pay packet and she is correct.

With it, a job brings dignity and purpose to a person’s life; it provides economic security for a family now and into the future; and it connects people with their communities, building a more socially cohesive Australia.

It is because we understand the value of having a job that when the Global Financial Crisis threatened the jobs of so many Australians, it was this Government that stood up and took action - saving hundreds of thousands of Australians from losing their job.

Our stimulus strategy created work opportunities for small businesses, tradespeople and suppliers in every community, in every town, in every city–right around the country.

Australia’s seasonally adjusted unemployment rate was 5.0 per cent in February 2010–around half that of the United States and the Euro area.

But with our economy returning to strength and our mining sector booming, now is not a time for complacency. It is a time to turn our sights to what still needs to be done.

There remain too many Australians who are without a job, some for a full year or more; too many Australians who are not engaging in mainstream economic and social life; too many Australians who are capable of work but have to rely on unemployment benefits.

We know that most job seekers are genuine in their efforts to find work.

For most–unemployment is temporary. But for some unemployment has become long term. The Government is willingly doing our part to ensure that those people are supported financially while they look for a job.

The Government has advanced major reforms to Australia’s employment services that are providing much more effective assistance for job seekers. Engagement by job seekers with those services is vital.

That is what this Bill is about.

For many years the rate at which job seekers attend appointments with employment service providers has been around 55 per cent. While many are genuinely sick, suddenly find a job or have other valid reasons, I believe that attendance at appointments–appointments designed to help job seekers get into work–can and should improve.
A strengthening of the compliance system is warranted.

This Bill will introduce suspension of payment for job seekers following an initial failure to attend an appointment.

As soon as Centrelink is advised that a job seeker has missed an appointment with their employment services provider, or if the provider believes the job seeker has become disengaged from an activity they are supposed to be participating in, Centrelink will suspend the job seeker’s payment.

When Centrelink contacts the job seeker, another appointment will be booked for them. As part of this contact with Centrelink if the job seeker agrees to attend the rescheduled appointment, Centrelink will immediately release the job seeker’s payment, and they will get back payed. At that contact job seekers will be advised by Centrelink that any further missed appointment may result in both a suspension and a penalty through loss of payments.

All job seekers will be required to attend a rescheduled appointment–regardless of their reason for missing the first appointment. If the job seeker attends the rescheduled appointment, they will not be penalised.

However, if the job seeker does not attend the rescheduled appointment, payment will again be suspended. However this time–if they don’t have a reasonable excuse–they will lose payment for each day from the second missed appointment until they do attend a rescheduled appointment.

There will be no back payment for this period. This penalty will be deducted from their very next payment.

This Bill is not about punishing Australians who have a valid reason for missing an appointment. And suspension is not about punishing job seekers for punishment’s sake. The job seeker is either back paid in full or payment resumes when they do what is required of them.

But these changes will give the job seeker no choice but to agree to re-engage with the Government and be serious about finding work–if they want to be paid.

We want more job seekers actively engaging in work experience activities, in training, in programs like Work for the Dole–so that they are getting the skills and experience they need to find a sustainable job into the future.

Under current legislation, penalties for failing to reconnect can’t be deducted from the job seeker’s payment for the fortnight in which the penalty is applied–penalties must be deducted from a later payment.

The effect of this delay has been to disconnect the penalty from the failure to attend an appointment. By making the penalty more immediate we can provide a more direct deterrent for job seekers who aren’t taking their appointment responsibilities seriously.

Reasonable excuse provisions will also be tightened so that–even if a job seeker has a reasonable excuse on the day for not attending an appointment or activity–it will not be accepted if they could have given advance notice that they couldn’t attend but didn’t do so.

Employment service professionals have an important job. They should not have their time wasted by needlessly waiting for job seekers who don’t show up.

This is about expectations for job seekers that are equivalent to those they will experience when they re-enter the workforce.

A person who is working is expected to call their boss in the morning if they can’t come in because they are sick–it is reasonable to expect an unemployed person to do the same.

This Government is committed to lifting workforce participation and to extending the benefits of work to more Australians of working age.

We will do all we can to provide income support recipients with opportunities to work, and in return we expect them to take responsibility for making the most of those opportunities.

All Australians on income support should have the opportunity of work–but with opportunity comes responsibility and with this Bill–we are going to firmly expect that people meet those responsibilities.
TAX LAWS AMENDMENT (2011 MEASURES No. 2) BILL 2011

This Bill amends various taxation laws to implement a range of improvements to Australia’s tax laws.

Schedule 1 amends the list of deductible gift recipients or DGRs in the Income Tax Assessment Act 1997. Taxpayers can claim income tax deductions for certain gifts to organisations with DGR status. DGR status will assist the listed organisations to attract public support for their activities.

This Schedule adds two new organisations to the Act, namely, the Charlie Perkins Trust for Children & Students and the Roberta Sykes Indigenous Education Foundation. The Charlie Perkins Trust was established in 2002 in memory of the late Dr Charlie Perkins AO, and its purpose is to advance the education of Aboriginal and Torres Strait Islander people through the provision of scholarships to Indigenous people for study at overseas institutions, such as Oxford and Cambridge University.

The Roberta Sykes Education Foundation works to advance the education and life opportunities for Aboriginal and Torres Strait Islanders, and provides additional assistance to female Indigenous scholars undertaking programs overseas, such as assisting with the cost of relocating families and partners.

Schedule 2 amends the Superannuation Industry (Supervision) Act 1993 to allow the regulations to prescribe rules in relation to investments in collectables and personal use assets by self managed superannuation funds.

During the 2010 election the Government committed to allowing self managed superannuation fund trustees to continue to invest in collectables and personal use assets provided that they comply with tighter legislative standards. This commitment balanced the recommendations made by the Panel of the recently concluded Super System Review, chaired by Jeremy Cooper, and concerns raised by the self managed superannuation funds industry.

The amendments will allow the regulations to make rules relating to how self managed superannuation fund trustees make, hold and realise investments in collectables and personal use assets. The purpose of the rules will be to ensure that these investments are made for retirement income purposes, not current day benefit. The content of the regulations is being developed in consultation with industry.

The amendments also remove a reference to a provision that was repealed on 24 September 2007.

Schedule 3 allows superannuation fund trustees and retirement savings account providers to use tax file numbers to locate member accounts without first using other methods and to facilitate the consolidation of multiple accounts.

These amendments will be subject to appropriate privacy safeguards.

This measure is a part of the Government’s package of Stronger Super reforms, which I announced on 16 December 2010. Allowing for greater use of tax file numbers is the first of a number of initiatives from that package that will improve the administrative efficiency of the superannuation industry.

Regulations will be enacted to support the use of tax file numbers in facilitating the account consolidation process. This will include requirements for member consent and other procedures and processes that superannuation fund trustees and retirement savings account providers must follow before consolidating accounts.

In keeping with the current guidelines governing the use of tax file numbers, it will remain voluntary for individuals to provide their tax file number to their superannuation fund or retirement savings account provider.

Schedule 4 replaces the current mechanism for ensuring Australian taxes, fees and charges are not subject to the GST, with a legislative exemption.

The Government’s decision to replace the current mechanism was announced in the 2010-11 Budget on 11 May 2010.

This Schedule replaces this inefficient system by amending the GST Act to allow entities to self assess the GST treatment of a payment of an Australian tax or an Australian fee or charge.
Under these amendments, government entities will no longer need to have Australian taxes or Australian fees or charges listed on the Determination in order for them to not be subject to GST.

Finally, Schedule 5 includes minor amendments to the tax laws.

These amendments ensure that the law operates as intended by correcting technical or drafting defects, removing anomalies, and addressing unintended outcomes. These amendments are part of the Government’s commitment to the care and maintenance of the tax law.

This package also includes some legislative issues raised by the public through the Tax Issues Entry System, or TIES for short.

Full details of the measures in this Bill are contained in the explanatory memorandum.

TAX LAWS AMENDMENT (2011 MEASURES No. 3) BILL 2011

This Bill amends various taxation laws to implement a range of improvements to Australia’s tax laws.

Schedule 1 to this Bill provides a 12-month export period for the supply of a recreational boat to be GST-free, subject to certain conditions, where the boat has been supplied under a contract entered into on or after 1 July 2011.

The Schedule implements a measure announced by the Government in the 2010-11 Budget. The measure overcomes a geographic disadvantage Australian boat builders face when competing in international markets.

The distance and sailing conditions between Australia and foreign ports make it difficult for boat buyers intending to have an extended sailing holiday before taking the boat out of Australia to meet the existing 60-day export period for a GST-free supply. On the other hand, it is relatively easy for boat purchasers in some other countries to meet the export requirements of comparable legislation because these countries are comparatively closer.

The Schedule makes the supply of a boat GST-free if the seller or purchaser exports the boat from Australia within 12 months of delivery. The main conditions are that the boat must be a new recreational boat and the boat must not be used in any disqualifying activity.

The first condition is designed to ensure that the 12 month export period applies only to boats of a type used for recreational purposes. It is not intended to apply to boats of a type used for commercial gain. The boat also has to be a new boat. This will generally be one that has not been used or sold before, although certain activities before sale are allowed. These include delivering the boat to a dealer or to a boat show, conducting speed trials on the boat or other uses in connection with the use of the boat as trading stock.

The disqualifying activity test is, broadly, designed to ensure that the boat cannot be used for commercial or financial gain while it is in Australia.

The Commissioner of Taxation will have a discretion to extend the 12-month export period. The discretion could cover circumstances that reasonably explain the delay in exporting the boat, such as bad weather, serious illness to a crew member or significant accidental damage to the boat.

Schedule 2 amends the tax laws to remove a technical deficiency which prevents the ongoing imposition of the general interest charge in some cases. The general interest charge is an interest charge imposed by the tax laws on the late payment of income tax and shortfall interest charge liabilities.

These amendments will restore the ongoing imposition of the general interest charge. This ensures that all unpaid amounts of income tax and shortfall interest charge liabilities will be treated equally under the law and that the Commissioner’s ability to collect the general interest charge will remain uninterrupted.

Full details of the measures in this Bill are contained in the explanatory memorandum.

TAX LAWS AMENDMENT (2011 MEASURES No. 4) BILL 2011

This Bill amends various taxation laws to implement a range of improvements to Australia’s tax laws.
Schedule 1 reduces the quarterly income tax instalments for the 2011-12 income year for those taxpayers whose instalments are adjusted for previous years’ gross domestic product growth. This is referred to as the GDP adjustment method of working out instalment amounts.

The great majority of taxpayers required to pay quarterly instalments use this method, including most small businesses and individual investors such as self-funded retirees.

These amendments reduce the GDP adjustment factor for the 2011-12 income year from the default, which would be 8 per cent, to 4 per cent. This delivers small businesses and the other taxpayers using the GDP adjustment method a $700 million cash flow benefit in the 2011-12 income year.

This provides eligible taxpayers with a smoother transition from the 2 per cent GDP adjustment factor that the Government applied for the 2009-10 and 2010-11 income years as the economy recovered from the global financial crisis.

This measure is part of the Government’s package of measures to improve the cash flow of small businesses and simplify their tax affairs. Those measures include the instant asset write-off for any asset costing less than $5,000, an immediate deduction of up to $5,000 for motor vehicles and reducing the small business company tax rate to 29 per cent. The Government will have more to say on these measures when the legislation for them is introduced.

Schedule 2 removes the ability of children under 18 years of age to use the low income tax offset to offset tax due on their unearned income, such as dividends, interest, rent, royalties and other income from property.

The Government has taken important steps to reduce taxes on low-income earners by doubling the low income tax offset from $750 to $1,500. This delivers a benefit to taxpayers earning up to $67,500.

But increases in the low income tax offset have doubled the amount of non-work income that can be allocated to children tax-free. There is evidence that 200,000 distributions from trusts have increased in line with the increased low income tax offset, to take advantage of the opportunity to minimise tax by allocating income to children.

The low income tax offset was never meant to act as a tax minimisation vehicle.

This measure reduces the incentive for families to split income with their children — protecting the integrity and improving the fairness of the income tax system.

Children will still benefit from the full low income tax offset for their income from working.

Double orphans and children with disabilities will also be fully protected under this change.

The Government sees trusts as a legitimate business tool and remains committed to clarifying, updating and rewriting Australia’s trust law. This will greatly assist the 660,000 trusts in Australia.

Meanwhile, the Liberal-National Coalition remain bitterly divided over the Opposition’s tax policy in relation to trusts, one minute they want to tax family, small business and farm trusts as companies, the next minute they have changed their mind and are arguing whether it was Opposition policy in the first place.

I think we know what the Shadow Treasurer’s real views are on taxing trusts, thanks to his 7 April speech in Melbourne to the Institute of Chartered Accountants.

I think we can also be pretty confident about where the Leader of the National Party sits on this trusts issue — and it’s nowhere near his colleague the Shadow Treasurer.

Where the Leader of the Opposition sits on all this however is far less clear Mr Speaker.

He evidently says one thing to one colleague and then turns around and says something very different to another colleague.

The Gillard Government has a clear tax framework that makes sure taxpayers pay their fair share, increases national savings and retirement income and simplifies the tax system for Australians. The Opposition not only lack a basic tax framework but they can’t even agree on individual policies.
Schedule 3 contains amendments to streamline the process for claiming tax deductions for the cost of total and permanent disability (TPD) insurance provided through superannuation. These amendments are designed to reduce costs for superannuation funds in complying with the law following the expiry of the current transitional relief which applies to these insurance policies.

Superannuation funds commonly take out death and disability insurance to cover liabilities they may incur to their members. Disability insurance taken out by superannuation funds includes TPD insurance.

The cost of TPD insurance provided through superannuation is deductible to the extent the policies provide cover which is consistent with the definition of ‘disability superannuation benefit’ in the *Income Tax Assessment Act 1997*. Where broader insurance cover is provided, superannuation funds are required to obtain an actuary’s certificate to determine the deductible portion of the premium.

These amendments allow the percentage of certain TPD insurance premiums that is deductible to be specified in regulations. This will assist superannuation funds by avoiding the need to engage an actuary to determine the deductible portion of premiums in many cases. The regulations containing the prescribed percentages will be developed following consultation with industry.

The Government introduced transitional provisions in 2010 which were designed to allow time for industry practice of deducting the full cost of broader disability insurance policies to be brought into alignment with the operation of the law. These transitional provisions expire on 30 June 2011.

The amendments in this Schedule extend this transitional relief to funds that self insure their liability to provide disability benefits. This will provide equitable treatment between self insured funds and premium-paying funds, and will avoid the need for self insured funds to amend tax returns and obtain revised actuary’s certificates where they have claimed deductions for broader disability insurance for the relevant income years.

Schedule 4 introduces amendments to ensure additional employer contributions imposed by an industrial agreement, or the rules of a superannuation fund, will not be reportable employer superannuation contributions.

Reportable employer superannuation contributions are contributions to superannuation above the minimum required by the Superannuation Guarantee that employees can influence, such as salary sacrifice and similar arrangements. Reportable employer superannuation contributions are counted as income when determining a person’s eligibility for government financial assistance programs.

Contributions mandated by an industrial agreement, or a superannuation fund cannot be controlled by employees, and cannot be accepted by employees as income or other benefit. These contributions should not be considered income when assessing a person’s eligibility for government financial assistance.

Full details of the measures in this Bill are contained in the explanatory memorandum.

**TAX LAWS AMENDMENT (MEDICARE LEVY AND MEDICARE LEVY SURCHARGE) BILL 2011**

This Bill increases the Medicare levy and Medicare levy surcharge low income thresholds for individuals and families in line with increases in the consumer price index. These changes, which historically have received bipartisan support, will ensure that low income individuals and families will continue to be exempt from the Medicare levy and/or the Medicare levy surcharge.

This Bill also increases the Medicare levy low income threshold for pensioners below Age Pension age to ensure that these pensioners also do not pay the Medicare levy when they do not have an income tax liability.

These amendments will apply to the 2010 11 year of income and later income years. Full details of this Bill are contained in the explanatory memorandum.
THERAPEUTIC GOODS AMENDMENT (2011 MEASURES No. 1) BILL 2011

This Bill will make changes to the Therapeutic Goods Act 1989 to further enhance the regulatory framework for therapeutic goods and provide additional support for the new streamlined processes being implemented to bring improvements to the time within which prescription medicines are evaluated by the Therapeutic Goods Administration.

A number of initiatives were identified in a review of the application and evaluation processes for prescription medicines that could help eliminate unnecessary delays including those arising from the provision of incomplete or insufficient data. Implementation of these initiatives is expected to result in a reduction of the current 500 days for an application to be determined to approximately 300 days.

The TGA has been working to streamline the submission process both for the registration of new prescription medicines and for making changes to the entries of prescription medicines in the Australian Register of Therapeutic Goods Register. A twelve month implementation phase for the new streamlined submission and evaluation processes commenced on 1 November 2010.

Changes to the Act to support these processes were made by the Therapeutic Goods Amendment (2010 Measures No.1) Act 2010. This Bill includes further changes to add legislative support to the new processes.

Prior to implementation of the streamlined procedures prescription medicines application submissions were generally accepted for evaluation in the expectation that further documentation could be lodged and information provided during the evaluation process. This, coupled with often lengthy response times to the requests from the TGA for further information or documents, substantially added to the evaluation completion time.

The amendment proposed in the Bill will provide that when an application is made to make changes to a prescription medicine’s entry in the Register which involves evaluation of clinical, pre-clinical or bioequivalence data, the applicant must provide adequate information in the required form and manner and pay any prescribed fee for the application to be effective and therefore accepted for evaluation. This requirement is designed to ensure that the necessary information will be supplied at the appropriate time to enable an evaluation to take place within agreed timeframes. Applications that do not meet these requirements will not be accepted for evaluation. This reflects the rules already in place under the Act in relation to applications for new entries in the Register for prescription medicines.

The new streamlined submission processes will provide greater clarity about TGA requirements for granting marketing approval for medicines and making changes to prescription medicine Register entries, encourage a higher standard of application submissions, provide more predictable timelines, increase transparency in the management of evaluations and, importantly, to remove unnecessary delays in the evaluation process.

This Bill will also make a change to the way evaluation fees are collected by the TGA. Completion of evaluations of prescription medicines is subject to prescribed timelines under the Therapeutic Goods Regulations. Where the TGA fails to meet these timelines, the evaluation fee payable by an applicant is reduced by 25 per cent. Currently, sponsors applying to register prescription medicines initially pay three quarters of the evaluation fee, with the remaining one quarter payable only if the TGA completes the evaluation within the timeframes set out in the Regulations.

Since the implementation of time limits for completing evaluations for prescription medicines in 1992, the TGA has only failed to complete evaluations on time on about 15 occasions. The collection of 75% of fees and the recovery of the remaining 25% owing applies only to applications requiring the evaluation of clinical, pre-clinical and bioequivalence data associated with prescription medicines. The administrative burden in invoicing applicants twice to recover the full evaluation fees payable, and monitoring each application until completion in order to send the second invoice to recover the remaining 25% of fees owing is not warranted given TGA’s track
record of completing evaluations on time. Additional administrative costs are passed onto industry as the TGA operates on a full cost recovery basis.

The amendment will mean the TGA collect the full evaluation fee when an application is accepted for evaluation, and must refund 25% of that fee if they do not complete the evaluation within the prescribed time limit. This is a more efficient way of recovering monies owing to the Commonwealth.

The final amendment included in the Bill relates to the operation of a ministerial power to make determinations for the purpose of imposing standard conditions on the registration or listing of therapeutic goods. These are mainly prescription, over-the-counter or complementary medicines and therapeutic devices.

The Therapeutic Goods Amendment (2009 Measures No.1) Act 2009 amended the Therapeutic Goods Act to enable a legislative instrument to be made by the Minister that would set out the “standard” conditions to be imposed on the registration or listing of these goods. These conditions may relate to, for example, the manufacture, supply, use, custody or disposal of therapeutic goods included in the Register.

The legislation currently provides that once the Minister makes such a determination, the new conditions will apply not only to the registration or listing of therapeutic goods after the instrument comes into effect, but also to therapeutic goods already on the Register. The removal of the old standard conditions is therefore necessary to ensure there will be no overlap or possible inconsistencies between the new conditions and those imposed as standard conditions on goods that have already been entered into the Register.

The Bill includes amendments to ensure that the old standard conditions cease to apply when the first instrument takes effect. Any unique or special conditions applying to specific therapeutic goods entered in the Register will continue to apply.

The Bill also contains an amendment enabling the instrument imposing the standard conditions to apply only to the registration or listing of therapeutic goods after the instrument comes into effect as there may be occasions when this is appropriate.

The measures in this Bill make important improvements to the operation of the regulatory framework for registered and listed therapeutic goods to the benefit of Australian consumers as well as industry.

AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE SUPERVISORY COST RECOVERY LEVY BILL 2011

The Gillard Government recognises that organised crime is a significant national security threat, and a growing challenge, that costs the Australian community up to $15 billion a year. We are determined to protect the Australian community and businesses from the pernicious social and economic impacts of organised crime.

The Government’s Organised Crime Strategic Framework ensures that Commonwealth intelligence, policy, regulatory and law enforcement agencies are working together to prevent, disrupt, investigate and prosecute organised crime. Organised Crime Response Plans targeting the key organised crime risks; the Criminal Intelligence Fusion Centre and a new Criminal Assets Confiscation Taskforce are key elements of the Government’s plan to combat organised crime.

And the common basis of these elements, is tracking money flows, the life-blood of organised crime.

The Australian Transaction Reports and Analysis Centre (AUSTRAC) is Australia’s specialist financial intelligence unit. It provides information about potentially criminal activity to law enforcement agencies, which put it together with other intelligence to detect people smuggling, drug importations, black market weapons trade, and other serious and violent crime. This financial intelligence has a broad public benefit, and is funded from our taxes.

In addition, AUSTRAC is Australia’s anti-money laundering and counter terrorism financing regulator. AUSTRAC’s regulatory activities mitigate the risk of money laundering, terrorism financing and other organised crime.
Businesses regulated by AUSTRAC facilitate financial flows that provide opportunities for others to disguise the true origin or eventual use of funds. Regulation under the Anti-Money Laundering and Counter-terrorism Financing Act 2006 (AML/CTF Act), however, reduces the risk that business will be exploited for money laundering or terrorism financing purposes. Businesses that operate internationally also benefit from operating in a jurisdiction that meets international standards for combating money laundering and terrorism financing. It is appropriate that industry meet the costs of the regulatory systems that ensure the integrity of their operating environment.

Businesses that profit from services that are vulnerable to abuse for money laundering and terrorism financing have created the need for regulation by AUSTRAC.

Since 2002, the Cost Recovery Guidelines have recognised as a matter of principle that entities that have created the need for Government regulation should bear the cost of that regulation.

In the 2010-11 Budget the Government announced that from the 2011-12 financial year, AUSTRAC would recover the costs of its regulatory activities from the businesses regulated under the AML/CTF Act. Cost recovery has not previously been applied to AUSTRAC as up until AML/CTF Act commenced in 2006, AUSTRAC’s regulatory functions were limited, and the AML/CTF Act did not fully become operational until March 2010.

This bill, together with the Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery (Collection) Bill 2011 and the Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery (Consequential Amendments) Bill 2011, gives effect to that measure.

There has been extensive consultation with industry about how best to recover the costs of AUSTRAC’s regulatory activities. Throughout this consultation process, the Government has listened to the concerns of industry and substantial changes have been made to the proposed model to address these concerns.

In accordance with the Cost Recovery Guidelines AUSTRAC will be able to recover its supervisory budget. The supervisory budget consists of four parts:

- The business-as-usual cost of AUSTRAC’s regulatory activities (including support services and costs associated with capital projects necessary to support regulation).
- Support for small business to achieve better compliance outcomes. Some small businesses captured by the AML/CTF Act have faced challenges in implementing compliant AML/CTF programs. This component will include the development of simplified guidance materials and the development of AUSTRAC’s website to enhance its usability for small business.
- An amount to meet the legal costs associated with enforcement activities undertaken by AUSTRAC.
- The establishment and ongoing costs associated with implementing and administering cost recovery.

AUSTRAC has no power to use the levy to determine its supervisory budget. AUSTRAC’s supervisory budget will be determined as part of the usual budget process. For example, the efficiency dividend applies equally to AUSTRAC’s intelligence and supervisory budgets.

The 2011-12 Budget Papers estimate the amount to be collected over the next four years at less than $30 million each year.

The total amount to be collected under the levy cannot be greater than the cost of AUSTRAC’s regulatory activity. The amounts to be levied will be set in advance of the date at which the number of regulated entities enrolled with AUSTRAC is determined for levy purposes, accordingly there is a chance that AUSTRAC will over collect or under collect the levy. In the event of an over, or under, recovery of costs, a compensating adjustment will be made to the levy to be imposed in the subsequent year. The Bill provides for this eventuality by setting a statutory upper limit for the amount that can be collected which is marginally higher than the AUSTRAC supervisory budget, namely $33 million per annum, indexed.
The Bill provides for the Minister to determine the amount payable by each business each year. This will be set out in a Ministerial Determination, which is a disallowable instrument.

Under the Bill, a reporting entity’s liability to pay the levy in any particular year will be determined on the “census day”. The census day in the 2011-12 financial year is the day determined by the AUSTRAC CEO. In future years, the census day will be 1 July or such other day determined by the AUSTRAC CEO.

The AUSTRAC levy is proposed to be a single annual charge comprising three components: a base component, a component for large entities and a component for transaction reporting activities.

The base component, to be paid by most businesses regulated by AUSTRAC, relates to the costs incurred by AUSTRAC in regulating all businesses. These expenses are incurred uniformly for all businesses, and the base component will be uniform.

The large entity component, to be paid by businesses with high earnings, relates to the additional costs incurred by AUSTRAC in regulating larger businesses. The large entity component will be higher, the higher the business’s earnings.

The transaction reporting component, to be paid by businesses depending on the volume and value of their reportable transactions, that is, threshold transaction reports and international funds transfer instructions. This relates to the additional costs incurred by AUSTRAC in regulating businesses which lodge large numbers of transaction reports, and or transaction reports relating to large amounts of money.

The Determination may specify a zero levy for an entity or class of entities. Remittance affiliates created by the Combating the Financing of People Smuggling and Other Measures Bill 2011 will be such a class of entities. This will include remittance affiliates like newsagents and post office agents.

Sole proprietors and partnerships with employees or businesses employing less than five people will also be exempt from the base component of the levy. These businesses will not be invoiced if the levy amount calculated for that business in the financial year is less than $100.00, indexed.

Businesses that are not required to have or comply with an anti-money laundering and counter-terrorism financing program under Part 7 of the AML/CTF Act will not be subject to a levy. The AUSTRAC CEO has indicated his intention to exempt small gaming machine venues from Part 7 of the AML/CTF Act. This would mean that these businesses would not be subject to the levy.

A review of the calculation methodology is planned after five years, or earlier if there are material changes to the AUSTRAC operating environment. AUSTRAC will monitor the cost recovery approach on an ongoing basis.

The government appreciates the way in which businesses work collaboratively with AUSTRAC through our regulatory system to make it ever harder for organised crime and terrorist to move money around undetected.

This Bill will ensure that AUSTRAC continues to provide a regulatory environment that maintains community confidence in financial flows, and minimises the risk to business of exploitation for money laundering or terrorism financing.

AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE SUPERVISORY COST RECOVERY LEVY (COLLECTION) BILL 2011

This is the second of three bills that will give effect to the 2010-11 Budget announcement that from the 2011-12 financial year, the Australian Transaction Reports and Analysis Centre (AUSTRAC) would recover the costs of its regulatory activities from the businesses regulated under the Anti-Money Laundering and Counter-terrorism Financing Act 2006 (AML/CTF Act).

This bill enables AUSTRAC to collect the supervisory cost recovery levy from businesses under the Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Bill 2011. It establishes the framework for administering the levy, including matters relating
to collection, invoicing, and dealing with late payments.

**Liability to pay levy**

Businesses that are not otherwise exempted from paying the levy will be required to pay it in any given financial year if they provided a designated service in the previous financial year and are enrolled or required to enrol at the census day.

The census day will be the date on which an entity’s liability to pay the levy for the current financial year will be calculated. The census day is defined in the Australian Transaction Reports and Analysis Centre Supervisory Cost Recovery Levy Bill 2011. Reporting entities that cease to provide designated services and are not enrolled at census day will not be liable to pay the levy. This recognises that the legal status or business activities of reporting entities may change due to bankruptcy, merger or acquisition.

**Facilitation of group payments**

In keeping with the government’s commitment to reduce the regulatory burden, wherever possible, businesses regulated by AUSTRAC may nominate another entity to receive the levy invoice and to discharge the obligation on its behalf. This will enable corporate groups to streamline the receipt and payment of invoices through a single entity.

**Waivers**

The government recognises that there may be some circumstances in which a business may not be able to pay the levy or where imposing a late penalty payment is not appropriate. In these circumstances, the AUSTRAC CEO will have the capacity to waive the levy and/or the late payment penalty. A decision by the AUSTRAC CEO to waive the levy or late payment penalty will be a reviewable decision before the Administrative Appeals Tribunal.

**AUSTRALIAN TRANSACTION REPORTS AND ANALYSIS CENTRE SUPERVISORY COST RECOVERY LEVY (CONSEQUENTIAL AMENDMENTS) BILL 2011**

This is the last of three bills that will give effect to the 2010-11 Budget announcement that from the 2011-12 financial year, the Australian Transaction and Reports Analysis Centre (AUSTRAC) would recover the costs of its regulatory activities from the businesses regulated under the Anti-Money Laundering and Counter-terrorism Financing Act 2006 (AML/CTF Act).

This bill amends the AML/CTF Act to require reporting entities to enrol with AUSTRAC and allow infringement notices to be issued for failure to enrol and failure to appropriately maintain enrolment details.

**Mandatory Enrolment**

Currently businesses required to be regulated by AUSTRAC are encouraged to voluntarily enrol with AUSTRAC by facilitating electronic reporting for those businesses that enrol through AUSTRAC on-line. As at January 2011, 17,888 businesses had enrolled with AUSTRAC – 1,590 more than in January 2010.

In moving to a cost recovery environment, the government considers that enrolment must become mandatory to implement a transparent, efficient and effective cost recovery scheme. Mandatory enrolment enables AUSTRAC to comprehensively identify its regulated population for the purpose of calculating and applying the AUSTRAC Supervisory Cost Recovery Levy. Failure to enrol attracts a civil penalty of up to 100,000 penalty units (currently $11 million) for businesses or 20,000 penalty units (currently $2.2 million) for individuals.

The levy for a particular business will be calculated in accordance with the information provided by the business on enrolment. Provision of false or misleading information to AUSTRAC is already a criminal offence under the AML/CTF Act regime.

Businesses regulated by AUSTRAC will be required to enrol within 28 days of providing or commencing to provide a designated service or within 28 days of the commencement of the relevant provisions of the Bill.

The details of what businesses will be required to provide to AUSTRAC will be contained in Rules. The AUSTRAC CEO will make the Rules under the AML/CTF Act, in consultation with affected businesses. These Rules will require reporting entities to provide business and contact
details, as well as specific details that facilitate the calculation of the levy. To the greatest extent possible, these requirements mirror the information currently provided voluntarily by reporting entities to AUSTRAC.

Once enrolled, businesses will be required to keep their details up to date. The penalty for failing to keep details up to date is also a civil penalty provision and may attract the same penalties as a failure to enrol.

In addition, businesses may make a request to the AUSTRAC CEO to have their name and details removed from the Roll. Prior to doing this the AUSTRAC CEO may take into consideration whether the business has discharged its reporting obligations.

**Infringement Notice Scheme**

Schedule 2 of the bill extends the infringement notice scheme to the offences for failure to enrol and failure to appropriately maintain enrolment details. This infringement notices scheme will enable the AUSTRAC CEO to respond to breaches in a more efficient and proportionate way than proceeding to court. The use of infringement notices in these instances is consistent with AUSTRAC’s use of infringement notices more broadly, and the powers and approach of other Commonwealth regulators.

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

**Senator FARRELL:** I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**National Radioactive Waste Management Bill 2010**

**Second Reading**

Debate resumed on the motion:

That this bill be now read a second time.

**Senator CROSSIN (Northern Territory) (12:41):** I rise to continue my contribution to the debate regarding the National Radioactive Waste Management Bill 2010. I think the last time we dealt with this was back in March, and I had a few minutes to contribute to this just prior to question time. I do not have very much I want to say today in wrapping up my contribution to this debate, but I do want to turn our attention to the issue of radioactive waste and radioactive materials.

Radioactive waste has been an emotional issue. In my time that I have represented the Northern Territory, if it has not been the issue of whether or not we mine uranium the other major question has been what we then do with the waste that is produced once we have used that mineral for radioactive activities. We know that radioactive materials have a variety of important uses in industry, agriculture and, most noticeably, in medicine. The production and use of radioactive materials in all these applications is strictly regulated to ensure the safety of people and the environment. But we also know that around 500,000 Australians per year benefit from medical diagnosis or treatment using radioisotopes that are produced by the research reactor at Lucas Heights in Sydney.

Radiopharmaceuticals—therapeutic drugs—contain radioactive materials. They are important in the diagnosis and treatment of serious illnesses such as cancer. We know that cancer affects one in three men and one in four women by the age of 75. While the quest for a cure continues, treating it directly by irradiating the cancer and using special radioactive medicines that attach themselves to the tumour provides benefits for many cancer sufferers. In the last 18 months we have witnessed the opening of an oncology unit in the Northern Territory. The Alan Walker Cancer Care Centre has been a welcome benefit and relief for people living in the Northern Territory. The Alan Walker Cancer Care Centre has been a welcome benefit and relief for people living in the Northern Territory. It means that now, for the first time ever, you do not have to pack up your goods and your family and travel down to Adelaide for those long periods of treatment for your cancer. In fact, your oncology, radiotherapy and chemo-
therapy treatment can be done on the spot in Darwin. So lots of people are talking about and benefiting from the use of radioactive materials, particularly when it comes to treating diseases such as cancer.

I turn now to the issue of what we do with the waste that comes from those materials and that treatment. Getting the benefit of nuclear medicine also means accepting the responsibility to safely manage resulting radioactive waste. The majority of our waste is actually medium to low level, resulting from over 40 years of research, medical and industrial uses of radioactive materials. The low-level waste, which I have seen at Lucas Heights myself, includes paper, plastic, glassware, protective clothing—even Chux wipes and gloves—and canisters contaminated as a result of the clinical procedures, and spent fuels. We know that this waste is currently stored in over 100 individual locations around the country, as well as in repositories in Britain and France.

A recent Victorian Auditor-General's report into hazardous waste said:

... there is little assurance that hazardous waste is stored and disposed of appropriately.

We have an international obligation to safely secure and manage our waste, and the next step in that is building a purpose-built radioactive waste management storage and processing facility, a single facility that would provide greater safety and security benefits for the community compared with the current practice. Our obligation does not include receiving waste from other countries. That is forbidden by Australian law and has been reiterated time and time again by ministers in my government and the Prime Minister. But, like other countries, we have to take responsibility for the proper management of our own waste. We know that spent fuels were sent to France and Scotland and that we have an obligation to store them because they are our fuels that were sent there for decommissioning and they are due back.

If we look at the history of the debate about where we are going to put this purpose-built nuclear waste facility in this country, we see, as I said in my previous contribution, that this has been on the agenda for decades. In fact, I think the Minister for the Regional Australia, Regional Development and Local Government, Simon Crean, started this process when the Hawke and Keating governments were in power, more than a decade or so ago. Now we have come to the pointy end of the debate: making a decision about what we are going to do in this country. We know that the previous coalition government reached an agreement with the Ngapa clan, who nominated their land at Muckaty Station as a potential site for the facility. The approach taken in this piece of legislation and by this government honours the commitments made by the previous government to the Ngapa traditional owners of the land at Muckaty Station.

We know that that land was identified through the Aboriginal Land Rights (Northern Territory) Act and the traditional owners of the nominated land were identified by the Northern Land Council. And we know that the nomination has now been questioned in a court of law. We also know that as late as last week the Prime Minister, when she was in the Northern Territory, publicly stated that we would abide by the outcome of any court decision. We also know that other clans on the Muckaty land trust have nominated and entered into agreements with respect to their land at Muckaty Station for other uses, such as for part of the railway and as a gas easement. It is not uncommon, of course, for individual families to nominate sections of the land on the Muckaty land trust for use. I know there is a dispute about whether or not the Ngapa clan were the right
people to have put forward their land for use by a purpose-built radioactive waste facility. That matter is being tested in a court of law. We have publicly said—on transcript, through the Minister for Resources and Energy, Martin Ferguson, and now the Prime Minister—that this government will abide by any outcome of that court case.

Let us turn to what the National Radioactive Waste Management Bill does. The bill that we have put before this parliament improves the existing legislation for the management of our radioactive waste. This piece of legislation does four key things. It introduces procedural fairness to all decisions regarding the selection of the site. It ensures that only voluntary nominations can be considered in selecting a site, and this process expressly recognises the rights of the traditional owners of any potential site. Again, the Ngapa clan have volunteered their land at Muckaty Station. That voluntary process is under dispute in a court. We have said that we will abide by the outcome of that court case. This bill rules out from further consideration the three potential sites that were identified by the previous government without consultation and without any deliberation as to the impact on any Indigenous people or traditional owners if any of those three sites went ahead, including the site in Katherine which borders a particular family's cattle station. In the event that further nominations are required to select a site, the Northern Territory will not be singled out as the only region that can be considered. If the outcome of the Federal Court case is such that it does not rule in favour of the Northern Land Council and the Ngapa clan, the Northern Territory will not be singled out as the only region that can considered.

What this legislation does, which I think people fail to appreciate, is to set out a blueprint for a purpose-built radioactive waste management facility in this country. It is not just about the Northern Territory; it is about a storage facility in this country. Some would claim that the government is disregarding the rights of traditional owners by seeking to enforce the storage of the nuclear waste at Muckaty Station. That is wrong. Under this bill the government cannot impose a facility on any one community. A site must be volunteered for consideration. The site at Muckaty was volunteered for consideration. Some people do not like that; some people disagree with it. But at the end of the day, under the Aboriginal Land Rights (Northern Territory) Act, that land was put forward. It was accepted by the previous federal government, the coalition government, and we have said we will acknowledge that acceptance, subject to the result of the Federal Court case. As we know, at present there are Federal Court proceedings challenging the Northern Land Council's ruling on the traditional ownership of the land at Muckaty Station, and Martin Ferguson, the minister, has said publicly that he would respect the court's decision and will continue to respect the wishes of the lawfully determined traditional owners of the land at Muckaty Station. The government has no intention to take any action under the Howard government's radioactive waste legislation. This is a different bill that will achieve a different outcome. This is a bill that acknowledges that volunteered site, and this is a bill that will now lay a blueprint for the nation's handling of radioactive waste material in this country.

Also, we will see the Environment Protection and Biodiversity Conservation Act come into play. Before any work can commence in constructing the facility on a selected site, the requirements and necessary approvals under the EPBC Act and the Australian Radiation Protection and Nuclear
Safety Act 1998 will be met and obtained. The facts are simply missing from a campaign that is being waged against the establishment of a long-term solution for the responsible management of our radioactive waste.

I just say finally that we need to respect the rights of the Ngapa clan, who have made a decision about the use of their land just like any other Indigenous group. But, of course, that is being tested in the courts by other Indigenous members. We need to respect that, and we have said we will respect that. We are obliged to deal with the difficult issue of managing our own low- and medium-level radioactive waste, and we have a responsibility to the community to deal with it in a safe and secure manner so the important and valuable benefits of radioactive materials, such as cancer treatment, can continue. I just say again, though, that this is a blueprint for a national radioactive waste management facility. It does, of course, consider Muckaty first, but Muckaty Station and the Muckaty Land Trust were volunteered by Indigenous people under the land rights act, which we will honour unless, of course, there is a decision in the courts otherwise.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (12:54): I rise to make remarks on the National Radioactive Waste Management Bill 2010 and particularly the extent to which it targets the Aboriginal community and Aboriginal land. I would also like to note that I know there are people keenly listening to this debate, both in the gallery and back in many communities.

This bill overrides Aboriginal heritage and environmental protection laws, and it is something that I have been passionate about since I first started in this place. When I first took on the Aboriginal and Torres Strait Islander portfolio, this was an issue that came up virtually straightaway, so the Greens have been campaigning on this for quite some time. In particular Senator Ludlam, who will speak later, has been working intensely on this campaign and opposing the approach by this government that continues the approach of the previous government in foisting this facility on Aboriginal communities in the Northern Territory. I will go into that issue again a bit later.

We believe that this bill overrides both Aboriginal heritage and environmental protection laws to the extent that it seeks to impose nuclear waste on an unwilling community in the Northern Territory. This bill indicates the government's continued failure to understand the standards and agreements established at the international level when it comes to Indigenous peoples. The international Declaration on the Rights of Indigenous Peoples and the UN Permanent Forum on Indigenous Issues require the 'free, prior and informed consent' of affected communities, and this is something neither the previous government nor this government truly gets. Article 29, part 2 of the United Nations Declaration on the Rights of Indigenous Peoples states:

*States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.*

This is not international best practice. In 2008 the Senate Standing Committee on Environment, Communications and the Arts found that the previous government's bill on radioactive waste was unfair and discriminatory and that consultations and decision making should reflect the interests of all the clan groups in the immediate areas. Paragraph 2.33 of the committee report states:
The committee agrees that the undermining of legal rights by the current legislation is unfair and discriminatory, and should not form the foundation for any issue, including radioactive waste management.

The 2008 committee inquiry revealed that the former Howard government's proposal to store radioactive waste at Muckaty Station in the Northern Territory was strongly contested. The people of Muckaty, north of Tennant Creek, continue to be targeted and specifically named in this government's legislation. The environment committee inquiry put important documents on the table—in particular, the Aboriginal Land Commissioner's report that established the Muckaty Land Trust. The land commissioner recognised shared interests and group structures. He recognised interweaving songlines and ceremonial relationships to that land among five group communities—not just one but five groups. This covered the whole area covered by the trust, and those groups—and I apologise right now for my mispronunciation—are the Ngapa, the Milwayi, the Wirntiku, the Ngarrka and the Yapakurla groups. Stephen Leonard, who made a submission for and on behalf of the Muckaty traditional owners, emphasised the importance of this document.

In 1997, after hearing years of tested evidence in a transparent and objective tribunal framework, the Aboriginal Land Commission found that there was clearly joint and interconnected ownership between the five main groups in the Muckaty Land Trust where dreaming overlapped. This was a core reason why a single land trust was granted. Furthermore, the report clearly indicated that the nominated site was jointly owned by at least three to five groups. The current process isolates a small number of people as the exclusive owners of a patch of land within the trust. This determination has been made through a secret anthropological report commissioned by the Northern Land Council. The Northern Land Council rests its entire case on this document but refuses to reveal it even to other members of the Muckaty Land Trust, whose country it concerns and whose family members, we think, are likely cited. The documents recently found in the National Archives underline further how far at odds the NLC's advice is with the land commissioner's findings. The Senate Legal and Constitutional Affairs Legislation Committee also conducted an inquiry into this matter and made a recommendation that the minister 'undertake consultations with all parties with an interest in, or who would be affected by, a decision to select the Muckaty Station site as the location for the national radioactive waste facility'. I note that the minister has failed to do so. This is a disregard for parliamentary process, consultative public policy and, we believe, basic human rights. I would also like to quote from a letter I understand the minister has received from Mark Lane, who wrote to him about this issue last March. Mr Lane said:

These are our concerns. We told the government that Karakara is sacred land. Only men talk about the land. No women talk for Karakara in the Muckaty Land Trust. The site for the proposed nuclear waste dump is in an earthquake tremor zone. What if an earthquake opens the nuclear waste storage and radioactive waste falls into our groundwater basin? We don't get our water from the city, town or from the coast. It comes from right below us.

The Warlmanpa elders always said that the Karakara is not Milwayi country. Milwayi is a snake dreaming travelling through Karakara and Muckaty Land Trust to Helen Springs. Milwayi is the totem for the ancestors' ground. Is the government going to regret everything later when a disaster happens like what is happening in Japan right now?

Finally, he said:
The government should rethink about the whole nuclear cycle and leave our traditional cultural, spiritual homeland alone. If the minister had adequately consulted he would know about these issues and maybe he would be taking them into account.

The minister may have a similar attitude to the member for Canning, who has said:

Geologically it is the most appropriate place. It is geologically stable, from a weather point of view it is dry and lacks in humidity, and no one to speak of lives there.

I repeat, he said:

… no one to speak of lives there. It is a very sparse population. Barely anyone lives in that arid and desolate part of the Northern Territory.

I think the member for Canning needs to take a little trip and go and talk to the people that do live there, that do love and belong to that land.

Is that the approach of this parliament: no-one lives there so we can dump waste on them? That is the attitude that is prevailing in this place. We know that is not true. People do live there. There is a cattle station in the area. People live in the surroundings and use the land for ceremony, hunting and camping—people with names, people with children, people with connection to that place. People do live there; they have connection to that country. Their land is not nowhere and they are not nobody.

As Melissa Parke said in the other place, we should guard against the notion that remoteness equates to emptiness. And as Gerry McCarthy, the ALP representative of the area, stated to the Senate inquiry:

If the government's decision is based on the testimony of an extended family group living far removed from the Muckaty Station, then the total dislocation of the Waramungu and the Warlmanga tribal communities of the Barkly that I represent is at stake. Any determination to proceed without direct, open and accountable consultation with the wider contemporary Indigenous community representing the neighbouring clans, moiety and tribal groups of the central Barkly will effectively lead to generational division and conflict amongst the very people the minister has set out to support.

In evidence to the committee the Australian Public Health Association pointed out the health implications of the kind of divisive strategy set out in this legislation. The Public Health Association went into detail about the stress that results from disempowerment when there is a lack of confidence in decision making, when people do not have a say, when people have not been consulted, when their opinions are not taken into account, when they are not properly dealt with as individuals. The impact of these circumstances is very real and is one of the contributing factors to illness, stress and the 17-year gap in life expectancy.

We are supposed to be learning, we are supposed to be closing the gap and yet, here, the very practices that have led to the existence of this gap are being practised yet again when the government wants to dump something on a community. Exactly the same things that we have done in the past we are doing again. Exactly the same things that brought us the failed intervention are being practised again on these communities, and apparently they are supposed to wear it. They are supposed to wear the fact that some of this material may have been generated in generating nuclear medicines so therefore that justifies dumping it on their land and not taking their opinions into consideration—but that is okay because it is for the benefit of society. It is 2011. You would have thought that we would stop doing this, but apparently we have not learnt.

Division and conflict are much more prevalent when money is introduced in a context of poverty. The fact is that Aboriginal people are faced with the choice of sacrificing their land, health and water in
exchange for what most Australians regard as their citizenship entitlements. As we heard in evidence to the legal and constitutional affairs committee inquiry:

So we made a decision about this waste problem to get money to build up our outstations, to get money to go back to our land and have schooling, have employment, have health out of the land itself, build up our station as a cattle station again, start a business.

We should not be doing that in 2011. It is the same thing that is occurring in other places around Australia where we are making Aboriginal people give up rights to their land so that they can then have access to the services that the rest of Australia takes for granted and knows that a good society provides: decent housing, decent health, decent education. If you tried to dump this in one of the green leafy suburbs so that people could get decent housing, decent employment and decent health, what do you think the response would be? The same as this community's has been: 'No, we don't want it. No, we don't want to sacrifice our land.' But these people, apparently, are in lands where no-one lives and it is empty. Well, it is not empty and they do care. We believe that this is a shameful indictment of the government's handling of Aboriginal people's rights, livelihood and future. It replicates yet again the approach that was taken during the intervention in the Northern Territory that we know has not worked, that we know was foisted on them with a top-down, patronising approach—and here we go again. It is all very well to wrap it up, saying, 'We've consulted one of the groups'; but, as we know, there are five groups there and they are saying; 'We don't want this waste dump. It's not appropriate to foist it on us. It's not appropriate to try to divide and conquer us, the same way you have done for the 200 years you've been in this land.' We are repeating those same mistakes. It is time it stopped. It is time we actually listened properly to what Aboriginal people want. There is no doubt in my mind that what we are practising here is radioactive racism, and it needs to stop.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (13:08): I rise to speak on the National Radioactive Waste Management Bill 2010. I commend Senator Siewert for her remarks a moment ago about the very real impacts on Indigenous communities when governments decide to impose things that would be unacceptable in other places in Australia. I particularly note the need for free, prior and informed consent. Everybody understands that a community's consent or otherwise is fundamental when it comes to assessing a community's response to a particular project, and in this case it is 'otherwise'. The community involved has not been properly consulted.

And why not? Why are we standing in this parliament talking about a national radioactive waste management bill? It is simply because the Australian government want to continue to mine uranium, expand uranium mining throughout the country and send that uranium to be converted into, they say, nuclear energy. We say it could be converted into nuclear energy but it could equally be sent off to displace other uranium into nuclear weapons regimes around the world. We are doing this because the government wants to dig more uranium out of the ground and have a nuclear waste dump in Australia. This begs the question: ought we not be leaving that uranium in the ground in the first place?

I note that, during the debate in the House, a large number of speakers used the bill to talk about nuclear energy and promote nuclear energy as a solution to climate change. The whole reason being put forward
for why you would take away Indigenous people's rights, trample on the notion of free, prior and informed consent and take away from Indigenous people their real connection to the land by contaminating it in this way is that you want to promote nuclear energy as a solution to climate change. Since when has that been a solution to climate change? As Ian Lowe says:

If nuclear power is the answer, it must have been a pretty stupid question!

I note that Mr Macfarlane from the coalition took great pleasure in the other place in congratulating the Minister for Resources and Energy, Martin Ferguson, on declaring himself a supporter of nuclear energy. Mr Macfarlane congratulated Minister Ferguson on his foresight, vision and understanding, so to speak. Large chunks of that speech were an endorsement of Minister Ferguson and free advertising for the nuclear industry. The House also heard from a Tasmanian member, the member for Lyons; Dick Adams spoke at length about nuclear power—as did the member for Kooyong and others. They all spruiked nuclear power as the pretext for having to impose on Indigenous communities a nuclear waste dump that they do not want and to which they did not consent. Suddenly, Australia is doing the world a favour by promoting nuclear power.

Nuclear power is not a solution to climate change. Global warming is a very real problem. It is an urgent problem. We have to address it in the next 10 years. Rarely—in fact, never, I would purport, in the history of humankind have we had one group of people living at one period of time that will determine the fate of all future generations to come, including our fellow species on this planet. That is a pretty awesome responsibility that we who live now have. Within the next 10 years, we have to make sure that global emissions peak and then start to come down or we will have no hope of constraining global warming to less than two degrees above pre-industrial levels—and, even then, we give ourselves only a 50 per cent chance of avoiding catastrophic climate change.

The Executive Secretary of the UNFCCC, the United Nations Framework Convention on Climate Change, Christiana Figueres, said only last week in Bonn that 'two degrees was not enough'; it is too big a risk and we need to bring emissions down by 1.5 degrees—that is, we have to start talking about stabilising emissions at 350 parts per million. This is a really radical shift in the thinking about urgency, engagement on levels of emissions and what we have to do. We need the technologies we have right now. We have renewable energy technologies that we can implement right now. Nuclear energy will be too slow. Even if you got rid of the danger associated with nuclear waste, even if you put aside the issue of nuclear proliferation, it will be too slow to address the climate crisis within the time frame we have. That is a fact.

In addition, there has been all this talk about how safe nuclear energy is. Well, we just saw how safe nuclear energy was with the Fukushima disaster in Japan. Since that time, the German government has decided to phase out nuclear power by 2022 and the Swiss government to phase out nuclear power permanently by 2034. Japan has abandoned plans for nuclear to provide half its energy and has scrapped 14 planned new reactors. The Chinese State Council put an embargo on approval of new reactors. The European Union countries decided to conduct stress tests on all 143 reactors in Europe, announced on 23 March, after an emergency meeting of the European Council of Ministers on Energy. Italy has decided on
a one-year moratorium on its plans to revive nuclear power. The President of the Philippines has rejected the use of nuclear power due to safety concerns, and Israel's Prime Minister stated on 17 March that Israel was now unlikely to pursue civil nuclear energy.

A 10 May 2011 New York Times article reported poor market conditions for nuclear, saying:

Even supporters of the technology doubt that new projects will surface any time soon to replace those that have been all but abandoned.

Even before the Fukushima disaster, the world's nuclear industry was in clear decline, according to a new report from the Worldwatch Institute. That report, commissioned months before the Fukushima tragedy, painted a bleak picture of an ageing industry unable to keep pace with its renewable energy competitors—an ageing industry, a past technology, too slow, too dangerous and too expensive.

Now let me go to 'too expensive'. Why is it that the nuclear industry always has to come running to the government to get covered for insurance and for support and for the government to be the guarantor? No private sector company goes in for this with governments running along behind saying, 'We will stand by this industry. We will meet your insurance liability, because otherwise we know you will not invest'—corporate welfare for the nuclear industry; otherwise, they do not invest. And that is the catch here. Every time you hear someone standing up, spruiking for nuclear power and for how safe these nuclear waste dumps are, why is it that they so desperately need governments to intervene to skew the pitch for them? Why is it that they have had to come to the government and say, 'We need you to override environmental protection legislation; we need you to override the rights of Australia's Indigenous people, because otherwise we will not get our proposal up'? What does that tell you? Nuclear is too slow, too expensive, too dangerous, is not supported by the community, alternatives are available, but let us go to the government cap in hand and ask for the government's support.

And while I am on the subject of government, one of the most despicable things about this legislation is the absolute hypocrisy of the Labor government. When the coalition put up Muckaty Station, when they came out and said that that was going to be the nuclear waste dump, the Labor Party said: 'That is shocking! The people have not been consulted. Indigenous people have not been appropriately consulted. There has not been the prior informed consent.' Out they all came with it. Then the minute they get into government, yes, they take on the Welcome to Country, and we were delighted to see that when Kevin Rudd became Prime Minister in 2007, and Australia's Indigenous people had a right to hope at that point that things might be different. Now they have learned that nothing is different, that when the mining industry speaks both the Liberal and the Labor parties jump. When the uranium industry wants to be given the green light, then it does not matter to either the Labor Party or the coalition that Indigenous rights are trampled along the way. That is what is going on here. The very same people who only a few years ago were saying that this was an absolute travesty of social justice are standing up now, whimpering away in the background about how they are not really doing this, they are just cutting and pasting John Howard's legislation, are putting it into new legislation and giving the minister the power to determine that Muckaty will be the site. That is what is going on here.

This is a disgrace from the government and I hope that Australia's Indigenous people watching this happen will take it up to the
government very strongly. They have been shockingly misled. When are the photo opportunities going to stop and when is real policy, genuine engagement, genuine consultation going to start? That is what needs to happen here. Everybody in this parliament knows at this moment that the people who have a connection, a real connection, to the land have not been consulted and do not want this waste dump imposed upon them. I would like everyone speaking on this debate to stand up and say why that should be overridden and why those Indigenous rights should be overridden. What is going on in this country? We do not need to be mining more uranium, we do not need nuclear power, we do not need nuclear waste dumps imposed on Indigenous communities. It is a matter of social justice. We have been hearing a lot lately about how the Labor Party has to get back in touch with one of its fundamentals, which is social justice. Well, let us have a bit of justice for Indigenous people in Australia. Let us have that justice when it comes to this particular issue.

I joined my colleagues when this matter first came on the agenda some years ago. We went up to one of the areas which was then proposed to be the nuclear waste dump, Mount Everard, one of several of the proposed sites. We had a look at that area and met with and spoke to families in that community. What was overwhelming when you sat down and listened to Indigenous people talking about their land and their connection to land was that they could describe every aspect of the land and they could talk about, and did talk about their spiritual connection to the land.

You go in there and bulldoze a hole in that land and put toxic waste into that land: what does that do to the spiritual connection to that land? What does that do to the sense of identity of those Indigenous communities? I was absolutely persuaded, listening to people talking about their land, of just what a disaster a toxic waste dump would be. Quite apart from the environmental issues concerned, the damage it would do to the cultural identification of Indigenous people with their land would be disastrous. That is precisely what is going on here with this legislation being imposed on people in the area of Muckaty Station. This is being done, but the worst aspect in all of this is that it has gone on for years and years. They have been dragged through this time and time again and given false hope by the government that it would not be the case and then been betrayed by that very same government. The coalition has always been prepared to impose this on Indigenous people. The government pretended they would do something other than this and now they have turned their back on those people and betrayed them. Is it any wonder that Indigenous people around Australia are losing faith in any of these processes? When push comes to shove it is always Indigenous communities who lose—they lose their rights, they lose their connection to country, they lose their connection to culture and they lose their languages—because governments consistently take away the support that they have. Most recently, in my own portfolio area of climate change, remote renewables were to be rolled out for Indigenous communities but that was scrapped by the government as well.

I want to say very sincerely that this legislation is a travesty of social justice in Australia. It is a betrayal of Indigenous people. It is a betrayal of the hope that Indigenous communities had that things might and could be different. We are not going to get genuine reconciliation with Indigenous people as long as we continue as a parliament to treat them with the level of disrespect that this bill implies. And it is not just disrespect; this bill means that they...
could end up with a toxic waste dump on their land when they do not want it there. They were not asked about it and they reject it. They will have to either live with it or leave. What sort of prospect is that? We would not be doing this to any other group of people around Australia, as my colleague Senator Siewert said. I am not hearing the government propose this for the downtown area of any city around the country. The notion that it is empty out there harks back to the complete disrespect that came with the terra nullius conceptual framework of what was out there in Australia.

We have Indigenous people in this country. We have not as a nation given them the respect and support that they deserve. We are trying to do better, but this legislation is demonstrating the practical reality that, when mining interests and the interests of those who want to expand nuclear power around the world get in the way, governments prefer to listen to the bosses of those industries than listen to people who have a genuine connection to the land. The Labor Party ought to hang its head in shame in relation to this legislation. I hope those people who stood up before and opposed the coalition when the coalition was proposing Muckaty Station have the courage to cross the floor when this comes to a vote. They have been responsible for selling out any faith that Indigenous communities might have that parliamentarians actually mean what they say. I mean what I say. The Greens mean what they say in relation to this.

It is wrong. We do not need to be imposing a nuclear waste dump on people who have not been consulted. There is no free, prior and informed consent. There is no need to be facilitating uranium mining in this country. The best thing we can do with uranium is leave it in the ground and invest in renewable energy, which is a peaceful source of energy which cannot be mixed up with proliferation and which is the way of the future. Nuclear is too slow, too expensive and too dangerous. Australia’s Indigenous people know that. That is why they stood up with the people around the world and in Japan in fairly recent times saying no to nuclear. It is time we actually recognised that in this parliament and stopped this assault on Indigenous communities. I oppose this legislation.

Senator XENOPHON (South Australia) (13:27): I want to say at the outset that I acknowledge and appreciate the importance that the mining industry plays in Australia’s wealth. There will be debate later this year in this chamber about whether a mining tax is appropriate and whether the design of that tax is appropriate. I am not implacably opposed to nuclear power, but I have very grave reservations about it. I think what we have seen recently in Japan at Fukushima indicates we need to be very wary about the safeguards that are in place for nuclear power. I note that Germany will be shutting down a number of its nuclear power reactors in years to come. A conservative government effectively in Germany has made the decision to wind up nuclear power in that country. The National Radioactive Waste Management Bill 2010 is not about whether you are for or against mining or for or against nuclear power; it is a question of process—it is a question of treating the traditional owners at Muckaty Station with respect.

Not so long ago in this chamber we debated the wild rivers bill, which was a piece of legislation to overturn the Queensland government’s wild rivers legislation. I know my colleagues in the Greens have a different view on this, as does the government, but I thought the key principle in that bill, which was introduced by Senator Scullion and by the opposition leader in the other place, was to ensure that
there was genuine consent given before a wild rivers declaration was enacted in Queensland. In other words, that legislation would have overridden the Queensland legislation. I supported that legislation, and still do, because it is about honouring and respecting the traditional owners of the land. It is about ensuring that they have some real say in terms of self-determination. That is what the Queensland wild rivers legislation does not do. It is completely disrespectful of Indigenous owners in that it seeks to make declarations affecting the economic viability of the land and the self-determination and the economic destiny of Indigenous Australians in Queensland. As a result, that Queensland legislation is a very shabby piece of legislation. And I see some parallels to what is being proposed here by the federal government which is in effect picking up what the former government wanted to do in relation to this. I am disappointed that the government has opted to put this bill on the program this week when the legislation includes a proposed location for a radioactive waste dump that is currently the subject of a Federal Court challenge. This is about respecting traditional owners. This is about process first and foremost. It seems extraordinary when there is a challenge before the Federal Court, when there are matters that are still before the court, when there has been significant litigation about this—and I will go to that shortly—that the government is seeking to overturn a process that has already begun in the courts.

The bill specifically names one site in the Northern Territory, Muckaty Station, to be assessed as the location of a radioactive waste dump where nuclear waste from the states and territories will be deposited. The government claims that this is okay because the site was volunteered. But that is not the case. The Senate should wait until the Federal Court has made its findings as to whether those who claim to be the owners of Muckaty Station and who volunteered the site are the correct parties to do so. This is a live issue before the courts; it is a significant issue before the courts. It is an issue that must not and cannot be ignored. It concerns me that the government is seeking to just wipe away the Federal Court process, to ignore it, and to effectively say: 'We know better. We'll ignore the matters that are before the Federal Court in relation to this.'

I have heard very often from the government that they cannot support certain amendments until the outcome of a review, for example. That is what they do to me, to my fellow crossbenchers and to the opposition all the time by saying: 'We need to review this. We don't have enough information.' Yet today the government want to vote through legislation that is currently the subject of a Federal Court case. When the House of Representatives Standing Committee on Climate Change, Environment and the Arts inquired into this bill it noted the dispute between the Federal Court and concluded it would be inappropriate to inquire into a matter currently before the courts. In fact, the committee said in its report that it would be improper for it to do so. It is inappropriate; it is improper and the Senate should not vote on this bill today.

I want to give some further details in relation to this. The Australian Conservation Foundation do much good work—I do not agree with them on all issues, but they do some good work. I think it is important to put on the record what the Australian Conservation Foundation has said. It has described as cynical and irresponsible the introduction to the Senate of this bill aimed at fast-tracking a nuclear waste dump in the Northern Territory. This bill will seek to override state, territory and local government concerns and exempt the federal government from meeting key environmental and
Aboriginal heritage rules—this is what we are debating today. I agree with Australian Conservation Foundation campaigner Dave Sweeney who said:

This heavy-handed legislation is a cut-and-paste of a deeply unpopular Howard era law—it is not a credible or mature basis for managing Australia's radioactive waste.

It is being challenged … by traditional owners of the region.

I agree with Mr Sweeney and again I am not implacably opposed, as some are, to nuclear power. We should have a discussion and debate about it, but after Fukushima I think we should be even more wary about nuclear power. I think Mr Sweeney made a good point when he said:

Radioactive waste lasts a lot longer than a politician's promise so we need to get its management right.

He went on to say:

This dump plan is a cynical attempt to find a short term political fix to a long term environmental and human health hazard.

Mr Sweeney made the point that with key questions around consultation, consent and ownership currently before the Federal Court it is improper for Minister Ferguson to be trying to fast-track this legislation which is based on a false premise and a broken promise. I agree with that. I agree that this legislation is deeply flawed; it is deeply flawed because the Federal Court process is still proceeding.

Let us go into some of the details of the Federal Court case which really shows the folly as to this legislation being dealt with in the Senate today. The Federal Court case is around the ownership of the land in question. It is also about the obligation of the Northern Land Council as a statutory authority to consult with all groups. I emphasise all groups because that is a very serious concern. I think that there are some concerns about the propriety of those purporting to have ownership in terms of the decisions made. The land commissioner that established the Muckaty Land Trust, the site in question, recognised shared interests in group structures. He recognised interweaving songlines and ceremonial relationships—that is what the land commissioner stated—to that land amongst five community groups, not one but five groups, over the whole area covered by the trust. Those groups are Ngapa, Milwayi, Wirntiku, Ngarrka and Yapa Yapa. I apologise to any of those groups for mangling any pronunciation.

Senator Bernardi: Say it in Greek.

Senator XENOPHON: Senator Bernardi said 'Say it in Greek'. I think that would just make things worse, Senator Bernardi! Stephen Leonard who made a submission for and on behalf of the Muckaty traditional owners emphasised the importance of this document. He said this:

In 1997, after hearing years of tested evidence in a transparent and objective tribunal framework, the Aboriginal Land Commission found that there was clearly joint and interconnected 'ownership' between the five main groups in the Muckaty Land Trust where dreaming overlapped. This was a core reason why a single Land Trust was granted. Furthermore the Report clearly indicated that the nominated site was jointly 'owned' by at least 3 to 5 groups …

The current process isolates a small number of people as exclusive owners of a patch of land within the trust. This determination has been made through a secret anthropology report commissioned by the Northern Land Council. I think the Northern Land Council has a lot of explaining to do in relation to its behaviour with respect to this. I think that the Northern Land Council ought to be subject to a lot more scrutiny in this and other decisions. It is an area of deep concern to me that the Northern Land Council has taken the action that it has. The Northern Land
Council rests its entire case on this document but refuses to reveal it, even to other members of the Muckaty Land Trust, whose country concerns and family names are likely cited. The documents recently found in the National Archives further underline how far at odds the Northern Land Council’s advice is with the Land Commissioner’s findings. What has the Northern Land Council got to hide here? What deal has been done to reach the decision that has been reached? Consent was purportedly given, but in fact a whole range of other groups have not been consulted in relation to this. I think it is important that the Northern Land Council come clean and disclose those documents before this matter is considered further. I think it is important that the Northern Land Council be subject to rigorous scrutiny before this matter is considered further. The Northern Land Council is a beneficiary of significant public moneys. I think its behaviour in this case leaves a lot to be desired, and it leaves many unanswered questions.

The Senate committee was not provided with the Northern Land Council’s anthropology report, its written submission or the transcripts of evidence from the Muckaty land claim—in other words, the documents recently found in the National Archives. Nor was the committee allowed to see the so-called new 2007 anthropology report which concluded that the Lauders were the exclusive traditional owners of the nominated site, because, as the Northern Land Council told the committee, the report contained culturally sensitive information. As such, the Senate committee had to rely on what it was told. This is not adequate. It reeks of a bungled process; it reeks of secrecy; it reeks of a complete failure of appropriate due process, fairness and natural justice. We are being asked to vote on a bill whose genesis is fundamentally flawed.

Further to that, reading the 1993 Northern Land Council anthropology report from the Muckaty land claim, which was submitted by the Northern Land Council to Justice Gray, the authors could not be more clear in asserting that the three Napa family groups 'shared the same sites' and had 'commonality of land interests' on Muckaty Station, although each group had different emphases for land off Muckaty Station. Justice Gray accepted that in his report. The Senate committee was not told of the evidence in the Muckaty land claim from Geoffrey Lauder and the other senior men that the Karakara was a Yapa Yapa aka Japurla Japurla site, nor was it told that Justice Gray accepted this evidence and specifically identified Karakara as a Yapa Yapa dreaming site in his report.

In the circumstances, and in view of the trenchant opposition of Dick Foster and other non-Lauder Ngapa leaders to the Muckaty site nomination, the authors of the NLC submission to the Senate—in which the Muckaty land claim evidence and the conclusions of Justice Gray were literally turned on their head—have an awful lot of explaining to do. It has been a deeply flawed process, a process which we ought not to be part of. I understand from Senator Ludlam that the mediation for the Federal Court matter is due to proceed in just two months time—sometime in August. That is only eight weeks away. What is the rush? Why won't we let the Federal Court do its work? Why are we insisting on dealing with a piece of legislation where there is already a process in place—that is, Federal Court litigation—so that those matters can be fairly dealt with under the rules of discovery, under the court processes and rules of procedure of the Federal Court, so that we can get to the truth of this?

I am deeply suspicious of the processes involving the Northern Land Council. There
are too many unanswered questions. There are too many inadequate explanations given by the Northern Land Council. I think it is fair to say that this Muckaty plan is a bad deal, and it is important that we do not allow it to be a done deal.

In the committee stages of this bill, I would like to ask my friends, my colleagues in the coalition: in terms of getting the genuine consent of the traditional owners, how is this different from the coalition's wild rivers bill? I believe that is a noble piece of legislation because it is doing the right thing by Indigenous people and treating them with respect. But here I think we are not doing the right thing by traditional owners. These are not just the broad assertions of some owners saying, 'You haven't consulted me.' They have actually taken this a step further. They have actually issued proceedings in the Federal Court of Australia because they are so deeply concerned about the fate of process, about the deals that have been done behind people's backs, and about the secrecy on the part of the Northern Land Council. I am not sure how much the Northern Land Council gets in taxpayer funds each year, but I would hazard to say that it is in the millions of dollars. There needs to be some accountability for that organisation in what they do, because they have effectively marginalised some of their own people. They are supposed to be representing them, but they have not done so. The Northern Land Council ought to be held to account for their actions in relation to this.

I am not opposed to the concept of having an appropriate nuclear waste dump. I am not opposed to dealing with this in a way that is fair, reasonable and driven by process. But what we are seeing here is a piece of legislation which will in effect entrench a deeply flawed process, a damaged process, a process which leaves many unanswered questions. For those reasons, I cannot in good conscience support this bill being dealt with at this time. I will be supporting my Greens colleagues in any move to have this legislation adjourned, for this bill to be postponed until the Federal Court has done its work. I think it is shameful if we effectively vote to destroy any legal rights of traditional owners currently before the Federal Court of Australia, and that should be resisted at all costs.

Senator LUDLAM (Western Australia) (13:45): This debate has been a long time coming. How long, exactly, depends on how you set your clock. Perhaps it began more than a year ago when this bill was introduced into the parliament, last February, or perhaps in late 2005 when the Howard government used its numbers to ram the original version of this bill through the Senate in order to target three sites in the Northern Territory. Perhaps it started in late 2006 when the Howard government came back to the parliament and forced through an amendment bill that explicitly paved the way for a single nomination at a cattle station called Muckaty, 120 kilometres north of Tennant Creek. Perhaps it really began on 26 January 1958 when the nuclear research facility that generated the waste we are discussing today first went critical, under the prime ministership of Robert Menzies, during the darkest years of the Cold War.

In truth, we need to wind back the clock just a little further to see when this fuse was really lit: 2 December 1942, when a pile of enriched uranium and graphite blocks went critical on a racquet court at the University of Chicago. At that point, with the first criticality of the first nuclear reactor, the template was set for the way in which high-level radioactive waste would be managed in nearly every jurisdiction in which it was produced. This pattern—which Australia followed with precision—runs a dismal road from indifference to and denial of the
problem to the establishment of a pseudoscientific process to identify a dumpsite as far as possible from the location of decision makers, followed by attempted forced entry of the identified site and then defeat at the hands of the target community. The final phase, that of amnesia, allows the process to return to the indifference and denial phase, and the cycle starts again.

There is a reason why nearly everywhere in the world the nuclear industry's attempts to deal with its waste products follow this dysfunctional template with such remarkable consistency. I believe it has to do with the nature of the waste itself colliding with human perceptions and appreciation of time. Democratically elected governments work on three- or four-year electoral cycles. Private nuclear corporations look to quarterly reporting cycles and the longer depreciation time lines of their assets. Host communities take a broader view and think at least in terms of a generation or two. But the lethal wastes produced in a nuclear fission reactor defeat these human conceptions of time.

Consider the medical wastes and other contaminated by-products that needed to be shielded from people and the wider environment for three or four centuries. These are the gloves in hospital waste, the spent sources, the contaminated and compacted trash arising from all the different ways in which our industrial society uses and discards radioactive materials. These things are not merely contaminated, they are contaminating. Everything they come in contact with becomes itself some form of radioactive waste.

Our bodies are well adapted to deal with the full-time task of cell repair that comes with living in an environment bathed in low levels of background radiation. The nuclear industry likes to point this out, as though it somehow absolves them from direct responsibility for producing whole new categories of this obscenely dangerous material, whether in gigantic piles of finely powdered radioactive waste at uranium mines or in more concentrated and immediately lethal forms requiring the kind of intergenerational storage that we consider today.

For three centuries after the legislators and policymakers who wrote this bill are dead and forgotten that waste will still be ticking, it will still be capable of killing and injuring, and that is the legacy that we contemplate here today. This so-called low-level waste is the material that the Labor, Liberal and National Party MPs think should be put on a semitrailer and railcar and taken to a cattle station that only a handful of them could even point to on a map. Most of the waste has spent the first few decades of its existence in a shed at the Lucas Heights reactor complex in Sutherland Shire in the south of Sydney, watched over by the same technicians who created it, people who at least have qualifications in its characterisation and handling.

It is an extraordinary legacy for our great-grandchildren 12 generations hence. By the time our descendants are able to take their eyes off this stockpile our debates in here will be a distant memory, although we might be conceited enough to imagine them reviewing the Hansard record to work out exactly why we thought producing this material was justified in the first place.

Despite the government's stated intentions and MPs filing in here talking about medical wastes and so on, that 300-year stockpile is absolutely not what this waste dump bill is about. It is about something else entirely. Spent fuel from nuclear reactors, whether from small research facilities or large-scale power stations in our customer countries, produces categories of waste that defy easy
description. Remember that this waste is not only contaminated but contaminating. The fuel cores within every reactor on earth are slowly but surely turning the containment structures themselves into radioactive waste, such that the entire assemblies at the end of their lives need to be meticulously dismantled, cut up, somehow contained and then isolated in the same manner as the fuel itself.

This material—the spent-fuel elements, the old reactor cores and containment structures—if not properly looked after and stored, will still kill you in 50 or 100,000 years time. I defy anyone in this chamber to confidently make any prediction of any worth at all about the state of human society 100,000 years from now. If you look back in time a span like that takes us back two ice ages. The only people I know of with the kind of grip on deep geological time that matches the time spans we are forced to consider today are the Aboriginal people, whose 60,000-year occupation of this continent is documented in the extraordinarily resilient oral and symbolic culture that central Australians speak of as Jukurrpa or 'the law'. The million or so silent petroglyphs, or rock carvings, hammered into the granophyre galleries of Murujuga, the Burrup Peninsula, tell an unbroken and sophisticated story of 30,000 years or more of continuous occupation spanning different geological ages. These are the timescales that the producers and promoters of radioactive waste force us to contemplate.

That waste, the 100,000-year migraine left us by a few short decades of industrial thoughtlessness, is only heading to Muckaty in the interim, we are told. I confirmed that in Senate estimates only a fortnight ago. The government intends to transport the dismantled Lucas Heights reactor core and the reprocessed spent fuel and other long-lived garbage out to Muckaty in the interim. There is still no final disposal site in contemplation. The government asks us to trust it that its policy is only to host waste generated in Australia, and to that I can only say that trust around here, in these issues, is in very short supply. We have people from Bob Hawke on down promoting Australia as a global radioactive dump. What an extraordinary vision for our community that is. People promoting remote dumping of radioactive waste, whether locally, nationally or globally, have to answer two very simple questions. The first question is: why exactly does this material have to be stored remotely; why the obsession with centralising this poisonous garbage at a remote site? We know why, because every now and again the industry lapses into sincerity and tells us. For the really dangerous material, no engineered form of containment has been developed that this waste will not burn its way out of. Because the industry knows that its waste will eventually leak, it seeks what are known as 'high-isolation' sites: places with stable geology and with deep water tables that are unlikely to rise. This was explained in detail by the proponents of the Pangaea International waste dump, who outlined the strategy with unusual honesty. Checking to verify the company's strategy, I had it confirmed a couple of years ago at one of the Senate committees into this matter by officers of ANSTO, who said, 'Sure, we put it out there because the material will leak—yes.' This explains the obsession that nuclear industry decision makers the world over have with remote sites. Put crudely, they want it as far from themselves as possible because their own engineers have told them that they will need geology itself to be the final barrier when the engineered containment inevitably fails.

That brings us to the second question: when you find such a remote site, what will you tell the people who you find there? You
could try the terra nullius approach favoured by Don Randall, the member for Canning, who told the House:

It is geologically stable, from a weather point of view it is dry and lacks in humidity, and no-one, to speak of, lives there. It has a very sparse population. Barely anyone lives in that arid and desolate part of the Northern Territory.

You can be fairly certain that the member for Canning has never bothered to go within 500 kilometres of the place he dismisses with such spectacular ignorance. But he is only repeating the words of former Minister for Education, Science and Training Julie Bishop, who said, 'Why on earth can’t people in the middle of nowhere have low-level and intermediate-level waste?' The principle of terra nullius is written into this, the National Radioactive Waste Management Bill 2010, as it was written into the bill that we were meant to be replacing—'if the land is empty, there will be no-one to prevent us violating it'.

This is where the story really degenerates into tragedy. First the Howard government and then the Rudd government, and now the Gillard government, in full knowledge of just how dangerous this material is, has proposed to dump it thousands of kilometres from its point of origin, 120 kilometres north of Tennant Creek, on a cattle station that we know as Muckaty, in exchange for $11 million in a charitable trust and $1 million in educational scholarships for the people who put their hands up to host the dump for the next 300 years. It works out at about $40,000 a year for 12 generations to come before we come to the question of what should happen to that spent fuel over the next few dozen millennia.

Unlike the government, I do not pretend that there are not two sides to this debate. A nomination has come forward through the Northern Land Council of a site at Muckaty station, and the traditional ownership of the site is strongly disputed all the way to the Federal Court. But even if it was not disputed, what a dismal failure of governance it is to abandon all pretense of scientific best practice or due process and dump the nation's radioactive waste on a community in exchange for basic citizenship entitlements. Pangaea tried the same strategy with the Laverton mob in the western Ngaanyatjarra lands in Western Australia, and they failed because of a community campaign. The Howard government tried to dump the nation's radioactive garbage in the lands of the Kupa Piti Kungka Tjuta in central South Australia, and they failed because of community resistance led by the Kungkas of the area. Not to be deterred by the evident failure of this approach, the Howard government at the end of its fourth term targeted the Northern Territory, using the constitutional battering ram that this government in opposition proposed to repeal.

It is hard to imagine how it must feel to be targeted by a government which has failed to provide the services that most of us take for granted and whose members arrive by aircraft from over the horizon to explain that jobs and educational services will be provided if only you accept guardianship of the nation's radioactive wastes for all time. We do not have to imagine how it feels, because Dianne Stokes and Mark Chungaloo tell us directly in a letter which I seek leave to have incorporated into the Hansard.

Leave granted

The document read as follows—

21 March 2010

Hello from Mark Japaljari Chungaloo and Dianne Nampin Stokes speaking on behalf of our Warramungu/Warlmanpa people.

The information given to us is that our people still do not want the nuclear waste dump to come to the Muckaty Land Trust.

We will not stop making noise in Tennant Creek/Muckaty or in our community where we
live about 40 kilometres south of where the proposed Muckaty nuclear waste dump would be built.

We will not stop making a noise in Canberra either. We need our opposition to the nuclear waste dump to be understood and respected by Government and especially Minister Martin Ferguson.

All our tribes in Tennant Creek have been talking to each other and we will all get together to protest by doing traditional dance showing the design that represents the land Karakara in Muckaty Land Trust. Our message is always: We don't want the nuclear waste dump anywhere in the Muckaty Land Trust.

These are our concerns:

- We told the government that Karakara is sacred land.
- Only Men talk about the land. No women talk for Karakara in the Muckaty Land Trust
- The site for the proposed nuclear waste dump is in an earthquake tremor zone. What if an earthquake opens the nuclear waste storage and radioactive waste falls into our groundwater basin. We don't get our water from the city, town or from the coast, it comes from right below us.
- Warlmanpa Elders always said that Karakara is Milway Country. Milway is a Snake Dreaming travelling through Karakara and Muckaty Land Trust to Helen Springs. Milway is the totem for the ancestors' ground.
- Is the government going to regret everything later, whence disaster—happens like what's happening in Japan right now?
- Government should rethink about the whole nuclear cycle and leave our traditional cultural spiritual homeland alone.

Mark Japaljari Chungaloo
Dianne Nampin Stokes

Dianne and Mark are speaking for members of all the family groups of the Muckaty Land Trust, including many Ngapa people.

They asked me in Tennant Creek a month or so ago to bring a document into the chamber for tabling, and I checked with the clerks to make sure that it qualified as a document under standing orders. It is a banner which is covered in handprints and speaks in three different languages the simple message, 'No waste dump at Muckaty'. It has handprints from all the family groups represented on the land trust. I seek leave to have the document tabled and incorporated into the Hansard.

Leave granted.

The document read as follows:

Maybe this means absolutely nothing to Prime Minister Gillard or to the Minister for Resources and Energy, Martin Ferguson, but I am here to tell the government and opposition senators, who will in due course file in here and probably vote for this bill, that you should take a moment or two to read the documents I have tabled. They are a sign from a long way from here that this proposal has been fought for six years, that it will be fought into the future and that the government is going to end up backing down as it has before.

How on earth has it come to this? The government cuts and copies a Howard era bill which guts the principles of procedural
fairness and judicial review and overrides all relevant state and territory legislation that stands in its way. They base a single nomination on a mysterious piece of anthropological research that no-one has seen—not even the people who are probably named in it. The minister then grants himself total and unfettered discretion in deciding where the dump will be, whether on Muckaty or at some other site that looks sufficiently remote from policymakers in Canberra. Maybe they will be cracking open the champagne in Martin Ferguson's suite over in the ministerial wing later this week, and maybe the government thinks that this is in fact the end of the matter; but I am here to say that it really is not. We will continue to support the community and the people who have taken up this campaign, and we will continue to fight for the entitlement of all Australians to have decent employment prospects and education services without having to sacrifice their land. This bill should not be debated in this place at all while this matter is before the Federal Court. I move:

At the end of the motion, add:

and further consideration of the bill be an order of the day for the next sitting day after:

(a) the Government receives the written consent of the Legislative Assembly of the Northern Territory to the dumping of radioactive waste in the Territory; and

(b) the Minister for Resources and Energy has completed consultations with representatives of the Muckaty Land Trust and all other parties with an interest in, or who would be affected by, a decision to select the Muckaty Station site as the location for the national radioactive waste facility; and

(c) the Federal Court decision is handed down in the case between the Muckaty traditional owners, the Northern Land Council and the Commonwealth concerning the nomination of the Muckaty Station site as the location for the national radioactive waste facility.

I will explain directly after question time what this amendment does.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Live Animal Exports

Senator COLBECK (Tasmania) (14:00): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. When was the minister, his department or his office—

Opposition senators interjecting—

Senator COLBECK: Thank you! I am not sure if that applause is for me or for the previous speaker, but I will take it!

The PRESIDENT: Order! It is disorderly! Senator Colbeck, continue with your question.

Senator Sherry interjecting—

Senator COLBECK: I will take it when I can get it, Senator Sherry—

The PRESIDENT: Senator Colbeck, just continue with your question.

Senator COLBECK: My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. When was the minister, his department or his office first provided with images of inhumane cattle slaughter practices in Indonesia?

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) (14:00): I, like many Australians, was shocked by the footage shown on Four Corners on 30 May. I was also shocked by the opposition's response on this issue too, quite frankly. The government shares the Australian community's concerns about animal welfare and is taking the necessary action to provide for a secure future for the live trade industry. But, as I have already
announced, the government has suspended live animal exports to Indonesia until we are satisfied that the appropriate animal welfare standards can be met. I announced on 13 June 2011 that Mr Bill Farmer AO would also conduct an independent review into Australia's live export trade. Mr Farmer, of course, will examine each stage of the supply chain from paddock to the point of slaughter. But I have seen comments from Mr Abbott and Mr Truss on this and they seem to suggest that they would want to take—

Senator Colbeck: Mr President, I rise on a point of order on relevance. I have given the minister a minute of his two minutes to consider the question, which was very specific, around when he, his department or his office first saw images of these inhumane slaughter practices. It was a very specific question and I would ask you to bring the minister to the question.

Senator Conroy: Mr President, on the point of order, I do not know how much more relevant you could be in answering that question. Senator Ludwig was absolutely answering—

Honourable senators interjecting—

The PRESIDENT: Senator Conroy, resume your seat. When the noise across the chamber ceases, we will proceed. Senator Conroy, you were responding to the point of order.

Senator Conroy: Senator Ludwig was absolutely answering the question. More importantly, he still has almost a minute—almost half of his available time—to complete his answer. The suggestion that he is not relevant to the question should be dismissed as absolutely spurious.

The PRESIDENT: The minister does have 56 seconds remaining. I do draw the minister's attention to the question.

Senator Ludwig: Thank you. Can I work up to my point—

An opposition senator: When?

Senator Ludwig: Shortly. I have seen Mr Truss's and Mr Abbott's suggestions that they would want to take the risk that Australian animals continue to be exposed to the shocking conditions we have seen. The decision to suspend trade was not an easy one, but let us be clear: on the afternoon of 30 May—

Senator Ian Macdonald: We didn't ask you whether it was easy; we asked you when!

Senator Ludwig: I see you interjecting. What did you do when you were the minister? Nothing! And, of course, on the afternoon—

Opposition senators interjecting—

Senator Ludwig: If you don't want me to answer the question, I won't.

The PRESIDENT: Senator Ludwig and others! Senator Ludwig, resume your seat. Senator Ludwig, continue with your answer.

Senator Ludwig: Thank you. As I was saying before I was so rudely interrupted, the afternoon of 30 May was the day of the Four Corners program. The decision, as I said, was not an easy one to take, but let us be clear: this is a suspension that the government will lift as soon as industry can establish a verifiable system. (Time expired)

Senator Colbeck (Tasmania) (14:04): Mr President, I ask a supplementary question. When did the minister first contact the Indonesian government regarding these practices?

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) (14:05): I outline that, in terms of
the bilateral relations that we have with Indonesia, we are working closely with the Indonesian government on this issue. Both DFAT and DAFF officials have been in close contact with our Indonesian ambassador in Jakarta, and Indonesian counterparts. The Indonesian government shares our concern that some animals are not being slaughtered in accordance with Indonesia's own animal welfare laws. Both governments acknowledge that no one issue can dominate the relationship. The Indonesian trade minister, Dr Pangestu, stressed in her public comments that Australia's action represents a temporary suspension and that Indonesia was keen to improve practices.

Senator Brandis: Mr President, I raise a point of order on relevance. The question could not have been more specific: when did the minister contact the Indonesian government in relation to these practices? There was nothing else. He was not asked about the bilateral relationship or the history. He was asked a narrow and specific question. Either he answers it or he is not being either directly or indirectly relevant.

The PRESIDENT: I draw the minister's attention to the question. You have nine seconds remaining, Minister.

Senator Ludwig: I had the opportunity of speaking to my counterpart, Minister Suswoho, and I will provide the exact time and date for the chamber. Can I also indicate—(Time expired)

Senator Colbeck (Tasmania) (14:06): Mr President, I ask a further supplementary question. Given the minister's recent statement that he has been expressing concerns about this matter since January, why didn't the minister take the opportunity to investigate the matter personally when he was in Indonesia in March?

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) (14:06): Of course this is an area where, unlike the coalition when they are in government, I have been raising it both in January, with the industry, and again at an opportunity in Katherine with the Cattle Council of Australia to talk to the issue of animal welfare outcomes for our trade to continue.

In addition to that, we have continued to say that we understand that the suspension will have an impact on the Australian producers and those involved in the live export trade. We know that this government, unlike the previous government, have continually raised the issue of how we improve animal welfare outcomes for this trade. That information has been continuously conveyed both to industry and to the Indonesians. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT: Order! I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from Tuvalu led by the Speaker of the House, the Right Honourable Sir Kamuta Latasi OBE, PC, KCMG. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate.

With the concurrence of honourable senators, I will ask the Speaker to take a seat on the floor of the Senate.

Honourable senators: Hear, hear!

Mr Latasi was then seated accordingly.
Economy, Senator Conroy. Can the minister advise the Senate on how the recently released National Digital Economy Strategy will assist Australia in improving both service delivery and our global competitiveness?

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) (14:08): I thank the senator for her ongoing interest in this area. This is an important question that goes to the vision of the Gillard government's strategy, which is for Australia to become one of the world's leading digital economies by 2020. The strategy itself has eight key goals that will ensure that we as a nation take full advantage of the National Broadband Network to improve health service delivery, create new educational opportunities, assist small businesses to enter new markets and take advantage of increased business opportunities, reduce the imbalance between metropolitan and regional and remote Australia, and support our growing and ageing population.

Since its release the strategy has received strong support from industry and community groups. Peter Strong, the CEO of COSBOA, the Council of Small Business of Australia, said:

It is without a doubt ambitious and that ambition is needed when it comes to the digital world which is changing constantly and at times dramatically.

Jonathan Nicholas, CEO of the Inspire Foundation, which supports youth mental health services, said the government's plan 'outlines a comprehensive strategy for leveraging the NBN to drive improved health outcomes in the Australian community'. The Australian Information Industry Association chief, Mr Ian Birks, said the strategy reflected 'bold and visionary leadership by Minister Conroy and the Gillard government'. I have to say Mr Birks went on to say—and I do not think anyone in the chamber could disagree with this—that it would be nice to see an intelligent response from the opposition. He stated:

I suspect its response will be around implementation and cost. But it would be nice to see an intelligent conversation about the NBN as we go forward.

The AI Group has stated: 'We had called for government support to help businesses prepare'—(Time expired)

Senator WORTLEY (South Australia) (14:11): Mr President, I ask a supplementary question. What action is the government taking to realise the vision articulated in the National Digital Economy Strategy?

Senator CONROY (Victoria—Minister for Broadband, Communications and the Digital Economy, Deputy Leader of the Government in the Senate and Minister Assisting the Prime Minister on Digital Productivity) (14:11): The digital economy strategy outlines government programs that will assist in allowing more Australians to enjoy the economic and social benefits that the NBN can deliver, including $23.8 million for a digital communities initiative, a focus of which will be establishing digital hubs in the 40 communities that will first benefit from the NBN. Digital hubs will enable local residents to experience the NBN for a period of time and to receive training to develop the digital skills necessary to participate with confidence in the digital economy. $12.4 million is to establish a digital enterprise program that will help small- to medium-enterprises and not-for-profit organisations in the 40 communities to understand the opportunities to benefit from the NBN. $27.2 million is to fund a four-year—(Time expired)
Senator WORTLEY (South Australia) (14:12): Mr President, I ask a further supplementary question. Can the minister inform the Senate of any recent announcements that will help Australia's business community, especially small business, to take advantage of the National Broadband Network and the Digital Economy Strategy?

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) (14:12): This morning Minister Sherry and I launched Driving Business Online, an exciting new initiative to help small businesses establish an online presence and to enable them to transact online. Driving Business Online is an educational program that is being developed by PayPal and partnered by eBay, Australia Post, Optus, MYOB, Powerfront, Symantec and the Australian Retailers Association.

We heard from two small businesses: Moisturecure, a business specialising in dehumidifiers, rising damp and mould problems; and Hardware2u, a small business selling home improvement products such as sheds, pergolas and decks. Both are located in regional Australia, but through their online presence they now have national markets and are open for business 24 hours a day. The blue PayPal bus is quite literally taking to the road with this important online message, delivering it in person to business owners and employees. (Time expired)

Live Animal Exports

Senator BACK (Western Australia) (14:13): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Prior to announcing the suspension of live cattle trade to Indonesia, what consultation or discussions did the government have with industry? With which producers, which exporters and which industry organisations did the government consult? When and how did this consultation take place?

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) (14:14): It is clear that industry has been on notice on this issue for some time. My office and I have been talking with industry about how to improve animal welfare outcomes in Indonesia and other markets as well. What the industry representatives and industry bodies together have brought back to my office has never gone far enough or provided us sufficient confidence that they would be able to deal with the live animal export industry and ensure the animal welfare outcomes that we would accept. No one would accept the animal welfare outcomes that we saw on the ABC Four Corners program.

This government has been working closely with industry to ensure that we can continue to have a live animal export industry. It has been working with them not only at the time of the ABC program but post that as well, continuously, to ensure that we can highlight the fact that this industry needs to take responsibility for the animal welfare outcomes in Indonesia. This industry has allowed the self-regulatory approach to continue without the necessary checks and balances that are required. If you look at the actions that I have taken, you see an immediate investigation into the footage and evidence was undertaken by the Department of Agriculture, Fisheries and Forestry.

Opposition senators interjecting—

Senator Brandis: Mr President, I rise on a point of order. Nothing the minister has said is directly relevant to the only issue
raised in the question: what consultations were there with the industry about the suspension? Generalities about consultation with the industry about animal welfare are not directly relevant to the only issue: what consultation was there about the suspension? Now the minister is meandering off in another direction which is less relevant still.

Senator Chris Evans: On the point of order, Mr President: Minister Ludwig is trying to be helpful, giving fulsome answers and addressing the issues contained in the question. Senator Brandis may be frustrated that he is not getting the answer he wants, but Minister Ludwig is doing his best to make sure the Senate has all the information and he is providing a response to a question. In my submission, there is no point of order.

The PRESIDENT: I believe the minister is answering the question. The minister has 20 seconds remaining.

Senator Ludwig: Those opposite do not accept the actions I have taken. I have been clear about this: the live animal export industry will not recommence until we can ensure animal welfare outcomes. Those in the opposition might want to play politics with this, but this is an issue where we have to ensure animal welfare outcomes are taken into account. (Time expired)

Senator Back (Western Australia) (14:17): Mr President, I ask a supplementary question. Prior to announcing the suspension of the live cattle trade to Indonesia, what consultation or discussions did the government have with the Indonesian government? With whom, when and how did this consultation take place, and did they also learn of this decision through the media?

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) (14:17): Broadly, because it is not the usual practice to go through, piece by piece, individual conversations with overseas governments, what I can outline is that in terms of our bilateral relationship Indonesia is and continues to be an important trading nation for Australia. What we have done both through my department, the Department of Agriculture, Fisheries and Forestry, and through Foreign Affairs and Trade is to continue to keep Indonesia apprised of the decisions we have made. Those decisions go back first of all to—

Opposition senators interjecting—

Senator Colbeck: On a point of order on relevance, Mr President: we have asked a number of serious, specific questions regarding this issue because we do take it seriously, despite the allegations from the other side. We asked when the minister first saw images of this nature, when he first contacted the minister and when he took action. All we are asking is that he put on the record specific answers to specific questions. That is all we ask. We are taking this seriously and we are asking specific questions. We ask you, Mr President, to bring him to the question.

Senator Conroy: On the point of order, Mr President: Minister Ludwig has been answering a number of the questions that have just been detailed. That was a debating point. If those opposite do not want to listen to the answers because they have prewritten questions, Mr President, then you should dismiss their points of order. Minister Ludwig has been answering the questions and he has been completely relevant to the question.

Honourable senators interjecting—

The PRESIDENT: It would help, as I am trying to listen to the minister's answers, if people on both sides were not screaming in my ear. That would be the first thing that
would assist. I do draw the minister's attention to the question. The minister has 19 seconds remaining to answer the question.

Senator LUDWIG: As I was saying, the Indonesian trade minister has stressed in her public comments that the Australian actions represent a temporary suspension and that Indonesia is keen to improve practices. In addition to that, President Yudhoyono, in a press conference on 10 June, has recognised the importance of this issue as well. He has asked his minister for—(Time expired)

Honourable senators interjecting—

Senator BACK (Western Australia) (14:20): I ask a further supplementary question, Mr President. Did the government consult with any external parties, bodies or persons prior to announcing, via the media, the suspension of the live cattle trade to Indonesia? If the answer is yes, who were they and when were they consulted?

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) (14:20): There has been a long history of engagement on this matter with the MLA—that is, Meat and Livestock Australia—the NFF, together with ALEC, LiveCorp, the Cattle Council of Australia and the Sheepmeat Council of Australia. This government, unlike those opposite, who have not engaged in consultation, has been engaging in consultation with those bodies and continues to engage in consultation with those bodies. It is clear that those opposite may not want to hear about the meted approach that this government is taking on this issue. Those opposite may want to—

Opposition senators interjecting—

Senator LUDWIG: I know you want to continuously interject, Senator Brandis, but you have failed again to persuade me from my course of explaining that this government does consult with industry about its decisions, it does consult with industry about the results of those and, more importantly, it has been clear in pointing out to industry that they have failed to manage this industry. (Time expired)

Carbon Pricing

Senator MARSHALL (Victoria) (14:22): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I ask: can the minister outline to the Senate the government's position on assistance to households and in particular assistance to pensioners under a carbon price?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:22): I thank Senator Marshall for the question.

Senator Abetz: Stop smiling. People aren't used to you smiling, Penny.

Senator WONG: I am pleased that Senator Abetz likes my smile! It really has made my day! All day I've been thinking, 'I hope Senator Abetz likes my smile!'

The PRESIDENT: Senator Wong, just return to the question and ignore the interjections.

Senator WONG: I will try and ignore his interjections. It is interesting, isn't it, that the opposition have not yet asked a question in relation to climate change when we know that that is such an issue in their party room. Can I start by just reasserting again the government's position when it—

Honourable senators interjecting—

The PRESIDENT: Senator Wong, would you resume your seat, please. When we have silence, we will proceed. Senator Wong, proceed.

Senator WONG: Thank you, Mr President. This government has always been
clear about the fact that, when we introduce a carbon price, we will provide assistance for Australian households. We on this side of the chamber recognise that those on fixed incomes will need extra assistance as Australia transitions to a low-pollution economy. We have been clear when it comes to Australian pensioners that we will look after them, and our record backs this up. This government has delivered a record rise in the pension, reflecting Labor values and Labor priorities. We understand that pensioners need the government's support, and they will get it.

This puts us on the other side of the debate from the opposition, because the opposition has made clear in recent days that, when it comes to pensioners, the opposition is determined to ensure that any increase in assistance to pensioners that the government delivers through its carbon package will be clawed back by Mr Abbott and the opposition. It is the great pension clawback. Quite clearly those on the other side do not have the same regard for people on fixed incomes that the government has and has demonstrated. Unlike those opposite, we will ensure that the moneys paid by the big polluters go to Australian households and to those that need it most. (Time expired)

Honourable senators interjecting—

The PRESIDENT: Wait a minute, Senator Marshall. When there is silence, we will proceed.

Senator MARSHALL (Victoria) (14:24): Mr President, I ask a supplementary question. I thank the minister for that answer. I ask: is the minister aware of any credible alternative approaches to tackling climate change, and are those alternatives realistic?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:25): The answer is no. The reality is that the Australian people have not seen a credible alternative from this opposition. What we do know is that this is an opposition that is hard-wired to oppose regardless of the consequences. We know from what Senator Joyce has said that the opposition is intent on not only repealing a carbon price but also repealing any assistance that goes with it.

But it is interesting to see that not everyone in the opposition party room thinks this is such a great idea. A senior Liberal was reported in the Sydney Morning Herald as saying, and I quote—

Senator Boswell: Can't you even name him? Who was he?

Senator WONG: I know you do not want to hear this, but this is one of your own, Senator Boswell:

You can't take money away from pensioners, it would kill us. Isn't it interesting?

Mr Abbott's strategy of opposing everything some of those on the other side— and I see a few heads bow, deciding to understand the consequences of that— (Time expired)

Senator Ian Macdonald: It's no wonder you were such a failure as climate change minister.

Senator Wong: You know all about failure.

Honourable senators interjecting—

The PRESIDENT: When the chatter across the chamber has ceased, we will proceed.

Senator MARSHALL (Victoria) (14:26): Mr President, I ask a further supplementary question. Again I thank the minister for that answer. I ask further: can the minister outline to the Senate the importance of ensuring that climate change policies are fiscally responsible? What threats, if any, are there to a fiscally responsible approach to climate change?
Senator WONG (South Australia—Minister for Finance and Deregulation) (14:26): The threats to a fiscally responsible approach, whether it is on climate change or on the budget, lie among those opposite, because the reality is that those opposite are hard-wired to oppose regardless of the consequences for Australian pensioners and regardless of the consequences for the federal budget. It is interesting that Mr Abbott's fiscal recklessness is becoming so obvious that even his own team are starting to complain about it. We know that Senator Minchin himself has raised concerns in the party room, which have been reported publicly, about the importance of the opposition being fiscally responsible and the problems with Mr Abbott's response of opposing everything, including budget savings measures. There is also the coalition MP who said:

We can't keep agreeing with government spending measures and opposing savings … measures and keep our financial credibility intact. (Time expired)

Live Animal Exports

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (14:28): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Has the minister ever visited a working Indonesian abattoir?

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) (14:28): No, I have not visited a working Indonesian abattoir. Can I say, though, that the government is determined to reform the live animal export industry, unlike those opposite, who seem stuck in the past. With proper, well-managed reform, the live export trade can transition to a sustainable industry where animal welfare outcomes and trade certainty are assured, because failure to reform the way in which Australia conducts this trade places in jeopardy the significant social and economic benefits that it brings to regional communities, particularly those regional communities of Western Australia and the Northern Territory. It is disappointing to see that those opposite do not want to bring the trade back online as quickly as possible, to ensure animal welfare outcomes are maintained and to make sure that we have facilities that are appropriate and that meet OIE standards.

It is surprising that you then ask whether I have visited an abattoir or not. You seem to miss the point that it is about ensuring that we have animal welfare outcomes to resume this trade. We should not recommence this trade without that standard in place to ensure animal welfare outcomes. If those opposite are urging that we resume the trade without those safeguards in place then it is negligent to do so. You will also not be able to guarantee the animal welfare outcomes.

It is particularly important to ensure that we maintain this industry. Of course, the industry bodies that have led us to this circumstance have failed their own producers, have failed to be able to provide assurances to their industry that they can continue this trade in a responsible way. (Time expired)

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (14:30): Mr President, I ask a supplementary question. Given the minister's admission of not having expertise in this particular area of his portfolio, has the minister ever visited a working Australian abattoir? If so, where and what animals were being slaughtered? Upon what does the minister
base his expectations of humane practices in slaughtering Australian cattle?

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) (14:30): I have had the opportunity of visiting a meatworks. I can certainly go into describing the circumstances and the time, but partly I think the opposition are simply playing politics with this issue. Dinmore meatworks is an area which I have visited and spoken to the industry about. Also not only the domestic market; I have been working with industry, both with the Meat Industry Council and the other representative bodies that I have described, on a couple of major important issues which are significant to those industries and those abattoirs that are domestic, which include export certification. But what I am disappointed about is that the opposition's approach to this is not about supporting animal welfare outcomes so that the trade can continue. What they are about is trying to score cheap political points on animal welfare issues. It is critical that we—(Time expired)

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (14:31): Mr President, I ask a further supplementary question. Upon what direct practical or working knowledge of Indonesian or Australian abattoirs has the minister based his actions thus far, or are his actions based purely upon television footage supplemented by the advice of well-meaning Canberra based bureaucrats?

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) (14:32): What those opposite should recall is that this has been a government that has conducted a measured approach to this issue. If you recall, the first thing I did post that footage on ABC Four Corners was ask the department to investigate the footage and the evidence itself. They are ably qualified to undertake the task. I also put a moratorium on the installation of any new Mark I restraint boxes with Commonwealth funding. I also asked for an independent, scientific assessment of the Mark I and Mark IV restraint boxes by the Australian Chief Veterinary Officer.

In addition to that, as part of this work, a team of DFAT officials have already arrived in Indonesia. They will be joined this week by an independent representative of the Australian Veterinary Association. They will be conducting a review of the processing facilities that received Australian cattle in Indonesia and continuing to review the Mark I and Mark IV restraint boxes. They will also—(Time expired)

Live Animal Exports

Senator SIEWERT (Western Australia—Australian Greens Whip) (14:33): My question is to the Minister for Agriculture, Fisheries and Forestry. Given that the live cattle export industry is now facing serious financial hardship as a result of the necessary suspension of exports to Indonesia, and given the failure of organisations such as Meat and Livestock Australia to maintain welfare standards, I would like to know when and how the government will hold these organisations to account?

Senator Ronaldson: The farmers' friends, the Greens—what a joke that is!

Honourable senators interjecting—

The PRESIDENT: I will not call the minister until the debate has stopped. The
Minister for Agriculture, Fisheries and Forestry, Senator Ludwig.

**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) (14:33): Thank you, Mr President, and I thank Senator Siewert for her interest in this industry, unlike those opposite. I understand that the suspension of trade will have an impact on Australian producers and those involved in the live export trade. We know this will be particularly acute in the areas of the Northern Territory and Western Australia. The government and the department are committed to working with industry every step of the way to achieve the best outcome for all involved. Any short-term impacts will be for the longer term sustainability of the industry.

In terms of the short-term impact in that area, I have DAFF officials looking at the current onshore areas as well, but in terms of support broadly for industry can I say that I have written to Meat and Livestock Australia asking the association to consider making an initial contribution of $5 million to an industry contingency fund. I have received a reply from the MLA stating that the board would not provide those funds. This is a disappointing response from an industry body representing the major producers in this area who have failed to take responsibility for their actions and, of course, not accept the substantial role that they have played in the current issues as well. I have now acted to exercise my powers to direct the MLA to use some of its substantial reserves to manage the immediate domestic impact of the suspension of trade. The government believes that the industry body should support its industry itself, particularly given the funding base which includes both industry and government contributions. To that end, I have acted to deal with that issue and ensure— *(Time expired)*

**Senator Siewert** (Western Australia—Australian Greens Whip) (14:36): Mr President, I have a supplementary question. I thank the minister for his answer. Although it was very useful, he did not answer the question I asked, which was: what are you doing about MLA to hold them to account? So I ask him to please answer my first question, but my supplementary question is: now that he has exercised his power to direct MLA to do this, what is his time frame for ensuring that happens as a matter of urgency?

**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) (14:36): Under the statutory requirements, I do have to give them an opportunity to consult with me about the decision I have made in terms of the time frame. Given the urgency of this issue, I expect that to be a relatively short period of time. I would have expected the industry to take responsibility for itself and for these circumstances. The industry have failed to do that, and that is why I have acted to ensure that they do take responsibility. That $5 million is important to provide support and relief for onshore domestic producers, to ensure that they can maintain their stock and defray some of the initial impacts that the decision has caused. In terms of a broader industry question about MLA, I foreshadow that I will be— *(Time expired)*

**Senator Siewert** (Western Australia—Australian Greens Whip) (14:37): Mr President, I ask a further supplementary question—and the minister might roll the final part of his answer to the previous question into this one. You said that they...
have to come back to you, Minister; could you please outline the time frame for that? Could you also please outline what analysis you did to determine the amount of $5 million initially put into the fund for compensation? On what information is that based, on what analysis is that based; and how confident are you that that is enough to significantly help the industry?

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) (14:38): Can I finish the last answer first, then. It was disappointing to get that response from MLA. The initial $5 million—and I use the word 'initial'—is to deal with the immediate impacts on the onshore domestic supply chain. In terms of the broader issue, what I was saying before is that I foreshadow that I will be pursuing a reference to a joint committee to look at not only the broader representative bodies but also the domestic impacts and a range of other matters that I want the parliament to address, because it is important that the parliament have oversight of these important issues. A joint committee would be an appropriate way to deal with that. Of course, I do need the support of the parliament to be able to undertake that process, so at this stage I will simply foreshadow that I do want a joint committee to be able to look into some of these issues that you have raised—

(Time expired)

Live Animal Exports

Senator IAN MACDONALD (Queensland) (14:39): My question is also to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. During Senate estimates hearings on 24 May, the minister told Senator Coonan that he had asked the live export industry to bring forward a plan to deal with animal welfare outcomes and animal-handling issues in Indonesia. I ask the minister specifically: did he accept or reject the plan? I understand he got it. If the plan was rejected, on what date was it rejected, was the rejection in writing and on what date did the minister so inform the industry; and, Minister, could you release the correspondence between you and the industry on that plan?

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) (14:40): It is correct to identify that I have been working with industry on this very issue since at least as early as January, when I wrote to the industry. I understand that letter is in the public domain. They did come back with a plan. I am certain Senator Macdonald can obtain the plan from them. I indicate that I did not endorse that plan. As I have continuously said, the plan itself did not go far enough and the timelines it contained were too short to warrant its endorsement. What the industry failed to realise in particular was that the action plan that they provided to my office was not sufficient to provide me with any confidence that they were going to address this issue in the short and near term. As a consequence, I have now had to suspend the live animal export industry to ensure that we can quickly move to a situation where animal welfare is dealt with appropriately and where we can then resume the trade with a supply chain assurance in place—that is, ensuring that we can track and trace animals from the point of departure to the point of slaughter. Without both of those systems in place, there is no confidence that the industry will be able to restart the trade shortly—not until and unless they address those two requirements. Failure to reform this industry will mean that, in
areas of the Northern Territory and Western Australia, unemployment is likely and, certainly, the industry will be under stress.

(Time expired)

Senator IAN MACDONALD (Queensland) (14:42): Mr President, I ask a supplementary question. I asked the minister if he rejected the plan, and I repeat that question. And, if you did, on what date did you reject it, did you do it in writing; and on what date did you actually inform the industry? Following that answer, I ask the minister: is he not aware that parts of his own state, in the Cape York and Gulf Country of Queensland, are in desperate difficulties as a result of the decision he has made? Why is he ignoring the plight of Queensland cattle growers and referring only to the plight of others?

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) (14:42): To answer the opposition's last question first, Queensland, New South Wales and all of the other states of course have an interest in the resumption of this trade, unlike those opposite. What is important, as I highlighted in my answer to the previous question, is that the significant impacts were in the Northern Territory and Western Australia. There are lesser impacts but still impacts in Queensland and other states as well, as those opposite would understand. What we as a government have been doing, unlike those opposite, is working through, firstly, how we can investigate the footage and do the work necessary to make sure we can get this trade up and running again on a sustainable, long-term footing. This industry is at risk if it cannot quickly and deftly move to ensure animal welfare outcomes, because it is an industry that has lost its social licence. Without a social licence, the community will not support the industry in its current form. The industry has not heard that message loudly or clearly enough to date—(Time expired)

Senator IAN MACDONALD (Queensland) (14:44): Mr President, I ask a further supplementary question. I ask the minister: what additional facts did he get that caused him to change his mind from his first decision, which was to ban live cattle exports to just those abattoirs that appeared in the Four Corners program, to his subsequent decision to completely ban those exports to Indonesia? Is the minister aware that there are a number of abattoirs in Indonesia that are run to Australian standards and could continue to slaughter cattle humanely and in accordance with Australian standards?

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) (14:44): What those opposite are relying on is guaranteeing that any cattle that leave Australia will end up in a particular abattoir of that standard, but there is no guarantee. What those opposite want to be able to do is say, 'Here is an abattoir that we can send to and we should send to,' but they cannot guarantee it and what they are mischievously trying to suggest is that they can. You cannot guarantee such a thing as there is no supply chain assurance in place as we speak.

It is wrong to suggest that simply concentrating on an abattoir of a particular standard solves the problem. The problem has to be solved by industry itself looking at how it can put in place a supply chain assurance so that we can have traceability, we can have accountability and we can have transparency and an audit of that supply chain to make sure that the welfare of any
cattle that leave Australia is taken care of throughout the supply chain right up to the point of slaughter. (Time expired)

Sport

Senator STERLE (Western Australia) (14:46): My question is to the Minister for Sport, Senator Arbib. Can the minister please inform the Senate of the outcome of Friday's historic agreement with the states and territories to protect the integrity of sport in Australia? Can the minister outline the key elements of this agreement and how this will help Australians to continue to have confidence in the sports they watch? Can the minister also advise the Senate on what this means for ensuring that our athletes are playing on a level playing field?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (14:46): I thank Senator Sterle for his concern on the issue. Australia has always led the way in protecting the integrity of sport not only in this country but also overseas. During the eighties and nineties it was Australia that led the fight against doping with the establishment of the Australian Sports Anti-Doping Authority, ASADA, and Australia is leading the way now. On Friday, it was my great pleasure to work with my state and territory colleagues—sports ministers from across the country—and also with state Attorneys-General to reach an agreement to address match fixing and to protect the integrity of sport. After five months of work it is an astounding result for sport to have all Australian state governments presenting a united front against the scourge of illegal and irregular gambling. I thank all my ministerial colleagues from across Australia for their commitment to this issue.

The issues of match fixing and illegal and irregular gambling are growing day by day internationally. From Interpol, we have been alerted that the illegal gambling market is now worth $140 billion. At home we have seen incidents of match fixing and there are cases currently before the courts. There was a need to act and a need to act quickly.

It is important that all Australian sports lovers have confidence that our sports are being played fairly and that all our players are giving their best. Our athletes also deserve to know, whether they are competing here or overseas, that they are competing on a level and fair playing field. Cheating and corruption in sport erodes people's confidence in sport. It strikes at the very heart of sport. Given the seriousness of the threat, it is essential that we have a national policy to provide the foundation for all Australian governments, including pursuing nationally consistent legislative arrangements, integrity agreements between sports and the betting agencies and codes of conduct. (Time expired)

Senator STERLE (Western Australia) (14:48): Mr President, I ask a supplementary question. I thank the minister for that answer. Can the minister please advise the Senate what consultation was undertaken in forming the national policy to ensure that it protects the integrity of sport? Can the minister also advise the Senate on what the reaction has been to the release of the national policy?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (14:48): There has been extensive consultation with the sports and, in fact, sports have led the charge in forming the national policy to ensure that it protects the integrity of sport? Can the minister also advise the Senate on what the reaction has been to the release of the national policy?
COMPS organisation led by Malcolm Speed and all the major professional codes because they understand the threat to their own sports if these issues are not tackled.

There will also be, in cooperation with the sports, codes of conduct and anti-corruption policies to ensure that integrity processes are in place for all sports. Finally, the policy will see the establishment of a national integrity of sport unit to oversee the national arrangements and to provide education. There will also be capacity-building arrangements for the smaller sports.

We have also received support from betting agencies themselves who have become part of the push. Betting agencies also understand the threat to sport in the long term and to the domestic and international processes they have in place.

Senator STERLE (Western Australia) (14:50): Mr President, I ask a further supplementary question. Can the minister please outline to the Senate what other steps the government is taking to ensure that we are protecting the integrity of sport in Australia?

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (14:50): The work is happening domestically and also overseas with the IOC. We are a part of an international working group that meets next week on match fixing.

Senator Conroy and Minister Macklin recently, in cooperation with their state colleagues, announced a number of changes to live promotion of gambling odds in sport. Many sports lovers are concerned about the number of advertisements and the live promotion of odds by commentators during sporting proceedings on television and also on radio. Senator Conroy has, through his portfolio, requested the sports, the broadcasters and the gambling industry itself to self-regulate and find ways to reduce the number of advertisements and also to rule out commentators providing live odds. This is a critical issue for those sports lovers and people who are committed to sport and also in protecting families. (Time expired)

**Live Animal Exports**

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:51): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Minister, you would be aware that, even in the *Four Corners* report, some of the abattoirs in Indonesia are already using standards commensurate with Australian practice, yet we have banned live exports even to them. By what date will you allow exports to resume to those abattoirs that have done nothing wrong yet have been punished by your blanket ban which has brought about immense disruption in Northern Australia to a major industry and has also created a major problem in our bilateral trade relationship with Indonesia?

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) (14:52): I thank Senator Joyce for his contribution to the debate. Clearly, Senator Joyce is now holding himself out as an expert in abattoir design, construction and consideration. What Senator Joyce misses in all of this is: the trade will continue when we can guarantee appropriate animal welfare outcomes for cattle we export to Indonesia. It is important that the Australian government work consistently with the Indonesian government and industry to ensure we can have that in place as soon as practicable. The
onus is on industry to be able to meet the supply chain assurance. That is essential.

What Senator Joyce misses in the whole debate is—and I described this earlier in an answer, which he must have failed to hear—it is important that we can trace animals from the point of departure, through the supply chain to the feedlot in Indonesia and from the feedlot in Indonesia right to the point of slaughter. Without a supply chain assurance that crosses all of those points there is no guarantee that any cattle that leave Australia will arrive in the appropriate abattoir that he mentioned that he has given the tick of approval to. That is what supply chain assurance is about. It is to ensure we can trace and continue to have a transparent supply chain to continue to ensure that we have an auditable and verifiable system. Industry has failed to date to address those four criteria. Industry has failed to address the traceability, the verification, the independent auditing to make sure that animal safety is taken into account—(Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:54): Mr President, I ask a supplementary question. To the contrary, I have been listening intently to what the minister has said. More to the point, the Australian government has invested millions of dollars in the National Livestock Identification System so we can track animals from one paddock to another and all round Australia. Why can't we use this system to immediately resume exports to those abattoirs that have done nothing wrong and that have done the right thing and complied with our standards and have been of great benefit to Northern Australia?

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) (14:55): Senator Joyce again misses the point. Senator Joyce has concentrated on one form of tracking. It is industry that has to come through with the whole supply chain assurance. They can use NLIS, which is a RFID tag. They can then ensure that the cattle that leave Australia are traced. Senator Joyce has struck one chord, he has managed to identify at least one element, but there are another three that Senator Joyce has not addressed: the transparency, the accountability and the verification—the verification so we can ensure that the supply chain is independently audited at the conclusion. The trade will commence, as I have said, when we can have supply chain assurance in place to guarantee the welfare outcomes of cattle that leave Australia to go to abattoirs in Indonesia. (Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:56): Mr President, I ask a further supplementary question. Let us go to the other three chords you talk about, Minister. Your own department issued a press release in January this year that stated that there had been improvements to animal welfare. What were you basing that on? Were you basing that on what we saw on Four Corners—or was that before the Four Corners story—or on a more holistic view of the whole industry, noting the areas where people had actually been doing the right things? Minister, you have been damned by your own words. What are your comments on that?

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) (14:56): I will answer part of that question rather than provide you with a running commentary that you are incapable
of dealing with. This government has been clearly raising the issue of animal welfare right across its export markets. In January I wrote to industry and indicated they needed to improve their animal welfare outcomes. Industry responded to that with an action plan, which I indicated I did not endorse as it did not go far enough. Certainly the time lines involved in that were too long. They were not going to address the broader issues of how we maintain animal welfare outcomes. I have consistently said that industry has failed to take responsibility for this industry. Industry has let down its own producers in this area. Senator Joyce fails to appreciate—(Time expired)

Employment

Senator McEWEN (South Australia—Government Whip in the Senate) (14:57): My question is to Senator Evans, the Minister for Tertiary Education, Skills, Jobs and Workplace Relations. Can the minister outline for the Senate the government’s record in terms of job creation? How does this compare internationally?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:58): I thank Senator McEwen for her question. The most important thing a government can do is assist industry to give people the security and dignity that comes with a job. This government is about jobs and has a proud track record when it comes to job creation. Nearly 30 million people across the globe lost their jobs as a result of the global financial crisis; however, this government saved thousands of jobs with our timely and effective economic stimulus package. Australia’s unemployment rate, which is at 4.9 per cent, remains amongst the lowest in the world, the participation rate remains at a high 65.6 per cent, as at May this year, and 7,800 new jobs were created in the month of May. That was despite the challenges facing some key industries in the Australian economy, particularly as a result of the high value of the Australian dollar. The latest jobs figures are testament to the underlying strength of the Australian economy. This is at a time when the United States is recording an unemployment rate of around nine per cent and countries in Europe are recording unemployment rates close to 10 per cent. That means that one in 10 Europeans who want to work cannot find a job—a very sobering reality. Labor is the party of work, jobs and opportunity. Since coming to government we have created 258,000 more jobs than were created by the Howard government over the same period. Labor believes those who can work should work and those who want to work should have the opportunity to gain the skills they need to enter the workforce. Our budget is very much about trying to ensure all Australians get the opportunity to participate in Australia’s economic success.

Senator McEWEN (South Australia—Government Whip in the Senate) (15:00): Mr President, I ask a supplementary question. Can the minister outline what the government is doing to support disadvantaged Australians?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (15:00): The budget is very much about helping get more Australians into work, particularly those who perhaps would struggle to enter the workforce. While some parts of the country are crying out for workers there are areas of our economy and our regions that are at risk of being left behind where unemployment is at significantly higher levels. Australians who face disadvantage, many who face multiple
disadvantages, are being kept out of the workforce.

A key focus of the government's Building Australia's Future Workforce budget package is increasing workforce participation by giving disadvantaged Australians the skills and encouragement they need to get a job. In particular, the package is focused on supporting disadvantaged young people, the very long-term unemployed, jobless families and people with a disability so that they have the best chance of becoming job ready and finding and keeping a job. It is about investing in skills and allowing people the chance to participate in the economy giving them an opportunity. (Time expired)

Senator McEWEN (South Australia—Government Whip in the Senate) (15:01): Mr President, I ask a further supplementary question. Can the minister highlight those key measures from the Building Australia's Future Workforce package that will support disadvantaged Australians?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (15:01): The Building Australia's Future Workforce package very much targets each of the areas where people are facing disadvantage. We have encouraged more young Australians into work be it part time or full time by allowing jobseekers on youth allowance to keep more of what they earn through increasing the income area and increasing the working credit. We have encouraged more young Australians into work be it part time or full time by allowing jobseekers on youth allowance to keep more of what they earn through increasing the income area and increasing the working credit. We are providing single principal carer parents on Newstart allowance a more generous taper rate enabling them to earn up to $400 more per fortnight and retain some allowance and there will be 35,000 wage subsidies over the next four years for employers who take on the very long-term unemployed. We are also increasing the number of places in language, literacy and numeracy programs to assist jobseekers to improve their skills. All of these measures are about giving all Australians the opportunity to participate in economic activity, to gain access to employment and improve their life chances and the life chances of their children. I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE:  ADDITIONAL ANSWERS

Coal Seam Gas Projects

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) (15:03): I have further information which I seek leave to incorporate into Hansard in response to a question without notice from Senator Milne on 12 May 2011 to me representing the Minister for Health and Ageing in relation to hydraulic fracturing or 'fracking'.

Leave granted.

The answer read as follows—

Further information in response to a question without notice from Senator Milne on 12 May 2011 to Senator the Hon Joe Ludwig, Minister representing the Minister for Health and Ageing.

The process of extracting coal seam gas is known as hydraulic fracturing or "fracking". The process involves injecting a mixture of water, sand and chemical additives underground to break apart rock formations to free trapped gas and oil. Commonly 99% of the fracking fluid is water and sand.

Industrial chemicals are required to be listed on a national chemical inventory maintained by the National Industrial Chemicals Notification and Assessment Scheme (NICNAS). The chemicals used in fracking are listed on the inventory, however, the majority of these chemicals have not been assessed by NICNAS.
Existing chemicals listed on the inventory are assessed by NICNAS on a priority basis and those assessments, which include recommendations about safe usage, are made available from the NICNAS website.

The Australian Government recognises that there is a large number of unassessed chemicals on the inventory and NICNAS is working with stakeholders on the development of a framework to address the issue. This framework will provide a mechanism to more rapidly and comprehensively provide advice about the risks of industrial chemicals in use in Australia.

Enforcement of NICNAS recommendations occurs through state and territory legislation.

The Government has no plans at this time to make health impact statements a compulsory component of major projects under Commonwealth legislation.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Live Animal Exports

Senator BACK (Western Australia) (15:03): I move:

That the Senate take note of answers given by the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to questions without notice asked by Opposition senators today relating to the live export of cattle to Indonesia.

What we have seen this afternoon regrettably has been an absolute abrogation of accountability and responsibility from this minister and far from his comments about the coalition not engaging or supporting I can assure you, Mr Deputy President, that up until he made his ill-considered decision to suspend the live export trade all he had was support from the coalition. Unfortunately, that has been a knee-jerk reaction to an ill-considered email campaign by a group of activists—

The DEPUTY PRESIDENT: Order, Senator Back! There is far too much audible conversation in the chamber.

Senator BACK: I was saying that the minister's decision was a knee-jerk reaction to an ill considered email campaign by activists who knew little about the consequences of what they were doing or indeed the animal welfare issues that they will subject Australian cattle to. Unfortunately, the minister's action has been to penalise those abattoirs in Indonesia which, as Senate colleagues from this side have said, are performing to normal international standards and have long done so.

The best evidence that I have of this was the minister saying that he had to suspend the trade because he had no confidence about where animals would end up. I ask him then if he could tell me how the decision was made on 6 June, two days before he brought in this suspension, to disallow the shipment of 1,900 cattle from Port Hedland owned by the Northern Australian Cattle Company, a branch of Elders International, which were to go to an Elders owned feedlot on their way to an Elders owned abattoir of a calibre and quality that has met Australian standards for many years. This was two days before. Regrettably, the AQIS veterinarian involved had seen these cattle and had approved them for export. The ship was alongside, the cattle were waiting to be shipped and the veterinarian received advice from Canberra to say that he was not to sign off on that consignment of cattle to go into their own feedlot and their own abattoir. I would like to know from the minister what involvement he or his staff or indeed senior officers of the department had in interfering with normal, good, lawful trade. We still do not have an answer as to what happened. For the minister to stand here this afternoon and say that he had to bring in a complete suspension because he had no knowledge or confidence of cattle going into our approved abattoirs.
overseas is an absolute nonsense and it is a cop-out.

The question now to be asked of course is: what do the Indonesians do? What options do they have now that a valuable source of safe protein has been denied them? Speaking of safe protein I have to draw the attention of the Senate to the unfortunate circumstances in Europe over the last two or three weeks with the outbreaks of *E. coli* which has led to the deaths of more than 24 people in Europe. The Australian product is a safe product, the abattoirs that are approved for international use are safe.

Amongst other things this decision by this minister will expose Indonesians to standards of safety less than those that they can reasonably expect. But the unfortunate outcome for Indonesia, if they are denied access to our live cattle, is to look elsewhere and where they will look will be to India where there are hundreds of millions of cattle and buffalo and the country has an endemic problem with foot-and-mouth disease. The other countries that are lining up to take away the Australian trade are South American countries, including Brazil and Argentina, which also have foot-and-mouth disease. Australia worked hard some years ago in assisting Indonesia to make sure it was free of foot-and-mouth disease so that we could build a biosecurity barrier around Australia. If cattle from those countries come into Indonesia we will end up with foot-and-mouth disease in this country. The impact on animal welfare alone will be horrific. The losses of animals across Australia, including wildlife, as we try to eradicate foot-and-mouth disease will be on a scale never seen in this country. Quite apart from the fact that the best estimate is a cost of $14 billion alone and a doubling of unemployment in the first year after we get foot-and-mouth disease, quite apart from the impact on northern towns and communities from the loss of tourism and other activities, the question to be asked is: what has gone wrong? Why did this minister bring in a total suspension when all he needed to do was terminate the trade with those abattoirs that do not meet international standards? We in Australia do not think that the Australian border is the limit of animal welfare. We have an opportunity to increase animal welfare standards in Indonesia, and we must resume the trade.

**Senator CAROL BROWN** (Tasmania—Deputy Government Whip in the Senate) (15:08): Far from condemning the minister, those opposite should join with the government in congratulating Minister Ludwig on the actions that he has taken thus far. Far from earning condemnation, the minister should be receiving congratulations from those opposite for the actions he has taken thus far. What we started with was the *Four Corners* footage of the treatment of Australia’s live cattle exports in Indonesian abattoirs, which was truly horrific. Nobody could watch that footage of animal mistreatment and think that it is acceptable. That is why, immediately after seeing the footage, the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig, ordered an investigation into the footage. He also asked to be provided with all the regulatory and legislative actions available to him to address the immediate welfare issues for those animals. Equipped with that information, and with the investigation underway, the government firstly suspended live animal exports to the facilities identified by the evidence from the RSPCA and Animals Australia and agreed to add further facilities to the list of banned facilities; implemented a moratorium on the installation of the restraint boxes seen being used in the footage, a change that applies to the installation of any new boxes with Commonwealth funds across all global
markets; asked the Chief Veterinary Officer to coordinate the independent scientific assessment of the restraint boxes used in Indonesia; and announced that the government would appoint an independent reviewer to investigate the complete supply chain for live exports up to and including the point of slaughter.

What is clear in all of this is that the producers and the community have been let down by the industry—and the government has taken the appropriate course of action in the circumstances. It is not possible in the current system to guarantee that cattle will not be exposed to the conditions that we have seen. That is why the total suspension order is in place. As those opposite distort the debate, we need to consider whether it is worth taking the risk that Australian animals will continue to be exposed to the shocking conditions we have seen. Cattle producers do not want to see cattle treated this way, nor do the community and the government. This suspension will allow the establishment of a transparent, verifiable system that will account for cattle in Australia right through the supply chain. That is the community standard, that is the government standard and it must be the industry standard.

Minister Ludwig has made it clear that the trade to Indonesia will only recommence when we are certain that the industry is able to comply with that supply chain assurance. The decision to suspend trade was not made easily, but the purpose of the suspension will ensure the better and humane treatment of Australian livestock into the future.

The government is committed to reaching the best possible outcomes for the livestock, for the industry and for our important relationship with Indonesia. To achieve the best possible outcomes the government is talking to industry and assessing the impact of the suspension. The next step is to develop a plan to ensure welfare compliance in the supply chain and also to ensure a sustainable domestic industry.

For those opposite to argue that the government has not previously taken any action to protect Australian livestock exports is completely untrue. Minister Ludwig has consistently expressed his concern about animal welfare outcomes in the live animal trade. As with any industry, it is appropriate to work with them to raise the standards. In fact, as we have heard here today, in January the minister wrote to the industry asking them to better address animal welfare. The plans presented by the industry in March and May were not accepted. The minister said publicly, including, as I understand it, at the Northern Territory Cattlemen's Association conference, that the industry had to act on these issues. The minister has said previously, including in question time today, that the plans did not go far enough, that he did not have confidence that they addressed the issue of animal welfare.

Notwithstanding that, industry responses have not addressed the core of the problem, and that is a lack of transparency and verification across the system. We need a transparent and verifiable system that will account for cattle from Australia right through the supply chain. At the moment, the suspension order is necessary to ensure the welfare of Australian livestock. There is currently no guarantee that cattle from Australia are able to be exported to Indonesia and processed within an approved facility.

As a result, the government—(Time expired)

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (15:13): I would like to start by commending the minister on his first decision in this regard. It was a good decision and it was easy to understand. We have identified 11 abattoirs and processing facilities in
Indonesia and the minister was able to dictate that no Australian animals would be allowed to go to those abattoirs. Now, something happened in the interim. Some would say that it might be an email chain. It might have been all sorts of pressures, but it was not seen to be tough enough. So the government just rolls out a highly politicised decision that seems to be good enough: they put a ban on the trade. One needs to understand the impacts on farmers and families; stock contractors; helicopter services—fine pilots and fine services, the Milton Joneses and the John Armstrongs of the world; the feed and pellet producers; and the truck companies.

Can you or any Australian imagine for a minute the impact it would have on you as a grocer, a chemist, a builder or a newsagent if it was suddenly said to you, 'You cannot trade; you can continue to do whatever you like but you cannot sell your product and, by the way, we’re not actually giving you an answer about when that will start again so you can have some sort of a plan'? The only consistent thing happening in Northern Australia is that bills need to be paid and the banks are going to need their pound of flesh, and rightly so, every month.

To perhaps humanise this, we have been talking a lot about animal welfare and there is none on this side of the house who would accept that an Australian animal should be treated in any way differently overseas from here. Colin Fink runs a family operated feed mill at Tortilla Flats, just south of Darwin. He has grown, harvested and carted 3,000 tonnes of hay this year at a cost of $120 a tonne for which he does not have a market. He has just processed 160,000 tonnes of pellets to supply three live-cattle boats, but the contracts have stopped so there are no payments or prospects for this feed. He laid off four staff last week and, when all the hay is in, he will lay off another three staff, including his own son who works in the business. Colin spent eight years building this business and says that if this lasts a few more weeks he is going to have to shut down. The mill and the hay property will be vastly devalued if this continues. No-one is going to buy the feed mill, certainly with no market. These are the sorts of emails and stories that I am striking and I have dozens and dozens of people who are literally going to the wall.

I touch on the impact of animal welfare by this decision to have a ban. People need to understand that the Bos indica stock across Northern Australia are fundamentally a breeding stock. You have a certain amount of land and on that land once a year you will turn off those animals. That land can only handle the breeding stock. It will handle over and after the wet season an increased number of animals that have been bred and are ready to be turned off. Keeping those animals on this country for a longer time is going to have a devastating effect both on the range lands—the country, the environment—and on the animals. Because there is less feed, the animals generally get weaker and I myself have witnessed so many times that when the animals get weaker there is less water, they get bogged and they generally come to a pretty grisly end courtesy of the wild pig population. It is a pretty grim circumstance.

This could all have been avoided if the Minister for Agriculture, Fisheries and Forestry had stood up here today and said that we need to have a food chain process and it all has to be accredited. At the moment there are at least four processing facilities that have an internal closed system. They know that the animals leave Australia in a perfectly functional vessel that is now set to world standards and they go to a perfectly functional feedlot that meets world standards and to a perfectly functioning slaughter-
house, which was not seen on Four Corners, that meets and exceeds international standards.

So why would you not be more sophisticated in your approach to ensure that the Colins of this world are not getting beaten up over this process and to ensure that we can continue the trade? There is a legitimate trade that is going to legitimate processes. Everyone acknowledges that those processes now need to expand to take up the remainder of the trade. Those abattoirs that are ready to go now need to be accredited. As soon as they are accredited, the minister should simply make the very important announcement that the trade recommence.

Senator FURNER (Queensland) (15:18): Mr Deputy President, I do not know where you were on Monday a fortnight ago, but I was at estimates and did not get an opportunity to watch the live footage of the Four Corners program on the subject of the live animal trade. But certainly a few nights on I watched it on-stream and it really shocked me. It shocked me to see the horror of this treatment of our animals in Indonesia. I am sure none of us in this chamber would want to sit idly by and allow that sort of conduct to continue.

I will never forget the images. One part of the footage showed an Indonesian man belting a cow with chains. I do not know what the purpose behind that was, but that sort of behaviour really troubled me. It has been suggested here today that we have acted on this issue as a result of an email campaign or that there were delayed responses from the government. I do not think that is the case. When you look at the examples and the feedback from the Minister for Agriculture, Fisheries and Forestry today during question time you see that is not the case. The suspension of the live-animal trade will be in place until appropriate safeguards can be established. The minister said that after the announcement last week, I really challenge anyone to go back and have a look at the footage again of the animal mistreatment. I think anyone will attest that it is totally unacceptable.

That is why it is clear that producers and the community have been let down by the industry. Under the current system, it is not possible to guarantee that cattle will not be exposed to the conditions that we have seen in that footage. Cattle producers do not want to see cattle treated that way, nor does the community and this government. This suspension will allow the establishment of a transparent, verifiable system that will account for cattle from Australia right through the supply chain. That is a community standard. That is the standard that this government stands by and a standard that must be in the industry. The decision to suspend trade was not really an easy one to take and not one that one takes off the back of little evidence and information. But let us be clear on this: it is a suspension that the government will lift as soon as the industry can establish a better system. We made the decision to suspend trade to bring about better treatment for Australian livestock into the future, and that remains our primary goal.

We do have a responsibility and, like many other countries, we have a responsibility to the rules of the World Trade Organisation. Australia has the right under the World Trade Organisation rules to take action to ensure that Australian cattle are treated in accordance with the international standards on animal welfare. The decision to suspend trade to Indonesia has been taken following evidence of the animals' mistreatment and advice from the Department of Agriculture, Fisheries and Forestry. While action has been taken in response to evidence that has been provided...
to the Australian government detailing animal welfare abuses in Indonesia, the Australian government will appoint an independent person to review the live animal export chain for all Australia's livestock export destinations. We have a positive relationship with the Indonesian government. That has been demonstrated over the many years since we have been in government through our ability to make various changes not only to this particular area but also to other areas of concern in the Pacific. As a close partner of Indonesia, whose relationship with Australia is of such importance, we will be in a position to work through these changes with the Indonesian government.

The minister ordered a complete suspension of all livestock exports to Indonesia for the purpose of slaughter until the new safeguards are established for the trade. This suspension will be in place until the government and the industry establish sufficient safeguards to provide a verifiable and transparent supply-chain assurance up to and including the point of slaughter for every consignment that leaves Australia. The trade to Indonesia will only recommence when we are certain that the industry is able to comply with that supply-chain assurance. This decision was made following serious consideration of the advice and evidence that was presented to the government.

Reflecting once again, I think that if anybody has not had the opportunity to cite that footage from the Four Corners program, they should do so and see the reasons that we acted decisively on this area of concern to the public. There are numerous emails coming through to us expressing the concern in the community over what is happening to our livestock which is taken offshore, and no doubt that concern will continue until this matter is addressed.

Senator FISHER (South Australia) (15:24): In rising to take note of answers given during question time today, I say that I am offended by the implication that seems to be being made by those senators who support the suspension of Australia's live cattle trade to Indonesia that those senators who disagree with the blanket suspension of the live cattle trade to Indonesia somehow do so on the basis that we are prepared to turn a blind eye to the horrific treatment to which we saw cattle being subjected in the Four Corners program. I find that implication offensive. I also find it offensive that this government seems to think it fit to impose upon the Australian community a policy—that is, the blanket suspension of the live cattle trade to Indonesia—which is all pain and no gain. There is no gain in the blanket suspension of the live cattle trade to Indonesia imposed by this government—there is no gain for the welfare of cattle, since cattle know no borders, and there is no gain for the welfare of cattle or, indeed, for the welfare of animals worldwide. But there is plenty of pain. There is pain for Australian beef cattle producers in the north, in the south and in the west. There is pain for the Australian community, especially small Australian communities. There is flow-on pain to the Australian economy. There is pain for those in poverty in Indonesia, who will have to pay more and so find it harder if they want to access protein through meat. There is pain for Australia's diplomatic relationship with Indonesia—it will potentially take decades to resurrect our trade relationship with Indonesia. There is potential pain for biosecurity and health and safety in Indonesia, as Indonesians without access to a reliable supply of electricity, and who are therefore without reliable refrigeration, are forced to source other, less safe markets for access to protein and their 'wet' meat. There is plenty of pain for Indonesian cattle, the 70
per cent of cattle being slaughtered daily, weekly, monthly in Indonesian abattoirs with techniques of the sort that we saw in the *Four Corners* footage. If you take away the 20 per cent of the market that Australia supplies to Indonesia through 'wet' meat, and if you take away the approximately 10 per cent that Indonesians consume by way of chilled meat, you are left with the 70 per cent of cattle, mainly Indonesian, that are slaughtered daily. This blanket suspension of Australia's live cattle trade to Indonesia does nothing to stop cruelty for the 70 per cent of cattle that are slaughtered in Indonesia.

Where is the evidence upon which the Minister for Agriculture, Fisheries and Forestry and the government have based their decision? The minister has been cowed into submission. Indeed, he has been cowed into suspension; there is no evidence to back his decision to suspend the trade. Not only has this minister never visited a working Indonesian abattoir but he failed to commit to having been inside a working Australian abattoir. He has failed to identify any direct, practical knowledge upon which he based his decision. What has changed between the minister saying that he has raised this issue with the industry and his suspension of the trade? Has there been any change in treatment of cattle in Indonesia over those alleged months? No. What has changed is that we have seen a TV program, and that TV program and the resultant swelling of well-intentioned support in the community has cowed this government into suspension.

It is all pain and no gain with this suspension of trade. This government has no courage and no policy conviction. They must resume the trade immediately with those five or so abattoirs that the industry says are compliant. *(Time expired)*

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (15:29): I too would like to take note of the minister's answers on this issue, and note that he did not actually answer one of my questions, which asked: what is the government going to do about Meat and Livestock Australia's role in this whole business? They clearly had a responsibility to maintain—in fact, improve—animal welfare standards and clearly have not done that. I asked the question amongst all of the comments made here around the issues of evidence. I thought the evidence was pretty compelling when I saw *Four Corners*, I have to admit. Is the proposition here that we should go on allowing that sort of cruelty to occur while we collect even more evidence? It is quite plain that these animals were suffering terrible, inhumane treatment, and the government did the right thing, we believe, in suspending exports to Indonesia. That was the only humane approach that this government could take.

Having said that, we do believe that there are many, many questions unanswered. I know that the minister has an inquiry being undertaken, but he has not been clear about what he intends to do about the role that Meat and Livestock Australia took—what they knew about the ongoing treatment of these animals in Indonesia, what they did about and what the industry representatives knew about it. The representatives from these organisations have been in Indonesia; they have visited the abattoirs that we saw so graphically depicted on *Four Corners*. And they thought that sort of treatment was okay? How could our cattle industry be allowed to get into the crisis that it faces today? That is the big question. What were the industry representatives doing about that? Why were the MLA not taking action much earlier than they have?

The issue, then, is around compensation, which is what I asked the government about today. I must say that I was pleased that the
government said that they are now going to be exercising their power to require Meat and Livestock Australia to open their contingency fund to help those producers that are affected by this decision. Meat and Livestock Australia should not have to be forced to open that contingency fund. They must bear at least some share of the responsibility for the outcome we have at this point for the industry. There is absolutely no doubt that they should have known what was going on, they should have taken action and they should not have allowed this sector to get into the position it is in now. Having not done that, they do not even want to open their contingency fund—funding that the industry has provided in order for them to improve welfare standards for these animals—and government now has to force them. They should have been dealing with this issue earlier. Now that they are, they need to act immediately so that funding can be made available. I would also like to know on what basis they think that the initial $5 million is adequate and whether they have done an analysis on how much funding is required.

We then need to be looking at how we can improve processing in this country so that this issue does not eventuate again. I think people are very clear about what the Greens' position is—that is, we do not support the live export of livestock for slaughter. We have made that very clear in our policies; we do not believe that should occur. What we believe we need to be doing is investing resources in this country so that we carry out processing in this country. Then we need to be using the marketing skills that bodies such as Meat and Livestock Australia are supposed to have to market processed and chilled meat, and we need to be generating jobs in regional Australia so that we are no longer exporting jobs and so that we can produce a quality product here in this country that supports our cattle industry and processing in this country but still enables us to export a quality product.

The Greens will be pursuing both a ban on the export of livestock for slaughter and we are also pursuing—and if people have read the motions that have been tabled or introduced today they will see that I have tabled a motion—referring Meat and Livestock Australia's role in this whole issue to a committee inquiry. We believe that we need to get to the bottom of exactly what role Meat and Livestock Australia had in this issue, how much they knew, what processes they have put in place to deal with those issues and how many times they have visited these abattoirs. First off, they told us in estimates that everything was okay; that animal practices in Indonesia were okay. Less than a week later, we saw that it was not okay on the Four Corners show. Less than a week before that, they were assuring a Senate committee that all was okay. (Time expired)

Question agreed to.

CONDOLENCES

Thomas, Mr Andrew Murray

The DEPUTY PRESIDENT (15:34): It is with deep regret that I inform the Senate of the death, on 14 May 2011, of Mr Andrew Murray Thomas, a senator for Western Australia from 1975 to 1983. I call the Leader of the Government in the Senate.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (15:34): by leave—I move:

That the Senate records its deep regret at the death, on 14 May 2011, of Mr Andrew Murray Thomas, former senator for Western Australia from 1975 to 1983, places on record its appreciation of his long and meritorious public
service and tenders its profound sympathy to his family in their bereavement.

I did not know former senator Andrew Murray Thomas, but when I read the available information about him, a picture emerges of a hardworking, happy and caring family man who worked very hard to represent my own state of Western Australia at the federal level, as well as pursuing achievable objectives for his state at the regional and local level. Perhaps the measure of the man is best illustrated by his first Senate speech on 25 February 1976. Then, he stressed:

It seems obvious to me that if I try to apply myself to all of the matters that come before the Senate I will be of little value to anyone.

I think we all concur that we cannot possibly keep up with everything that comes before the Senate. He then drew attention to the importance to the future of Western Australia of Commonwealth-state relations, the state's agricultural potential and its very important export rural production, and these formed the framework for his future political contributions.

Former senator Thomas was born on 14 March 1936, in Blyth, South Australia. He was educated at the one-teacher Stanley Flat school and then attended the Clare High School for three years, leaving in 1951. He subsequently followed in his father's and grandfather's footsteps to become a farmer and stud sheep breeder. At 18, he was the youngest official judge for the South Australian Stud Merino Breeders Association. He married wife Jenny in 1958 in Adelaide and within four years they moved to Western Australia, having purchased a property in the Northampton district just north of Geraldton. It is amazing how many South Australians have moved to WA and then entered the Senate. There are a number of them, and he was obviously one of the first. Senator Bishop was one and Senator Cook was another, and there is member Julie Bishop, so it sounds as if former senator Andrew Thomas set a bit of a trend and saw the wisdom of moving to Western Australia. Someone coined the phrase that he was a joiner. He joined the executive of the Stud Merino Breeders Association of Western Australia and yet became president of the rival Australian Merino Society. He was on the advisory board of the Muresk Agricultural College, was a member of the national advisory council of the CSIRO and was elected to the board of the Westralian Farmers Limited, now known as Wesfarmers. At the local level he was active in the P&C Association, the local historical society, sporting clubs and the Freemasons, but his politics developed more pragmatically. I quote him: 'I joined the Pastoralists and Graziers Association only because their representative approached me and the farmers union didn't. I joined the Liberal Party because they had a branch in Northampton and the Country Party didn't.'

By 1974, he had become vice-president of the Western Australian division of the Liberal Party. In 1975, he was elected as senator for Western Australia after an unsuccessful bid a year earlier. He was re-elected in 1977 and served until 1983. He spoke with authority on aspects of primary industry, north-west development and government services to remote areas. He promoted the order-of-irrigation scheme, citing its suitability for the production of sugar cane. He also promoted the development of the Pilbara region with the commencement of the Woodside gas project on the Burrup Peninsula.

He was an industrious member of Senate committees, serving as chair on the Standing Committee on Natural Resources. Many of the committee reports touched on environmental issues such as solar energy,
plant variety rights, water resources, rural research, alternatives to petrol based fuels and the aluminium industry. His committee's report on the aluminium industry controversially recommended a resource rent tax. His term of appointment as Deputy Government Whip in 1981 was not without tension. He threatened to cross the floor to vote with the Labor opposition on sunset amendments to the proposed two-airline agreement, but it seems that his decision to resign as deputy whip was the result of his decision to oppose the retrospectivity clauses of legislation which the Fraser government introduced in 1982 to outlaw the bottom-of-the-harbour tax schemes, which of course was a huge issue in Western Australia.

It is also clear that his association with the resource rent tax added to the pressures that he was experiencing not just in Canberra but also within the Liberal ranks in Western Australia. He was relegated to fifth position on the Senate ticket and was not re-elected after the double dissolution of parliament and the subsequent election of March 1983. He never sought a political appointment again and eventually went into business as a cabinet-maker rather than continuing his work as a stud sheep breeder. During this time of reflection, he produced his autobiography, entitled Her Five Husbands. It tells how his wife had five husbands in one man. He was in turn a farmer, a stud merino breeder, a senator, a cabinet-maker and, finally, an author.

Let me finish by quoting former Senator Fred Chaney's valedictory words, which surely position Andrew Thomas as a Western Australian senator: 'I draw attention to the great length of time that Senator Thomas spent travelling in the remoter parts of Western Australia during each parliamentary recess. It was a unique contribution. Wherever I went during the last election campaign, I received expressions of appreciation for Andrew Thomas's representation of those people.'

I am sure that, on behalf of all senators, I convey our sincerest condolences to Andrew Thomas's widow, Jenny; his three children, Kim, Christopher and Elizabeth; and their 10 grandchildren. He obviously lived a full and productive life, and the Senate pays due tribute to that life.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (15:41): A man of strong conviction, former Senator Andrew Thomas was universally respected. When he left this place he was described as 'well regarded by everyone here' by the Liberals, 'a very good friend and colleague' by Labor and 'a happy character, a hard worker and a young man whose knowledge of the husbandry of the soil and stock was probably second to none' by the Nationals. We in the coalition mourn his passing.

Elected to this place in 1975 as a senator for Western Australia, he served as a strong advocate for rural and regional Australia and as a very effective deputy whip—a tradition continued by Senator Judith Adams. Although not in the Senate for long, he rose to prominence when he resigned as Deputy Government Whip to exercise the inalienable right of Liberal senators to cross the floor on a piece of legislation with which he did not agree. Prior to entering the parliament he was a respected and successful merino breeder in Western Australia. He was on the executive of the Stud Merino Breeders Association of Western Australia and also served as the inaugural president of the Australian Merino Society. He also served on the advisory board of the Muresk Agricultural College, the national advisory council of the CSIRO and the board of Wesfarmers. Former Senator Thomas and his wife took an active part in their local community, taking an active role on the
Parents and Citizens Association and the local historical, agricultural and sporting societies.

The commitment to his local community allowed him to be regarded as a strong and effective local member—a great tribute for a senator. He broke the mould and, instead of having his electorate office in the same complex where all other Western Australians at the time had their electorate offices, established one in Geraldton to be closer to the people. In his first speech in this place he made the observation that many Western Australians rely on rural production for a large part of their income. He went on to say that a diminishing number of Australians are affected by the prosperity of farmers—a fact that is, unfortunately, true to this day.

His focus in this place was on the local interests of the north-western Kimberley regions of Western Australia, regularly asking questions in question time addressing the provision of government services to remote areas. That was when there was a greater freedom for backbenchers to ask questions without notice. I understand the President would call you and a whole host of senators would jump simultaneously. It was up to the President to choose. Clearly Senator Thomas received the call on numerous occasions. After leaving this place he moved to Mandurah, where he went into business as a contract cabinet maker. I do not know if that was a development of what the Leader of the Government said in his speech: that he was known as a joiner because he joined a lot of organisations. He then became a cabinet maker. I wonder if that was an extension of his interest in joinery.

**Senator Chris Evans:** Please stop!

**Senator ABETZ:** I will stop there. He was involved in the issues of the day, expressing concern over the two-airline agreement, tariffs costing Australian competitiveness and productivity, doubting the appropriateness of retrospective tax legislation. He was passionate about federalism. He expressed concern about marketing boards for the rural sector. What he said about marketing boards in his first speech is very interesting:

Producers must be in a position to respond immediately to changes in market requirements, and this can be difficult if a guaranteed price disguises changes in world demand.

Very prophetic words when you have a look at what happened to our wool industry, in particular, after his departure. He went on to say:

I am an advocate of free marketing of rural products, but I accept that in some industries some controls are needed. However, I have found that generally farmers who in theory support private enterprise are imposing on themselves unbelievable controls and restrictions.

These too were very prophetic words. He also championed income equalisation deposits for farmers.

Going through some old newspaper clippings I could not help but notice his role as Chairman of the Senate Standing Committee on National Resources. In an article on 7 March 1981, when he was chairman of the committee, he shared the committee's view of the then Secretary to the Treasury, one Mr John Stone, who later became a senator. Mr Stone, in his testimony before the committee, was highly critical of and dissociated himself from reports dealing with the Treasury's submission to the committee. Indeed, it was seen as a contempt of the committee and the parliament. Interestingly enough the journalist, 30 years ago, was Paul Kelly, who now enjoys a very high reputation in the press gallery here in Canberra.

In 2000, former Senator Thomas published an autobiography in which he revealed himself as a conscientious and fair-
minded backbencher more at home with the opportunities for constructive analysis of policy provided by Senate committees than with the sometimes cutthroat factional politics of the party, a feature which saw him relegated to the fifth position in a double dissolution ticket, having been displaced. I note that on that occasion it was Senator Noel Crichton-Browne who got the third position, after two cabinet members.

Former Senator Andrew Thomas will be remembered as a well-regarded and respected gentleman who had the courage of his convictions, had the courage to stand up for his local community and had the courage to vehemently fight to make life better for rural and regional Western Australians. To his wife, Jenny, his three children and 10 grandchildren the coalition place on record our appreciation of his public service and our sympathy to the family in their bereavement.

Question agreed to, honourable senators standing in their places.

Hunt, the Hon. Ralph James Dunnet, AO

The DEPUTY PRESIDENT: It is with deep regret that I inform the Senate of the death, on 21 May 2011, of the Hon. Ralph James Dunnet Hunt AO, a former minister and member of the House of Representatives for the division of Gwydir, New South Wales from 1969 to 1989. I call the Leader of the Government in the Senate.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (15:49): I move:

That the Senate records its deep regret at the death, on 21 May 2011, of the Honourable Ralph James Dunnet Hunt AO, former federal minister and former member for Gwydir, places on record its appreciation of his long and meritorious public service and tenders its profound sympathy to his family in their bereavement.

I did not know Ralph Hunt but I knew of him and I know he was held in high regard as a member of parliament and as a member of the community. He was born on 31 March 1928 in Narrabri, New South Wales and educated at Scots College in Sydney. In his early life he was a farmer and a grazier and a member of the pre World War II generation which produced a significant group of Country Party politicians who were influential at the federal level of politics during the period of the 1960s to the late 1980s.

It is not surprising that he became an active member of the Country Party. His father, Claude Hunt, was one of the key figures in establishing the Country Party in northern New South Wales. Between 1956 and 1968, Ralph Hunt was a councillor on the Boomi Shire Council. From 1968 to 1969, he served firstly as a state president and then as Federal President of the Country Party, playing a significant role in setting up the Young Australian Country Party across Australia.

Ralph Hunt was elected to parliament in 1969 at a by-election for the seat of Gwydir. He held the seat until he resigned in 1989, an impressive period of some 20 years and nine federal elections. For almost half of those years he served as a minister in successive coalition governments: as Minister for the Interior from 1971 to 1972, under Billy McMahan, and as Minister for Health from 1975 to 1979 and Minister for Transport from December 1979 to March 1983 in the Fraser governments. Importantly he was elected deputy leader of the parliamentary party, with Doug Anthony as leader. In opposition, he was appointed spokesperson for the environment and conservation during the Whitlam years and for trade and rural affairs and health during the Hawke
government period. Such detail, I think, illustrates his focus on country issues. He was a champion for rural and regional communities and he was respected across party lines for his loyalty, dedication and integrity.

What made him different from a number of prominent Country Party politicians was his belief in the strength of the coalition of the Liberal Party and the Country Party at the federal level, rather than going alone. His belief was tested on a number of occasions during his parliamentary time, and I think it was his experience in the organisational wing of his party which enhanced his capacity to influence the parliamentary wing. It is best left to others to detail his influence and interventions, and maybe Senator Joyce will have some insight to share with the Senate later.

It is clear that he was a capable and respected minister who was rock solid as a ministerial colleague and whose 'counsel was always wise and well-considered', as described by Doug Anthony. After he retired in 1989, he continued to serve his party as its federal treasurer. His service to the nation and to country Australia was rightly acknowledged with his appointment as an Officer of the Order of Australia in 1990. We mark his passing on 21 May this year with respect, and we offer our sympathies to his wife, Miriam; their three children; and members of their extended family.

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:53): Lately I had the pleasure of celebrating the life of the Hon. Ralph James Dunnet Hunt AO at St Stephen's Uniting Church in Macquarie Street. I think that, unfortunately, a reflection for all of us is: after we go, who turns up? The fact that I was in a congregation with the Hon. Robert Lee Hawke, John Malcolm Fraser and John Winston Howard showed that Ralph Hunt was respected across the political spectrum, and respected as a person—as ably said by Senator Evans—who was diligent in his ministry, who was reliable, who was rock solid and who did his nation proud by just doing the homework and making sure that the job was right.

Ralph Hunt was the federal member for Gwydir for 20 years, the Minister for Health for four years and the deputy leader of the federal National Party for three years. His service to his party and his country has left a timeless legacy and an example for us to follow. Ralph Hunt was a fierce defender of his local electorate's interests and a steadfast member and leader of the Nationals' parliamentary team, and he pioneered important reforms to the National Party—though I must say he was not too happy with the name of the National Party.

Notwithstanding Ralph's great contribution to the Nationals, his first involvement in politics came through membership of the Liberal Party while at Scots College in Sydney. His father, Claude Hunt, was absolutely terrified that he had joined the Liberal Party and eventually turned Ralph to the light. Claude Hunt, who had served in the 6th Light Horse Brigade during World War I, was a key figure in establishing the Country Party in northern New South Wales. On his father's recommendation—which he could hardly go against—Ralph established and organised a local Country Party branch around Narrabri.

Ralph served as chairman of the Gwydir Electorate Council from 1953 to 1969. He was New South Wales party chairman from 1964 to 1969 and federal chairman from 1968 to 1969. During this time, Ralph was also a councillor on the Boomi Shire Council between 1956 and 1968. All this shows what every political party needs, whether it is the
Labor Party, the National Party or the Liberal Party: those who have a strong desire not only to serve in this place but to be fundamentally part of the structure and purpose of the party in its administration wing.

Ralph introduced many important reforms in the National Party. He championed his wife's, Mim's, idea to get young people more involved by helping to establish the Young Country Party in 1965. One of the first acts of the Young Country Party was to organise a debate on the Vietnam War. Jim Cairns accepted an invitation to present the antiwar case to an audience of about 500 people at the civic centre in Wagga Wagga. For the record, the early edition of the *Daily Advertiser* declared that Dr Jim Cairns had lost the debate. However, a later edition called the outcome even, which just goes to show the vagaries of the fourth estate and the time of day.

While the federal party treasurer, Ralph developed the party's secretariat at John McEwen House in Canberra, a marvellous asset and an adornment to the party to this day. During the 1960s Ralph was, along with many other Country Party members, on the executive of the New England New State Movement. The defeat of the new-state referendum in 1967 caused many disgruntled Country Party members to push for new-state candidates to run against Country Party members at the 1968 state election, a problem that was to recur in other forms at a later stage. Ralph cautioned against expelling these members because they were 'dinkum party people' who just happened to have a different view on how the new-state issue should be handled. The executive took Ralph's advice and took no action. The ability of the National Party to contain within it different views and approaches remains one of its core strengths to this day. Ralph was not supportive, though, of the New South Wales Country Party changing its name to the National Party in 1982. As Ralph summed it up, 'You never change the name of your dog,' showing the other side of a party that contains within it different views. Ralph reported that his parliamentary colleagues would tell him to sit down and shut up when he wanted to speak against the change.

For those who knew him in parliament, Ralph was known to be loyal and a supportive person, someone you could go to for advice. Many have quoted his efforts to nurture the younger members of parliament, but Ralph also defended the interests of the more senior among us. During the 1970s, Ralph employed Sadie Watts, a long-term Country Party staffer. In those days, under Australian Public Service rules you were meant to retire at 60, but Ralph kept Sadie on. Eventually Ralph petitioned Prime Minister Gough Whitlam to give Sadie an exemption. He did, and Ralph called this decision the best decision that Gough Whitlam ever made. Sadie continued to work for the National Party until she was 75.

In this place, Ralph was a strong advocate for the interests of his local area, including the need for appropriate water conservation. In his first speech, Ralph mentioned the importance of Copeton Dam, which was then being constructed. Copeton Dam went on to be one of the mechanisms for the creation of the irrigation and wealth around Moree and has now been responsible for the production of multiple billions, I would suggest hundreds of billions, of dollars worth of wealth by reason of that foresight. He also suggested dams for Pikes Creek and on the Namoi system. Ralph was also a strong advocate for the need to protect agricultural communities from the vagaries of international markets through strong marketing boards and effective, nationally coordinated, drought assistance.
Ralph was health minister in the Fraser-Anthony government. He created a travel rebate enabling families to visit major cities for specialist medical treatment. He also succeeded in making changes to the Medibank system and formed a bond with the late Fred Hollows, who worked with Indigenous communities throughout his electorate of Gwydir. His great commitment to public life was recognised in 1990 when he was made an officer of the Order of Australia, and in 2010 he was honoured for his 60 years of contributions to the National Party.

Our thoughts and prayers are with Ralph's wife, Miriam—better known as Mim—his three children and his grandchildren, and all mark his passing with sadness. I note also the thoughts of people such as the Hon. Tom McVeigh, who has talked about the mateship that was part and parcel of the National Party at that stage. He said: 'One passes no judgment, society changes, and the Country Party would not be the same had it not existed in the shadow of its former self. In the former self of this National Party is Ralph James Dunnet Hunt.' I commend this speech to his family and to all those who have worked with him. We really are celebrating the life of someone who has delivered so much to our nation. The funeral was one of celebration and, as much as it can be said, one of happiness for someone who had completed so much in their life and had done so much for their country. Nonetheless, we keep Ralph in our thoughts and prayers.

Senator BOSWELL (Queensland) (16:01): About three weeks ago at Macquarie Street Presbyterian Church we gave Ralph a great send-off. There were three ex-Prime Ministers there: Mr Hawke, Mr Fraser and Mr Howard. Doug Anthony gave the eulogy and he did an absolutely fantastic job. He knew Ralph and his family well. They had grown up together, they had worked together, they had been in the party system for many years. When I joined the National Party in federal parliament in 1983 Doug Anthony was the leader and he stayed there for approximately 12 months, then Ian Sinclair became the leader and Ralph Hunt was his deputy. Those were pretty tough years, particularly when we got to around 1988 and 1989 and we had the 'Joh for Canberra' move. That was hard on the National Party room. Loyalties were called on: either support the Premier or support the leadership. It was one of the most unpleasant stages a political party could ever have to go through. Ralph was a tower of strength and a calming influence. He was a deputy leader we were very fortunate to have.

He had a whimsical sense of humour and he used to tell great stories. One story he told was about when he went out to an old country pub and could not sleep because the guy in the next room was snoring. He got so desperate he banged the wall. There was an almighty crash and a picture fell on the ground and smashed to smithereens. The next morning, as you did in those days, he went out and talked to his neighbour over the balcony. Ralph said, 'How'd you sleep?' He said: 'I was sleeping well until some silly idiot knocked the wall, and then the person in the next room kept snoring and I couldn't sleep a wink after that.'

One time, in absolute desperation when the party room was leaking—and the party room had never leaked in its life, never in 80 years—Ralph decided there must be a bug in the room. So we decided we would call ASIO to have the room swept. And, of course, that was the headline the next day. That leaked out!

They were great days with Ralph. He was someone who absolutely epitomised what the National Party was all about. He was born a bushie, he loved the bush and he fought
fearlessly and tirelessly for people in the bush. With Doug Anthony he established the Wool Commission when you could put wool in potholes in the road it was so worthless. With Doug, he put a floor price on wool and brought prosperity back to the wool industry. It got a bit overdone towards the end when, instead of making it a leveller, people went for it as a price setter and of course it fell over. But the floor price served the wool industry well for many, many years and it was Doug Anthony and Ralph Hunt that supported it and got it up. That was one of the many things he promoted on behalf of the Country Party and then the National Party.

I was very sad to see him go. He gave almost all his life to the National Party in one form or another: as party secretary, as party president, as the member for Gwydir for 20 years and then, when he left there, as treasurer of the party from the time he was 60 until he was 70 and retired from that position. His whole life was the National Party. As I said, he had this whimsical sense of humour. One night, I was listening to him speaking in the lower house on the fertiliser bill. Joan Child was in the chair—Ralph had a sort of love-hate relationship with Joan Child—and he inadvertently called her 'Madam Fertiliser'. I asked him, 'Did you mean that, Ralph, or did you just make a mistake?' He said, 'No, I was only joking with her.' That was the sense of humour that he brought to this place.

In those days, in Old Parliament House, we were a lot closer. The National Party went back every night and listened to the news together; there were always cups of coffee or tea on the table and we sat around and chatted. Because of the geography of this place, it is a quarter of a mile hike to get to the party room and a quarter of a mile back, so we do not have the closeness that we used to enjoy in Old Parliament House.

Ralph made a difference. He made a huge contribution to the National Party. He was a man of the bush and he fought for the bush all his life. He had a huge following. There were so many people at his funeral and from all walks of life, including the bush, business and politics. He will genuinely be missed by all his friends. He was one of the great friendly people of the parliament and he made friends with everyone. We wish his wife, Mim, all the best. She always stood by him and was an integral part of the Country Party and then National Party. Where Ralph went, Mim was always there. She will desperately miss Ralph and his dry, whimsical sense of humour, and we offer our condolences to her and all her family.

Question agreed to, honourable members standing in their places.

NOTICES

Presentation

Senator Crossin to move:
That the Legal and Constitutional Affairs Legislation Committee be authorised to hold public meetings during the sitting of the Senate on 16 June 2011, as follows:

(a) from 5.30 pm, in relation to its inquiry on the provisions of the Migration Amendment (Strengthening the Character Test and Other Provisions) Bill 2011; and

(b) from 4 pm, in relation to its inquiry on the provisions of the Intelligence Services Legislation Amendment Bill 2011.

Senator Crossin to 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, 21 June 2011, from 4 pm.

Senator Marshall to move:
That the Joint Select Committee on the Christmas Island tragedy of 15 December 2010 be authorised to hold a public meeting during the
sitting of the Senate on Thursday, 16 June 2011, from 4 pm to 5 pm.

**Senator Hurley** to move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 15 June 2011, from 5 pm to 6.30 pm, to take evidence for the committee’s inquiry into the statutory oversight of the operations of ASIC.

**Senator Hurley** to move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 16 June 2011, from 11.30 am.

**Senator Trood** to move:

That the Select Committee on the Reform of the Australian Federation be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 16 June 2011.

**Senator Parry** to move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the Patent Amendment (Human Genes and Biological Materials) Bill 2010 be extended to 25 August 2011.

**Senator McGauran** to move:

That the Joint Standing Committee on Treaties be authorised to hold a public meeting during the sitting of the Senate on Monday, 20 June 2011, from 10 am to noon.

**Senator Coonan** to move:

That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 22 June 2011, from 10.30 am to noon.

**Senator Moore** to move:

That the time for the presentation of the report of the Community Affairs Legislation Committee on the 2011-12 Budget estimates be extended to 5 July 2011.

**Senator Crossin** to move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 be extended 16 August 2011.

**Senator Crossin** to 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 23 June 2011.

**Senator Siewert** to move:

That the following bill be introduced: A Bill for an Act to amend the Export Control Act 1982 to prohibit the export of live animals for slaughter, and for related purposes. Live Animal Export (Slaughter) Prohibition Bill 2011.

**Senator Siewert** to move:

That the following matter be referred to the Rural Affairs and Transport References Committee for inquiry and report by 25 August 2011:

The role of Meat and Livestock Australia (MLA), and other industry groups, in the failure to ensure adequate animal welfare standards in live export markets, including:

(a) the level, nature and effectiveness of the MLA’s:

(i) expenditure and efforts to promote or improve animal welfare standards with respect to live export market countries,

(ii) expenditure and efforts on marketing and promoting live export to Australian producers,

(iii) ongoing monitoring of the subscription to, and practise of, animal welfare standards in Indonesia and other live export market countries, and
actions to improve animal welfare outcomes in Indonesia and other live export market countries and the evidence base for these actions;

(b) the extent of the MLA’s knowledge of animal welfare practices in Indonesia, and other live export markets, including:

(i) formal and informal monitoring and reporting structures,

(ii) formal and informal processes for reporting and addressing poor animal welfare practices, and

(iii) communication of any animal welfare concerns to Australian producers and other Australian government agencies; and

(c) any other related matters.

Senator Bob Brown to move:

That the following bill be introduced: A Bill for an Act to amend the Commonwealth Electoral Act 1918 in relation to political donations by the tobacco industry, and for related purposes. Commonwealth Electoral Amendment (Tobacco Industry Donations) Bill 2011.

Senator Xenophon to move:

That the following bill be introduced: A Bill for an Act to restrict the export of live animals for slaughter pending its prohibition, and for related purposes. Live Animal Export Restriction and Prohibition Bill 2011.

Senator Bob Brown to move:

That the Senate—

(a) endorses the meetings of His Holiness the Dalai Lama with Coalition leaders Messers Tony Abbott and Warren Truss, and Australian Greens’ Leader Senator Bob Brown;

(b) expresses disappointment that neither the Prime Minister (Ms Gillard) nor the Minister for Foreign Affairs (Mr Rudd) were available to meet His Holiness the Dalai Lama;

(c) notes that the last Prime Minister to meet His Holiness was Mr John Howard in 2007; and

(d) wishes the people of Tibet well in their aspiration to have His Holiness return home to Tibet’s capital, Lhasa.

Senators Scullion and Colbeck to move:

That the Senate—

(a) deprecates the inhumane treatment of cattle at some abattoirs in Indonesia;

(b) notes that this is unacceptable to all Australians, especially our farmers, who take great pride in breeding and raising healthy and well cared for animals;

(c) supports the suspension of trade of Australian live cattle to facilities that fail to comply with acceptable practices;

(d) notes, with concern, the impact of a total live export suspension to Indonesia on:

(i) the economic, social and environmental fabric of northern Australia,

(ii) Indigenous employment in northern Australia,

(iii) Indonesian abattoirs already operating at acceptable standards, and

(iv) the entire cattle industry, including producers in the south who are already seeing reduced sale yard prices; and

(e) calls on the Gillard Government to:

(i) immediately establish a register of Indonesian abattoirs, to be known as the Approved Indonesian Abattoir Register, that have adopted and implemented acceptable animal welfare standards,

(ii) require that Australian sourced cattle be processed only at abattoirs that are listed on the register,

(iii) revoke the legislative instrument Export Control (Export of Live stock to the Republic of Indonesia) Order 2011 on one or more Indonesian abattoirs being included on the register,

(iv) provide support to Indonesia to bring more abattoirs up to acceptable standards, and

(v) provide assistance to the cattle industry to deal with the consequences of this suspension.

Senator Xenophon to move:

That the time for the presentation of the report of the Community Affairs Legislation Committee on the Food Standards Amendment (Truth in Labelling—Genetically Modified Material) Bill 2010 be extended to 13 October 2011.
BUSINESS
Leave of Absence

Senator McEWEN: by leave—I move:
That leave of absence be granted to:
(a) Senator Polley for today, for personal reasons; and
(b) Senator Collins from 14 to 16 June 2011, on account of parliamentary business.

Question agreed to.

Senator PARRY: by leave—I move:
That leave of absence be granted to Senator Boyce for today, on account of personal reasons.

Question agreed to.

NOTICES
Postponement

The following items of business were postponed:

General business notice of motion no. 199 standing in the name of Senator Cormann for today, relating to a proposed tax summit, postponed till 21 June 2011.

General business notice of motion no. 227 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for 15 June 2011, proposing the introduction of the Protecting Children from Junk Food Advertising (Broadcasting and Telecommunications Amendment) Bill 2011, postponed till 20 June 2011.

COMMITTEES
Foreign Affairs, Defence and Trade References Committee

Reporting Date

Senator WILLIAMS: I move:

That the second report of the Foreign Affairs, Defence and Trade References Committee on its inquiry into equity and diversity health checks in the Royal Australian Navy be presented by 22 September 2011.

Question agreed to.

DOCUMENTS
Sovereign Wealth Fund
Order for the Production of Documents

Senator BOB BROWN: I move:

That the Senate:

(a) notes that:
(i) the current resources boom is generating enormous wealth from which all Australians should reap the benefits,
(ii) a sovereign wealth fund could help fund the needs of future generations, as well as seeking to improve budget measures in the immediate budget cycle,
(iii) approximately 36 countries have sovereign wealth funds which currently manage more than $4.2 trillion worth of assets globally, and
(iv) a recent statement by the International Monetary Fund called on Australia to establish a sovereign wealth fund to protect the economy from shock falls in commodity prices and ‘save revenue to ensure a more equal distribution of its benefits across generations and reduce long-term fiscal vulnerabilities from an ageing population and rising health care costs’;

(b) orders that there be laid on the table, no later than 20 September 2011, a report by the Productivity Commission on the development of a sovereign wealth fund for Australia; and

(c) requests that the Productivity Commission in preparing its report consider options for the establishment of a sovereign wealth fund in Australia, including:
(i) regulatory framework,
(ii) how funds are invested and managed,
(iii) funding mechanisms,
(iv) transparency and accountability,
(v) governance structure,
(vi) how capital and returns should be utilised, and
(vii) any other related matters.

Senator CORMANN (Western Australia) (16:12): Mr Deputy President, I seek leave to make a brief statement.
The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator CORMANN: I thank the Senate. The coalition will not be supporting this motion, for two reasons. Firstly, the time to set up a sovereign wealth fund is when the budget is in surplus and at least government net debt has been paid off. That is exactly what the Howard government did—what John Howard and Peter Costello did—back in 2006. They paid off $96 billion worth of Labor debt. Then, after delivering successive surpluses, they set up the Future Fund. The Future Fund was exactly that—a sovereign wealth fund. It is true to say that this government has been blessed with the best terms of trade in 140 years. The budget should be in surplus. The budget should be in a much stronger position. Instead we are looking at $107 billion of government net debt—and the government has asked the parliament to raise the debt ceiling by another $50 billion to $250 billion. We are looking at the second highest deficit this financial year. So, unless the Greens are suggesting that the government should borrow in order to invest in a sovereign wealth fund, this is really not the time to go down that path. That would be Greennonics rather than economics, if we went down that path.

Secondly, there are some unresolved issues about the Senate's authority to order the Productivity Commission to deliver certain reports. In November last year, the Senate passed an order requiring the Productivity Commission to deliver a report on the anticompetitive, closed shop arrangements that are currently in place in relation to the selection of default superannuation funds under modern awards which has still not been delivered—(Time expired)

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

The Senate divided. [16:18]

(The Deputy President: Senator Ferguson)

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

AYES
Brown, RJ Fielding, S
Hanson-Young, SC Ludlam, S
Milne, C Siewert, R (teller)
Xenophon, N

NOES
Arbib, MV Barnett, G
Bernardi, C Bilyk, CL
Birmingham, SJ Boswell, RLD
Brown, CL Bushby, DC
Cameron, DN Carr, KJ
Cash, MC Colbeck, R
Cormann, M Crossin, P
Eggleston, A Farrell, D
Faulkner, J Feeney, D
Ferguson, AB Fifield, MP
Forshaw, MG Furner, ML
Humphries, G Hurley, A
Hutchins, S Ludwig, JW
Lundy, KA McEwen, A
McGauran, JJJ McLucas, J
Moore, CM O'Brien, K
Parry, S Payne, MA
Pratt, LC Stephens, U
Sterle, G Williams, JR (teller)

Question negatived.

Seabed Mining

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (16:21): I move:
That the Senate—
(a) recognises that the Solwara 1 Project in the Bismarck Sea off Papua New Guinea plans to mine copper and gold at a depth of 1,600 metres and is the world’s first deep seabed mining project;

(b) acknowledges that full-scale undersea excavation of mineral deposits globally has potential to remove parts of the sea floor and damage the ocean’s health as a result of leakage, spills and damage caused by increased toxicity and sediment from tailings; and

(c) calls on the Government to establish an inquiry, to report by 1 October 2011, into seabed mining to assess:

(i) the level of interest in seabed mining in Australian waters and in waters in the region neighbouring Australia,

(ii) the potential impact on the marine environment and resources if this industry develops, and

(iii) the need for regulation or a regional agreement to manage and reduce the potential for this industry to impact on marine productivity.

Question put.

The Senate divided. [16:22]

(The Deputy President: Senator Ferguson)

Ayes..........................6
Noes..........................39
Majority........................33

AYES
Brown, RJ (teller)
Hansen-Young, SC
Milne, C
Xenophon, N

NOES
Barnett, G
Bilyk, CL
Bosswell, RLD
Bushby, DC
Carr, KJ
Colbeck, R
Crossin, P
Farrell, D
Feeney, D
Fielding, S
Forsshaw, MG
Humphries, G

Pharmaceutical Benefits Scheme
Senator Barnett (Tasmania) (16:24):

I move:

That the Senate—

(a) recognises the provision of affordable medicines through the Pharmaceutical Benefits Scheme (PBS) is central to Australia’s health system;

(b) acknowledges that since its inception, the PBS is an uncapped program;

(c) agrees that evaluations of pharmaceuticals for listing under the PBS should be transparent, evidence-based and not subject to capricious political interference;

(d) notes that:

(i) before recommending medicines for listing on the PBS, the Pharmaceutical Benefits Advisory Committee (PBAC) conducts a rigorous evaluation to determine the comparative clinical and cost effectiveness of the proposed medicine,

(ii) the three tiers of major applications for PBS listings are designed to promote an efficient government approval process, and

(iii) positive recommendations by the PBAC have nearly always been approved by the Minister for Health;

(e) deplores the Government’s new policy that:

(i) despite positive recommendations by the PBAC, all applications for listing will be further scrutinised by Cabinet,

(ii) listing of medicines can be deferred indefinitely,
(iii) no new PBS listings will occur unless offset savings are found, and
(iv) until the budget returns to surplus, these measures will remain in place;
(f) recognises that:
(i) in scrutinising applications, the PBAC already determines value for money, and
(ii) under the Government's new policy, access to medicines will be limited and medications which could improve the treatment of chronic or common conditions will remain financially unaffordable for many Australians; and
(g) condemns the Government for neglecting the wellbeing of Australians.

Question agreed to.

MINISTERIAL STATEMENTS

Afghanistan

Montara Commission of Inquiry

Senator SIEWERT (Western Australia—Australian Greens Whip) (16:26): I move:
That the Senate take note of the statement.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

National Cyber Security Awareness Week
Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (16:25): I table a ministerial statement relating to National Cyber Security Awareness Week.

Senator LUDLAM (Western Australia) (16:26): I move:
That the Senate take note of the statement.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

DOCUMENTS

Tabling
The DEPUTY PRESIDENT: Pursuant to standing orders 38 and 166, I present documents listed on today’s Order of Business at item 17 which were presented to the President, the Deputy President and temporary chairs of committees since the Senate last sat. In accordance with the terms of the standing orders, the publication of the documents was authorised.

The list read as follows—

(a) Committee reports
1. Environment and Communications References Committee—Interim report—The status, health and sustainability of the koala population (received 13 May 2011)
3. Environment and Communications Legislation Committee—Carbon Credits (Carbon Farming Initiative) Bill and related bills [Provisions]—Interim report (received 20 May 2011)
Final report, together with the Hansard record of proceedings and documents presented to the committee (received 27 May 2011)
4. Standing Committee on Appropriations and Staffing—52nd report—Estimates for the Department of the Senate 2011-12 (received 24 May 2011)

7. Community Affairs References Committee—Interim report—Planning options and services for people ageing with a disability (received 30 May 2011)

8. Community Affairs References Committee—Interim report—Impacts of rural wind farms (received 30 May 2011)

9. Finance and Public Administration References Committee—Report, together with the Hansard record of proceedings and documents presented to the committee—Administration of health practitioner registration by the Australian Health Practitioner Regulation Agency (received 3 June 2011)


12. Legal and Constitutional Affairs References Committee—Interim report—Water Act 2007 provisions relating to the development of a Basin Plan (received 6 June 2011)

13. Community Affairs Legislation Committee—Report, together with the Hansard record of proceedings and documents presented to the committee—National Health Reform Amendment (National Health Performance Authority) Bill 2011 [Provisions] (received 9 June 2011)

(b) Government responses to parliamentary committee reports

1. Rural and Regional Affairs and Transport References Committee—Meat marketing—
   • Interim report (received 20 May 2011)

   • Final report (received 20 May 2011)

2. Select Committee on Agricultural and Related Industries—Final report—Food production in Australia (received 20 May 2011)

3. Community Affairs References Committee—Report—Hear us: Inquiry into hearing health in Australia (received 30 May 2011)

4. Economics References Committee—Report—The regulation, registration and remuneration of insolvency practitioners in Australia: the case for a new framework (role of liquidators and administrators)—Interim response, together with options paper: a modernisation and harmonisation of the regulatory framework applying to insolvency practitioners in Australia (received 9 June 2011)

(c) Government document

Broadcasting Services Act 1992—Digital television transmission and reception (received 13 May 2011)

(d) Reports of the Auditor-General

1. Report no. 40 of 2010-11—Performance audit—Management of the explosive ordnance services contract: Department of Defence (received 17 May 2011)


3. Report no. 42 of 2010-11—Performance audit—Establishment, implementation and administration of the council allocation component of the regional and local community infrastructure program: Department of Regional Australia, Regional Development and Local Government (received 18 May 2011)


(e) Statements of compliance and letters of advice relating to Senate orders

1. Statements of compliance relating to indexed lists of files:
Australian Agency for International Development (AusAID) (received 20 May 2011)
Commonwealth Ombudsman (received 6 June 2011)
Letter of advice relating to lists of contracts:
Education, Employment and Workplace Relations portfolio (received 17 May 2011)

Letters of advice relating to lists of departmental and agency appointments and vacancies:
Treasury portfolio (received 13 May 2011)
Veterans’ Affairs portfolio (received 13 May 2011)
Agriculture, Fisheries and Forestry portfolio (received 16 May 2011)
Regional Australia, Regional Development and Local Government portfolio (received 16 May 2011)
Broadband, Communications and the Digital Economy (received 16 May 2011)
Department of Infrastructure and Transport, and Infrastructure Australia [2] (received 16 and 23 May 2011)
Australian Institute of Family Studies (received 17 May 2011)
Families, Housing, Community Services and Indigenous Affairs portfolio (including a correction for the last round of estimates hearings) (received 17 May 2011)
Attorney-General’s portfolio [2] (received 17 May and 9 June 2011)
Climate Change and Energy Efficiency portfolio (received 17 May 2011)
Office for the Arts (received 17 May 2011)
Office for Sport (received 17 May 2011)
Human Services portfolio (received 17 May 2011)
Finance and Deregulation portfolio (received 17 May 2011)
Education, Employment and Workplace Relations portfolio (received 18 May 2011)

Department of the Prime Minister and Cabinet (received 20 May 2011)
Health and Ageing portfolio (received 24 May 2011)
Sustainability, Environment, Water, Population and Communities portfolio (received 24 May 2011)
Australian Information Commissioner (received 26 May 2011)
National Archives of Australia (received 26 May 2011)
Office of the Official Secretary to the Governor-General (received 27 May 2011)
Department of Foreign Affairs and Trade—Amendment (received 1 June 2011)

Letters of advice relating to lists of departmental and agency grants:
Treasury portfolio (received 13 May 2011)
Veterans’ Affairs portfolio (received 13 May 2011)
Regional Australia, Regional Development and Local Government portfolio (received 16 May 2011)
Department of Education, Employment and Workplace Relations (received 17 May 2011)
Australian Institute of Family Studies (received 17 May 2011)
Families, Housing, Community Services and Indigenous Affairs portfolio (received 17 May 2011)
Attorney-General’s portfolio (received 17 May 2011)
Climate Change and Energy Efficiency portfolio (received 17 May 2011)
Office for the Arts [2] (received 17 and 24 May 2011)
Office for Sport (received 17 May 2011)
Human Services portfolio (received 17 May 2011)
Finance and Deregulation portfolio (received 17 May 2011)
Department of Infrastructure and Transport (received 18 May 2011)
• Health and Ageing portfolio (received 24 May 2011)
• Australian Information Commissioner (received 26 May 2011)
• National Archives of Australia (received 26 May 2011)
• Office of the Official Secretary to the Governor-General (received 27 May 2011)
• Department of the Prime Minister and Cabinet (received 27 May 2011)
• Foreign Affairs and Trade portfolio (received 6 June 2011)

Ordered that the committee reports be printed.

The DEPUTY PRESIDENT: In accordance with the usual practice and with the concurrence of the Senate I ask that the government responses be incorporated in Hansard.

The documents read as follows—

Senate Standing Committee for Rural and Regional Affairs and Transport
Meat Marketing Inquiry
Interim Report
September 2008
Response to Recommendations

Australian Government Department of Agriculture, Fisheries and Forestry
Recommendation 1

The committee recommends that the Minister for Agriculture, Fisheries and Forestry, through the forum of the Primary Industries Ministerial Council, seek the support of state and territory primary industries ministers to harmonise national standards for all domestic meat slaughtering and processing establishments. The committee further recommends that, regardless of the model adopted, the harmonised national standard must include maintenance of dentition as the standard for classifying an animal as lamb and must require that 100 per cent of animals classified as lamb are mouthed at slaughter.

Recommendation 2

The committee recommends that the Minister for Agriculture, Fisheries and Forestry, through the forum of the Primary Industries Ministerial Council, consider the costs and benefits of applying the Western Australian standard as the model for national harmonisation including examination of compliance and enforcement issues.

Response to Recommendations 1 and 2

Agreed in part.

The Australian Government supports harmonisation of national standards where possible including for all domestic meat slaughtering and processing establishments; provided these standards are voluntary and at the initiative of industry.

The Australian Government does not agree that a national standard requires 100 per cent mouthing of animals classified as lamb at slaughter as this may prove onerous on some jurisdictions.

Following the release of the Senate Standing Committee for Rural and Regional Affairs and Transport’s interim report of its Inquiry into Meat Marketing, the Hon. Tony Burke MP, former Minister for Agriculture, Fisheries and Forestry included the issue of meat marketing on the agenda of the November 2008 Primary Industries Ministerial Council (the council) meeting.

The council established a working group which examined whether models used for all red meat, not just sheep meat, may be suitable for national adoption. One of the models considered was the Western Australian standard, which requires 100 per cent mouthing of animals at slaughter. The examination of models was undertaken in the context of considering the costs and benefits of adopting each model including compliance and enforcement issues.

The working group provided a report to the council at its November 2009 meeting. In its report the working group found:

• that 100 per cent mouthing, a key component of the Western Australian lamb-branding model, may be onerous on some jurisdictions to introduce and enforce
the costs of adopting a national scheme are likely to be minimal for major retailers due to the high standards of grading systems and record keeping already in place. The cost is likely to be much higher for the smaller independent retailers who may not have existing systems

- a prescriptive and mandatory labelling scheme also has the potential to discourage industry innovation and initiative in developing new labelling and branding systems such as the Meat Standards Australia grading system, as well as potentially removing flexibility in their application

- the working group and industry are of the opinion that, from a practical perspective, any adoption of a national labelling scheme should be in a uniform manner amongst the states. Extensive commercial difficulties would be created if jurisdictions chose to ‘go-it-alone’ in implementing labelling reform

- any additional costs associated with a national labelling system would be passed along the supply chain either to producers or to consumers.

Recommendation 3
The committee recommends that the Minister for Agriculture, Fisheries and Forestry and the Minister for Competition Policy and Consumer Affairs consider, when available, the findings of the Sheepmeat Council of Australia and the Australian Meat Industry Council’s review of Lamb Brand Control and Verification. The committee recommends that, where appropriate and feasible, the relevant Commonwealth agencies assist the sheepmeat industry to implement recommendations arising from the review.

Response to Recommendation 3
Agreed.

The joint Sheepmeat Council of Australia/Australian Meat Industry Council report has not been completed. The Australian Government understands that the industry decided not to finalise the report.
remains concerned about the potential for unfavourable labelling requirements to be introduced in the future given legislation is now in place that enables the prescription of a labelling scheme. The working group also noted that other states and territories do not intend to introduce similar legislation in their jurisdictions.

**Recommendation 2**

Subject to the current Australia and New Zealand Food Regulation

Ministerial Council review into food labelling, the government create separate country of origin labelling regulations for food products that recognise the importance of the origin of ingredients in processed food as well as the place where production processes occurred.

**Response to Recommendation 2**

Noted.

The current Australia New Zealand Food Regulation Ministerial Council policy guideline on country of origin labelling of food indicates that in developing a new standard for country of origin labelling in the Food Standards Code, FSANZ should ensure that: country of origin labelling applies to the whole food, not individual ingredients. Any amendments to this policy guideline would need to be agreed to by the Ministerial Council.

There may be considerable costs to business in complying with a country of origin scheme based on ingoing ingredients. For example, manufacturers may need to maintain several lines of labels so they can be changed depending on the source of the ingredients in certain seasons or market conditions.

The existing ‘Made in’ provisions in the Competition and Consumer Act 2010 support the Australian manufacturing sector as a broad range of inputs, including ingredients, packaging, labour and overhead costs, are considered in determining a product’s eligibility to bear a ‘Made in Australia’ claim.

The Council of Australian Governments agreed to the Australia New Zealand Food Regulation Ministerial Council commissioning an independent review of food labelling laws and policy. This review provided for a comprehensive examination of food labelling laws and policies.

The Committee undertaking the review was chaired by Dr Neal Blewett AC. Other committee members were public health law academic Dr Chris Reynolds, economic and consumer behaviour expert Dr Simone Pettigrew, food and nutrition policy academic Associate Professor Heather Yeatman, and food industry communications, marketing and corporate affairs professional Mr Nick Goddard.

Terms of Reference for the review are available at http://www.foodlabellingreview.gov.au/interne t/foodlabelling/publishing.nsf/Content/home

Approximately 6,800 submissions were received.

The final report was released on 28 January 2011. Any consideration of amending the current country of origin labelling policy or standard will be undertaken in the context of the Council of Australian Government’s consideration of the outcomes from the labelling review.

**AUSTRALIAN GOVERNMENT RESPONSE**

**SELECT COMMITTEE ON AGRICULTURAL AND RELATED INDUSTRIES REPORT**

**Inquiry report: Food production in Australia**

On 25 June 2008 the Senate referred the following matter to the Senate Select Committee on Agricultural and Related Industries for report by 27 November 2009:

Food production in Australia and the question of how to produce food that is:

(a) affordable to consumers
(b) viable for production by farmers and
(c) of sustainable impact on the environment.

The Select Committee subsequently sought and received extensions to the reporting date. The report, which included a dissenting report, was tabled in the Senate on 23 August 2010.

The Select Committee report made four recommendations:

1. The committee recommends an audit be undertaken to establish the extent of foreign
ownership of commercial agricultural and pastoral land, and ownership of water, in Australia, with particular emphasis on ownership by sovereign and part sovereign-owned companies.

2. The committee recommends that the Rural Industries Research and Development Corporation (RIRDC) report to the Senate on the current level of agricultural research in OECD countries as a percentage of GDP and the trend for investment over the last ten years.

3. The committee recommends that IP Australia advise the Senate what patents, if any, have been granted over biological discoveries as opposed to inventions, with reasons for them being granted.

4. The committee recommends that the Senate re-establish the Select Committee on Agricultural and Related Industries in the new parliament to further examine issues relating to food production, including the implications of any proposed emissions trading scheme for affordable, sustainable food production and viable farmers.

A dissenting report was prepared by Senators Sterle and O'Brien. The dissenting report raised issues that they believe the Select Committee should have pursued but made no recommendations.

**Australian Government Response**

The Australian Government has considered the recommendations of the Senate Select Committee report. The government's response to the recommendations is as follows.

**Senate Select Committee report**

**Recommendation 1**

The committee recommends an audit be undertaken to establish the extent of foreign ownership of commercial agricultural and pastoral land, and ownership of water, in Australia, with particular emphasis on ownership by sovereign and part sovereign-owned companies.

The Australian Government agrees to this recommendation.

Foreign investment is important to the Australian economy and to support economic growth and creation of jobs for Australians. Investment in agriculture, whether from foreign or domestic investors, helps to stimulate jobs on farms, and supports services such as harvesting, transport, and processing. These jobs have flow on effects for regional towns and communities through local purchases of inputs, machinery, and the general necessities of life. Moreover, new investment can help Australian agriculture to be more efficient, competitive and profitable in world markets, providing increased opportunities in global markets and access to new technologies and practices.

The available evidence is limited but suggests the current level of foreign ownership of Australian agricultural land and water resources is very low. For example, a survey of commercial broadacre and dairy farms, conducted by the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES) in 2007-08, indicates that an overwhelming majority (99 per cent) of these farms are family operated. Of the remaining 1 per cent, it is estimated that only around 0.1 per cent are foreign owned. Broadacre and dairy farms account for around 70 per cent of Australian farm businesses. Further, investment in the agriculture, fisheries and forestry sector is a small part of overall foreign investment in Australia, ranging between 0.06 per cent and 1.53 per cent of approved proposals, by value, made through the Foreign Investment Review Board in the last ten years.

However, the Australian Government recognises there are concerns about the sale of rural land and agricultural businesses to foreign investors. These concerns are compounded by the limited data available on foreign ownership. The government is addressing these concerns by taking action to strengthen the transparency of foreign ownership of rural land and agricultural food production. The Assistant Treasurer, the Hon. Bill Shorten MP, has asked the Australian Bureau of Statistics (ABS) to collect more information about rural land and water ownership in order to provide a better statistical picture of the foreign investment landscape.

In addition Senator the Hon. Joe Ludwig, the Minister for Agriculture, Fisheries and Forestry, has asked the Rural Industries Research and...
The Rural Industries Research and Development Corporation (RIRDC) is collaborating with ABARES to report on the role and history of foreign ownership in the development of Australian agricultural land, and the factors driving foreign investment in Australia.

The RIRDC and the ABS are working to have this information available later in 2011.

**Senate Select Committee report**

**Recommendation 2**

The committee recommends that the Rural Industries Research and Development Corporation (RIRDC) report to the Senate on the current level of agricultural research in OECD countries as a percentage of GDP and the trend for investment over the last ten years.

The Australian Government does not agree to this recommendation. As there is an existing body of work in this area, the Australian Government does not consider it necessary for RIRDC to commission a specific study on this.

Over recent years, there have been many studies by ABARES and other researchers that have assessed expenditure on agricultural research and development over the long term. These studies have analysed the relationship between productivity growth in the agriculture sector and the drivers of that growth, including levels of investment in research and development. Agricultural research and development investment is an ongoing area of interest to the Australian Government and ABARES will continue to examine the relationship between productivity growth and research and development investment in Australian and other developed countries and disseminate results as appropriate.

Much of the literature agrees that there are significant lags between research and development investments and the realisation of productivity benefits, often occurring over decades, highlighting the importance of taking a long-term perspective to research and development funding. Analyses of investment in research and development are generally undertaken over multi-decadal time frames in order to identify investment trends and their impact on productivity growth.

A number of international studies cite reduced investment in agricultural research and development as an important element contributing to the slow-down in agricultural productivity growth in recent years. Public sector investment in agricultural research and development in developed countries grew by an average of 1.89 per cent per year during the 1980s. However, this growth slowed to 0.38 per cent per year through the 1990s and has continued at around the same rate through the last decade (Pardey, 2009).

These studies also use research intensity to compare the levels of agricultural research and development in different countries. Research intensity measures investment in agricultural research and development as a percentage of agricultural Gross Domestic Product (GDP), or the economic size of the agricultural sector, and provides a better basis for comparing relative levels of investment in agricultural research and development than when compared to national GDP.

Pardey (2009) estimates that although public research intensity grew during the 1980s from 1.62 per cent to 2.33 per cent in 1991, it has remained static since (2.36 per cent in 2000). Public research intensity in developing countries has also remained relatively constant over the past 30 years, albeit at a much lower percentage than developed countries—around 0.5 per cent in 2000.

In regard to Australia, studies (e.g. Mullen 2010 and Sheng et al 2010) indicate that public research intensity grew strongly from the early 1950s through to the late 1970s, peaking at between 4 and 5 per cent of agricultural GDP between 1978 and 1986. More recently, public research intensity in Australia has declined to around 3 per cent of agricultural GDP.

**Senate Select Committee report**

**Recommendation 3**

The committee recommends that IP Australia advise the Senate what patents, if any, have been granted over biological discoveries as opposed to inventions, with reasons for them being granted. 
The Australian Government notes this recommendation.

Under Australian law, as prescribed by the Commonwealth Patents Act 1990, patents can only be granted for inventions. Discoveries are not inventions, and thus are not patentable, irrespective of whether they are biological or not. IP Australia, the government agency that administers Australia's intellectual property rights system, specifically patents, trade marks, designs and plant breeder's rights, applies Australian law in its assessment and decisions to grant IP rights.

**Senate Select Committee report**

**Recommendation 4**

The committee recommends that the senate re-establish the Select Committee on Agricultural and Related Industries in the new parliament to further examine issues relating to food production, including the implications of any proposed emissions trading scheme for affordable, sustainable food production and viable farmers.

The Australian Government notes this recommendation.

The decision to re-establish the Senate Select Committee on Agricultural and Related Industries is a matter for the Senate to consider.

The Australian Government notes that the Senate Procedure Committee considers that there should be no more than three select committees at any one time. There are currently two select committees and one joint select committee; with two more joint select committees foreshadowed.

**References**


**Response to the Senate Community Affairs References Committee Report**

**HEAR US: INQUIRY INTO HEARING HEALTH IN AUSTRALIA**

**MAY 2011**

Hear Us: Inquiry into Hearing Health in Australia

**Government Response**

**Introduction**

On 10 September 2009, the Senate referred a matter concerning the state of Hearing Health in Australia to the Community Affairs References Committee (the Committee). The Committee sought submissions and undertook extensive national hearings with stakeholders to examine the following issues:

(a) the extent, causes and costs of hearing impairment in Australia;

(b) the implications of hearing impairment for individuals and the community;

(c) the adequacy of access to hearing services, including assessment and support services, and hearing technologies;

(d) the adequacy of current hearing health and research programs, including education and awareness programs; and

(e) specific issues affecting Indigenous communities.

Over 180 submissions were received by the Committee and published on its website from a wide range of stakeholders. The Committee tabled its report, Hear Us: Inquiry into Hearing Health in Australia, in Parliament on 13 May 2010 making 34 recommendations.

The Australian Government welcomes the Committee’s report and thanks the Committee for its considered approach to the recommendations made in the report.

The Government recognises that currently the prevalence of hearing loss in Australia is
estimated to be one in six, rising to one in four by
2050, making hearing health a significant issue
for many individuals and also the wider
Australian community.

Hearing impairment affects individuals across
their life course, requiring a range of service
responses from early childhood to late adulthood,
across disability, health, communication and
other areas. These services assist hearing
impaired people to engage socially and
economically in the community and fulfil their
life goals, are supported by professional bodies
and a number of government agencies at both the
Commonwealth and state/territory levels, and are
delivered by providers in both the public and
private sectors.

The Government currently provides funding
for a wide range of services and programs for
people with hearing impairment. These include:
the Hearing Services Program (HSP), providing
hearing related services to eligible people; the
funding of around 2000 Disability Employment
Services assisting people with a disability,
including hearing impairment, to secure and
maintain sustainable employment; free Australia
day access to Auslan interpreter services for
deaf adults and children attending private medical
appointments; and funding for research through a
number of arrangements such as the National
Acoustic Laboratories, the HEARing Cooperative
Research Centre, the National Health and
Medical Research Council and the HSP Hearing
Loss Prevention Program.

The 2011-12 Federal Budget announced
measures which will address a number of the
recommendations and concerns outlined in the
Committee’s report. Additional funding of $47.7
million over four years will support changes to
the Australian Government’s Hearing Services
Program (HSP) to provide for: extended
eligibility for young people to hearing aids,
services and cochlear speech processors;
increased access to hearing aids and cochlear
speech processors for more children, and
additional hearing services and aids for
Indigenous adults and people with complex
hearing problems. Funding will also be provided
for automation of application and voucher
services to enable clients to access services faster
and for service providers to electronically access
client information to support them to provide
more timely services to clients.

The Budget provides new funding of $200
million through the More Support for Students
with Disabilities Initiative to assist students with
disabilities, including the hearing impaired. State
and territory education authorities will receive
funding up until December 2013 for activities that
will better equip teachers and schools to provide
optimum learning experiences for students with
disabilities. Such activities might include the
provision of coordinated specialised services by
health and allied health professionals and the
provision of specialised assistive technologies for
use in classrooms such as hearing loops;
additional hours of in-class support from
paraprofessionals; and adapted curriculum
tailored to the needs of each student based on
latest research and expert advice.

The Budget also provides $146.5 million in
support for parents to access early interventions
for children with a disability through the Better
Start for Children with a Disability. This will help
children access interventions facilitating speech
development and better use of residual hearing,
among other supports. To support this measure, a
new Medicare item will provide for allied health
interventions for children with a treatment plan in
place. More detail on the measures is provided
against the relevant recommendations.

Some of the Committee’s recommendations
are directed to state and territory governments
and professional bodies. The Australian
Government encourages those agencies to
respond positively to the recommendations, and
would welcome an opportunity to work
cooperatively with them with the aim of ensuring
that hearing impaired people are able to access a
suite of coordinated services which meet their
individual needs.

The Government recognises that this Senate
Committee report has captured a wide range of
issues which will impact on the growing numbers
of Australians with a hearing impairment. A
number of the report recommendations have led
to significant policy development and review
activities, and the report is expected to continue
to be relevant to future policy considerations.
The Department of Health and Ageing has led the coordination of the whole of government response to the Senate Inquiry. Input to the response was provided by the departments of the Attorney General; Families, Housing, Community Services and Indigenous Affairs (FaHCSIA); Education, Employment and Workplace Relations (DEEWR); Innovation, Industry, Science and Research (DIISR); and Human Services (DHS) where recommendations relate to their respective portfolios.

Government Response to Recommendations

Recommendation 1

The Committee recommends that the Department of Health and Ageing work with the appropriate agencies and authorities to devise recreational noise safety regulations for entertainment venues. Specifically, where music is expected to be louder than a recommended safe level, that the venues be required to:

(a) post prominent notices warning patrons that the noise level at that venue may be loud enough to cause hearing damage; and

(b) make ear plugs freely available to all patrons.

Response:

This is a matter for consideration by state/territory governments.

Noise regulation is largely undertaken through state/territory environmental protection agencies which set standards, and police and local councils which enforce regulations. The Department of Health and Ageing will raise this matter with state and territory governments.

Recommendation 2

The Committee recommends that the Department of Education, Employment and Workplace Relations engage with state and territory jurisdictions, and with employment and hearing loss peak bodies, to develop a 10 year strategy to better support, engage and retain hearing impaired Australians in the workforce. The strategy should be made publicly available, and detail annual performance targets and the level of resources committed to achieving them.

Response:

The Australian Government accepts this recommendation.

The National Disability Strategy (the Strategy), officially launched on Friday 18 March 2011, outlines a ten year national plan for improving the lives of people with disability, promoting participation, and creating a more inclusive society.

The Strategy has been developed in partnership with state, territory and local governments and in consultation with people with disability, their families and carers, and other key stakeholders. The Strategy will guide public policy across governments and aims to bring about change in all mainstream services and programs as well as community infrastructure. This change is important to ensuring that people with disability, including those with hearing impairments, have the same opportunities as other Australians – a quality education, health care, a job where possible and access to buildings, transport and social activities.

The Strategy identifies several areas for future action that have potential to improve employment opportunities for people with disability, including to:

- improve employer awareness of the benefits of employing people with disability;
- reduce barriers and disincentives for the employment of people with disability;
- encourage innovative approaches to employment for people with disability such as social enterprises, or initiatives to assist people with disability establish their own small business; and
- improve employment recruitment and retention of people with disability in all levels of public sector employment, and in funded organisations.

In the first year of the Strategy, the focus will be on the development of an implementation plan that will include mainstream policy areas identified in the Strategy. Areas for future action will be prioritised collaboratively with state and territory governments, in consultation with people with disability and other key stakeholders.
Recommendation 3
The Committee recommends that the Department of Education, Employment and Workplace Relations engages with state and territory education systems, higher education providers of training for teachers of children with hearing impairment, and major stakeholders (including the Royal Institute for Deaf and Blind Children and parent representative bodies), to develop and implement an agreed national qualification standard for teachers of children with hearing impairment. This standard is to be benchmarked against international best practice.

Response:
This is a matter for consideration by state/territory governments and universities. Australian universities are self-accrediting autonomous institutions and the Department of Education, Employment and Workplace Relations does not intervene in specific curriculum development issues. Any development of an agreed national qualification standard for teachers of children with hearing impairment should be undertaken between relevant teaching peak bodies, major stakeholders and higher education providers.

Recommendation 4
The Committee recommends that eligibility for the Australian Government Hearing Services Program be extended to include all Australians, subject to eligibility and a means test.

Recommendation 5
The Committee recommends that former child clients of Australian Hearing remain eligible for Australian Hearing support until the age of 25. This eligibility is to be subject to a means test. Former child clients of Australian Hearing who do not meet the means test are to have the option to access Australian Hearing support on a fee-for-service basis until the age of 25.

Recommendation 12
The Committee recommends that the Office of Hearing Services review its policy with regard to the replacement of damaged, lost or obsolete cochlear implant speech processors for eligible clients over 21 years of age, and if possible align it with the replacement policy for eligible clients less than 21 years of age.

Response:
The Australian Government accepts in principle these recommendations.

In the 2011-12 Budget, the Government announced a number of measures, totalling $47.7 million, which address some of these issues, including an extension to eligibility and improved service access for eligible clients under the Hearing Services Program (HSP).

From 1 January 2012, eligibility for hearing services provided by the Australian Government provider Australian Hearing, under the Community Service Obligations (CSO) component of the HSP, will be extended to young adults aged 21 up to 26 years of age (21 to 25 years inclusive).

This measure will allow hearing impaired young Australians continued access to free support, including hearing aid upgrades or replacements and maintenance, in line with the current policy for young adults under 21 years of age. It also includes an extension of access to those under 26 years of age for assistance with replacement of damaged, lost or obsolete cochlear implant speech processors. This will allow this group of young adults to complete their education or establish themselves in the workforce with a view to maintaining self-reliance in the longer term.

Funding will be provided to enable increasing numbers of children and young people, eligible Indigenous people and adults with complex hearing to access services provided under the CSO. It is expected that over 39,600 children and young adults with hearing impairments, 11,500 Indigenous people and 18,400 adults with complex needs will receive services over the next four years.

Recommendation 6
The Committee recommends that state and territory governments expand eligibility for Patient Assisted Travel Schemes to include support for accessing audiological services.
Response:
This is a matter for consideration by state/territory governments.

While responsibility for the funding and administration for the accommodation and assistance schemes rests with state and territory governments, the Australian Government is currently working with them on the development of key policy principles and models for a nationally consistent scheme.

Under national health reform, the Commonwealth and states/territories are undertaking further work in regard to Patient Assistance Transport Schemes, with a view to higher and more consistent national standards.

This builds on the National Healthcare Agreement, agreed in November 2008, which commits states and territories to provide and fund patient assistance travel schemes and ensure that public patients are aware of how to access the schemes.

Under direction of the Australian Health Minister’s Advisory Council, officials from all jurisdictional health departments through the Rural Health Standing Committee (RHSC) are currently examining harmonisation options through the development of key policy principles and models for a nationally consistent scheme. The Australian Government is leading this work on behalf of the RHSC.

Recommendation 7
The Committee recommends that the Australian Government provide funding to expand services for hearing impaired children in rural and remote areas through e-technology based programs such as that developed by the Royal Institute for Deaf and Blind Children.

Response:
This is also a matter for consideration by state/territory governments.

While responsibility for home based education and therapy support resides with state and territory governments, the 2011-12 Budget measure Better Start for Children with a Disability will complement existing state and territory services for children diagnosed with visual or hearing impairment, cerebral palsy, Down Syndrome and Fragile X syndrome. Financial support will be provided to enable parents to access early intervention therapies and treatment. Eligible children will receive access to up to $12,000 for therapy services, including speech pathology and audiology services, and an additional one off payment of $2,000 for families living in outer regional and remote areas where access to services is limited to assist with travel, home visit and similar expenses.

The Department of Families, Housing, Community Services and Indigenous Affairs also currently provides funding to the Royal Institute for Deaf and Blind Children (RIDBC) to assist them to provide the RIDBC Teleschool program. Over the period 2004-05 to 2008-09 a total of $2,469,944 was provided for the Teleschool. Funding of $1,127,810 has been provided in 2009-11 under the Family Support Program’s Invest to Grow Activity. Funding will continue to be provided at this level.

This funding has enabled RIDBC to expand its services throughout Australia.

Recommendation 8
The Committee recommends that the Council of Australian Governments extends its commitment for universal newborn hearing screening to include hearing screening for all children on commencement of their first year of compulsory schooling. Given the crisis in ear health among Indigenous Australians, the Committee believes urgent priority should be given to hearing screenings and follow up for all Indigenous children from remote communities on commencement of school.

Response:
This is a matter for consideration by state/territory governments.

While states/territories are responsible for delivering hearing screening services, the Australian Government will offer to work with them to identify opportunities for national collaboration to assist them to respond positively to the recommendation.

The Australian Government contributes to hearing assessment for children through two items on the Medicare Benefits Schedule (MBS):
• The Health Assessment for Aboriginal and Torres Strait Islander People is available annually for all Indigenous people. When provided to an Indigenous child, the health assessment takes into consideration the results of any previous hearing screening including neonatal screening. It includes an ear examination and audiometry testing where indicated, particularly for those of school age.

• The Healthy Kids Check is available to children between 3 and 5 years of age and is an assessment of their physical health, general well-being and development to ensure they are healthy, fit and ready to learn when they start school. The Healthy Kids Check includes a physical examination and assessment of the patients’ hearing.

Under the Healthy Start for Schools Initiative, commencing 1 July 2011, it will be a requirement that all children will have a health check, including hearing assessment, prior to starting school. These health and well being checks will be undertaken either through state health arrangements or through the Healthy Kids Check in the first year of implementation. The Australian Government has also announced the introduction of a health and well being check for three year olds, that will replace the current Healthy Kids Check. Advice on the activities to be undertaken as part of the health and well being check will be developed by a group of childhood health experts in 2011-12, with the check to be introduced by 2012-13 as part of the Healthy Start for Schools Initiative.

Additional support will be provided through the Better Start for Children with a Disability Initiative. This will provide a Medicare rebate for the development of a treatment and management plan for children with disabilities under the age of 13 years. Eligible children with a treatment and management plan will also be able to access Medicare rebates for up to four allied health diagnostic services and up to 20 relevant allied health treatment services per child. Treatment items will be available for children up to the age of 15 provided a treatment and management plan is in place before 13 years of age. These rebates will commence with the start of the Initiative on 1 July 2011.

Recommendation 9

The Committee recommends that the Audiology Society of Australia develop and make available to its members resources and professional development that promotes better understanding about the impact a diagnosis of hearing loss can have on people, and which provides resources and techniques for counselling and supporting people at the time of diagnosis.

Response:

This is a matter for consideration by the Audiology Society of Australia (ASA).

Recommendation 10

The Committee recommends that education providers develop professional standards for interpreters working in educational environments. These standards should be based on existing standards, such as the National Accreditation Authority for Translators and Interpreters paraprofessional level accreditation, or the National Auslan Interpreter Booking and Payment Services / Australian Sign Language Interpreter’s Association Deaf Relay Certification.

Response:

This is a matter for consideration by state/territory governments.

The Australian Government appreciates the critical contribution Auslan interpreters and other education paraprofessionals make to supporting students with a hearing impairment. Developing rigorous professional standards specifying the skills and knowledge interpreters need could help to ensure an on-going supply of suitably trained staff.

The states and territories employ school paraprofessionals and are best placed to partner with the deaf community in the development of professional standards to underpin interpreter training, performance management and professional development.

Recommendation 11

The Committee recommends that the Office of Hearing Services engage with representatives of the hearing aid manufacturing and distribution industry, private providers of hearing health

CHAMBER
services, and hearing health consumers to investigate:

(a) the relationship between the Voucher Program, top-ups and the financial viability of private health services; and

(b) whether extending the capacity to audiologists to bulk bill Medicare directly for clinical services would have any impact on the financial viability of private health services (i.e. would it ameliorate the need to push ‘top-ups’ to stay viable?); and

(c) that the findings of these investigations be made publicly available for the consideration of all hearing health stakeholders.

**Response:**

The Australian Government accepts in principle this recommendation.

The Department of Health and Ageing will discuss these issues with key stakeholders.

Under the Medicare Benefits Schedule, there are arrangements for audiologists to access some items for services delivered to clients in team care arrangements.

**Recommendation 13**

The Committee recommends that the public counters in all government shopfronts be accessible to people with a hearing impairment through the provision of hearing loop technology. The Committee recommends that the Office of Hearing Services coordinate a project which sets targets toward that end for all government agencies, at all levels of government, and that these be publicly reported upon.

**Response:**

The Australian Government accepts in principle this recommendation.

The Disability (Access to Premises – Buildings) Standards 2010 aim to achieve more consistent, systemic and widespread improvements in non-discriminatory access for people with a disability to publicly accessible buildings. The Premises Standards commenced from 1 May 2011 to coincide with the adoption of corresponding changes to the Building Code of Australia in each state and territory.

In new buildings and in existing buildings where building work is undertaken in reception areas, the Premises Standards require a hearing augmentation system, which can include an induction loop, to be provided at reception areas with an in-built amplification system if the public is screened from the service provider.

Commonwealth government shopfronts have commenced implementing strategies to comply with the Premises Standards. For example, Medicare Australia has installed assistive listening devices at several shopfronts in most states and territories.

These systems are designed for people with a hearing impairment, whether they use a hearing device or not.

Centrelink’s Disability Action Plan 2010-2013 includes a commitment to 100 percent of Centrelink premises and service delivery outlets comply with Australian Standards and the Building Code of Australia.

**Recommendation 14**

The Committee recommends that the national data set and register for neonatal hearing screening, currently under development by the Neonatal Hearing Screening Working Group on behalf of the Australian Health Ministers’ Advisory Council, be expanded to include a national database which can:

(a) track children through neonatal hearing screening, diagnosis and intervention; and

(b) record and report cognitive, linguistic, social and emotional development outcomes of children diagnosed at birth with a hearing loss; and

(c) be expanded in future years to track all children diagnosed with a hearing impairment later in life.

**Response:**

This is a matter for consideration by state/territory governments.

While the delivery of screening services is a state/territories responsibility, the Australian Health Ministers Advisory Council auspiced Working Group, established in 2009, is currently discussing potential models for a national dataset and registry function. Implementation of a dataset
and registry function would need to be considered by the Australian Health Ministers’ Conference.

**Recommendation 15**

The Committee recommends that the Australian Government fund the National Acoustic Laboratories to undertake longitudinal research into the long-term impacts of recreational noise, particularly exposure to personal music players.

**Recommendation 16**

The Committee recommends that Australian Governments continue to prioritise and fund research into occupational noise exposure. The focus of research should be informed by the results of the ‘Getting heard: effective prevention of hazardous occupational noise’ project, currently being undertaken by Safe Work Australia, and include investigation into the effectiveness of current legislation in limiting occupational noise exposure. Research should continue to develop understanding about the design of workplace equipment, hearing protection, and the long-term effects of acoustic shock and acoustic trauma.

**Recommendation 17**

The Committee recommends that Australian Governments prioritise and fund research into the reasons for the under use of hearing aids, and develop practicable strategies for hearing health practitioners to help overcome the under use in the community.

**Recommendation 18**

The Committee recommends that the Department of Health and Ageing work closely with Safe Work Australia to investigate the relationships between ototoxic substances and hearing impairment, and the possible implications for workplace safety practices.

**Recommendation 19**

The Committee recommends that the Department of Health and Ageing works with Meniere’s Australia to identify opportunities for research into the prevalence of Meniere’s disease in Australia, rates of diagnosis, options for treatment and personal management, and the socio-economic impact of the disease, including on the employment and lifestyles of those affected.

**Response:**

The Australian Government accepts in principle this recommendation.

Through the 2011-12 Budget, the Australian Government has provided additional funds for research into the underuse of hearing aids. The Government will consider the proposed areas of research and take these into account in prioritising allocation of future research funding. In addition, the Department of Health and Ageing will work with Meniere’s Australia to identify potential opportunities for further research.

Currently the Australian Government supports research into hearing loss prevention through a number of mechanisms including the Hearing Loss Prevention Program ($7 million is available from 2010-11 until 2012-13) and funding for the National Acoustic Laboratories through Community Service Obligations’ funding arrangements.

Under the Cooperative Research Centres (CRC) Program, administered by the Department of Innovation, Industry, Science and Research, the Government is providing $32.55 million over seven years to the HEARing CRC (commencing 1 July 2007 until 30 June 2014). One of the research projects supported by the Centre aims to determine the barriers to noise exposure reduction and the sources and profiles of noise exposure (www.hearingcrc.org).

Additionally, there is continued Australian Government support for research into occupational noise exposure through the competitive funding schemes of various research funding agencies, including the National Health and Medical Research Council, the Australian Research Council and the Department of Innovation, Industry, Science and Research.

**Recommendation 20**

The Committee recommends that the Department of Health and Ageing provides funding for Australian Hearing to develop, in close consultation with major stakeholders, a national hearing health awareness and prevention education campaign. This campaign should have three dimensions. It should:
(a) target those at high risk of acquired hearing loss (including employers and employees in high risk industries, farmers and rural workers, and young people) to improve their knowledge about hearing health and change risky behaviours;

(b) raise the level of awareness about hearing health issues among the broader Australian population to help de-stigmatise hearing loss; and

(c) promote access to support services for people who are hearing impaired.

Response:

The Australian Government notes this recommendation. Public health campaigns are also a matter for consideration by state and territory governments.

Australian Hearing is one of many service providers under the Australian Government’s HSP. The Department of Health and Ageing will discuss the proposal for an awareness raising campaign with the states and territories and will explore whether there is an appropriate role for HSP providers in such a campaign.

As part of the ear health component of the Improving Eye and Ear Health Services for Indigenous Australians for Better Education and Employment Outcomes measure, the Department of Health and Ageing is implementing a national social marketing communications project which aims to increase awareness of ear disease and to highlight the importance of seeking and following treatment to prevent hearing loss in Aboriginal and Torres Strait Islander people(s). The National Indigenous Ear Health Campaign will primarily target Aboriginal and Torres Strait Islander mothers and female carers, especially those with children under five years of age, as well as intermediaries such as health care workers and teachers. Administered funding of $9.57 million was allocated to the campaign, which will be implemented from 2009-2013.

Recommendation 21

The Committee recommends that the Department of Education, Employment and Workplace Relations and Department of Health and Ageing jointly establish a taskforce to work across portfolios and jurisdictions on a plan to systematically and sustainably address the educational needs of hearing impaired Indigenous Australian children.

Response:

The Australian Government accepts this recommendation.

The Department of Education, Employment and Workplace Relations and the Department of Health and Ageing welcome and support the opportunity to work together and with other agencies to address the educational needs of hearing impaired Indigenous Australian children.

Dialogue between these departments has already commenced, to discuss possible points of common interest around implementation of the Aboriginal and Torres Strait Islander Education Action Plan (the Plan).

The Plan, sets out a five year strategy across six domains of action to make substantial inroads into closing the education gaps for Indigenous children.

One of the actions in the Plan notes that:

The Ministerial Council for Education, Early Childhood Development and Youth Affairs will seek support from the Australian Health Ministers’ Conference and Community and Disability Services Ministers’ Conference to strengthen connections between schools and health, welfare, family support and youth and community services at local and systemic levels. Consideration will also be given to the needs of Aboriginal and Torres Strait Islander students with disabilities.

Supporting children with hearing difficulties was one of several areas of interest discussed in this context, and this important area is currently being examined by Commonwealth, state and territory officials in the course of implementing the Plan.

Recommendation 22

The Committee recommends that Australian Hearing be enabled under the Australian Hearing Services Act 1991 to supply and maintain sound field systems in all new classrooms, and in all existing classrooms where there is a significant proportion of Indigenous children.
Recommendation 23

The Committee recommends that the Department of Health and Ageing work with the Department of Education, Employment and Workplace Relations to develop a program with Australian Hearing to:

(a) supply and maintain sound field amplification systems and acoustic conditioning in all new classrooms where there is a significant population of Indigenous children; and

(b) report publicly on where the sound field amplification systems and acoustic conditioning are installed to assist parents in making informed choices about schools for their children.

Response:

This is a matter for consideration by state/territory governments.

While the primary responsibility for supplying and maintaining sound field amplification systems in schools rests with the states and territories, the Australian Government has recently undertaken a cross sectoral project in Western Australia.

Acknowledging the links between hearing and early literacy acquisition, the Department of Education, Employment and Workplace Relations provided funding of $1.3 million to support the Kimberley Sound Amplification Project. This cross sectoral project provided sound amplification equipment in all classrooms in Kimberley schools in the Government, Catholic and independent sectors. The project is a response to evidence that on any one day in a Kimberley classroom, up to 65 percent of Aboriginal students can experience intermittent hearing loss.

Under the Smarter Schools and Closing the Gap in the Northern Territory National Partnerships, funding provided has supported the Northern Territory Department of Education to install Sound Field Systems in targeted remote schools.

In addition, it has enabled the provision of enhanced services and support for students with conductive hearing loss to 37 targeted remote schools.

The Department of Health and Ageing, the Department of Human Services and Australian Hearing have a role to play in supporting the Department of Education, Employment and Workplace Relations in the development of any standards and types of sound systems best suited to the needs of children particularly in Indigenous communities. The Department of Education, Employment and Workplace Relations will also work with the relevant education providers in the states and territories, so that together, governments and education providers can systematically and sustainably address the educational needs of hearing impaired Indigenous Australian children.

Recommendation 24

The Committee recommends that education providers ensure that teacher induction programs for teachers posted to schools in Indigenous communities emphasise the likelihood that hearing impairment among their students will be very high. Induction programs for these teachers must include training on the effects of hearing health on education, and effective, evidence-based teaching strategies to manage classrooms where a majority of children are hearing impaired.

Response:

This is a matter for consideration by state/territory governments.

The Australian Government notes the importance of supporting teachers and special training needs for those teachers deployed to Indigenous communities. While the primary responsibility for teacher recruitment, including induction and professional development of teachers, is the responsibility of the states and territories and the relevant education providers, the Government supports working with jurisdictions to ensure the best outcomes for Indigenous students.

Recommendation 25

The Committee recommends that the Department of Education, Employment and Workplace Relations work with jurisdictions to develop accredited professional development programs for teachers and school leaders on the effects of hearing health on education, and effective evidence-based teaching strategies to
manage classrooms with hearing impaired children.

**Response:**
The Australian Government accepts in principle this recommendation.

The Department of Education, Employment and Workplace Relations supports working in partnership with jurisdictions to ensure all teachers are equipped with evidence based teaching strategies and professional learning to support the needs of all students. Under the Smarter Schools - Improving Teacher Quality National Partnership, the Australian Government has committed $550 million to support reforms to drive a high performing, quality education workforce.

A key element of this Partnership involves the sharing of best practice, materials and resources between jurisdictions and establishing a framework to guide professional learning for principals, teachers and school leaders. In consultation with jurisdictions, the department supports developing accredited professional development on the effects of hearing health and education.

As an example, under the Smarter Schools and Closing the Gap in the Northern Territory National Partnerships, the Northern Territory Department of Education and Training is providing enhanced services and support for students with conductive hearing loss. To date, 37 targeted remote schools have accessed services such as professional learning programs for classroom teachers, special education teachers and assistant teachers.

The More Support for Students with Disabilities initiative was launched on 3 May 2011 and runs until December 2013 with the aim of providing immediate intensified, targeted assistance to teachers and schools to support students with disabilities, including the hearing impaired. This initiative will support building the knowledge and capacity of teachers of hearing impaired students. It will enable education authorities to assist schools and their staff to access tailored expert advice to learn skills and strategies to improve the education of students with disabilities.

**Recommendation 26**
The Committee recommends that the Department of Health and Ageing make the changes to Medicare necessary to enable specialists and practitioners to receive public funding support for ear health services provided remotely via ear telehealth.

**Response:**
The Australian Government accepts this recommendation.

Under the Connecting Health Services with the Future: Modernising Medicare by Providing Rebates for Online Consultations telehealth initiative announced after the 2010-11 Budget, the Government has committed $352.2 million to provide, from 1 July 2011, Medicare rebates for consultations conducted via video conferencing across a range of specialties. This is likely to be of particular benefit (though not limited) to patients of consultant physicians, surgeons (including ear, nose and throat specialists) and psychiatrists.

Financial incentives will also be available to encourage uptake of online consultations, and funding will be available to train health professionals in online technologies. In addition, $50 million will be provided for expansion of the GP After Hours Helpline to include online services, from 1 July 2012.

**Recommendation 27**
The Committee recommends that the Department of Health and Ageing work closely with state and territory jurisdictions to develop and implement a national plan which:

(a) provides resources to conduct hearing assessments for all Australians serving custodial sentences who have never received such an assessment, including youths in juvenile detention; and

(b) facilitates prisoner access to those hearing assessments; and

(c) encourages a high level of participation in those hearing assessments; and

(d) makes the findings of the hearing assessments available to the public (within privacy considerations).
Response:
The Australian Government accepts in principle this recommendation.

States and territories have responsibility for both the management and operation of prisons and juvenile justice centres and screening for hearing impairment.

The Australian Government will bring this recommendation to the attention of the state and territory governments.

The Australian Government is committed to supporting the delivery of initiatives and services to hearing impaired Australians, including those in custodial settings. A person who already has a hearing problem diagnosed, and is already in receipt of Commonwealth funded hearing service at the time they become incarcerated, may continue to receive Commonwealth funded hearing services during the period of incarceration, provided that the prisoner initiates the provision of those services.

Any medical attention leading to the diagnosis of a hearing problem, or provision of hearing services which is initiated by a custodial authority, or carried out on behalf of a custodial authority, must be funded by the relevant state or territory.

Recommendation 28
The Committee recommends that the relevant ombudsman in each state and territory conduct an audit of Australians serving custodial sentences, including youths in juvenile detention, and consider whether undiagnosed hearing impairment may have resulted in a miscarriage of justice and led to any unsafe convictions.

Response:
This is a matter for consideration by state/territory governments.

States and territories have responsibility for the management and operation of prisons and juvenile justice centres. The Australian Government will bring this recommendation to the attention of the state and territory governments.

Recommendation 29
The Committee recommends that the Department of Health and Ageing:

(a) provide funding and resources to manage a national biennial Indigenous ear health conference; and

(b) make the outcomes of those conferences publicly available to assist researchers and practitioners in the field of hearing health.

Response:
The Government accepts this recommendation.

The Department of Health and Ageing will provide funding to support resources for a national Indigenous ear health conference. Preliminary discussions have been held with potential organisers with a view to holding the conference in the second half of 2011.

Recommendation 30
The Committee recommends that the Department of Health and Ageing work with state and territory health agencies to provide funding to support the continuation, promotion and expansion of the Ear Health Infonet.

Response:
The Australian Government accepts this recommendation.

The Australian Indigenous HealthInfoNet has been funded by the Australian Government through the Department of Health and Ageing since it was established in 1997.

$491,266 (GST inclusive) is being provided to Edith Cowan University for the expansion of EarInfoNet over three years from 2010-2011 to 2012-2013.

Recommendation 31
The Committee recommends that guidelines for police interrogation of Indigenous Australians in each state and territory be amended to include a requirement that a hearing assessment be conducted on any Indigenous person who is having communication difficulties, irrespective of whether police officers consider that the communication difficulties are arising from language and cross-cultural issues.

Response:
This is a matter for consideration by state/territory governments.

In endorsing the National Indigenous Law and Justice Framework, all Australian Governments...
have committed to the goal of improving all justice systems so that they comprehensively deliver on the justice needs of Aboriginal and Torres Strait Islander peoples in a fair and equitable manner. Guidelines for police interrogation of Aboriginal and Torres Strait Islander people are matters for each jurisdiction. The Australian Government will bring this recommendation to the attention of the state and territory governments.

**Recommendation 32**

The Committee recommends that the National Judicial College of Australia work with state and territory jurisdictions to develop and deliver accredited professional development programs for judges, lawyers, correctional officers, and court officials on the effects of hearing impairment on Indigenous engagement with the criminal justice system, and effective evidence-based techniques for engaging effectively with people with a hearing impairment in courtroom environments.

**Response:**

The Government notes this recommendation. The National Judicial College of Australia (NJCA) is one of a number of bodies which provide programs and professional development resources to judicial officers in Australia. Other judicial education bodies include the Australian Institute of Judicial Administration, the Judicial Commission of NSW and the Judicial College of Victoria. The issue of hearing impairment has been dealt with in past sessions on disability awareness conducted by the NJCA and other judicial education bodies.

The Attorney-General’s Department has referred the recommendation to the NJCA for consideration of how hearing impairment issues can be raised in other NJCA programs.

The provision of professional development programs for lawyers is a matter for state and territory Law Society and Bar Associations. The Attorney-General’s Department will ensure that this recommendation is brought to their attention. The Attorney-General’s Department has referred the recommendation to the Australian Federal Police (AFP) in relation to professional development programs for AFP officers.

All Australian governments endorsed the National Indigenous Law and Justice Framework in November 2009. The Framework, developed by the Standing Committee of Attorneys-General, provides a comprehensive approach to preventing and reducing contact by Aboriginal and Torres Strait Islander people and the criminal justice system and outlines a number of strategies and actions that jurisdictions could consider to address specific issues. The provision of culturally competent training for people in all areas of the justice system is a key strategy.

**Recommendation 33**

The Committee recommends that hearing loops are available in interview rooms and public counters of all police stations, and in all courtrooms, and that loop receiver devices be made available for people without hearing aids.

**Response:**

The Government notes this recommendation, which is also a matter for consideration by state and territory governments.

In responding to the House of Representatives Standing Committee on Legal and Constitutional Affairs Report, Access All Areas, the Government agreed to consider the development of disability standards in relation to building fit out. This consideration may include the provision of hearing augmentation systems in some public buildings, including police stations.

The Australian Federal Police (AFP) currently uses accredited sign language translators to assist in taking witness statements from victims and conducting records of interview with suspects where these individuals have hearing difficulties. This is covered by AFP guidance materials and is done to ensure compliance with relevant legislation.

The use of hearing loops in a police station could be problematic. For example, if an officer was conducting a taped record of interview with a person in an interview room, it is possible that the conversation could be radiated outside the interview room and picked up by someone else, creating a breach of privacy.

ACT Policing, a business unit of the AFP, currently has a 'deaf' phone in operation in the Police Operations room. This phone translates
recorded messages into typed messages that are printed on a device attached to the phone (a teleprinter).

Arrangements for other police stations are the responsibility of the states and territories. The Australian Government will bring this recommendation to the attention of the state and territory governments.

**Recommendation 34**

The Committee recommends that correctional facilities in which greater than 10 percent of the population is Indigenous review their facilities and practices, and improve them so that the needs of hearing impaired prisoners are met.

**Response:**

This is a matter for consideration by state/territory governments.

States and territories have responsibility for the management and operation of prisons and juvenile justice centres. The Australian Government will bring this recommendation to the attention of the state and territory governments.

The states and territories deliver corrective services in accordance with the Standard Guidelines for Corrections in Australia, which comprise a uniform set of principles that are used by the jurisdictions in developing their own relevant legislative, policy and performance standards on correctional practice.

The Guidelines prescribe that prisoners should be managed fairly and openly without discrimination on grounds, including physical or mental impairment. The Guidelines specify that all prisoners should be inducted into the prison by undergoing a formal reception process that provides key information on the prison regime. This information should be presented in a linguistic and culturally relevant form, using interpreters where necessary. Prisoners should also be screened upon admission to enable the prison management to make an initial health and psychological assessment in order to identify and provide appropriate intervention for any pressing medical or welfare concerns.

The Guidelines provide that, when being classified or placed, prison staff should consider prisoners’ individual needs in regard to health and or disability. Prisoners should be appropriately managed according to their individual needs in regard to health, any intellectual disability, cultural or linguistic issues.

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**Government interim response to the Senate Economics References Committee report, The regulation, registration and remuneration of insolvency practitioners in Australia: the case for a new framework**

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| **Recommendation 1** | The committee recommends that the corporate insolvency arm of ASIC be transferred to ITSA to form the Australian Insolvency Practitioners Authority (AIPA). The agency should be governed by the Financial Management and Accountability Act under the Attorney General's portfolio.  

The Memorandum of Understanding between ASIC and ITSA should be updated to ensure that ASIC provides to the new agency adequate resources and the expertise needed to support the oversight of corporate insolvency sector.  

Not accepted.  

A new single regulator is not required in order to address the concerns of the Senate Committee in relation to ASIC’s role in regulating the corporate insolvency industry.  

There would be major upfront costs of merging the regulators, which may not necessarily be offset by long-term savings. The extent to which simply unifying the regulator will result in an improved regulatory environment is not clear. Separate policy considerations apply to many aspects of personal and corporate insolvencies and there is not currently sufficient evidence that a one-size-fits-all approach for all issues would necessarily |
Recommendation 2 The committee recommends that the government commission the Australian Law Reform Commission to inquire into the opportunities to harmonise Australia’s personal insolvency and corporate insolvency legislation. The Commission must report to the government within 12 months of the tabling of this report.

The Government agrees that there should be greater consistency between the personal and corporate insolvency systems but does not consider it necessary to commission the Australian Law Reform Commission (ALRC) to undertake an inquiry at this time. Significant work is already being progressed by relevant government agencies to identify areas for greater harmonisation. An ALRC inquiry may duplicate or delay the progress of this work.

The Government will facilitate the closer alignment of the personal and corporate insolvency laws through its options paper on regulatory reform options for the registration, regulation, and remuneration of participants of the corporate and personal insolvency industries.

Recommendation 3 The committee recommends that a 'flying squad' be established within the new insolvency regulator. The unit should be responsible for conducting investigations of a sample of insolvency practitioners, some selected at random, others with the aid of a risk profiling system and market intelligence.

Noted.

Recommendation 4 The committee recommends that section 213 of the Australian Securities and Investment Commission Act 2001 be replaced with the following:

All hearings, evidence and reasons shall be heard or given in open session unless otherwise ordered by a judge of a Court of any State or Territory or the Federal Court of Australia who

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Recommendation 5  The committee recommends that the new Insolvency Practitioners Authority establish a licensing system for corporate insolvency practitioners similar to the system currently used by ITSA. Practitioners should be required to renew their license every three years. The new regulator should have the power to suspend a practitioner's license if they are not adequately insured or if a matter referred to the CALDB is of sufficient concern as to warrant suspension.

Recommendation 6  The committee recommends that as part of the licensing and re-licensing processes, all corporate insolvency practitioners are required to pay a licensing fee.

Recommendation 7  The committee recommends that it be a condition of a practitioner's first license renewal (ie: after three years of registration) that he or she has completed the IPAA's Insolvency Education Program.

Recommendation 8  The committee recommends that the new Australian Insolvency Practitioners Authority set and administer a 'closed book' written examination. The passing of this examination should be a pre-requisite for gaining a license as a corporate insolvency practitioner.

Recommendation 9  The committee recommends that the new Australian Insolvency Practitioners Authority convene an eight person advisory panel to devise a written examination. The panel should be chaired by the Chairman of the Authority and should also include:
Recommendation 10

The committee recommends that the new insolvency regulator work with the insurance industry to ensure that insurance companies notify the regulator if a practitioner's insurance lapses or expires. In these cases, the regulator should contact the practitioner immediately and allow the practitioner 14 days to acquire the policy. If this is not done, the regulator must suspend the practitioner's license.

The regulator should sight the insurance documents of practitioners as part of its 'flying squad' activities.

Recommendation 11

The committee recommends that the Corporations Act 2001 be amended to impose a penalty on registered insolvency practitioners who operate without PI insurance.

Recommendation 12

The committee recommends that the major accountancy bodies—the Institute of Chartered Accountants of Australia, CPA Australia and the National Institute of Accountants—establish a fidelity fund to ensure that creditors are insured for fraud and wrongdoing.

Recommendation 13

The committee recommends that section 1282(2)(a)(i) of the Corporations Act is amended to read:

...is an Australian Legal Practitioner holding a current practising certificate with at least five years' post admission experience as a practising commercial lawyer;

and / or
…holds a Masters of Business Administration with at least five years' commercial experience.

**Recommendation 14** The committee recommends that as part of the proposed licensing system, the insolvency regulator can suspend a liquidator's license if they believe overcharging has occurred.

**Recommendation 15** The committee recommends that section 503 of the Corporations Act 2001 be amended to insert the following provision:

For purposes of this section, cause shown includes:

(a) A vote of no confidence by a majority of creditors;

(b) Where it appears time based charging of the incumbent liquidator has not or will not result in a reasonable cost-benefit analysis for the company.

**Recommendation 16** The committee recommends that the new insolvency regulator work with the IPAA and the Institute of Chartered Accountants to ensure that insolvency practitioners comply with the remuneration report template set out in the IPAA Code of Professional Practice.

**Recommendation 17** The committee recommends that within the new Insolvency Practitioners Authority, there is a unit established that is responsible for gathering, collating and analysing data on a range of corporate and personal insolvency matters. The data must be made publicly available in the Authority's Annual Report and online. There should be no charge for accessing these data.

Ordered that the committee reports be printed.
COMMITTEES
Community Affairs References Committee
Reporting Date
Senator PARRY (Tasmania—Chief Opposition Whip in the Senate and Deputy Manager of Opposition Business in the Senate) (16:28): by leave—I move:
That the time for the presentation of the report of the Community Affairs References Committee on the impacts of rural wind farms be extended to 23 June 2011.
Question agreed to.

Legislation and References Committees
Reporting Date
Senator McEWEN (South Australia—Government Whip in the Senate) (16:28): by leave—I move:
That:
(a) the final report of the Environment and Communications References Committee on the status, health and sustainability of Australia’s koala population be presented by 24 August 2011;
(b) the final report of the Rural Affairs and Transport Legislation Committee on the exposure draft and explanatory memorandum of the Illegal Logging Prohibition Bill 2011 be presented by 15 June 2011;
(c) the final report of the Environment and Communications Legislation Committee on the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011 be presented by 15 June 2011;
(d) the final report of the Community Affairs References Committee on planning options and services for people ageing with a disability be presented by 21 June 2011; and
(e) the final report of the Community Affairs Legislation Committee on the provisions of the Family Assistance and Other Legislation Amendment Bill 2011 be presented by 20 June 2011.
Question agreed to.

Education, Employment and Workplace Relations Legislation Committee
Report
Senator McEWEN (South Australia—Government Whip in the Senate) (16:30): I seek leave to move a motion in relation to the report of the Education, Employment and Workplace Relations Legislation Committee on time critical legislation.
Leave granted.
Senator McEWEN: I move:
That the report be adopted.
Question agreed to.

Consideration of Reports and Government Responses
Senator McEWEN (South Australia—Government Whip in the Senate) (16:31): I seek leave to move a motion to list committee reports and government responses to committee reports on the Notice Paper for further consideration.
Leave granted.
Senator McEWEN: I move:
That consideration of each of the committee reports and government responses to committee reports tabled today be listed on the Notice Paper as orders of the day.
Question agreed to.

PARLIAMENTARY REPRESENTATION
Valedictory
The PRESIDENT: Pursuant to the order of the Senate agreed to on 11 May 2011 as amended today the Senate will now move to valedictory statements.
Senator FORSHAW (New South Wales) (16:31): This must be an important speech because I have actually made a few written notes and somebody just said to me that I have actually combed my hair! Today I make
my farewell speech to the Senate—a fond farewell after 17 years—a farewell with few regrets and no complaints. It has certainly been a privilege to have served in the parliament of this great nation. I am also extremely fortunate. I am leaving on my own terms with new challenges and opportunities ahead.

There are families today who are not so fortunate. There are families and friends grieving at the loss of their loved ones who recently died tragically in Afghanistan in the service of their country. We noted their passing today. They have paid the ultimate price and made the ultimate sacrifice for the democratic values and life that we enjoy and that we here in this parliament are sworn to uphold. I honour them for their courage and I extend my sincere condolences to their families.

When I made my first speech on 29 June 1994, I stated:

... it is our primary task in the parliament to ensure that people enjoy a free, peaceful, democratic society; that they live in a clean, safe environment; that they have access to adequate health care, education, employment opportunities, security in retirement and a decent standard of living. I am pleased to be part of a government and of a party that continues to pursue and deliver these objectives.

I said those words 17 years ago and I still believe them to be true. I came into this place when the Labor government was in power and Paul Keating was Prime Minister. I leave at the end of this month with Labor again in government and Julia Gillard as Prime Minister. The years in between have certainly never been dull, I have seen the highs and lows of political fortune. I was here for the last two years of the Keating government, from May 1994 until that devastating defeat in March 1996. I was here during the long years of opposition, from March 1996 until our return to government in November 2007, led by former Prime Minister, Kevin Rudd.

Each of these Labor governments can claim credit for substantial achievements. In my first speech I made mention of the Hawke and Keating governments' great advance in extending superannuation to the entire Australian workforce. I am pleased and proud to have been a part of that development during my days with the Australian Workers Union. This is a lasting achievement as the level of accumulated funds today approaches $2 trillion, guaranteeing that all Australians and their families will in the future have a decent retirement income. It has grown from $200 billion when I entered the Senate in 1994. I also note that the most successful funds, particularly those who have succeeded during the recent financial crisis, have been the industry based funds, those funds developed by the union movement and industry over 20 years ago. I urge the government to work towards increasing the current superannuation guarantee from nine per cent to the target figure of 15 per cent.

Another achievement of the Hawke and then Keating government was the establishment of APEC and the increasing engagement with Asia. Those governments drove it and today we enjoy the continuing economic benefits of that relationship particularly with the major economies of China, India and Korea.

Almost 12 years of my time in this place was spent in opposition. At times, quite often, they were dispiriting days when we spent many hours in this chamber endeavouring to hold the government to account. The Senate in those days, I believe, performed exceptionally well and I think the opposition particularly held the government to account. I recall not long after I arrived meeting the great Fred Daly as he escorted
visitors on a tour of Parliament House. Fred would stop when he saw me and say to the people that he was showing around the building, 'Ladies and gentlemen, meet an example of life after death—meet a senator.'

I have been friends with the Daly family for many years and I know that Fred said that in jest—or maybe—because, as we all know, Fred had a long career in the other place. With the events of 1975, he certainly took a dim view of the Senate, a view that is often reflected in the other place. But we were a constructive opposition here in the Senate. We were effective, we were united and we held the Howard government to account. We fought for the principles that we believed in. We supported legislation that we believed was appropriate and we opposed that which we believed was not.

I want to pay particular tribute here today to the leadership, firstly, of John Faulkner and then Chris Evans during those long years in opposition. My major disappointment in all that time in opposition is that Kim Beazley never achieved the election victory I believe he deserved. Kim was an excellent parliamentarian, minister and Deputy Prime Minister. He was a wonderful person with a great passion for Australia. I firmly believe he would have made a great Prime Minister. He almost achieved that in 1998 against huge odds, achieving a majority of the votes but, unfortunately, not a majority of the seats. And in 2001 he was thwarted by, firstly, the Tampa crisis and the misleading campaign which surrounded that incident, and, subsequently, by the impact of the terrorist attacks on New York on September 11.

The hardest decision I ever made in the parliament was in 2006 when I supported a change in the leadership of the Australian Labor Party from Kim Beazley to Kevin Rudd. It was the right decision for the party at the time, but it is a decision I made with great sadness because Kim was a good friend. I hope he has forgiven me. He is doing us proud as Ambassador to the United States.

In the years to come the Rudd government's achievements will be remembered—in particular, the economic stimulus package, the establishment of the G20, the apology to the stolen generations and the expansion of the East Asia Summit. These are some of the great achievements and I believe there will be more recognised in time to come. I thank Kevin Rudd for leading us out of the political wilderness—and I spent 12 years in this building in it. I think Kevin Rudd's leadership in the 2007 campaign, along with Julia Gillard, was exceptional.

Australia is the only advanced country that avoided a recession during the global financial crisis. Indeed, we were so successful that many people now doubt that the situation was as serious as first thought. Well, it was. You only have to look at the problems that confront the United States and countries in Europe such as Ireland, Greece and Portugal to see just how serious the crisis was, and still is, for much of the Western world.

A major component of the economic stimulus package of the Rudd government was the Building the Education Revolution program. It has been attacked constantly by the media shock jocks and indeed the coalition. I have had the honour of visiting many schools both in Sydney and in regional and rural New South Wales to open BER facilities. Government schools, nongovernment schools, schools in the Catholic system, independent schools, small schools, large schools—in every case the reaction has been overwhelmingly positive. Principals and parents groups say to me that they would have waited 20 or 30 years for these facilities. They may have even waited forever to receive the new classrooms, the
assembly halls, the toilet blocks, the covered outdoor learning areas, the smart boards, the canteens and so on. Teachers, students and community representatives are absolutely delighted by the new facilities at their schools. They have nothing but praise for the BER. I do not deny that there have been problems. After all, has anyone ever built a house and not had some problem with the architect or the builder? Well, we have been building 24,000 projects against across 9,000 schools. The BER is a fantastic program that will have lasting benefits for our education system for generations to come. And what could be a more important objective than the education of our young Australians?

I should admit that I have one other regret in my time in the Senate, and that is that I did not make it onto the frontbench except as a shadow parliamentary secretary. Actually, I was selected for the opposition frontbench after the 1996 election—there were not many of us around so the competition was not so great. I was selected by my colleagues in the New South Wales Right, but then I agreed to give up my spot for someone else and in the interests of affirmative action. In hindsight it was not my smartest-ever decision. But I was rewarded—I became caucus returning officer! And I still am. By the time we came to office in 2007, the opportunity to serve on the frontbench had passed, and I had decided by that time that this was going to be my last term.

Not everyone can be a minister—some of us have to fill up the back seats here—but we all do important work. Over the past 17 years I have worked on many committees of the Senate and joint committees. In fact, there are not many committees that I have not been a member of at some stage. When I first arrived in the building—I was a casual replacement at the time—the whip at the time, Gerry Jones, asked me what I was interested in. I replied, 'Industrial relations, education, foreign affairs, health—any of those will do.' And he put me on Scrutiny of Bills! Don't get me wrong, the Scrutiny of Bills Committee is a very important committee, and I learnt much about the legislative process in the three years that I was a member of it. It was where I began a great friendship with the one and only Senator Barney Cooney, one of the true gentlemen of this chamber. Since then I have been privileged to be the chair of a number of Senate committees—the Senate foreign affairs committee, the Senate Finance and Public Administration Committee and the Senate select committee on the Lucas Heights reactor. I think I got that one because I live very close to it. I have lost count of the number of inquiries I have participated in—there are so many—but I mention in particular the inquiries into mental health, Medicare, consular services, the F111, dairy deregulation and the Regional Partnerships program as being some of the more important and most memorable. I am particularly proud of the fact that, following the report of the Select Committee on Mental Health, the Howard government and more recently the Gillard government substantially increased funding to mental health services. I know firsthand the impact that mental illness can have on people and their families and I urge this government and all future governments to continue to increase funding for those people most in need.

Since we returned to government in 2007 it has been my special privilege to have chaired the Joint Standing Committee on Foreign Affairs, Defence and Trade and also to have been a member of the Joint Committee on Intelligence and Security, both extremely important committees of the parliament. The Joint Standing Committee on Foreign Affairs, Defence and Trade is the largest committee of the parliament and is
the one that most members of parliament aspire to be a member of.

Australia has had a major role to play in international affairs, both in the Asia Pacific region and also more broadly. We can be proud of our role over many years, particularly since World War II when the Labor governments of Curtin and Chifley did so much to defend democracy and subsequently to promote peace, security and development. The world has changed substantially since I arrived in 1994. Some of it has been for the better, such as the economic development in Asia and the growing movement we now see towards democracy in north Africa. However much of it has been for the worse, particularly the increased threat of terrorism, increased poverty, the denial of human rights, the genocide that continues unfortunately in a number of states and is sponsored by those states, and the continuing failure to resolve longstanding disputes in the Middle East and Africa.

In this parliament we will not always agree on foreign policy—Iraq was a stark example of that—but we must all have a common objective to promote Australia’s interests internationally. That is why I strongly support our campaign for membership of the United Nations Security Council. If we want to be in the game, if we want our voice to be heard internationally, if we want to promote reform of the United Nations rather than just criticise it or talk about it or complain about it, we should aim for the First 15: the UN Security Council. As I leave the parliament, the government faces major economic and environmental challenges. I wish everyone, on all sides, well in the debates and in the decisions they will make on these important issues in the coming months and years.

There are so many people to thank and so little time. Firstly, I thank my party for having given me the opportunity to serve in the Senate and I thank the people of New South Wales for re-electing me on two occasions, from the No. 3 spot. It is not always easy, but I had some smart people working out the preference arrangements.

The Senate staff are some of the most professional people I have ever met in my long career. I thank particularly clerks Harry Evans, Rosemary Laing and Cleaver Elliot. They were always instantly available to provide advice. I also thank Peter and Angie and the team in the Table Office. My office is located directly opposite the Table Office. I moved there 10 to 12 years ago and every time they offered me a new office I refused to go because the Table Office is one of the places in this building that we have come to rely on so much. I also thank Brett and the IT staff—like John Faulkner, I am hopeless at computers so I relied on them a lot as well. Thanks also to the attendants and security staff.

Thank you particularly to all the staff of the committees I have worked on and been a member of over the years. There are so many that I cannot mention them all, but I do particularly want to acknowledge a former secretary of a committee, Alistair Sands. I worked closely with Alistair Sands on the Senate Finance and Public Administration Committee for a long time and he was one of the best. I particularly mention Anne Lynch and Neil Bessel, two wonderful people, two great servants of the Senate, who sadly passed away far too early. To my mate, Ian, in the Senate Transport Office: thanks, mate, particularly for sending those cars late at night when I was busy working on my speeches. Hopefully, Ian, we will get a round of golf soon.

When I arrived in this building I was fortunate to have many friends who were already here and I have made many new
ones along the way; I cannot mention them all. Many of them have been on the other side of the chamber. I do want to particularly single out Senator Alan Ferguson. He and I have worked together on many committees—foreign affairs, public works and public accounts—and we have travelled together on delegations. Neither of us will forget the night we spent in Budapest solving the problems of the world, fortified by a couple of bottles of Jim Beam. We were staying in the guesthouse supplied by the government. We found out later that it had been the security headquarters of the former communist government and the listening devices were probably still in the walls. Good luck, Alan, for the future. I have really enjoyed your company on many occasions.

Best wishes to Senator Judith Troeth and Senator Russell Trood, whom I worked with particularly closely on committees. I think it is a shame, Russell, that you are leaving so soon. You have a great contribution to make, particularly in your area of foreign affairs. Hopefully, you will get back here. Best wishes to Senator Nick Minchin, whom I did not have a lot to do with on committees because he was always on the front bench and then was Leader of the Government and then in opposition, but I did enjoy some time with him on a visit to Taiwan. And best wishes to Senator Julian McGauran, who always kept us busy and entertained in the chair, and to Senator Guy Barnett. Good luck to Senator Steve Fielding as well, the senator for Family First, who is now the senator for the first and only, I suppose.

On my own side, I am going to miss the 'Hoggarama' group: Senator John Hogg, Senator Jacinta Collins, Senator Mark Bishop, Senator Glenn Sterle, countless staffers and those who came and went down at La Capanna. I am going to miss the Hoggarama, but my wife suggested I should have probably missed the pasta instead!

I thank my New South Wales colleagues and friends here in the Senate, Ursula Stephens, Mark Arbib, John Faulkner and Doug Cameron. I also thank all my other Senate colleagues. I cannot name you all individually, because I am running out of time, but I thank you for your support and your friendship, and there will be other occasions when I can thank you all personally. I note that some of my colleagues from the House are here, and I thank you all for coming across. I will also get to thank you personally over the coming days.

I extend my best wishes to Steve Hutchins, Annette Hurley, Kerry O'Brien and Dana Wortley, from this side of the chamber, who are also leaving the Senate. Steve Hutchins and I go back a long way—back to the 1960s, when we attended De La Salle colleges in Caringbah and Cronulla and became members of the Cronulla branch of the Labor Party. De La Salle college at Cronulla is a small school, but it has the great achievement of having six ex-students all at the one time as members of state and federal parliaments—and all of them were Labor. We have shared a lot of history, Steve. We have had a few disagreements and a few Senate preselection battles, but we have never forgotten where we came from or why we joined the ALP.

I have had many hardworking electorate staff, beginning with Tony Burke, who is now a cabinet minister. I particularly thank Wendy Pymont, John Lee, Troy Bramston, John Degen, and my current staff Ken Long, Nicole Long, Lawrie Daly, Peter Scaysbrook and Ann Holland. They, like all of your staff, have helped literally hundreds and hundreds of constituents find their way through the maze of the bureaucracy when they come to us with problems. They are often serious problems and they need the help of their local member or their local senator.
I was fortunate to grow up in a family where my mother and father believed in three things: faith, family and the Labor Party. There were many tough times, as in all working-class families of that day, but they never lost sight of those beliefs. My parents were here the day that I was sworn in and the day that I made my first speech. They were both life members of the Labor Party. They have since passed away, but I know that I would never have got here if not for their inspiration and their support. To my brothers, Paul, Jim and Danny, and my sister, Clare, who is here tonight, and their families I say thank you all for your support and encouragement and also for all of you joining the branch!

In 1971 I met Jan Fowler, her parents, Ron and Shirley, and their family. At the time I was in the process of trying to wrest control of the Sutherland Shire Young Labor Association from the Left. Jan's father, Ron, worked with my father at the Kurnell oil refinery. He and Shirley, and Jan, were active in the local ALP. Ron telephoned me one afternoon. He thought I might need a few extra votes, and he said that his daughter would be coming along to the meeting that night. That, as they say in the classics, was the start of a beautiful friendship. I should say that we got the numbers as well, as Steve Hutchins will recall! Shirley, my mother-in-law, is here tonight. Sadly, Ron has passed away. I thank you, Shirley, for your many years of support and for all those regular political discussions, as I will call them, that we conducted in the true Irish tradition.

Jan and I have been married for over 35 years. Jan has been my greatest supporter throughout my career both in the union and in the parliament. Many of you know Jan. What you may not know is that Jan gave up the opportunity on at least two occasions to have a career in the New South Wales and the federal parliament. She did that to support me and to look after the family while I was constantly travelling. Jan would have been an excellent MP. Her warmth, her personality and her ability to relate to people far outshines mine. She now serves our community as a councillor in the Sutherland Shire and has achieved the highest vote in each election that she has contested. Thanks, darling, for your love and your unyielding support. Thanks also to my children, Simon, Martin and Jeremy, and Simon's fiancee, Carolyn, who are all with us tonight. They have had to put up with the long absences over many years and the countless branch meetings in our lounge room. They are all members too. We meet at my house, usually with a bottle of red and some cheese on a Sunday afternoon.

My family and friends know that I am an obsessive fan of Bob Dylan, Mark Twain and the Sharks Rugby League team. My great mate Greg Holland, who is on the board of the Sharks, is here today, as is Tony Iffland, another son of the shire. I am going to continue to wait for the Sharks to win that elusive premiership. I hope the Blues win tomorrow night, because I think I owe Jan McLucas about a dozen bottles of red wine!

Senator McLucas: More than that!

Senator FORSHAW: Please! Yes, I will continue to barrack for the Sharks, and, if I can quote Huck Finn, I'll dream of 'lighting out for the territory ahead of the rest', play some golf, listen to Dylan and spend more time with my family. Thank you all.

Senator O'BRIEN (Tasmania) (16:58): That is a pretty hard act to follow. It is with mixed emotions that I make my valedictory contribution this evening. It has been a tremendous honour and privilege to have served in this place for approaching 15 years now. In my first speech on 8 October 1996 I said:
I have found that principles and high ideals are not enough on their own; they need people to express them, to make them live and to make them work.

I went on to say:

I see it as my task in this place to work for and with the Tasmanian community to repay their faith in me by my commitment to them. In doing that, I intend to be governed by the examples and philosophies that I referred to earlier in this speech, particularly with honour and with special regard for people needing help and compassion and by respecting the beliefs of others.

I hope that I have lived up to the principles that I espoused in my first contribution to this place. It has certainly been a fabulous experience. I think it was Paul Keating who said that a career in parliament was effectively the same as attending university. I have been here long enough to have done a few degrees in a number of different subjects. It is probably well known that one of the subjects I came here with no qualifications in is one that I learnt the most about while here—that is rural and regional affairs and transport.

It was early in 1997 that Brian MacDonald and Jack Lake, from then Senator Bob Collins's office, approached me to take up the cudgel, as it were, as a member of the Senate Rural and Regional Affairs and Transport Committee, because Senator Collins was not keen on the travel involved in performing the work on that committee. So I was handed a few pages of a brief and I was asked to attend a hearing. I was subbed into the committee for an aviation safety hearing. When I came out of the hearing, Jack and Brian were waiting for me, to pat me on the back and say, 'We think we have the person who is going to continue in that committee.' I found that I was appointed to a committee which dealt with rural affairs and transport—as I said, not matters on which I had any great knowledge or involvement up until that time.

Since that time, I think I can say that I have bored many coalition senators and many of my own with estimates contributions that ran for days. I have been involved in committee hearings on diverse subjects including aviation safety—questioning the roles of our regulators, the Civil Aviation Safety Authority, Airservices Australia, the Australian Transport Safety Bureau and the Australian search and rescue organisation. I was involved in inquiries into tragedies such as the sinking of the Red Baron off the west coast of Tasmania, the Margaret J that went missing in Bass Strait and the Malu Sara which tragically sank in the Torres Strait.

Through committees, I have been involved in biosecurity issues, including issues relating to New Zealand apples—and we are still hearing about those—to bees and various production issues and equine influenza, which had such a devastating effect on the Australian horse industry not so long ago.

My history saw me involved in the dairy deregulation inquiry that Senator Forshaw just referred to but also in the continuation of inquiries, which have recently been almost concluded, before the Senate Standing Committee on Economics on: the continuing problem of dairy deregulation; on wheat marketing, the performance of the Australian Wheat Board and related issues; on regional issues, which under the former government we came to know as 'regional rorts', including the inquiries into the various funnelling of funds into coalition electorates by the government for electoral purposes; and something which is still topical, the live export industry, which manifested itself then with cattle and sheep and which now we are seeing in cattle exported to Indonesia.
In all of that time we have had the privilege as a committee of travelling throughout Australia, meeting fabulous people involved in critical industries—in regional industries, service industries and transport industries—right around the country. One of the great privileges of being a member of this place and participating in the committee system—in opposition certainly, but also in government—is the opportunity to meet people of integrity and high ideals, people who have strong interests in their community and in their industry and who put a proposition before a Senate committee and seek an outcome that they believe will assist them, their community and their industry.

That has been a great privilege and something that I can commend to every senator in this place. I am sure you all already know that. I think it is one of the great benefits that members of this place have. I hope that it continues and I think it should be supported on a bipartisan basis.

I have also had the privilege of serving on two select committees in the Senate, including the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America. Senator Brandis, former Senator Peter Cook, now deceased, and Senator Conroy also participated on this inquiry. We were privileged to hear some very interesting information on an issue which is critically important to the Australian people. I think some unkind members of the coalition referred the Labor members of the committee to the Privileges Committee about a certain press conference. We were privileged to hear some very interesting information on an issue which is critically important to the Australian people. I think some unkind members of the coalition referred the Labor members of the committee to the Privileges Committee about a certain press conference. I think I still have that report. Our side was very certain that a certain coalition member of the committee was back-pedalling on their position and probably that provoked us to do something which I think justified reference to the Privileges Committee, but the outcome of the inquiry was probably the just outcome as well.

The other inquiry was into the removal of ATSIC and the future role for an Indigenous representative body, an inquiry which I participated in as Labor spokesman on Indigenous affairs. That inquiry again allowed me to meet with and speak with some very inspiring Indigenous Australians representing their communities in various parts of Australia. What I saw on that inquiry told me that if we could get the government settings right there was a great future for Indigenous Australians, notwithstanding the fact that it would take some time for it all to be put into place. I can honestly say that I came in to this place foreseeing my role as that of a hardworking backbencher, prepared to support my party and the people of my state. When I entered the Senate there was a very strong Senate team in the outgoing Labor government. Many of the remaining senators had the benefit of experience in government, and they were the ones I saw as the benchmark for success as a member of the Senate.

I now look back over my career of 14 years and 283 days, as of today, and I can say that I believe I have exceeded my expectations for my role in this place. I was chosen to fill a casual vacancy left by John Coates, whom I replaced on 5 September 1996, not many months after the Labor government had been removed, so I entered this place as a member of the opposition. Just over two years later, on 19 October 1998, Labor caucus chose me to become Labor's Opposition Whip in the Senate. On 22 November 2001, caucus chose me to become part of Labor's shadow ministry, and I remained a member of the shadow ministry until I was excluded from the incoming ministry by the Prime Minister on 3 December 2007. Caucus then chose me as its Government Whip in the Senate, a position I held until 27 September 2010.
I will always feel honoured that caucus chose me to fill important roles for the Labor Party in the Senate and in the party's leadership positions for what amounts to near enough to 80 per cent of my term in the Senate. It has always been my view that caucus is the supreme body of my party in this parliament and it has always been my view that it is a great honour to be chosen by that body, the elected representatives of my party, to fulfil roles in this place or in the other place. It is an honour and a privilege to have been, for half of that time, a front bench member and serving in important portfolios. It is certainly something I will hold dear for the rest of my days.

I have been privileged to have served and worked with former members and senators Gareth Evans, Robert Ray, Peter Cook, Kim Beazley and Bob McMullan, whose leadership and advice I have valued. I also record my appreciation for former Senate leader John Faulkner and the current leader, Chris Evans, for their help and advice over the years and for their great leadership of the Labor Party in this place and in the internal forums of the party. I think there would probably be a number of amusing stories I could tell, but will not today, about Senate tactics in opposition and about some of the comments that some individuals made—they would probably blush if I repeated them. Nevertheless, I am not going to do it now. I will hold that up my sleeve just in case.

No-one in this place succeeds without a substantial contribution from their staff, and I would like to record my thanks to my staff. There have been a number of people over the years and whilst I have not had a huge staff turnover I will not mention them all. I particularly want to thank Sharon Burnie, Lee-Ann Patterson and Bev Catlin, from my Launceston office, whose work over the years has kept the office functioning, even while I spent many days travelling on committee or shadow ministry business in my time in the Senate. I should note that Sharon started with me on 28 April 1997 and deserves particular thanks for putting up with me and doing such a great job over 14 years. I will also thank the former member for Bass and current state member for Bass, Minister Michelle O'Byrne, who worked for me from my commencement in the Senate until her election to the House of Representatives.

As Opposition Whip and Government Whip I have had a number of members of staff whose roles have been invaluable. I particularly want to thank Lara Giddings—yes, that Lara Giddings—and Llewellyn Rees for helping me as Opposition Whip, and Kay O'Leary and Maria Neill, who were two of my valued staff members in my role as Government Whip in the Senate. I am certain that they are performing a similar valuable function for Senator Anne McEwen. I want to thank them again, now, for the work they did that allowed me to do the job that I did in that role.

In the variety of shadow portfolios that I had, I had a number of advisers. All shadow ministers depend on hard-working dedicated staff; often the degree of their success is proportionate to the capacity of their staff. I began my role as a shadow minister with Jack Lake as my key staff member. Later, Matthew Jose joined my staff. Both went on to work for prime ministers. On the way they were invaluable members of my staff and I want to thank them again for all their hard work and their dedication to the cause.

I also want to make special mention of Martin Breen, who worked so hard with me to help pull together Labor's agriculture policy for the 2007 election. It was gratifying to see that much of the policy that we initiated was subsequently implemented, particularly the reform of export wheat marketing.
I want to echo Mike Forshaw's comments on Senate staff and echo his thanks to Harry Evans, Rosemary Laing, Cleaver Elliott and Richard Pye. My role on the Senate Rural and Regional Affairs Committee, or Rural Affairs and Transport, as it is now, has been greatly assisted by a number of staff members, but I particularly want to thank Jeannette Radcliffe, who puts up with very difficult circumstances at the moment. I know that Senator Heffernan agrees with me in that regard because he has given her flowers a couple of times, I think.

I also want to make special mention of Anne Lynch, who, as Mike Forshaw said, is no longer with us. Anne was here when I arrived in the Senate and gave me some very good advice. She said, 'When you start to feel comfortable in this place is when you will start to make mistakes.' It is always wise to bear that in mind, because people sometimes do get a bit relaxed and say or do things that they regret. It is also wise to bear in mind that, when you first come to this place and are scared to put a foot out of place, that is probably when you make the fewest mistakes. If you remember that, you will probably minimise the problems that you will be reflecting on when you come to make your final contribution. I do leave this place, as I say, with mixed feelings, and I have touched upon some of the reasons for those mixed feelings. I have had some tremendous friendships. I remember travelling to South America with the Trade Subcommittee of the Joint Foreign Affairs, Defence and Trade Committee on a self-funded trip. Alan Ferguson and I formed part of that delegation and it split in two and we were on our own, effectively, going through to Peru and Chile before going back to Uruguay. Alan is great company on a trip, and I am sure many people know that. He is also a great traveller. I can recall sitting next to him on an aircraft leaving Buenos Aires. We were taxiing to the takeoff point and I looked around and he was asleep. That was his greatest strength: he could sleep anywhere on an aircraft at any time and then when he got off he was really raring to go, whereas I was a terrible traveller and was always sleep deprived in that circumstance. Alan Ferguson, you taught me what I should have been able to do in travelling but I never could. You were great company. Although we disagreed on many things, we agreed that we could be good company, have a drink together and keep the confidence of travel in those circumstances.

I have also had good relationships with former and current whips. Stephen Parry has been a very good person to work with as the Opposition Whip in the Senate and Judith Adams, of course, has been assisting him. I have had a great relationship with both of those senators in that role and have a great deal of respect for them in the way they manage the honourable business of whip. Someone once said that there are a lot of dark arts to it, but most of it in my view is assisted by the fact that you give your word, you keep your word and there is a balance between being able to give leave to people when they need it and not giving leave when people are trying it on. I think as long as both whips know that this place will work well.

I have had the opportunity to work with a number of other coalition senators past and present: Winston Crane, of course, chair of the rural committee for many years before he left this place; Bill Heffernan, who always is passionate about what he believes, sometimes overly so; and John Williams—I refuse to call him by his nickname—who is also passionate about what he believes in on that committee representing his constituency.

On my own side it was a great pity to lose Peter Cook from the Senate, but I have had a great friendship with Glenn Sterle, who has
been the chair of the rural committee since he has been on that committee. We have worked together very well. I have worked with Jan McLucas and Kate Lundy, particularly on previous committee inquiries, and Mike Forshaw on the regional committee in early days and on the milk inquiry. I have known Steve Hutchins since New South Wales Young Labor days. He has not changed a lot other than the fact that he, like I, has changed his hair colour. I know that whether in this place or somewhere else Steve has a lot to give in his future in the labour movement.

Can I conclude by addressing what has been the most fundamental thing in regard to my time in this place, and that is my family. I have to concede that my family have probably made more sacrifices than I have since I came to this place. My wife left a good job because of the pressures of me coming to the Senate, and we actually moved our place of residence from a house we had recently part completed in Hobart to Northern Tasmania; we subsequently we sold that and established another place in the Tamar Valley. Louise, to whom I have been married for 32 years now—and I can even remember my anniversary—has been a wonderful friend, confidant and partner who has put up with extended absences, because when you are put on a committee like rural and regional affairs you travel a lot; when you become a shadow minister, you travel more. I have been doing that for most of the 14 years, nearly 15 years, that I have been in this place. Probably the greatest recognition of the load ought to go to my wife Louise. Thank you, darling, for your support over the years.

My two beautiful daughters Dale and Erin are also in the gallery today. Dale has had me as an absent father for nearly half a life and Erin for 60 per cent of hers. They have both grown up to be wonderful young women. My trip to South America must have been a bit of an omen because Erin ended up going there, learning the language and studying there as well. Maybe that was a good influence. Dale has been a rock for our family, lives in Launceston and works in the nursing profession. She is a very loving and caring person who works in her profession, doing the things that she has been trained for and I think has done herself proud and is respected well by her employer.

They are the people who have been my background. My parents died before I came here. In my first speech I set out the influence that they had on me and I hope that that influence and the support of my family have made me a person who has the respect of his colleagues. I will leave this place hoping fervently that that respect remains in the future. I thank you.
along the path of reconciliation. I do so because I firmly believe it is the right thing
to do, as it is right to give recognition of our
Indigenous people each sitting day in this
chamber and to make the welcome to
country that now forms part of each new
parliament.

I stand here proud also to be part of a
government that was able to legislate to
overturn Work Choices, which took away
from the Australian workforce and stripped
pay, conditions and dignity from hundreds of
thousands of employees, including the most
vulnerable and marginalised workers. The
Labor government worked to bury laws that
hurt workers and their families by attacking
their rights, holiday pay, public holidays,
redundancy provisions, meal breaks and
rights of association at work. These laws
attacked the Australian belief in a fair day's
pay for a fair days work, undid a century of
progress in industrial relations in this country
and made the words 'fairness' and 'balance'
obsolete in a workplace relations context.

These laws slashed unfair dismissal rights,
fostered agreements that decimated the
safety net and rendered the independent
umpire impotent. These laws left workers
without an effective right to bargain
collectively and marginalised unions. They
were unfair, unbalanced and, ultimately, un-
Australian.

The Labor government legislated for a fair
work system, where each day workers can go
to work knowing that a fair day's work will
deliver a fair day's pay—not only equal pay
for equal work but equal pay for work of
equal value. This legislation restored to
seven million workers the right to protection
from unfair dismissal and guaranteed
minimum standards, clearly outlined
minimum wages, a return to freedom of
association in the workplace and the right to
representation in the workplace. These laws
are underpinned by a strong, durable safety
net of basic worker conditions and
entitlements. They delivered on a promise to
the Australian people of a system of fair
work through the establishment of Fair Work
Australia, the independent umpire with key
functions including minimum wage setting,
ensuring good-faith bargaining, award
variation, approval of agreements, dealing
with industrial action, resolution of disputes
and unfair dismissal matters. They finally
closed the doors on some of the darkest days
for workers in this country. These days are
gone, but they are not forgotten.

I am proud, too, to be part of a govern-
ment that has driven an ambitious and
unprecedented national reform agenda for
education. This government has introduced
the largest school modernisation program in
Australia's history, involving 24,000 projects
in 9½ thousand schools, with new class-
rooms, libraries, multipurpose halls and
trades training centres—infrastructure that
will benefit hundreds of thousands of young
people in this and future generations. We all
know that education does not end when you
turn 18 or complete year 12. To deliver the
best education at all levels—at preschool,
primary and secondary levels and at training
and university levels—and to make it
affordable and accessible to all people are
Labor values and goals that, as a
government, we have been working hard to
achieve. With education comes opportunity;
education really is a window to the world.

I am also pleased to be part of a govern-
ment that is passionate about our environ-
ment. Early in my term here, I discussed the
Climate Change Action Bill 2006 and
recalled a time when there were distinct
seasons in Australia—when footy was
played in the rain and mud and when
children could play under the sprinkler on a
hot afternoon. Now, more frequently we
have extraordinary weather events such as
floods and bushfires, droughts and cyclones.
The protection of the environment has been an enduring passion of mine and it has informed many more years of activism than the six years I have spent in this place speaking often about the climate challenge that confronts us all. We have the opportunity to do so much more. My own state, South Australia, leads the country in terms of hot-rock geothermal energy and other renewable energy sources. This research and development is vital to our future. It is our responsibility to ensure the protection of our environment for this and future generations. I trust that the right decisions will be made in this place in the near future.

Still on the media: the Australian media in general has an important role in our society and, as a former head of the Media, Entertainment and Arts Alliance in South Australia and the Northern Territory and a member of the federal executive, and having sat on the University of South Australia’s journalism advisory panel, I am familiar with the demands put on journalists. I listened for 10 years to journalists’ concerns as the world which they knew changed significantly, seeing the impact it had on jobs as they moved from bi-media to tri-media newsrooms, and then to online journalism and single camera crews.

Australia currently ranks 18th on the World Press Freedom Index and is one of only 70 nations deemed to have a free press; a further 70 have a partly-free press, and more than 50 are listed as not free. We need to guard and protect the freedom of our media in this country. That is why last year I spoke in support of the Evidence Amendments (Journalists’ Privilege) Bill 2010, which introduced protections known as shield laws. They foster freedom of the press and ensure better access to information for the Australian public. It is vital that journalists can obtain information so that they can accurately inform the Australia public about matters of interest. As Nelson Mandela once stated, a ‘critical, independent, investigative press is the lifeblood of any democracy’. Nelson Mandela also said that the press must enjoy legal protection so that they can protect the rights of citizens, and ‘it must be bold and inquiring, without fear or favour’.

It is imperative that the Australian media behaves honourably and responsibly in its pursuit of truth and its dedication to ABC operations. It is for this reason that it is a position that should never have been abolished.
informing the public. Those who abide by journalists' ethics are doing their profession and our democracy a great service. I encourage the more experienced journalists to mentor the younger and inexperienced journalists working among you in the significance of their role. I urge you to take the time to do this, because your knowledge and understanding will be of benefit to all. Journalists in this country should never lose sight of their role nor let their standards drop. And journalists should proceed with great caution when they find themselves creating the news rather than reporting it; the lines between commentary, opinion and news reporting should not blur.

Without doubt, the 24/7 news cycle brought about by new technology is a huge challenge for journalists in their day-to-day working lives, and it is a big challenge for many of us here, too. We are dealing with a minute-by-minute news cycle now, and it does put on enormous pressure. It is an important part of democracy to keep the public well informed but, despite the incredible time pressures facing the media, these demands should always be met with the highest upholding of the Australian journalists' code of ethics and its overriding principle, the public's right to know the facts and the truth.

With increasing pressure to produce an endless supply of stories, there are some aspects of journalism which must never be compromised. These include ensuring that the best journalistic practices prevail, and that journalists keep sight of the ethical goalposts in their day-to-day operations, however speedily their work must be delivered. I acknowledge that it is a big ask, and at a time of enormous change in the profession, but quality journalism must prevail. We must look after the institution—the fourth estate.

It is always disappointing to witness situations where members of the media create stories, or focus on irrelevant information on which to base a story they are creating, when they are out there missing the real news story of the day. It is not many journalists, because most are both ethical and diligent, but it is enough to make an impact, and I urge journalists never to take for granted the huge responsibility which has been bestowed upon them. I have defended the role of journalists for over a decade, and will continue to be an avid supporter of excellence in journalism.

I am honoured, also, to be a member of the Labor government that introduced the biggest ever increase in the age pension; delivered the first ever paid parental leave scheme; introduced bills to address inequality of rights and entitlements across our community and address discrimination on the basis of sexuality; signed the Kyoto protocol; appointed Australia's first female Governor-General; introduced legislation for an emissions trading scheme; delivered legislation which strengthens protection against sexual discrimination and harassment based on age; and a party which has as its leader Australia's first female prime minister, Julia Gillard.

In this place, much of our time, in sitting and in-between weeks, is spent on committee work, and I have had the good fortune, unlike some others who have already spoken here today, to be appointed to the committees which hold particular interest for me: the Environment, Communications, Information Technology and the Arts Committee; the Education, Employment and Workplace Relations Committee and the Joint Standing Committee on Treaties. For more than 12 months I have chaired the parliament's Joint Select Committee on Cyber-Safety, and that will see me next week, in this chamber, table a report of an
online survey that the committee conducted that was completed by more than 33,000 young Australians between the ages of five and 18. It is important that we listen to our young people, who are in many ways the consummate experts when it comes to technology.

In addition to committee work, as elected representatives we involve ourselves with many groups and organisations from the community. I am co-chair of Vision 2020 Australia, and since its inception this organisation has united the eye health and vision care sector and, in partnership with government, has made great progress towards the elimination of avoidable blindness by 2020. With less than a decade remaining, it is vital that the successful work of Vision 2020 and its members and supporters continues. I have also been involved with the Juvenile Diabetes Research Foundation, which brings together many in the community to help find a cure for the disease which affects 122,300 people in Australia, with five children being diagnosed each day. Other roles I have filled in the past six years include Chair of the Australia-Vietnam Parliamentary Friendship Group; for a while, Deputy Government Whip in the Senate; and Chair of the Regulations and Ordinances Committee. On a lighter note, I was a member of the first parliamentary netball team. We had a lot of fun playing against the Australian Netball Diamonds, the Canberra Darters and the Indian Nationals. I would have to say that the sweetest victory of them all—in fact, the only victory—was against the Canberra press gallery. It really was worth the five-degree, 7:30 am on Tuesday morning training sessions.

Australia is a great country to live in and raise future generations. We should welcome those from other countries who want to make it their home, including those fleeing from persecution. It is my view that we must encourage all generations to come with us on the journey to a fairer, more equitable society. Whenever I stand to sing our national anthem and get to the words 'We've boundless plains to share', it really does make me stop and think.

We all know that we do not arrive at this place on the hill without the support of many. Tonight I offer my thanks to the Australian Labor Party and the voters of South Australia. I thank all family and friends for the support Russell, Che and I have received over the past six years, particularly Che's nanna, Pamela, and Russell's late father, Kevin, my mother, Janice, who sadly passed away during the election campaign, my sister, Angelique, Dad and Ingrid, and friends, Carene, Paul, Lucy, Hannah, Debra, Paul, Wendy, Grant and Kyle. What can I say about my staff? I thank you for your commitment and I wish each of you successful and fulfilling futures. I thank Kyle, Lesley, Joan, Sharon, Grant, Carol and Shane. I intended having more of my staff here today, however there was volcanic ash and they are back in Adelaide.

Russell, what a journey! In fewer than 12 months after I took my seat in this place, you were elected to the South Australian parliament. Crosschecking parliamentary sitting days—when I would be here in Canberra and you would be sitting late in Adelaide—became part of our lives. What a juggle of the daily diary it was. I thank you, and I thank you for the care that you gave to Che.

Che, each night I was in Canberra I looked forward to our night-time reading over the phone, when you would lie in bed and I would read your chosen stories, which over the years became chosen novels. I also remember my first year here when an additional sitting day was added before the
Christmas break. You were eight years old and were singing in the choir at St Peter's Cathedral. On arrival, I ran up the steps, dragging my suitcase with me and leaving it at the door of the cathedral, and slipped in quickly but quietly up the side aisle. I knelt down, our eyes met and you gave me the best smile. I had made it for the last three carols. I was so thankful, but I learnt that day that our lives had changed and I would never make a promise to you that I may not be able to keep. So tonight, Che, I make you this promise: whatever I do in the future, my base will be in Adelaide and I will be there most nights for the next five years to oversee your homework.

In conclusion, while there are many things I am sure I am going to miss about the House on the Hill and, in particular, the chamber with the red seats, one thing I can assure you is that I will not miss boarding the Sunday night, six o'clock Qantas flight from Adelaide to Canberra. To my colleagues Senators Hurley, Hutchins, Forshaw and O'Brien, who are also coming to the end of their term, I wish you all the best in your post-Senate lives. I also wish all the best to those opposite: Senators Minchin, Trood, Barnett, Troeth, Ferguson, McGauran and Fielding. I thank the staff here in Parliament House, the Office of the Black Rod, the attendants in the chamber, the tabling officer, the whips office, the Comcar drivers, Ian and Peter in transport, and the many security officers in this building. My thanks also go to the AMWU, the CEPU, the SDA, the TWU and the MEAA. I wish all my colleagues continuing here and the newly elected senators wisdom in their decision-making, and may each decision made prove to be in the best interests of our nation.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate)
and on the front bench in opposition. I think he downplayed the role that he played in taking on a heavy load representing opposition spokespeople in the Senate as opposition parliamentary secretary. I always thought he was unlucky not to get more of a chance on the front bench, but I see now that he concedes it was self-inflicted, so I feel less sorry for him on that basis! Never give a sucker an even break, mate—and he clearly made a mistake there!

Senator Forshaw has made a huge contribution to the Labor cause, both on the front bench and in committee work, and I think that has been recognised in recent years when he has been elected by the caucus as chair of the powerful Joint Foreign Affairs, Defence and Trade Committee of the parliament. It is seen as probably the most important chair's role in the parliament, and Mike has done it with tremendous aplomb and has developed enormous expertise and contacts in Foreign Affairs, Defence and Trade. I know he is highly regarded by the diplomatic corps in Canberra and has a huge level of expertise and experience that I am sure he will put to good use. He also, for his sins, was made international secretary of the Labor Party, which I think was a poorly remunerated but highly responsible role, and I know he will continue his interest in those matters.

I say to Mike that I have enjoyed his company and his fellowship, and I acknowledge very much the contribution he has made. He has always been a constructive force in the Senate and in the Labor team. I know John Faulkner and I both, in our times as leaders, have found him to be one of those people who has been a team player and has been prepared to share the load and to do things for the broader common good. He did have a terrible habit, though, whenever I made interjection in the Senate, of claiming credit for it and getting it recorded in the Senate Hansard as him being the author, which I am still to this day peeved about! I assume he used to go up to the Hansard reporters afterwards and claim credit!

Mike, best of luck in your future. We really appreciate your contribution. You have had a very strong career in this place and have made a huge contribution. I know your Labor colleagues will miss you.

Senator Kerry O'Brien, like me, came out of the LHMWU. He went down to Tasmania to be their state official and became a true Tasmanian. He is now as parochial as the rest of you, Senator Abetz, and has developed a real love for and appreciation of Tasmania. Kerry came into the Senate into 1996 and has done the hard yards in a long period of opposition. He played a huge role as opposition whip and on the opposition front bench. Kerry succeeded me as opposition whip and did a fantastic job. He referred earlier to his time in Senate tactics committees, and there were some interesting and memorable times as we sought to make the attack fresh, even though we had had many goes at it. Kerry also talked about his contribution in terms of regional affairs, primary industry and local government and transport. He made himself a real expert in those areas and a go-to man for the Labor Party. He developed the interest there to great effect in terms of the Labor Party.

I do not think it is widely known, but in my view Kerry was one of the best in opposition at using the estimates and questions on notice to great effect. Some others were probably better media performers in that regard, but Kerry always got good value out of his role in estimates, committees and questions on notice and he used those tools of the parliament to great effect on behalf of the Labor Party in opposition. As he mentioned, though, he always made the best decision you can make...
in politics, and that is to employ good staff. He mentioned a few of them, and they do make or break you in this game. Kerry and others, I know, have paid tribute to their staff.

Kerry, I know you are very highly regarded in the sectors in which you worked. Some people who are perhaps not friends of the Labor Party always sang your praises in terms of the work you did in the portfolios of rural and regional affairs and transport et cetera, and I know they would have been disappointed to lose you if you moved on from that particular portfolio. You are known as someone of strong values and substance and, as I said, you were well respected by the all of the groups that you dealt with.

Kerry, you referred to the fact that you did not make the ministry after the election. In my view, that was a great injustice and should not have occurred. You should have been a minister. You deserved to be one, and you would have been a good minister. I think that was an error. But your mettle was shown when you took on the job of whip and continued to contribute to the government. I think that is a great mark of your personal attributes, and the fact that you continued to serve the government and be a constructive member of the government is a great mark of your commitment to the Labor cause.

On a personal level, I have enjoyed your friendship. They say in parliament, 'If you want a friend, get a dog.' but I regard you, Kerry, as a friend, and I have appreciated your support and friendship over the years. I was a bit surprised when I was having a conversation with somebody once and they said, 'Yes, that Kerry O'Brien; he is the thinking woman's sex symbol.' Then I realised it was the other Kerry O'Brien, but it was good while it lasted, Kerry! I also advise colleagues that he has terrible choice in football sides, and a tip from those who have had experience: never back one of Kerry's horses in a race. They are always beautifully named, with great Labor names, but they are very slow, generally. I have given up backing his horses in races! But, Kerry, I hope you enjoy those pursuits now that you might have a little bit more time.

I know Louise has played a tremendous role in supporting you, and it is great to see Dale and Erin here, even if it might be because of the plane issues. But, as I said, I know you have more to contribute, and we look forward to you continuing to contribute to the Labor cause and appreciate very much your service. The government is very grateful for the contribution you have made in this place.

I would like to acknowledge Dana's contribution over the last six years. She has been a bit unlucky to only get the one term. That is the danger of running the number three, as Mike Forshaw pointed out earlier. It is a bit like being a marginal seat member and, unfortunately, she was not re-elected at the last election. But I think Dana in her speech exemplified the contribution she had made through the passion she brings to issues and the passion she brings to her commitment to the Labor Party, be it in communications, education or the environment. I know she has taken the opportunity of being in the parliament to really pursue her interests in those areas and to argue passionately for what she sees as creating more opportunity for people who perhaps do not get the opportunities they should. She has been a very strong advocate for social justice and opportunity in this parliament and has really seized the opportunity that the parliament provides. I think of her as always highly passionate about her causes, and that is a great thing for us and for the parliament.

So, Dana, we will certainly miss your contribution. I think you, too, will have more
to offer in coming years, although I note that it will be South Australian based. I know you have had to deal with the pressures we all have with being partner and parent and being away for long periods of time. I know you were very conscious to keep in contact with Russell and Che during his development years. I am not sure he will be so keen on you supervising his homework, but no doubt he will like having you home more.

I note, though, that I have constantly worried about Dana's health while she has been here, because apart from the time when she is actually in the chamber she has a mobile phone stuck to her ear. I do not know if I have ever seen her outside the chamber when she has not been on the mobile phone. If there are any health issues associated with mobile phone usage, Dana will be the first to display that. So, Dana, I hope for your sake that they are as safe as claimed.

We have enjoyed your contribution and your comradeship. I have very much appreciated the contribution you have made and the personality that you have brought to everything you have done.

On behalf of the government, I want to acknowledge and thank Senators O'Brien, Forshaw and Wortley for their contribution. In a sense, doing a job lot is not the best way to deal with these things, but I think each of their careers stands on its own merits and the contributions they have made. I think all three gave really interesting contributions tonight that highlighted their personal strengths and contributions. It was interesting to see the way the speeches reinforced what I had been thinking about their contributions and interests and also brought out their own personalities—with Mike particularly keen to display his ongoing humour, which has been one of his great strengths. It is not only the capacity for humour; the capacity to laugh at yourself is very important in this job.

So I thank all three of you very much for your contribution. I pass on the personal best wishes of the Prime Minister, who will come across to our function next week and put her own thanks on the record. We wish you all the best. I am conscious that all three of you have more to contribute. These are not obituaries but farewells, and we look forward to the contribution you continue to make to the community and to the Labor cause. All the best.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (17:56): Today we have heard from the first batch, if I can call them that, of departing Senators—12 of them: six coalition, five Labor and one Family First—whose terms expire on 30 June. If the elections were held today I would suspect a few different results, but that is not to be.

All senators, irrespective of party, make huge sacrifices, as do their families, as they seek to serve our nation. Today we say farewell to three Labor senators. I confess to some mixed emotion as well. But this is a day for Labor to celebrate its people, who have served their cause in the advancement of our nation. I suspect that the bound copies of the Hansard that will be produced for these valedictories will be such that Labor senators would not want a necessarily long contribution from coalition senators; but, nevertheless, I do believe it is important for Australians to know the respect that we do have for those who sit opposite us, which is not necessarily accurately portrayed by the 30-second clip from Senate estimates or question time, when we sometimes let down ourselves and the people whom we seek to serve.

Allow me to turn to the three senators who are leaving. I confess to being the one who
commented on Senator Forshaw's fastidiousness today. I suspect it was out of an excess of jealousy on my part! I did privately ponder whether he had in fact used a wide comb to get the effect—which is a good segue into his distinguished union career, which he wore with pride in this chamber, always referring to it and never letting go of his commitment to those that he had previously served in the trade union movement. I dare say many Australians will recall Senator Forshaw as being the person who fronted the cameras as the returning officer to announce Ms Gillard's election as Prime Minister, which must be one year this week or thereabouts. It must be getting exceptionally close. More importantly it would be fair to say that Senator Forshaw and I did share certain values which I must say were dear to my heart. It does surprise one from time to time that people with different backgrounds and different views nevertheless have something in common—of course, I refer to some of the social issues on which conscience votes were held in this place where Senator Forshaw and I were able to sit on the same side of the House. I also commend Senator Forshaw for his dissenting report on the territories bill which, if I might say, was both principled and gutsy. When we disagreed with his views, Senator Forshaw still had that same principled and gutsy approach.

His constituent work was also legendary: something that senators can, if they want to, get away without doing and ignoring by virtue of being senators. But I think that those who do try to ignore it miss out on one of the most rewarding aspects of being a senator. From all reports, Senator Forshaw did that exceptionally well. Whilst people said that Senator Forshaw had big shoes to fill in taking over from Senator Graham Richardson, I think that senator-elect Thistlewaite will have huge shoes to fill in seeking to replace Senator Forshaw. On behalf of the coalition, I wish Senator Forshaw all the best in life after politics.

I turn to my fellow Tasmanian, Senator O'Brien. It would be fair to say that I have seen more of him around the state of Tasmania by virtue of our being senators for that great state. As a result, I have had more interaction with him than with the other two senators that we farewell tonight. One of the jobs that you have to do in trying to determine what to say on occasions like this is to read the first speech. Tonight I can offer an apology to Senator O'Brien. You will recall that there was a motion for a Senate inquiry into AFL to be played in Tasmania. I confess I thought that Senator O'Brien was simply doing this as a political stunt et cetera, and I made comments to that effect. Much to my horror, when I reach his first speech, he in fact mentioned that as an issue that he was concerned about. He commented on all the great Australian rules footballers that Tasmania produces. On that basis, please accept my apology. It is nice to know that you have the passion for Tasmania to have a football team.

The other interesting thing I picked up in Senator O'Brien's first speech was his commentary on the 1989 state election: … Labor, in accord with the Tasmanian Greens, replaced Gray's Liberal government, but Labor found itself with an impossible task. Minority government and big public debt … I will not say anything other than how history repeats itself. In relation to Senator O'Brien, I finish by saying that the task he set himself in concluding his first speech, which was to work for and with the Tasmanian community to repay their faith in him by his commitment to them, he has achieved exceptionally well. You leave this place being able to be well satisfied that you have truly served the people of Tasmania. I wish you and your family all the best and
trust that you will enjoy the vineyard in the Tamar Valley and things Tasmanian.

I can assure you that the coalition, whilst we did not necessarily like one aspect of your work—that was, as federal opposition spokesman on primary industry matters—we respected it, and you did keep the government to account on a continuous basis. That will be a great credit to you. On a friendlier basis, we appreciated your role as whip. From the coalition's point of view, common sense and camaraderie always prevailed in relation to the decisions and in relation to pairs. That is vitally important for the effective working of this place. You did it exceptionally well, so from the coalition's point of view, a big thank you to Senator O'Brien for making things work as well as they did.

I turn to Senator Wortley. Unfortunately, I have known her for the shortest time. When I talked about having some mixed emotions, my mixed emotion is that we have lost a Labor senator for a Greens senator. I can say that without any Greens in the chamber and undoubtedly get unanimous support for my comment. Chances are, out of the three, Senator Wortley and I share the least in common. She has been described as being Left, and indeed hard Left from the Peter Duncan faction. That is all beyond me, struggling as I do within the Liberal Party and Tasmania, let alone in offshore places such as South Australia. But I do note her first speech covered all the same topics that she covered this evening.

You remained true and committed to those views and those principles. Those differences do not stop us in the coalition recognising you as a very pleasant and principled individual who helped to make this place work. I wish you well. As you described it in your first speech, it was an honour to be elected as a senator and you said that you would treat that honour with respect. You have done that by the bucket load. We wish you well for the future.

Senator HUTCHINS (New South Wales) (18:06): It is indeed a pleasure tonight to be able to say some words about my departing colleagues. I probably should get in quickly, because I know they will have a chance next week to square up. Of the three, clearly I have known Michael Forshaw the longest, and I want to leave Michael to the end of my comments.

Senator Wortley is someone I first met when she came to Canberra. As Senator Forshaw mentioned, in the right-wing Labor Senate caucus we used to dine each Tuesday night at a place called the Hoggerama, and that is how we got to meet and get to know Senator Wortley. Senator Wortley was christened 'Dixie' by a number of colleagues. One of the great attributes of Dixie is that she is still as passionate as she was when she made her first speech—as Senator Abetz mentioned—about public broadcasting and journalism. She was still that passionate today when she made her valedictory. It has been great to watch her and to listen to and learn from her in that area.

My colleague Senator O'Brien and I were in Young Labor together in New South Wales, along with Senator Faulkner and a few other people that are still around. In those days in Young Labor their group used to win in the Statewide; Michael's and my group have run it, I think, for the last 15 years or something like that. It was a good training ground, and Kerry was his usual dogged self even back in those days; Kerry would never let a bone go even when he was about 18 or 19, and he still does not now at his ripe old age. As he said, we have coloured our hair together. I got to know Kerry again when I came to Canberra. In that period, I knew him as a whip, a shadow
minister and an ordinary colleague in the Senate. He has been of great assistance to me. He has a lot of common sense. In our last estimates hearings, a number of department heads and people from the public sector and private industry privately and publicly bent over themselves to make a compliment to Kerry about his contribution to public policy in those areas that he has acquired a passion for. We will miss him here in the Senate.

I will talk about my old mate Michael Forshaw. When we were talking about our departing speech, as I recall, Michael—as he said, we went to school together, but he was a few forms ahead of me—said we should give it in Latin, which we all had to learn. It was a relief to me tonight, when Michael got up and spoke English, that I would not have to go through and translate my contribution next week.

Michael rightly said that, when we were first active in the late sixties and early seventies, our area of Sydney was heavily controlled by the Left. In fact, the Sutherland Shire was then called the Red Belt. The leading acolyte for the Left in that area was one Arthur Gietzelt, who became a senator here and also a minister in the Hawke government. Arthur still lives in the Sutherland Shire, and I may make a contribution about Arthur next week, which might be interesting. As Michael said, Michael led the charge to take Young Labor over from the Left. I and my friends John Della Bosca and Michael Lee took it over from Michael and Jan, his wife, and it was taken over from us by a fellow called Tony Iffland, who is up in the gallery this evening.

One thing Michael did not mention was his contribution to the election of Labor in 1972 and to us holding the seat in 1974. I was talking to my old mate Michael Lee this evening, and he reminded me of a story Michael Egan told about Michael Forshaw running around very actively in those 1972 and 1974 elections. We won the seat of Cook in 1972 and we held it in 1974, when Gough Whitlam held power by only five seats—and we will not talk about 1975. We have not held the seat of Cook since 1975, and it is a tribute to the influence of Michael Forshaw and his family in the area that we were even able to hold the seat for that period. Michael Forshaw and in particular his father were very close to Gough Whitlam. Michael's father passed away last year. Mr Whitlam could not attend the funeral, but he did send his condolences.

Michael became the general secretary of the AWU. We used to deal with each other as senior union officials. When Graham Richardson decided to retire, Michael was put forward by elements of the group that he and I were associated with. In fact the general secretary at the time, John Della Bosca, wanted Michael to be the successor to Graham Richardson. I was president at the time, and I sat in with John while we talked to the other fellow who wanted the spot, Michael Easson. Michael Easson eventually conceded that he was not going to get the Senate spot, left the NSW Labor Council and now is a multimillionaire, and Michael Forshaw retires on a parliamentary pension.

Again, I talked to Michael Lee this afternoon, and he reminded me that in 1996 he was in a very difficult count to hold onto his seat; it was thought, in fact, that we might lose the seat of Dobell. I was not here then, but I roughly recall that the decision was made to fill the vacancy in the shadow ministry. Michael Lee was re-elected, and as a result of that Michael Forshaw did stand down from the frontbench to make way for Michael Lee. Part of Michael Forshaw's contribution is that he will always do the right thing; sometimes it is with pain. He did outline how difficult it was for him to vote
for Kevin Rudd over Kim Beazley. I know that that was a terrible thing for him to have to do, but he felt he was doing the right thing. I know that he still thinks about the decision he made that day, but I know that he feels he did make the right decision. That is part of his make-up; he will do what he thinks is the right thing, despite the fact that on occasion it is he who will suffer for that decision. It is good to get in first—and I probably should tell some other stories about him but I might have to wait until the adjournment next Thursday if he replies next Wednesday night. But it is good to be here tonight to be able to compliment an old mate, the person I have known the longest in this vicinity, and to be able to say: thank you for everything you have done for the labour movement. There are many people in the workforce and in the community that owe a lot to your silent dedication and your work, which will never be forgotten by any of us. Thanks, Mike.

Senator PARRY (Tasmania—Chief Opposition Whip in the Senate and Deputy Manager of Opposition Business in the Senate) (18:15): It can be adversarial across the chamber, from one side to the other. However, at times like this that is pushed to one side and there is a common element of respect and also of appreciation and value of service. I will briefly comment on my relationship with the three retiring senators who have given their valedictory addresses tonight.

Senator Forshaw and I worked together on the Public Works Committee some time ago and we were a thorn in the side, with another couple of colleagues, of a lot of government agencies. We believed in what we were doing and the prosecution of our cause was relentless. Senator Forshaw, you and I would often chat during the breaks about where we thought the next line of questioning should go for the benefit of the Commonwealth. I really appreciated those times and travelling with you.

Senator O'Brien, you made some generous remarks about our roles as whips. It is an integral part of this parliament and it can only work if there is honesty and cooperation between the two whips. You and I disagreed on a number of issues, but when it came to the important matters of the day, when it came to giving our word to each other, sometimes against the wishes of our own side, we did that; we kept our word, and the parliament functioned far better for that cause. I did appreciate working with you and I did appreciate the way we always had the welfare of our senators probably as the paramount issue and the running of the chamber second, with our political differences coming a close third. We did run the chamber in a manner that I think befits the way the chamber should be run, and I appreciated that opportunity.

Senator Wortley, we came in together in 2004. We were elected at the same time and it is disappointing to see that you will not be here to continue in your role. I valued our discussions together. In the early days I think we were 'union reps' together; I will not go any further, but every senator and member post 2004 understands exactly what I am saying. We did prosecute causes together as well, mostly to no avail. However, we are the dominant number now in both chambers, so I think 'watch this space' could be a very important line. Well done on your contribution in that short time. I have appreciated knowing you and also working with you when you were deputy whip. Congratulations on that contribution over that period.

To the three senators: I have appreciated knowing you and I know a lot of our colleagues have enjoyed your company. You have been here for the right reasons—
philosophically sometimes not so, but for the right reasons for your constituents—and you have contributed well to this chamber.

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (18:18): On an occasion such as this I want to acknowledge the important contributions of the three senators that we honour tonight: Senator Wortley, Senator O'Brien and Senator Forshaw. I want to make some particular remarks about my Tasmanian colleague Senator O'Brien, but I will make some remarks first about Senator Wortley and Senator Forshaw.

Senator Wortley is bright, forthright and always on the mobile phone—I certainly noticed that. I have not known her that well or for that long and I deeply regret the fact that she was not re-elected. She would have continued to make a very passionate, knowledgeable and intelligent contribution. You never forget when you have had a conversation with her. All the very best, Senator. I am sure you have a great deal more to contribute.

Mike Forshaw I have known for a long time. I agree with Steve Hutchins: Mike always did what he thought was right. And at times that is not easy from New South Wales when you are in the Right! I do acknowledge Mike's application of his conscience on a number of occasions; I have admired that. We had some good times together. One particular trip over in Paris is particular memorable, but now is not the time to go into the details. All the best, Mike, to you and your family.

I have known Kerry since 1983. I thought I knew him longer than anyone in this place, but I was not aware that Kerry knew Steve Hutchins in Young Labor in New South Wales. Kerry came to Tasmania in 1983 in unusual circumstances. He became secretary of the Miscellaneous Workers Union. I know all of the circumstances; I am not going to count them here, but there were unusual circumstances in Kerry coming to Tasmania for that union.

Quite a few things struck me about Kerry, and he has carried those attributes or observations I made of him right through to this day. He is very intelligent, very diligent, knowledgeable and utterly committed to whatever his task at hand, whether it was with the union in that period or, more latterly, during his Senate career. He is incredibly tenacious and a person of great substance. As he mentioned, he came into the Senate as the replacement for John Coates shortly after we moved into opposition. It is a bit of a tradition in Tasmania, and quite a lot of us know of this, that you are expected to move to suit the circumstances of a party in Tasmania.

Senator PARRY: I certainly know that!

Senator SHERRY: I know you know it; you have had to do it twice! For Kerry, it is a hallmark of his dedication and commitment to the Labor Party in Tasmania that he moved from Hobart to Launceston to re-establish himself and re-establish a Labor presence in that part of the state. That has always been of particular importance in Tasmania: whether Liberal or Labor, a number of us have had to put the party's interests ahead of where we have been located. I think one of the most impressive contributions Kerry made was at a time we moved into opposition and I was part of the leadership group. Frankly, we were scratching our heads as to who would deal with issues relating to transport and agriculture. There was no real standout, no obvious candidate, I have to say, in that new Labor opposition. But Kerry applied himself to that particular set of tasks. Although not
the shadow minister initially, he decided to
develop a knowledge and an expertise in the
agriculture, forestry and fishing, primary
industries and transport areas. They were not
issues of immediate, obvious interest to him,
but he dedicated himself to those particular
areas—although I do note that, in his first
speech, he did comment extensively on
transport issues. So Kerry focused on that
committee work, and, frankly, I do not know
what we would have done without him in
those areas in those early days of opposition.
It was particularly tough and hard, but he
applied himself with great focus, diligence
and knowledge. You could always rely on
Kerry to be across his brief like, frankly,
almost no other shadow minister at that time.
He was an acknowledged expert, certainly,
in that early period and then when he became
a shadow minister.

As Kerry mentioned, Chris Evans as well,
when you work so long and hard as a shadow
minister, in opposition, and you do not make
the ministry in government, it is very, very
disappointing. I can understand how Kerry
would have felt. And Kerry did work his guts
out in all of the areas he had responsibility
for, as well as if not better than most other shadow ministers in the period leading up to
the election in 2007. I certainly regret, Kerry,
that you did not make it to the ministry. That
is never easy. Even though Kerry was not on
the front bench as a minister, he kept
working diligently and he re-assumed the
position of whip until just before the last
election.

Kerry's other attribute, if it can be called
that, is that he has a sporting and racing
knowledge that I think is second only to one
other senator that I have known in this place,
Robert Ray. It was pretty hard to beat Robert
Ray on the sporting side. But Kerry has an
amazing knowledge of sporting and racing,
and I know he has a keen and passionate
interest in equine matters.

Although Kerry is leaving this place, he is
not retiring. Kerry, I am sure you will be able
to contribute much more actively to your
own areas of interest. I wish you all the very,
very best. You have made a very significant
contribution. I should also mention that
Kerry was a leading figure within the Labor
Party organisation in Tasmania for many,
many years. He was on the state conference,
on the state administrative committee—and
you can only grimace, being on that body for
an extensive period of time!—and also on
the national executive of the party. So Kerry
has made an outstanding contribution within
the state of Tasmania and, obviously, as a
Labor senator but also for and on behalf of
the Labor Party. He never forgot his
working-class, union focus and ethics; he
carried that approach right through his
Senate and parliamentary career. All the
best, Kerry, to you and your family. Thank
you.

Senator FERGUSON (South Australia—
Deputy President and Chair of Committees)
(18:27): I just want to say a few words,
having been mentioned generously by a
couple of the retiring senators on the other
side. I will start by referring to Senator
Wortley, whom I have not known as well as
many other South Australian senators,
because in this place you tend to get to know
the people you work with on committees best
of all. Although we see each other on a
social basis at times, it is when you actually
work with people that you get to know them
really well. But, Dana, I have always
admired your enthusiasm—like some others,
I do not always share all of your views but I
do admire the way you put them. I think,
even within your own party, you have shown
your enthusiasm for the causes that you
believe in and brought them to the forefront.
And that is why we come to a place like this:
to try to make a difference. Although your
time here has not been that long, I think you
have made a difference. I certainly wish you, Russell and Che well in the future.

It was interesting to hear Senator Sherry talking about Senator O'Brien's knowledge of horseracing. When I first got to know Kerry—after he had been here for a year or two, actually—we did go to South America together and, as we travelled around, we had a chance to talk. At the time, I just happened to have a share in a very good horse—well, I thought it was a Melbourne Cup winner—so Kerry used to keep asking me, 'How's the horse going?' With a name like Jeune Amour, it could not help but win! But I knew Kerry was a man who was very keen on horses and, certainly, his own horses that were racing at the time, and so we got to know each other very well.

I want to endorse another thing that Senator Sherry said. I rarely feel sorry for anybody on the other side of the chamber, but I did feel sorry for Kerry after the 2007 election when he was, as he put it, excluded from the ministry. At the time, there were a number of so-called high-flyers elected in 2007 who seemed to be able to find their way into jobs without doing any of the hard yards in this place. Kerry had done more hard yards than anybody I know. Throughout that period when he was shadow minister for agriculture, he and Jack Lake were a very formidable team. They were a very formidable team, which is probably why Jack finished up in the Prime Minister's office. Well, I think that is where he finished up; I have a sneaking suspicion he was still filtering a bit of information back this way at times!

I think that Kerry would have made a very good agriculture minister. I have said that to all of my colleagues who asked me. As a matter of fact, after today's performance, he would probably be better than the one you have got now. I should not really put that in a valedictory speech—no offence to Senator Ludwig, of course. Kerry, I wish you well. You have made a great contribution. Paul Calvert used to tell me how great you were to work with as the Opposition Whip. At times it is not easy. It is not easy to make decisions, as Senator Parry knows and Senator McEwen knows. He always appreciated working with you and I am sure he would want me to pass on his best wishes to you as well.

Michael Forshaw and I have probably been here longer than the others. It seems longer anyway, but not nearly as long as the night we spent in Budapest. I had no idea we had so much in common. The longer the night went, the more we had in common. I had no idea why he was in the Labor Party. Had I asked some of my friends in the rural industries, particularly at the time of the wide combs dispute, I probably would have found there were some differences. It was about the second delegation I had ever been on and I think it might have been Michael's first. His wife, Jan, and my wife, Anne, became firm friends. The original delegation was supposed to go to Poland, Hungary and the Czech Republic—I think it might have even been Czechoslovakia then, I cannot remember. At the last minute, they pulled the Czech program off, so we only went to Poland and Hungary. I was talking to Michael before we left and said, 'Bugger it, I really wanted to go on this trip because I wanted to go to Prague.' The Czech part of the trip was what attracted me. He said, 'Same here.' So we made an arrangement that when the official delegation finished just the two of us with our wives would have a little 'bilateral' to Czechoslovakia—and we did. We had the most wonderful three days being looked after there by the local Austrade commissioner and his wife. It was the start of a firm friendship.
We worked on the Public Works Committee together for a considerable time. I was Senator Forshaw's predecessor as Chair of the Joint Standing Committee on Foreign Affairs, Defence and Trade for eight years. I still remember after the 2000 election Senator Forshaw coming to me and saying, 'I might want to chew your ear a bit; I think I am going to get your old job.' Michael, for the past three years, has been a wonderful chair of that committee. There is an enormous amount of networking with diplomats. He is able to be diplomatic in his treatment of them and is able to understand them. I found over my eight years in the job I got enormous support from opposition people because it probably is the most bipartisan committee in the whole of the parliament, if the truth be known. In all the time I have been on that committee, which is longer than I care to remember, the only dissenting report that I can remember was written by Dee Margetts of the Greens. It was a single dissenting report. The rest of the time we seemed to be able to reach a compromise because, as I have always said in this place, unanimous reports carry far more weight than majority reports and minority reports. Inevitably, when considering legislation, the government puts in a majority report, the opposition puts in a minority report and the government treats it as opposition, whereas if you put in a unanimous report governments have to take some notice. They do not always agree. Michael has shown in his time as chair that he can work with his colleagues to reach consensus, whether those colleagues are on that side of the chamber or on this side of the chamber.

Michael, you have had a distinguished career. I have enjoyed your friendship and Jan's. I wish you well in the future. I am sure there are many things you will do in the future that will give you satisfaction. To each of you who have given your contributions tonight, I wish you all the best in the future.

Senator McEWEN (South Australia—Government Whip in the Senate) (18:34): I too would like to acknowledge the contributions of all the senators who have spoken tonight. As Government Whip, I would like to say how much I have appreciated the fact that, despite their retiring, all of our government senators have continued to contribute fulsomely to the business of the Senate and the parliament and have been very generous in agreeing to do whatever I have asked them to do in these last few weeks. They have always worked hard and clearly they are going to continue to do so until the last moment.

I will miss their contributions, their willingness to do whatever is required and the good humour with which they adapted to the ever-changing and often mysterious program of the Senate. I also thank all of them for their very thoughtful and polite interactions with the staff in the whip's office over a long period of time.

I also acknowledge the work of the staff of the retiring senators, as I know that a number of the senators' staff will also be leaving this place. I thank them for their contribution to the work of the parliament. You should all be very proud of yourselves for your professionalism and for the dedication that you have shown to your bosses.

I would like to say a few words about the senators who have spoken this afternoon. Senator Forshaw: apart from your patience, good humour and fondness for lollies, I particularly acknowledge your assistance in sorting out important issues to do with committee memberships, office-holder positions and other such party matters. Your leadership and the respect that you have from all of your colleagues made it possible for
you to be a trusted go-to person to sort out those issues. Those aspects of the management of our work here in the Senate may not be immediately apparent to everyone, but they are the hidden cogs of this very complex system. Your support has enabled this place to function. Your corporate knowledge on such matters and your valuable history has been greatly appreciated by whips, I know. Senator Dana Wortley has made the most of her six brief years here. She is from my home state of South Australia. Dana, you have been a wonderful representative of South Australia. She has always been prepared to make contributions in the chamber—sometimes we could not hold her back!

Senator Dana Wortley and I have spent many hours, many days and, in fact, many years on the Senate environment and communications committee in its various incarnations. When I was chair of that committee Senator Dana Wortley was an absolute stalwart. She was always really well prepared to bail up ministers to make sure they gave the necessary assistance to the committee members. She always showed great interest in any matter the committee inquired into. She also made sure that she used every opportunity that she had to pursue her passions, which include workers' rights, industrial relations, the ABC, Australia Post, the Murray-Darling Basin and cybersafety. It was very fitting that her longstanding interest in young people and the media was recognised when she was made Chair of the Joint Select Committee on Cyber-Safety.

Aside from her strictly senatorial duties, Dana Wortley also played a very important role in the life of government senators, organising on many occasions informal get-togethers in her office that involved food, music and other things. She did that especially on late sitting nights. Her contribution to social occasions has been very much appreciated. Of course, her contribution to the parliamentary sports club has been awesome. Thank you for encouraging those of us who are less active to get out and do things. Thank you for your six years in the Senate. I look forward to seeing you advocating on behalf of South Australia in whatever you choose to do next.

I have a few remarks about Senator Kerry O'Brien, for whom I have immense regard. I will miss him very much. He has taught me a lot. When I was first elected to the Senate I was fortunate to become a member of the infamous Rural and Regional Affairs and Transport Committee. At that time Kerry was the shadow minister for transport and later he became the shadow minister for primary industries, fisheries and forestry. Kerry O'Brien's pursuit of the then government through the portfolio areas covered by the RRAT committee was a lesson to all of us and certainly a lesson to a brand-new senator. Whether at inquiries or at estimates he was absolutely dogged in his relentless pursuit of witnesses. He has always backed that up with his in-depth knowledge of the broad range of portfolio areas that he covered from primary industries to transport. I remember that airline safety was a passion of his and obviously still is.

In 2007, as has been said, Senator Kerry O'Brien was made the Government Whip in the Senate. It is fair to say that his work in that role provided me with a solid understanding of the many-faceted, always interesting and sometimes very frustrating role of Government Whip. Kerry was very supportive of me when I became whip and has continued to be supportive. I would like to thank Senator Kerry O'Brien for leaving me with not only many words of whipping wisdom and a few stray bottles of wine when he left the whip's office but also his truly excellent staff—Kay and Maria, who are
indeed the real power behind the whip’s throne.

I wish Senators Forshaw, O’Brien and Wortley all the very best. I thank them again for their assistance and support.

Senator BERNARDI (South Australia) (18:41): I would like to thank Senator Forshaw for being one of my five favourite people to argue with in this place. I am not sure how I am going to replace you, but I will do my very best. I enjoyed serving on the committee under your chairmanship. I found it enormously frustrating, but that was your role. You did it to the best of anyone’s ability. Kerry, I have not had the chance to argue with you as much as I would have liked, but that is because you have been very busy. You both have had very different roles in this place. It would not have functioned without you. The breadth of experience that you both have brought here has facilitated making this chamber something special and what it is—a real representation of the people. I think that is great.

I would like to confine my comments more specifically to Senator Wortley, because Senator Wortley and I go back quite some way. I can expose that Senator Wortley has very poor judgment in the sense that she told her colleagues when I came here that I was all right. Yes, I am all right in the sense that there is not much Left in me, but I am not sure they would say I am all right right now, Senator Wortley. I will explain how we came to that in a moment.

Senator Wortley also had the esteemed position of leading a union of which I was once a member. This will horrify those on that side, but in a very short-lived acting career I joined the Media, Entertainment and Arts Alliance for a week I think. I made it to the cutting room floor and I once saw myself on German television. That was the extent of my career there. I actually owned a pub next to where Senator Wortley worked. The Advertiser went on strike. The workers were out the back in the lane on strike boycotting everything. In true sympathy with the people who used to patronise my business I took out hot pizzas to ensure that they were happy and healthy while they were going about their strike, hoping that they would get thirsty and come in and buy a drink. A few of them did. One particularly militant Scottish Communist—that is the only way I can describe him, and it was not Doug Cameron—came in and started giving me a lecture about taking advantage of the workers and saying that I should close my pub in sympathy with them, and things like that. I took umbrage at this because I was only trying to help them and be a good humanitarian. I made sure that every pizza that went out after that had three times the amount of salt on it so they would get very thirsty. It was a very good day of business.

Dana, thank you very much for your contribution to my business in that regard.

It has been a pleasure to be with Dana because not only is she a colleague who goes back a long way with me and my family but she has been very generous to my wife, and our kids have been at school together. I wish you, Russell and Che every success in whatever you choose to do. It has been a real honour and a pleasure to be one of your colleagues here.

Senator MARK BISHOP (Western Australia) (16:33): I want to rise and acknowledge the retirement of my three colleagues and make a few brief remarks about each. This place is an odd place to come and spend so much time in because often the work and the contribution that is made by individuals is never acknowledged except perhaps in these last speeches. Each of the three senators who is retiring tonight has made a very special contribution in different ways to the Labor Party and to
those of us who were in opposition for so many years and latterly in government. I want to talk about their special contributions.

Firstly, the person whom I have known for the least time is, of course, Dana Wortley from South Australia. In fact, I have not worked on a committee with Dana and have only observed her work in passing. But the very special contribution that she made in this place was one of cooperation and camaraderie. Someone made a reference earlier to the fact that often in late-night sittings it was Dana’s office that we attended for drinks and an exchange of views. But more special than that, Dana has the ability to bring people together because she is always first on the phone to issue an invitation and to organise a social function, particularly in those last three years when we were in opposition when she first came here. Dana contributed by bringing others in and by binding them to a wider group and a wider organisation. She was always most helpful, most cheerful and most pleasant in those endeavours as she was always in her work in this place. She made special reference tonight to her husband and her son, and of course that was from the heart. I wish her well when she returns to Adelaide, because often when we were out to dinner of an evening she would take a phone call from her son and you could see the gleam in her eyes and the pleasure as she spoke to him. I wish her very well in her retirement.

Turning now to Kerry O’Brien, oddly enough, given the large amount of work that Kerry has done since I came to this place in 1996, I do not think we have ever worked together on a committee. Kerry chose an area of endeavour which has been referred to by others and I do not think we ever managed to share any sessions together where you get to know each other much better than you do in other ways. My own observation from when I was on the frontbench of the Labor Party from 1998 through to 2006—and I think Kerry was there in one role or another all of those years but in different areas: agriculture, forestry, fisheries, transport, tourism for a while, regional development and regional affairs—was that he was always prepared. He never spoke off the cuff. His remarks were always judicious, they were always considered, they were suited to the legitimate interests of the group he might be advocating for and, best of all, they always had a political edge. They had merit in terms of the contribution to the particular group but there was always a useful political take on whatever the issue of the day was. So to Kerry as he retires I also wish him well.

I first came to know Michael Forshaw in the very early eighties. Michael was then either national assistant secretary or national secretary of the Australian Workers Union and I was an official of another union in Western Australia. At that time I had very close political relationships with the two senior men who ran the AWU in Western Australia, in those days referred to sometimes as the two Joe’s, who had been around for many years. They used to be very supportive of me in various endeavours in different forums in the labour movement in that state. Through them I got to know Michael when he used to come over to Western Australia in relation to various disputes and various other sets of negotiations.

I noted back in the middle eighties that Michael was always a person who listened, a person who consulted and a person who gave consideration before deciding on a particular course of action. When I came here in 1996 he had been here for two or three years beforehand and again his strengths were along those lines. Michael is a person who has some of the strengths that serious negotiators often overlook. When he went into a negotiation he had always worked out
your position, your true interests or where an outcome that would suit all interests might be achieved, and he would work towards that. He had a very useful ability to negotiate. He had a very useful ability to seek a compromise and to know when a deal was on the table, to stitch it on, get out of the room and move onto something else. In that context he always had the ability to understand what was critical or important in a particular negotiation and what was more peripheral and of not so much consequence. That was the contribution that he brought to this place.

As I said at the outset, each of three retiring senators from our side brought a different contribution. They brought a remarkable strength. In a lot of ways the contribution they made was not properly recognised or understood. Often it was underappreciated and undervalued, particularly in respect of Senator O'Brien who made a contribution in an area of work which is not natural to many Labor Party people but which he got on top of and worked hard at—as I said, he was always well briefed. The particular piece of bastardry that undid him under the former Prime Minister was noted by a lot of people in this place and should not go unremarked because the treatment dished out was not appropriate. But in respect of all three colleagues, I thank them for their assistance to me over the years and the time they have spent. I wish them well as they retire and spend more time with their families.

Senator STERLE (Western Australia): I will be very brief. I will not talk about trips because I will have to change names to protect the guilty—and I will do that when I write my book! I first met Michael Forshaw when I came here in 2005. I had the pleasure of sitting next to my great mate Hutcho, and to my side were Hoggie and Michael. I could not believe how Michael could come out with such witty interjections so quickly. When we came over to this side of the chamber, I escaped and went up the other end. I thought, 'You beauty, I misbehaved and I'm back down next to him still enjoying his interjections!' Michael, thanks mate. I am not going to say I am going to miss you, because I am looking forward to you coming to Perth, where we are going to have a whack of a golf ball and blow the top off a few frothies. I will also miss our conversations in question time on 'who sung that song', but that is between us. Michael, good luck, mate.

As for Kerry O'Brien, I cannot say much more than my good mate Mark Bishop from Western Australia said. I agree wholeheartedly that he is the best agriculture minister we never had. For six years I have witnessed Kerry's diligence and good work on the committee. I am a fellow RAT with Kerry—that is, rural and transport. I sit there and watch Kerry go through every issue. There is nothing that gets past Kerry. Anne and I, as brand-new senators, could doze off in estimates because Kerry would go from—

Senator Bernardi: You still do!

Senator STERLE: That is not true. I do not doze off—I walk out of the room now! Kerry asked questions from nine o'clock in the morning until 11 o'clock at night for four full days—and first thing Monday morning he let the chair know that he was going to have a spillover day on the Friday. I have never seen anything like it since. Kerry, we are going to miss you on that committee, and I am going to miss you as a mate. I look forward to you joining me in the Kimberley again for another sojourn in your retirement, when we can swap tall stories again.

Finally, there is my good mate Dana Wortley. Dana and I go back before our Senate careers, though we did come into the parliament together. Dana and I were linked
through her husband, Russell, who was a TWU branch secretary with the gas branch. Russell and I were federal councillors together from 1998 and I had the pleasure of meeting Dana before she had her wonderful baby. It is true that on those late sitting nights we used to head for the Wortley cave. For all us ferals, all us blokes, it brought a little bit of decency into our lives. Dana would make sure that we ordered a meal. We would have our meal and then we would have to listen to Senator Farrell trying to play Danny Boy 17 different ways. Fortunately, Dana and I decided we would take over the iPod and have a competition to see who could play the best seventies songs, and who sang them word for word. Dana, I am going to miss you but I will certainly still be seeing you in South Australia. Our friendship cannot be split just because you are leaving us now. Good luck, mate. At least you can do one thing that I cannot: you can put your arm around your boy and give him a kiss and cuddle and he will not give you a punch in the head because he is still young enough. Make the most of it, because they do grow up very quickly. I am looking forward to a bevvie with Senator Wortley, her husband and others, so I am going to shut up.

Senator ARBIB (New South Wales—Minister for Sport, Minister for Indigenous Employment and Economic Development and Minister for Social Housing and Homelessness) (18:56): As a relatively new senator, I thought this would be the appropriate time to speak. We have had three fantastic speeches tonight which reflected brilliantly on all three senators not just professionally in their time in the Senate but also personally in terms of their values, their principles and the work they have achieved.

As a new senator, the first whip I encountered was Senator He and his office gave me support in learning the ropes in this place. It is not easy for new senators to learn the ropes, but Kerry was always there to provide me with the advice I needed in terms of debates and speaking. I truly appreciate that. I too acknowledge the work that Kerry did in his shadow portfolio. When I was not in this place but working in the party office with numerous shadow ministers, I saw the hard yards he did in terms of policy development and also in terms of building relationships with key stakeholders and lobby groups. A lot of the stakeholders in the area he was fighting were not traditionally Labor people. These were people who had a long-term distrust of the Labor Party. Kerry was able to turn that around and show that the Labor Party represents everybody—not just the people in the cities, but the people in the regions and in the country as well. Kerry, I thank you for the work you did in that portfolio; you set a very high standard. I agree with my other colleagues that you deserve to be a minister, and that will not be forgotten.

As sports minister, I also agree with you that Tasmania should get a team in the AFL, and I know that you will continue that work when you leave here.

Senator Wortley: Its own team!

Senator ARBIB: That's right, its own team—and I know that, with your campaigning, you will eventually get there.

Dana Wortley and I have known each other only a very short time, but I think her smile lightens up the Senate. Dana, I have seen you speak on numerous occasions in the chamber. You are passionate about what you believe in. You are passionate about improving the lives of workers and people who are powerless. We did a bit of work together in the area of child protection, and I know how passionate you are. It has been lovely working with you and I really do wish you well in the future.
I have known Michael Forshaw for a long time. I think I first met him when I was Young Labor President in 1995. It was a big change going from Graham Richardson to Michael. They are completely different in terms of their personalities, but I have to say that Michael has proven just as effective in this place. Being the New South Wales Right convenor he has done a huge amount of backroom work. He gets little gratification for that in terms of public acceptance, but the work he has done has been so effective. To me, he has been a trusted person in whom I can confide and he has always given me support. At the same time, he has been a peacemaker in this place. There are so often disputes between factions and individuals, and Michael is always the person we go to to try and resolve them. He has also been wise counsel in some difficult times over the past couple of years. Michael, we really do appreciate this—from a factional perspective but also from a party perspective. We have worked on numerous campaigns together, from the Sutherland by-election right through to the Cunningham by-election. Many we have lost, but we have learnt from those losses, and many we have gone on to win.

Tonight you made reference to Jan, and I know a number of other senators made reference to her. You really are a team. Jan has done so much work for the Labor Party and so much work for her constituents in Sutherland. She got the largest vote in the council election, and that is no surprise because she is someone who truly represents her community. I know you have done a great deal together and her face will be missed in this chamber.

As a senator, Michael, you have generously stepped back on a number of occasions. You could have taken a ministry or a parliamentary secretary position, but you have always worked to put the party first and that is something that I and everyone else appreciates. There are two areas where you will be remembered from inside the party. One is as a duty senator. Senator Abetz referred to the amount of work you have done as a senator and on the ground. You have taken that role and have pursued it seriously. You have represented so many people in your constituency, not just ALP members. You have worked throughout the community, not only getting out there with the Labor message but also getting out there fixing people's problems.

When you talked about the BER projects that you have been to—what can I say? You are probably the best judge in the country because you have been to more BER projects than any other senator or member—and I know that firsthand. If you say it is a good program, it is a good program, because you know; you have seen it. From all the party members and constituents in those duty electorates—Hughes, Paterson, Cowper and Wentworth—thank you for the work you have done, but I know you have done a huge amount for the whole of the North Coast in representing those people. So thank you for that.

Last is the work you have done on committees. You have done a great deal of work on all committees, but the chairmanship of the Joint Standing Committee on Foreign Affairs, Defence and Trade is probably your legacy. I was a new senator who came onto that committee and I could see the workload you would undertake. The relationships you formed with ambassadors, visiting dignitaries and officers of the Department of Foreign Affairs and Trade were truly outstanding. You leave this Senate with an outstanding knowledge of foreign affairs, defence and trade and that record is second to none. That work really should be acknowledged. I know it is something you have a deep interest in. You talked before
about the policy issues in the area. You have a deep understanding of that area, particularly the issue of human rights. I thank you for the work you have done in foreign affairs.

All three senators have been true to themselves. They have been true to the party and they have been true to their constituents. Thank you for your work and best wishes for the future.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (19:03): I join with all of my colleagues who have made remarks about the retirement of Senators O’Brien, Wortley and Forshaw. I consider all of them my friends. In some ways that might be a bit surprising. When I first entered the Senate three years ago I was appointed deputy whip and had to work with Senator O’Brien. We came from quite different factional backgrounds but, I think to our surprise, we got on like a house on fire.

I very much appreciate the time I spent as deputy whip with Kerry, because he taught me lots of things. I was amazed at all the procedure he knew about the operation of the Senate and I very much appreciated the generous way in which he was prepared to pass on that knowledge to me.

As a couple of other speakers have mentioned, he does have one terrible character flaw and that is his support for the Collingwood Football Club—but everybody makes mistakes and we can forgive Kerry for that. I wish him all the best in life after the Senate and look forward to coming down and having a look at that vineyard of his and trying some of those magnificent wines he is producing down there.

Senator Forshaw was a factional ally. His reputation preceded my appointment to the Senate. I worked with him in a less formal Senate role as a convenor. I learnt lots about how you deal with the difficult issues and the personality issues of the parliament and found that he had a solution to every problem. That is not always easy in politics, but anybody who has that ability will no doubt do very well in life after politics and I am sure Mike will be in that category.

Finally, there is Senator Wortley and I noticed that Senator Sterle referred to Danny Boy. Senator Wortley might be interested to know that Danny Boy is playing right at this moment in her office. It has been tremendous working with you, Dana. I know the sacrifices you made through having a young family in coming to the Senate, but you did it willingly. You have always been the life of the party around here and you are very much going to be missed. So good luck in your life after the Senate.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Hurley): Order! I propose the question:

That the Senate do now adjourn.

Illicit Drugs

Senator HUTCHINS (New South Wales) (19:06): In my time in this place I have been concerned with strategies to counter organised criminal networks operating in Australia, among the most insidious forms of which are those that profit from human misery through the trade in illicit drugs. Next week we will all be reminded of the importance of combating the scourge in society that this trade represents when Drug Action Week commences, during which over 700 events are planned across Australia to promote awareness of the dangers of illicit drug use.

As the purchasing power of the Australian dollar rises, it is not only profiteering retailers who are failing to lower their prices to take into account the lower cost of buying
their stock; drug dealers also have kept their prices high to maximise their profit margins. For an international drug trafficker Australia is a very attractive and profitable market. International drug cartels have had their sights set on how much their drugs are worth here and how high they can push up their prices, and we are grateful that through ever-improving methods of detection and deterrence the government is making their entry extremely difficult. Other factors forcing up the price of illegal drugs have been the success of our Customs and Border Protection regime in keeping drugs out and the criminal penalties imposed on anyone who participates in the trade and use of these substances.

More can always be done to ensure that the market for drugs in Australia is difficult to trade in. We want to continue sending a clear message that illicit drug use will not be tolerated in Australian society. But some policies, while they may be well-intentioned, have unintended consequences that threaten to detrimentally impact on this strong record of preventing and discouraging criminal drug use. One such policy has been the creation of drug injecting rooms such as the Sydney Medically Supervised Injecting Centre, known as MSIC, in Kings Cross. This facility allows for the injection of illegally obtained drugs in a medically supervised environment. These places are often subsidised by the taxpayer either through direct contribution or because the operator is a tax-exempt entity. There is no compulsion among users to reduce drug use or to overcome their addiction, and the police do not ask questions about what goes on inside as these activities are protected from legal consequence. Sites such as these create a place where excessive and dangerous drug use is accepted and even encouraged as addicts are provided with an environment where their drug use is not condemned or penalised. An article in the *Sunday Telegraph* in 2006 examined an influx of ice users at the Kings Cross centre, which had become a magnet for this type of user because, as one participant was quoted as saying:

> You can do what you want. ...

> It's amnesty once you cross the door; cops can't touch you.

This influx was associated with increases in violence and destruction of property in the surrounding area. The article also quoted a police officer who referred to 'assault and malicious damage' as the main by-products of ice use in the centre. Even more worrying is evidence suggesting that the existence of these injecting rooms encourages users to take even greater risks than they usually would with the amount of drugs that they consume. Some have also been known to experiment with cocktails involving prescription medicines, commonly in combination with other drugs such as heroin. It is not purely illegal drugs that are being abused but also various combinations of substances. Some claim that every overdose or medical incident that takes place within the walls of an injecting centre is a life potentially saved on the street. But it is much more plausible that this overdose would not have occurred outside the environment provided by the centre which acted to encourage it in the first place.

In a 2003 study, an expert committee commissioned by Drug Free Australia found that the rate of overdose among clients prior to their attending the injection room was 42 times lower than the rate experienced by the clients inside the room. This is corroborated by evidence both from participants and from research commissioned by the Kings Cross centre. One former client of the centre has said of the overdosing there that users:
... feel a lot ... safer, ... because they know they can be brought back to life straight away.

... they feel it is a comfort zone, and no matter how much they use ... they will be brought back.

Couple this statement with an evaluation conducted by the centre itself which concedes that the rate of heroin overdose at the centre is recognised to be many times higher than that experienced by users on the street, and the empirical conclusion is fairly logical and unsurprising: for an addict going for that increasingly elusive high, injecting rooms are a gift. Having the freedom to use as much as you like, knowing that there is someone in the next room with the ability to flush all the poison out of you, is a powerful incentive for attending the centre for the purpose of deliberately overdosing. A facility staffed by medically trained assistants condoning users' addictions by their silent complicity and filled with other addicts looking for a fix does nothing to reinforce the message that users should be working extremely hard to remove from their lives the destructive behaviour that they are engaging in. Far from helping to cure the addiction and combat the drug trade, these centres create a haven for the excessive use of drugs free from the penalty of law.

Considering the market element of this equation, drug injecting centres also assist organised crime in identifying potential customers. It may be difficult to sell drugs around the centres, as I am sure that close monitoring of such transactions would occur, but you can be sure that criminals have their eyes out for new buyers. The people who least need easy access to illicit drugs will be the first approached by the dealers, thanks to their attendance at these injecting rooms. Perversely, the combination of medical supervision and criminal amnesty does not create a centre where lives are saved, and it does not help users overcome their soul-destroying addiction to substances such as heroin and ice. The centre does not prevent the illegal trade in these substances and does not reduce the profitability of organised crime in any way. Instead, the centre encourages overdose and risky behaviour even in excess of the terrible risks that drug users face with every hit they take, and it helps criminals to find customers. But the most significant concern that I have with centres like Kings Cross, over and above these demonstrated negative outcomes, is also the most compelling case for their closure—the perception that illicit drug use is acceptable within the community. By undermining criminal sanctions against drug use, and by advertising a place where it is safe—and I use the word 'safe' with great qualification—to use drugs, injecting rooms by their very existence imply that illicit drug users can and should be able to find a way around the deterrence structure that society has developed in the interests of public safety and health.

By undermining the following principles—that no illicit drug use is safe, that trade in these substances is criminal, and that society will not tolerate it—we undermine the entire edifice that has made Australia one of the most difficult drug markets in the world to trade in, the same system that restricts the use of these chemicals and protects our community from all the social and financial side effects that accompany their consumption. I encourage all senators and members of the public to participate in Drug Action Week next week and show support for such efforts to create a society free of substance abuse through public awareness of the terrible toll that it takes on peoples' lives. As a community we should not allow this kind of behaviour to ever become mainstream or acceptable, and this is even more so the case for illicit drug use.
Non-compliance with Senate Orders for Production of Documents

Senator CORMANN (Western Australia) (19:15): Tonight I would like to talk about the circumstances in which Senate orders are made to statutory agencies like the Productivity Commission and others to produce reports, documents and other information and the increasing incidence under this government where the statutory agencies are now joining government departments in not complying with these legitimate orders of the Senate seeking information. Seeking information from government is core business for the Senate. This is all part of our democratic function to scrutinise the activities of government. Asking questions, obtaining answers, asking for information and getting access to information—including information which government might not otherwise be prepared to provide—is core business when it comes to parliamentary scrutiny of the activities of government.

Earlier today the Greens moved a motion which was not supported by the Senate in relation to a proposed order for the production of a report by the Productivity Commission on the development of a sovereign wealth fund. The coalition opposed that motion, and in the two minutes that were available to me at the time I was not able to properly explain the reasons for the coalition's decision in relation to that. I would like to elaborate tonight and perhaps offer to the Greens an opportunity to discuss this further, because I think that there are some unresolved issues here that go directly to the Senate's authority to obtain information from government, including from statutory agencies which were set up by the parliament.

Obviously, the coalition had concerns about the motion itself. To talk about a sovereign wealth fund at a time when the government is taking us to $107 billion of government net debt and when we are currently looking at the second-highest deficit on record—a $50 billion deficit this year after we had a $55 billion deficit last year—is of course a ridiculous proposition. What seems to be implied in the Greens' proposed move to set up a sovereign wealth fund now is that the government somehow should borrow more money to invest in the wealth fund. That hardly seems to be a very sensible investment. The time to talk about sovereign wealth funds is when the budget is in surplus and at least when government net debt has been properly paid off, which was of course the circumstance under the previous Howard government. By 2005-06 John Howard and Peter Costello had led the charge in paying off $96 billion of government net debt, and future surpluses were to be directed into the first sovereign wealth fund that Australia has ever had: the Future Fund. To have a discussion about setting up a sovereign wealth fund at a time when this government has completely mismanaged our finances is of course very bad timing, and we would not subscribe to the proposition that we should borrow money in order to invest it in the wealth fund.

However, there are some broader issues in relation to the process and some unresolved issues around the process of the Senate ordering statutory authorities like the Productivity Commission to produce reports. Back in November 2010 the Senate ordered the Productivity Commission to produce a report on the design of a process for the selection and ongoing review of the superannuation funds to be included in modern awards or enterprise agreements as default funds. It was a requirement that the process was to be based on objective criteria and evidence and be subject to systematic
review so that the selection and ongoing review of eligible default funds would be transparent and competitive. The process had to help maximise employees' retirement incomes by ensuring that only those superannuation funds that deliver and continue to deliver the best results to their members were able to be included as default fund options in modern awards and enterprise agreements. In designing the process, the Productivity Commission had to make reference to the existing sophisticated system of superannuation fund ratings which has evolved over the past 20 years and is already used widely by employees, employers and financial planners.

The deadline for the report was 31 May 2011. I am very pleased that you are here, Mr Acting Deputy President Ludlam, because this is an issue that I am very keen for you to explore in your party room at the right opportunity. Here we have an order passed by the Senate in November 2010 requiring the Productivity Commission to report to the Senate by 31 May. The feedback that the Productivity Commission sent to the Senate was, 'We cannot do this because under the act that rules our operations we are not empowered to provide reports for the Senate.' According to the Productivity Commission chair, Mr Banks, only the minister can ask the Productivity Commission to provide such reports. This is, of course, completely false. This is not a partisan statement, because there is a track record in this parliament under governments of both persuasions—whether the Hawke government, the Keating government or the Howard government—where the Senate has passed orders for the production of documents directed at organisations like the ACCC, ASIC, the National Audit Office and others. Many of these orders were initiated, incidentally, by crossbench senators, whether they were Democrat senators or the Family First senator—there might even have been some Greens' senators, Acting Deputy President Ludlam; I am sure there would have been. Under the Howard government and under the Hawke and Keating governments all of these organisations complied with these orders and produced the reports that they were asked to provide on a whole range and variety of issues—until we got to the Gillard government. This was supposed to be the era of openness and transparency. The sunshine was going to come in. This government was going to be accountable to the parliament. Under this government we are actually going in exactly the wrong direction. The Productivity Commission has outright refused to comply with the Senate's order. The pretext was that they did not have the power under their legislation to comply with that request and that the Senate, in their view, did not have the authority to force them to do it. The Clerk of the Senate provided very clear advice that, yes, under the Constitution the Senate has the undisputed power to order the production of documents necessary for its information—a power which encompasses documents already in existence and, importantly, documents required to be created for the purpose of complying with the order.

The Greens happen to oppose both the original motion, which was initiated by the coalition back in November 2010 and supported by the Senate despite the opposition of the government and despite the opposition of the Greens, and the follow-up motion clarifying the Senate's power, which is why we were somewhat intrigued when the Greens today sought to ask the Productivity Commission to do exactly what we, through our motion, had asked the Productivity Commission to do back in November 2010. We think this is an issue that ought to be resolved and we urge the
Greens to work with the coalition on clarifying this issue. If the Greens and the coalition work together then the Senate will be able to impose its will on a government that is reluctant to comply with basic principles of accountability to the parliament.

Mr Acting Deputy President, there are consequences for this. You might have seen in the Australian Financial Review last week that there are hundreds of thousands of Australians who are getting hurt because, through the selection of default superannuation under the modern awards process right now, they get channelled into underperforming super funds. The government recognised this problem in the lead-up to the last election. This Labor government in the lead-up to the last election said they were going to fix it. The new minister, Minister Shorten, forgets too often that he is required to act in the public interest, because he gets distracted by acting in the vested interests of a section of the superannuation fund movement and is very unenthusiastic about fixing this particular issue. So, even though it was Labor Party policy before the election, he has refused to comply with the order that was passed by the Senate back in November 2010, because he wants to continue to protect the current anticompetitive, closed shop arrangement for the selection of default superannuation funds which are channelling hundreds of thousands of working Australians into underperforming funds. Just read the articles about the MTAA in the Fin Review last week.

What does Minister Shorten say? Minister Shorten says the Productivity Commission is too busy. This is the minister who whenever he is under the slightest bit of political pressure runs to the Productivity Commission, asking them to commission another review. Whatever the issue is, if there is a little bit of political pressure, at the drop of a hat he asks the Productivity Commission to come up with another review; but, when it comes to actually fulfilling an explicit and emphatic Labor Party pre-election commitment to get the Productivity Commission to design an open, transparent, competitive process for the selection of default funds under modern awards, he is not prepared to do it. The Greens, I am sad to say, were complicit with the government when this motion was before the chamber back in November. It is a serious issue and, if the Greens want to pass their sorts of motions in the future, they should work with the coalition on a well-established policy framework around these things.

**Barnardos Australia's Mother of the Year Awards**

Senator BILYK (Tasmania) (19:26): Tonight I rise to speak about an issue which many people in this chamber know is very close to my heart, and that is the issue concerning the care of children and parenting. Recently, at an awards ceremony in Hobart, I had the pleasure of announcing this year's Barnardos Tasmanian Mother of the Year Award. Barnardos care for thousands of children who were robbed of the foundation of life—their childhood—so every year the Barnardos Australia's Mother of the Year Awards show what an important role mums play in giving kids a good start in life. The Barnardos Australia's Mother of the Year Awards are the only national awards which celebrate Australian motherhood and recognise the enormous contribution mothers make in shaping Australia's future generations and their enormous contribution to the Australian community.

This year, 2011, marks the 16th year of the Barnardos Australia's Mother of the Year Awards. Apart from recognising the pinnacles of motherhood, the other aim of
the award is of course to raise public awareness of the nurturing role Barnardos play in the lives of thousands of children in Australia each year. For over 120 years Barnardos have been at the forefront of child welfare service provision and have embraced a tradition of innovation and holistic approaches in the quest to find real, permanent solutions for Australian children in desperate need. As one of Australia's largest children's charities, Barnardos have parental responsibility for the abused and neglected children who are placed in their care. The Barnardos vision aims for all children and young people to have caring families in which they can grow safely and fulfil their potential.

Families and young people must be valued and supported by quality services and engaged communities. Barnardos aim to keep the child and young person central, working for what they believe to be the child or young person's best interest. They aim to strengthen families, believing in the importance of a child's family having the maximum role possible, consistent with child safety, and that children should be in permanent family structures. They relate respectfully, working in partnership with and encouraging active participation of families, children, young people and communities. They respect the unique contribution of carers, volunteers, team members and others in Barnardos and in other welfare agencies.

Barnardos share their knowledge and continue to develop their expertise, drawing on their own and others' experience. They pursue social justice, working to empower the disadvantaged and oppose social injustice. They are guided by the principles of fairness in distribution of resources and power and the maintenance of equal, effective and comprehensive civil, legal and industrial rights. Barnardos invest in the future, using their resources and knowledge to improve the future of disadvantaged Australian children and young people. Finally, Barnardos are persistent in their attempts for change, working creatively to make a real difference. Clients, particularly children and young people, need consistency and unconditional care. Barnardos, once they start a task in case management or advocacy, complete it. I was very pleased and very honoured to be asked to announce the winner of this year's Barnardo's Tasmanian Mother of the Year award. Being invited to speak at the Tasmanian Mother of the Year award ceremony made me think about motherhood. As a mother and previously a carer of children, many of whom were living with disabilities, I know that motherhood and parenting are enormous responsibilities, harder than many realise when they begin the journey of parenthood. It is certainly an interesting journey to take, as all mothers will attest, whether they are biological, adoptive, step- or foster mums. It is a journey that has a lot of corners, not all of which are easy to navigate. It involves speed humps, give-way signs and a lot of dead ends. The road is certainly not always paved with gold, often not even with bitumen. In fact, there seem to be a lot of those bumpy, unsealed roads along any parenting journey. Sometimes the road appears to disappear altogether. And as for those roundabouts: I think most parents have had the experience of having to go round and round and round on some issue of their child-rearing, never quite reaching the off-ramp of understanding.

Mothers come in all shapes and sizes and play such an important role in the raising of children, perhaps the most important role. And each mother approaches motherhood in her own unique way, whether they are stay-at-home mums or mums who go out to work, whether they are teenagers or older mums, whether they are rich or poor. Mothers who...
are not good at parenting are found in all walks of life, and so are mothers who are great. As an ex-childcare worker I have seen young mums of 17 who were brilliant with their children, whose children grew up to be dux of the high school and the college, who went on to university and really made a difference to other people's lives. I have also seen mums with more degrees than a thermometer who gave food, clothing and shelter, but seemed to apply different standards of caring to what I thought was appropriate—not abusive, just different.

Most mothers are trying to do the best job they can and are succeeding, but unfortunately there are some mums that cannot cope for whatever reason, and this is where Barnardo's can step in. These awards are a wonderful way of providing some well-deserved recognition to just some of the millions of unsung heroes that are the mums of Australia. The awards play an important part in recognising and promoting parenting. The three finalists from Tasmania—Robyn Butterworth, Dianne Sharp and Tracey Steel—have all given so much of themselves to help improve the life or lives of children. This is the greatest gift to give, and I commend them and thank them for their hard work and commitment.

The Tasmanian winner, Dianne Sharp of Railton in northern Tasmania, is a remarkable woman. Dianne's heart and home are always open to anyone in need. Ten months ago, her 17-year-old stepson, Jake's, friend Joel was having a hard time so Dianne took him in and made him feel like one of the family. She has given him a job at her car detailing business and he is studying a horticultural agriculture course at the TAFE. Her children often bring their friends home and they may stay for a night, a weekend or even longer. And they know that the door is always open to them. Dianne also has two sons, Bailey who is 11 and Jackson who is nine.

Dianne was absolutely shocked, and really humbled and honoured when she was awarded the title of Tasmania's Mother of the Year. Although she was not ultimately announced the national winner at the gala dinner held in Sydney on Thursday, 5 May—that prize went to Rebecca Healy of the Northern Territory—Dianne should be incredibly proud of her achievement. I take this opportunity to congratulate Rebecca on her national win too. The other Tasmanian finalists, Tracey Steel of Dodges Ferry and Robyn Butterworth of Youngtown, should also be acknowledged. They work very hard on behalf of their families, and should be very proud of their achievements and of the wonderful families they have created and nurtured. They do the state of Tasmania and, indeed, the nation proud, serving as an example of what good parenting embodies.

Finally, I would like to say a special thank you to Barnardos for giving us the opportunity to recognise the endeavours and achievements not only of these three Tasmanian finalists but of all mothers who were nominated around the country. It is through their efforts and through their love that we build a better tomorrow today.

**Ugandan Anti-Homosexual Legislation**

**Senator MOORE** (Queensland) (19:34): In late 2009, the Ugandan government introduced repressive anti-homosexual legislation into their parliament. This legislation imposed the death penalty for certain homosexual acts defined as aggravated homosexuality. Part 2 of that bill would sentence HIV-positive homosexuals to death for the sexual act. Part 3 of the bill would make it illegal to provide social and medical services to lesbian, gay, bisexual and transgender Ugandans. For example, a landlord that rented a home to a homosexual
could receive seven years imprisonment. The bill would make it illegal to publicly defend gay and lesbian rights. The bill, in fact, would turn Ugandans into anti-homosexual informants. Any discussions of homosexuality or proven failure to report a homosexual activity would also be criminalised, and if convicted of this crime the Ugandan citizen may face seven years in prison.

Julius Kaggwa, the Ugandan lesbian, gay, bisexual and transgender activist, and founder of the group Support Initiatives for People with Atypical Sex Development, received the Annual Human Rights Award for defending the rights of gays in Uganda, a very brave act in that situation. He wrote of his opposition to this bill:

In an attempt to determine the cause of my sexual variance, a dentist once asked me if there were witches in my family. In addition to my dentist's unwelcome inquiries, I've had my house set on fire, had several demands for invasive body searches as a prerequisite for job interviews and church membership, and lost a job due to slanderous media coverage about my masculinity. My personal experiences speak to the harassment that affects LGBT Ugandans every day, and the passage of this bill will weaken Ugandan democracy and ruin the lives of countless individuals who are already suffering under oppressive anti-homosexual legislation.

The introduction of this bill in 2009 made anyone who was opposed to homosexuality free to harass, enact violence against and aggressively attack people who were identified as being homosexual or supported anyone who was homosexual in their family or their community. This aggression spread through many areas of the community, and people had to be extraordinarily brave to speak about their own human rights or their own decisions. In 2009 the bill was not proceeded with, but very recently, at the beginning of this year, the Ugandan parliament again brought this bill forward onto its national agenda.

Through the amazing work of gay and social justice activists across the world, there was an international outcry to say that this legislation should not occur anywhere. In fact, there was a massive process, through email and using social networks, to ensure that people knew what was going on—because as you know, Mr Acting Deputy President, we do not get effective media coverage of what is happening in other countries, and in many ways this horrific legislation could have passed without notice; it could have gone through and people would have continued to suffer in absolute opposition to any sense of human rights. However, the international community did react, and there was a great outcry.

One of the reasons for that was the amazing activity of a strong gay man who came out in his area and was prepared to become the national face. David Kato Kisule, a gay campaigner in Uganda, died on 26 January aged 46. This man knew the risks that he was taking. This man put his own life at risk for something that was more important: the human rights of fellow people in Uganda and across the world. He decided that the way to react to what was happening in his country was to be out and proud, at great personal risk. He had many, many beatings. He was personally attacked. In 2004 he founded Sexual Minorities Uganda to campaign against the increased anti-homosexual activity in his country. He was the group's litigation officer because he knew how much litigation was needed; because, as a teacher, he was able to work within the law; and mostly because he was loud, impatient and demanding.

When a local newspaper called Rolling Stone ran a front-page article on what it called 'homos', promising to expose 100 of
them and calling for these individuals, these Ugandan citizens, to be hanged, Mr Kato was one of only three Ugandans who were prepared to stand up and sue the newspaper. He was the only one who went to court to state his case that homosexuals were born, not made, and therefore could not be recruited. He took his case to the courts and, on 3 January this year, a judge ruled against *Rolling Stone*. Mr Kato received compensation of 1.5 million Ugandan shillings, about $640. It was not very much money, but it was the real principle that mattered. This brave man was prepared to take his case through the courts.

Meanwhile, the process of developing the legislation was continued. Mr Kato knew that he must take action, and he did. He continued to work within his own community and internationally through the social media network to bring this issue to the world stage and to make sure that people knew exactly what was going on. As a result of that action, there was a massive gathering of signatures on e-petitions, and there was action through Uganda to bring this issue to the notice of the parliament. In fact, the legislation has been deferred. It has not been defeated; it has only been deferred, and at great cost, because David Kato was murdered in his home—bludgeoned to death. He is a true martyr to the cause of social justice and human rights in Uganda.

But Uganda is not alone. Anti-homosexual legislation exists across the world. We know that a number of countries have imprisonment and strong legal and criminal penalties for people who are identified as being homosexual. There is an international struggle to ensure that human rights law is shared and that people have the right to make their own decisions. At the 14th session of the Human Rights Council in June 2010, Australia, my nation, urged all states to end discrimination on the basis of sexual orientation and gender identity, and in particular to remove criminal penalties, including the death penalty, for offences on the basis of sexual orientation. Australia also co-sponsored the UN Joint Statement on Sexual Orientation and Gender Identity at the UN General Assembly in December 2008, and we continue to be active on the world stage in this area.

As part of the international protests at the Ugandan legislation, Foreign Minister Kevin Rudd made public statements against what was going on in the draft laws and also made sure that, at the local level, officers from the Department of Foreign Affairs and Trade spoke with the Ugandan acting high commissioner in Canberra and that the Australian High Commission in Nairobi, Kenya, which has responsibility for Uganda, made similar representations to the government of Uganda. I quote Mr Rudd:

> Australia is a global advocate in support of non-discrimination on the grounds of sexual orientation and will continue to take opportunities through the United Nations and other channels to urge all governments to end such discrimination.
>
> It is important that we as world citizens take up our role to end the kind of legislation that was being introduced in Uganda and in so many other nations across the globe. We have an opportunity at the CHOGM that is going to be held in Fremantle later this year to ensure that people speak out against the kind of anti-homosexual activity that is a shame to all citizens. We have so many people who have had the courage to stand out against this legislation, and I hope—and I know that many people across our world hope—that David Kato's courage will be reflected in continuing opposition to legislation such as that which is on the Ugandan books.

*Senate adjourned at 19:43*
The following government documents were tabled:

- Australian Communications and Media Authority (ACMA)—National relay service provider performance—Report for 2009-10.
- Australian Human Rights Commission—Report No. 43—Mr NK v Commonwealth of Australia (Department of Immigration and Citizenship).
- Sydney Airport Demand Management Act 1997—Quarterly report on the maximum movement limit for Sydney Airport for the period 1 January to 31 March 2011.
QUESTIONS ON NOTICE

Treasurer: Accommodation
(Question Nos 20, 49 and 50)

Senator Humphries asked the Minister representing the Treasurer, upon notice, on 28 September 2010:

Do any of the departments or agencies within the Minister's portfolio consider that new or additional office accommodation may be required in the next 2 years; if so, would that accommodation be provided in Canberra; and if so, approximately how many staff are estimated to need accommodation in the new or additional offices.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

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<th>Agency</th>
<th>Response</th>
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<tr>
<td>ABS</td>
<td>The Australian Bureau of Statistics (ABS) does not consider that new or additional office accommodation may be required in the next two years, with the exception of operational requirements for the 2011 Census of Population and Housing. For the period of the Census, the ABS has signed a lease on small office space in Alice Springs to accommodate under five staff.</td>
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<td>ACCC</td>
<td>As at the date of the senator's question, the Australian Competition and Consumer Commission is not seeking to expand on its currently negotiated lease arrangements in the next two years.</td>
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<tr>
<td>AOFM</td>
<td>The Australian Office of Financial Management does not consider that new or additional office accommodation will be required for the agency in the next 2 years.</td>
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<td>APRA</td>
<td>Yes. No. N/A</td>
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<td>ASIC</td>
<td>ASIC currently has plans under way for renewed premises in Brisbane in 2011. This is a result of the lease expiring at one of the two premises ASIC currently has in Brisbane. The new lease is for larger premises at one of the existing locations and will result in the consolidation of the two Brisbane sites currently occupied. The consolidation of these two sites will reduce ASIC's total Brisbane tenancy space from 4066sqm to 3400sqm. Whilst there are also planned changes for ASIC's Melbourne and Canberra offices in the next two years, these changes result (through achieving better efficiencies) in reductions of space.</td>
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<td>CAMAC</td>
<td>No</td>
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<td>IGT</td>
<td>Nil</td>
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<td>NCC</td>
<td>The National Competition Council may relocate its office within the next 2 years. Any new accommodation will not be in Canberra.</td>
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<td>RAM</td>
<td>The Royal Australian Mint anticipates that there will be no requirement for new or additional office accommodation in the next two years.</td>
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<td>PC</td>
<td>The Productivity Commission's Melbourne office accommodation lease expires in June 2011 and options are currently under consideration, including possible relocation to other office accommodation in Melbourne. The Commission is not anticipating any requirement for additional accommodation in Canberra over the next two years.</td>
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### Agency Response

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<td>CGC</td>
<td>The Commission advises that no new or additional accommodation will be required in the next 2 years.</td>
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<td>AASB</td>
<td>No, the Australian Accounting Standards Board does not consider that it will require new or additional office accommodation in the next 2 years.</td>
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<td>Treasury</td>
<td>It is not envisaged that the Treasury will require new or additional office accommodation in the next two years; this is assuming that the function and or staff numbers do not grow at more than previous trend data suggests (reference, the Treasury Strategic Property Plan 2010 – 2015).</td>
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### Mortgages

**Question No. 76**

**Senator Johnston** asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 28 September 2010:

When receiving funds from a prime borrowing, how is the decision to apply funds recovered to loans permitted to be made.

**Senator Sherry:** The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

Generally, payments made to a loan are applied in accordance with the credit contract.

For credit contracts regulated by the National Credit Code (the Code) (which is Schedule 1 of the National Consumer Credit Protection Act 2009), Division 4 of the Code regulates funds recovered from the sale of mortgaged goods. Specifically, after a sale of goods under a mortgage, the credit provider must credit the mortgagor with a payment equivalent to the proceeds of the sale less any amounts they are entitled to deduct. (subsection 104(2) of the Code)

- A credit provider that sells mortgaged goods is entitled to deduct:
  - the amount secured by the mortgage in relation to the credit contract;
  - the amount payable to discharge any prior mortgages to which the goods were subject; and
  - the credit provider's reasonable enforcement expenses. (section 105 of the Code)

A court, on application by a mortgagor, may compensate a mortgagor if the credit provider did not exercise its power of sale in accordance with the Code. (section 106 of the Code).

### Banking

**Question No. 78**

**Senator Johnston** asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 28 September 2010:

How much was lost by banks on defaulting loans in the 2008-09 financial year.

**Senator Sherry:** The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

The best available public data that includes banks' loan defaults is the Reserve Bank of Australia's collection B5—Consolidated group impaired assets, which is released as part of their quarterly Bulletin publication. The data is available from www.rba.gov.au.
Banking
(Question No. 79)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 28 September 2010:

What percentage of total loans by banks were defaulted in each of the following financial years: (a) 2004-05; (b) 2005-06; (c) 2006-07; (d) 2007-08; and (e) 2008-09.

Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

The best available public data that includes banks' loan defaults is the Reserve Bank of Australia's collection B5—Consolidated group impaired assets, which is released as part of their quarterly Bulletin publication. The data is available from www.rba.gov.au.

Asylum Seekers
(Question No. 216)

Senator Hanson-Young asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 23 November 2010:

(1) (a) How many asylum seekers, who have been found to be in genuine need of protection, are still awaiting their security clearance from the Australian Security Intelligence Organisation; and (b) of this number, can a breakdown be provided of the number of asylum seekers that have been held in detention for longer than 3, 6, 9, and 12 months.

(2) When someone is assessed as being in need of Australia's protection, what justification does the department have for their continued and sometimes indefinite detention.

(3) Are advisers that are assigned to detainees required to be legally qualified; if not, are the detainees informed of this fact.

(4) How does the department ensure that case workers are made fully aware of the treatment of minorities by the Iranian Government, particularly its policies for issuing the shenasnameh, which denies Fayli Kurds, Mosafar Arabs and Afghans the right to hold Iranian identification cards, engage in registered employment, own property, attend official schools, and to have their marriages recognised by the state.

(5) What avenues are open to detainees to request replacement translators if they believe translations are inaccurate or misleading at any stage of the process.

(6) Has trauma counselling been provided to detainees in the aftermath of the recent suicides in the Villawood detention facility.

(7) Is the medical clinic at the Villawood detention facility staffed at night; if not, why not.

(8) Is it correct, that following the suicide of detainee Mr Josefa Rauluni in September 2010, an area of concrete onto which Mr Rauluni jumped has been dug up, but that no other measures to deal with mental health problems of detainees have been instituted.

(9) If measures have been instituted to provide appropriate mental health assistance to detainees, what are those measures.

(10) Is mail addressed to detainees intercepted; if so, have Serco management or government representatives withheld mail from detainees.

(11) Has mail from legal representatives of detainees been withheld from detainees; if so, why has it been withheld.
**Senator Carr:** The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) (a) As at 10 May 2011, 488 people who have been found to be refugees have outstanding security assessments. (b) Of these assessments:
- 0 have been in detention for less than 3 months;
- 21 have been in immigration detention for between three and six months;
- 113 have been in immigration detention for between six and nine months;
- 133 have been in immigration detention for between nine and 12 months; and
- 221 have been in immigration detention for longer than 12 months.

(2) To be released from immigration detention any non-citizen, including any irregular maritime arrival, must be granted a visa. Before a visa can be granted by the department, all non-citizens have to meet stringent health, character, and national security requirements as prescribed in the Migration Regulations 1994. Depending on the complexity of the case some of the processing related to those requirements may take a considerable period of time.

(3) Under Australian law (the *Migration Act 1958*), only persons registered as a migration agent, or persons considered to be "officials" under the Act may provide immigration advice and application assistance. There is no requirement in the legislation that migration agents be legally qualified, although many are legal practitioners as well.

The Immigration Advice and Application Assistance Scheme (IAAAS) contracts require, under Item J of the contract Schedule, that IAAAS services may only be undertaken by a Registered Migration Agent or by a person who is an "official" within the meaning of s.275 of the Act.

IAAAS providers must ensure that clients thoroughly understand the services they are being offered, including that those who assist them under the IAAAS are registered migration agents delivering a professional and independent service. Clients must also sign an acknowledgement that they have fully understood the services to be provided by their IAAAS provider. The same contract requirement to fully explain the services applies to all clients, including those who are irregular maritime arrivals (IMAs) and mainstream visa applicants.

(4) The department's Country Research Section (CRS) identifies, collects and maintains quality country of origin information (COI) from a wide range of reputable sources, for use by Protection visa decision makers. This includes material from the United Nations High Commissioner for Refugees (UNHCR), other United Nations agencies, the Department of Foreign Affairs and Trade, other governments (such as the US State Department Human Rights reports and UK Home Office Country reports) and international non-government organisations focussing on human rights issues such as Human Rights Watch and Amnesty International. Decision makers have regular training, including on information retrieval from the department's COI holdings, and can undertake their own research and engage CRS on specific research questions on claims raised in individual cases.

(5) The majority of the interpreters the department uses are National Accreditation Authority for Translators and Interpreters (NAATI) accredited. On rare occasions interpreters who are not formally accredited by NAATI might be used, however, only where a NAATI-accredited interpreter is not available. All interpreters used by the Department are bound by the strict Code of Ethics developed by the Australia Institute of Interpreters and Translators (AUSIT).

Where a client has objections based on language in relation to their allocated interpreter or believes the interpreter's services to be inaccurate or misleading at any point during the processing of their case, the client is able to raise these objections or issues with their case manager or agent. The department's interpreter liaison officer, at the facility in which the client is accommodated, will then endeavour to replace the interpreter. If necessary, and where appropriate, a client may be re-interviewed.
In cases when a client raises concerns once an interview has been completed, the department will review the circumstances and in consultation with the client's agent or legal representative decide whether it is appropriate to re-interview the client using a different interpreter.

(6) The department's contracted Detention Health Services Provider, International Health and Medical Services (IHMS) has advised the following in relation to the number of people in immigration detention receiving counselling due to recent deaths at Villawood Immigration Detention Centre (VIDC):

- Following the death of a man on 20 September 2010, nine clients have received (or continue to receive) counselling by IHMS. No clients requested or were referred to specialised torture and trauma counselling.

- Following the death of a man on 16 November 2010, 17 clients have received (or continue to receive) counselling by IHMS. Two clients have been receiving specialised torture and trauma counselling.

Additional mental health staff were rostered for a period of five days immediately following the death on 16 November 2010, to provide support to people in immigration detention and Detention Service Provider staff. As an example, on 16 November 2010, the team comprised:

- Mental Health Team Leader
- Two trauma specialised Psychologists (which were also made available to Detention Service Provider staff)
- Two IHMS Psychologists
- Two Counsellors
- One Mental Health Nurse

The IHMS Regional Medical Director also attended the site to provide additional support and clinical leadership. The on-site teams were provided with on-going support by the department's Detention Health Operations team and the IHMS corporate headquarters.

(7) Health services at VIDC run according to a community care model. The Health Services Provider provides two registered-nurse led health clinics per day, six days per week. GP clinics are also offered for five hours per day, five days a week. Clients also have ready access to a Mental Health Team comprising mental health nurses and a clinical psychologist. Emergency and after-hours medical services for people in immigration detention are provided by local hospitals and ambulance services. Outside of clinic hours, Detention Services Provider staff are also able to call the Detention Health Services Provider's Nurse Triage Assistance Line, to receive advice about any non-urgent health concerns. The contracted Detention Health Services Provider has advised the department that these services are sufficient to meet the needs of people in immigration detention at VIDC outside of clinic hours.

(8) No, the area of concrete has not been dug up.

The deaths of the two individuals in September and November 2010 will be examined by the NSW State Coroner. The department will act on any recommendations or conclusions made by the official investigations into the deaths.

The department and the Detention Health Services Provider are continually reviewing their processes and a number of operational changes have been implemented – see response to question 9 below.

(9) The Department's contracted Health Service Provider, International Health and Medical Services (IHMS), has made a number of operational changes following the three deaths and subsequent protests at Villawood IDC.

From 29 November 2010, a new mental health policy reflecting better practice approaches for the identification and support of people in immigration detention who are at risk of self-harm and suicide—
the Psychological Support Program (PSP) – was operationalised at Villawood IDC. This new policy replaced the existing ‘Suicide and Self Harm’ (SASH) Protocol. At the time of transition to this new policy, clients at Villawood IDC who were being monitored under the previous SASH protocol, were transferred to PSP, according to clinical need and associated risk level.

From a staffing perspective, from November 2010, increases were made to mental health staff numbers at Villawood IDC. Increased supports were also put in place to manage crisis situations, with processes streamlined to better support people who may have witnessed traumatic events. This includes conducting group debriefings, which use routine mental health and psychological screening (and language appropriate) tools to identify ‘at risk’ clients. In addition, daily collaborative stakeholder meetings are now also held, with a focus on clients who are placed on PSP, as well as preventative health. This also includes multi-disciplinary care planning for all clients developed via group meetings, with input provided by DIAC case management, Serco, IHMS, the specialist torture and trauma provider and other providers, as necessary. This has resulted in better profiling of clients to ensure a client’s total psychosocial history is understood. It also allows for more active management of clients by pro-actively improving emotional health skills and managing any identified risks.

From a health promotion perspective, IHMS counsellors are continuing to develop mental health promotion materials and tools in discussion with the Department, including:
- Services available to help with stress management;
- Raising the awareness of mental health matters; and
- Explaining that mental health is about helping people manage ‘stress’ during difficult times.

In addition, counsellors are running practical relaxation groups as well as sessions on drug and alcohol education and management.

Furthermore, all personnel who work with people in immigration detention are trained to recognise and respond to the warning signs and risk factors of self-harm and the deterioration of mental health. The department has also provided around 1200 personnel from seven different organisations involved in the care and management of people in immigration detention with specific training in the operation of three new mental health policies that the department has rolled-out to all immigration detention facilities during 2010. The policies reflect best practice approaches to identifying existing mental health issues, identifying survivors of torture and trauma, and to providing psychological support to, and preventing self-harm by people in immigration detention.

(10) Where there is suitable equipment, such as X-Ray units, mail will be scanned. If there is suspicion that mail may contain illegal items Serco can request the mail be opened, by the client, in their presence. If the client refuses, then Serco can withhold the item and report it to the department’s Regional Manager.

(11) No.

**Burrup Peninsula**

(Question No. 219)

Senator Ludlam asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 24 November 2010:

With reference to the Burrup (Murujuga) Peninsula which contains more than a million rock art engravings (petroglyphs) estimated to be up to 30 000 years old and, noting that on 3 July 2007 the area was listed as a National Heritage place by the Federal Government, there are concerns about the long delay in nominating the Burrup Peninsula for World Heritage listing, in addition to the continuous damage to the Burrup rock art:

(1) What is the current heritage status of the Burrup Peninsula.
(2) Of the 117 square kilometres covered by the Burrup Peninsula, how much is actually protected by National Heritage listing, as a percentage and surface area.

(3) When will the Aboriginal heritage management plan for the Burrup Peninsula being led by the Western Australian Department of Indigenous Affairs be finalised.

(4) Can a copy of the current management plan for the Burrup Peninsula be provided, including a breakdown of the level of funding and resources allocated to it.

(5) How is compliance and enforcement of the management plan currently being enacted.

(6) Is the Minister or the department aware of any vandalism, theft and graffiti of petroglyphs at the Burrup Peninsula.

(7) In regard to vandalism and potential theft of an Aboriginal petroglyph on the Burrup Peninsula and photographs contained in 2010-09-22 New Vandalism in Kangaroo Paw Valley.pdf at http://www.robinchapple.org.au/node/460:
   (a) is the Minister or the department aware of the graffiti and attempted theft at this location; if so, what is the Minister doing to stop these illegal acts; if not, why not; and
   (b) what action is the Minister taking to ensure that the identified geometric petroglyph is protected from theft.

(8) Have any investigations been conducted by the department on any other acts of vandalism, theft and/or graffiti of petroglyphs at the Burrup Peninsula.

(9) As the lead agency responsible for protection and management of national heritage places, what action will the department take to protect the site from future acts of vandalism or theft.

(10) Will rangers be appointed to protect the rock art.

(11) When will an information and interpretation centre be built at the site.

(12) When will the tentative Australian list for World Heritage listing be finalised.

(13) Has the Burrup Peninsula been proposed for the list or is it likely to be proposed for the tentative list.

(14) Is the department aware that for monuments and sites to be included on the World Heritage List they must satisfy at least one of six criteria, and that the age and quantity of the unique rock art of the Dampier Archipelago meets four criteria.


(16) Is it correct that UNESCO is of the view that Australia should nominate more prehistoric rock art sites.

(17) Does the Federal Government therefore propose to nominate the Dampier Archipelago (the world's largest and oldest outdoor rock art gallery) for UNESCO World Heritage listing; if not, why not.

(18) When will the department follow up on the letter that the then Federal Minister for the Environment and Heritage, Dr David Kemp, wrote to the Western Australian Minister Dr Judy Edwards MLA on 26 March 2003 with respect to the Commonwealth Government nominating some or all of the Dampier Archipelago and the Burrup non-industrial land to the World Heritage List.

(19) Noting that the Premier of Western Australia, Mr Colin Barnett, recently said on the SBS program Living Black on 10 October that 'I have no doubt that the Burrup Peninsula will ultimately receive World Heritage listing however there is still a lot of work to be done of a scientific nature, in terms of cataloguing and recording', what action will the department take to assist in this process.

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CHAMBER
(20) Is the department concerned that the Western Australian Government continues to grant leases to dangerous industries on the Burrup, including the current application for an ammonium nitrate plant which triggered a record number of submissions to the Western Australian Environmental Protection Authority due to its potential to destroy large amounts of rock art on the Burrup.

(21) Did federal approval of the $12 billion Pluto LNG plant include the protection of heritage values in the area.

(22) Is the department aware of reports that in February 2008 Woodside Petroleum cleared approximately 900 rock art carvings in preparation for the building of its Pluto LNG plant.

(23) Is the department aware that since the 1960s at least 10,000 petroglyphs on the Burrup Peninsula have been destroyed or relocated due to the heavy industrialisation in the area.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) The Dampier Archipelago (including Burrup Peninsula) National Heritage Place was inscribed on the National Heritage List on 3 July 2007.

(2) The total area of the Dampier Archipelago (including Burrup Peninsula) Listed Place is 36,857 hectares.

The total area of the Burrup Peninsula is 11,806 hectares.

The total area of the National Heritage Place on the Burrup Peninsula is 8,074 hectares.

Therefore 68.4 percent of the Burrup Peninsula is covered by the National Heritage Place.

(3) The Western Australian Government will be responsible for the preparation of the management plan for the proposed Murujuga National Park (which comprises the majority of the Burrup Peninsula). The establishment of the jointly owned national park is pending legislative amendment by the Western Australian Parliament. Western Australian officials have advised that there is no set date for finalisation of the management plan.

(4) Please refer to the answer to question (3).

(5) Please refer to the answer to question (3).

(6) Under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) the national heritage values of a listed place are protected as matters of national environmental significance. Proposed actions are thus regulated by the Australian Government to the extent that they may have a significant impact on the listed values. There are no matters of vandalism, theft or graffiti currently under investigation by the department.

The Western Australian Government is responsible for the day-to-day management of the Dampier Archipelago, including for offences that would not constitute significant impacts on matters of national environmental significance. Officials from the Western Australian and Australian governments liaise on possible lines of investigation in relation to claims of random theft or graffiti.

(7) (a) Yes, the department is aware of this incident. Please also refer to the answer to question (6).

(b) Please refer to the answer to question (6).

(8) Please refer to the answer to question (6).

(9) Please refer to the answer to question (6)

(10) I am advised that the Western Australian Government plans to appoint rangers (or wardens) as part of the management of the proposed Murujuga National Park, in consultation with the Murujuga Aboriginal Corporation.

(11) I am advised that the Western Australian Government has committed $8 million for buildings and infrastructure associated with the protection and promotion of the Burrup heritage area. I am
advised infrastructure will be decided through discussions with the Murujuga Aboriginal Corporation under the Burrup and Maitland Industrial Estate Agreement.

(12) The World Heritage Tentative List was last updated in 2010, and the Environment Protection and Heritage Council agreed that further additions to the Tentative List may be considered in 2011.

(13) Under the World Heritage Intergovernmental Agreement the preparation of a world heritage nomination is the responsibility of the state or territory in which the place is located. The Western Australian Government has not proposed the Burrup Peninsula for inclusion on Australia's World Heritage Tentative List.

(14) The department is aware of the World Heritage criteria. As no assessment has been undertaken the department has no view on whether the criteria and threshold of outstanding universal value would be satisfied.

(15) The Australian Convict Sites were officially inscribed on the World Heritage List on 31 July 2010 at the 34th session of the World Heritage Committee in Brasilia. This World Heritage property is a serial inscription, which comprises 11 sites located across Australia.

(16) The Australian Government is not aware of any such views by UNESCO.

(17) The Australian Heritage Council will undertake an emergency assessment of the outstanding universal values of the Dampier Archipelago site and any threats to that site. I expect the Council to provide its draft report within six months. Once finalised, the Council's report will be made available to the public. The Australian Government will give careful consideration to the assessment provided by the Australian Heritage Council before deciding on next steps.

(18) Please refer to the answer to question (17).

(19) Please refer to the answer to question (17).

(20) The department is aware of, and currently assessing, two proposals for nitrates facilities on the Burrup Peninsula under the EPBC Act. Potential impacts on National Heritage values are being considered as part of this process. No decisions on approval have been taken.

(21) The Pluto Gas Project was referred to the then Minister under the EPBC Act on 1 August 2006. A Controlled Action decision was made on 24 August 2006, which was prior to the Dampier Archipelago (including Burrup Peninsula) being included on the National Heritage List. As national heritage values of the Dampier Archipelago (including Burrup Peninsula) were not listed as a matter of national environmental significance under the EPBC Act at the time of the referral decision, potential significant impacts on these values were not able to be considered as a controlling provision in the subsequent assessment of the project.

(22) The department is aware that relocation of rock art took place as part of the Pluto development, which is located outside the National Heritage Place.

(23) The department is aware that numbers of petroglyphs have been destroyed or relocated with approval by the responsible Western Australian Minister, under the Western Australian Aboriginal Heritage Act 1972, but is not aware of precise numbers.

Health and Ageing
(Question Nos 278, 303 and 306)

Senator Humphries asked the Minister representing the Minister for Health and Ageing, upon notice, on 29 November 2010:

Since 14 September 2010, for each Minister and any Parliamentary Secretaries within their portfolio:

(1) Do the Minister and Parliamentary Secretaries have access to a departmental credit card; if so, can a copy be provided of all bank statements.
(2) (a) How many mobile devices are provided to the Minister's office; and (b) what is the total spend on mobile devices for each office to date.

(3) At what level is each staff member employed in the office.

(4) What has been the total cost of travel for the Minister and Parliamentary Secretaries.

(5) What has been the total travel for all staff, by office.

Senator Ludwig: The Minister for Health and Ageing has provided the following answer to the honourable senator's question:

(1) The Minister and Parliamentary Secretaries do not have access to a departmental credit card.

(2) (a) The number of mobile devices (including mobile phones, Blackberrys and data cards used in laptops) provided to the Ministers and the Parliamentary Secretary within the Health and Ageing portfolio are:

- Minister for Health and Ageing, 18 devices,
- Minister for Mental Health and Ageing, 18 devices,
- Minister for Indigenous Health, 3 devices, and
- Parliamentary Secretary for Health and Ageing, 2 devices.

(b) The total spend on mobile devices for each office for the billing period to date are:

- Minister for Health and Ageing, $13,165.69,
- Minister for Mental Health and Ageing, $5,829.56,
- Minister for Indigenous Health, $4,136.63, and
- Parliamentary Secretary for Health and Ageing, nil.

The costs above are for a two month period based on billing cycles that most closely align with the period in question.

(3) The employment of staff under the Members of Parliament (Staff) Act 1984 is administered by the Department of Finance and Deregulation. On 19 October 2010, the Department of Finance and Deregulation tabled with the Senate F&PA Committee a list of Government Personal Positions as at 1 October 2010.

In addition the department provides relief staff, in accordance with the provisions of the Ministers of State Entitlements Handbook, and Departmental Liaison Officers (DLOs) to the Ministers' offices. As at 29 November 2010, the staffing classifications for departmental relief staff and DLOs in the Ministers and Parliamentary Secretary's Office are:

**Minister Roxon's Office**
- 1 x Departmental Liaison Officer (DLO) at EL2 classification;
- 1 x acting Advisor at EL2 classification; and
- 1 x DLO at EL1 classification.

**Minister Butler's Office**
- 1 x DLO at EL2 classification;
- 1 x acting Advisor at EL2 classification; and
- 1 x Receptionist at APS 4 classification.

**Minister Snowdon's Office (only in relation to the Minister’s role as Minister for Indigenous Health)**
- 1 x DLO at EL2 classification; and
• 1 x acting Advisor at APS 6 classification.

Parliamentary Secretary King’s Office
• 1 x DLO at EL2 classification; and
• 1 x acting Advisor at EL1 classification.

(4) The cost of official travel by Ministers, Parliamentary Secretaries and accompanying staff employed under the Members of Parliament (staff) Act 1984 is reported by the Department of Finance and Deregulation. As such, the cost of official travel for the period 14 September to 29 November 2010 will be tabled by the Special Minister of State in the last sitting week of June 2011 in his six-monthly report on Parliamentarians’ Expenditure on Entitlements Paid by the Department of Finance and Deregulation.

(5) The cost of official travel by staff employed under the Members of Parliament (Staff) Act 1984 is administered by the Department of Finance and Deregulation. As such, the information sought will be included in the Minister representing the Special Minister of State’s response to question number 308.

Families, Housing, Community Services and Indigenous Affairs
(Question No. 279)
Senator Humphries asked the Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs, upon notice, on 29 November 2010:
Since 14 September 2010, for each Minister and any Parliamentary Secretaries within their portfolio:
(1) Do the Minister and Parliamentary Secretaries have access to a departmental credit card; if so, can a copy be provided of all bank statements.
(2) (a) How many mobile devices are provided to the Minister's office; and (b) what is the total spend on mobile devices for each office to date.
(3) At what level is each staff member employed in the office.
(4) What has been the total cost of travel for the Minister and Parliamentary Secretaries.
(5) What has been the total travel for all staff, by office.

Senator Arbib: The Minister representing the Minister for Families, Housing, Community Services and Indigenous Affairs has provided the following answer to the honourable senator's question:
All figures provided are GST exclusive.

(1) The Minister and Parliamentary Secretaries do not have access to a departmental credit card.

(2) (a) As at 29 November 2010, there was 1 mobile phone, 11 Blackberrys, 13 mobile broadband devices and 2 iPads allocated to Minister Macklin and the Minister's staff.

There was 0 mobile phones, 4 Blackberrys, 6 mobile broadband devices and 0 iPads allocated to the Parliamentary Secretary for Disabilities and Carers and the Parliamentary Secretary's staff.

There was 0 mobile phones, 4 Blackberrys, 4 mobile broadband devices and 0 iPads allocated to the Parliamentary Secretary for Community Services and the Parliamentary Secretary's staff.

(2) (b) Between 14 September 2010 and 10 December 2010 (the end of the nearest monthly accounting period), the total spend on Minister Macklin's office mobile devices was $10,239.95.

The total spend on the Parliamentary Secretary for Disabilities and Carers and the Parliamentary Secretary's staff mobile devices was $1,888.52.

The total spend on the Parliamentary Secretary for Community Services and the Parliamentary Secretary's staff mobile devices was $1,728.13.
(3) The employment of staff under the Members of Parliament (Staff) Act 1984 is administered by the Department of Finance and Deregulation. On 19 October 2010, the Department of Finance and Deregulation tabled with the Senate Finance and Public Administration Committee, Government Personal Positions as at 1 October 2010.

(4) The costs of official travel by Ministers, Parliamentary Secretaries and accompanying staff employed under the Members of Parliament (Staff) Act 1984 are largely paid by the Department of Finance and Deregulation. As such, with the exception of those costs listed below, the information sought will be tabled by the Special Minister of State in the last sitting week of June 2011 in his six-monthly report on Parliamentarians Travel Paid by the Department of Finance and Deregulation.

For the period 14 September to 29 November 2010 the total cost of short-term transport (such as hire cars and taxis) for Ministers, Parliamentary Secretaries and accompanying staff was $415.96.

(5) The Special Minister of State will respond on behalf of other Ministers.

**Status of Women**

(Question No. 296)

Senator Humphries asked the Minister representing the Minister for the Status of Women, upon notice, on 29 November 2010:

Since 14 September 2010, for each Minister and any Parliamentary Secretaries within their portfolio:

(1) Do the Minister and Parliamentary Secretaries have access to a departmental credit card; if so, can a copy be provided of all bank statements.

(2) (a) How many mobile devices are provided to the Minister's office; and (b) what is the total spend on mobile devices for each office to date.

(3) At what level is each staff member employed in the office.

(4) What has been the total cost of travel for the Minister and Parliamentary Secretaries.

(5) What has been the total travel for all staff, by office.

Senator Wong: The Minister for the Status of Women has provided the following answer to the honourable senator's question:

(1) The Ministers and Parliamentary Secretaries do not have access to a departmental credit card.

(2) (a) As at 29 November 2010, there was 1 mobile device provided to Minister Arbib's office. (b) Between 14 September 2010 and 10 December 2010 (the end of the nearest monthly accounting period), the total spend on Minister Arbib's office mobile devices was $335.90 (excluding GST).

(3) The employment of staff under the Members of Parliament (Staff) Act 1984 is administered by the Department of Finance and Deregulation. On 19 October 2010, the Department of Finance and Deregulation tabled with the Senate Finance and Public Administration Committee, Government Personal Positions as at 1 October 2010.

(4) The costs of official travel by Ministers, Parliamentary Secretaries and accompanying staff employed under the Members of Parliament (Staff) Act 1984 are largely paid by the Department of Finance and Deregulation. As such, the information sought will be tabled by the Special Minister of State in the last sitting week of June 2011 in his six-monthly report on Parliamentarians Travel Paid by the Department of Finance and Deregulation.

(5) The Special Minister of State will respond on behalf of other Ministers.
Social Housing and Homelessness
(Question No. 299)

Senator Humphries asked the Minister for Social Housing and Homelessness, upon notice, on 29 November 2010:

Since 14 September 2010, for each Minister and any Parliamentary Secretaries within their portfolio:
(1) Do the Minister and Parliamentary Secretaries have access to a departmental credit card; if so, can a copy be provided of all bank statements.
(2) (a) How many mobile devices are provided to the Minister's office; and (b) what is the total spend on mobile devices for each office to date.
(3) At what level is each staff member employed in the office.
(4) What has been the total cost of travel for the Minister and Parliamentary Secretaries.
(5) What has been the total travel for all staff, by office.

Senator Arbib: The answer to the honourable senator's question is as follows:
(1) The Ministers and Parliamentary Secretaries do not have access to a departmental credit card.
(2) (a) As at 29 November 2010, there was 1 mobile device provided to Minister Arbib's office. (b) Between 14 September 2010 and 10 December 2010 (the end of the nearest monthly accounting period), the total spend on Minister Arbib's office mobile devices was $335.90 (excluding GST).
(3) The employment of staff under the Members of Parliament (Staff) Act 1984 is administered by the Department of Finance and Deregulation. On 19 October 2010, the Department of Finance and Deregulation tabled with the Senate Finance and Public Administration Committee, Government Personal Positions as at 1 October 2010.
(4) The costs of official travel by Ministers, Parliamentary Secretaries and accompanying staff employed under the Members of Parliament (Staff) Act 1984 are largely paid by the Department of Finance and Deregulation. As such, the information sought will be tabled by the Special Minister of State in the last sitting week of June 2011 in his six-monthly report on Parliamentarians Travel Paid by the Department of Finance and Deregulation.
(5) The Special Minister of State will respond on behalf of other Ministers.

Israel
(Question No. 342)

Senator Bob Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 13 December 2010:
(1) Given that the Minister was reported to be leading a delegation of Members of Parliament (MPs) and journalists on his trip to Israel in December 2010, can a list be provided of who was in that delegation.
(2) Is the Minister aware of any private funding sources contributing to the travel and/or accommodation costs for people involved in this trip; if so, can details of the amounts be provided.
(3) Did the Minister's trip coincide with the Australia Israel Leadership Forum (AILF) trip to Israel for Australian MPs and journalists or was it one and the same; if it was separate to the AILF trip, can details be provided of which MPs attended the AILF trip, including: (a) the costs of the travel and accommodation; and (b) who paid.
(4) What was the itinerary of the Minister's trip and, if it was separate to that of the Minister's, the itinerary of the AILF trip.
**Senator Conroy:** The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) I (Mr Rudd) undertook an official bilateral visit to Israel where I also took part in the Australia Israel Leadership Forum (AILF). A list of the Australian delegation to the AILF based on information provided to the Australian Embassy in Tel Aviv by the Australia Israel Cultural Exchange is attached as Annex 1.

(2) The Department of Foreign Affairs and Trade is aware that some private funding was provided to AILF participants, but it does not hold authoritative records on this question. Questions on the details of the private funding should be directed to the AILF organisers.

(3) My official bilateral visit to Israel coincided with the AILF, in which I also took part. Questions concerning sources of funding should be directed to AILF organisers or directly to participating MPs.

(4) I made an official visit to Israel and the Palestinian Territories from 12-14 December, as part of a broader visit to the Middle East which included official visits to Egypt and Jordan. In Israel, I met with President Peres, Prime Minister Netanyahu, Vice Prime Minister Shalom, Deputy Prime Minister Meridor, Deputy Prime Minister and Foreign Minister Liberman, Minister for Social Affairs Herzog, and US Special Envoy for Middle East Peace Mitchell. I also met with the parents of captured Israeli soldier Gilad Shalit and with senior Australian UN officials, and laid a wreath at the Hall of Remembrance at Yad Vashem Holocaust Memorial. In the Palestinian Territories, I met with President Abbas and Foreign Minister Malki and visited a refugee camp run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

My official program in Israel also included participation in the following AILF events: meetings with President Peres and Prime Minister Netanyahu (following my private meetings with each of the leaders); addressing the ceremony at Yad Vashem Holocaust Memorial establishing a chair of holocaust studies in honour of William Cooper; laying a wreath at the Hall of Remembrance at Yad Vashem Holocaust Memorial; and addressing the AILF Gala Dinner.

**Annex 1: The Australian Delegation-Australia Israel Leadership Forum 2010**

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Export Finance and Insurance Corporation
(Question No. 347)

Senator Ludlam asked the Minister representing the Minister for Trade, upon notice, on 13 December 2010:

With regard to the Australian Government's loan of AU$548.55 million to support the development of the liquefied natural gas project in Papua New Guinea (PNG LNG) in which the funds go to the project sponsor through Australia's export credit agency, the Export Finance and Insurance Corporation (EFIC):

(1) How is EFIC monitoring the social and environmental impacts of the PNG LNG project; (b) what are the results of this monitoring; and (c) can an account be provided on how EFIC is monitoring: (i) project related conflict, (ii) its impact on women, and (iii) the loss of livelihoods.

(2) Has EFIC sought feedback from civil society on the progress and impact of the project.

(3) To comply with the Equator Principles and International Finance Corporation (IFC) Performance Standards, are EFIC and other financiers of the PNG LNG project obliged to engage an independent expert auditor for the life of the project.

(4) Was the United States company D'Appolonia appointed with the agreement of borrowers and lenders as the independent expert auditor for the PNG LNG project; if so: (a) on what date was D'Appolonia appointed; (b) how many reports by D'Appolonia has EFIC received to date; (c) how many reports has the department received to date; and (d) in its reports on the PNG LNG project compliance with Equator Principles and the IFC Performance Standards, has D'Appolonia identified any issues of non compliance; if so, can these areas of non-compliance be specified.

(5) Have the PNG LNG project sponsors, who are receiving EFIC and Australian Government loan facilities, breached any loan covenants to date; if so, can the nature of any breaches be specified.

(6) Can an update be provided by EFIC on the implementation of the 'Joint Understanding between Papua New Guinea and Australia on further cooperation between the PNG LNG Project' (the Joint Understanding), including any progress on establishing a sovereign wealth fund.

(7) Given that point 13 from the Joint Understanding referred to terms of reference for the proposed subcommittee on extractive industries of the PNG LNG Ministerial forum: (a) can the Minister confirm whether the terms of reference have been agreed to; and (b) will the terms of reference be made public.

(8) Can an outline be provided of the key individuals within the department or the Australian Government providing advice on the establishment of a sovereign wealth fund.

(9) Can the Minister confirm whether ExxonMobil is providing advice on the sovereign wealth fund; if so, what is the nature of that advice.

Senator Conroy: The Minister for Trade and the Minister for Foreign Affairs have provided the following answer to the honourable senator's question:

(1) In its capacity as one of the Lenders to the PNG LNG Project, EFIC receives from the Project a quarterly environmental and social report summarising the Project's construction, safety, security, health, environment and social management activities.

In addition to the Project's reporting, EFIC and other Lenders to the PNG LNG project required the borrower to engage an independent environmental and social consultant (IESC). While the IESC, D'Appolonia S.p.A (D'Appolonia) is paid by the borrower, it is solely responsible to the lenders including EFIC. D'Appolonia undertakes site visits to monitor the project's compliance with the Environmental and Social Management Plan and the lender's environmental and social standards and provides an independent report to the lenders following the visit. Please refer to question 4 below for further information.
Both the Project reports and the first IESC report are publicly available on the PNG LNG website. See:

http://www.pnglng.com/quarterly_reports/index.htm, and
http://www.pnglng.com/quarterly_reports/e_s_reports.htm

Conflict, gender impacts and livelihoods are all areas monitored by the IESC, D'Appolonia, and their advice to the lenders is contained in their publicly available reports listed above.

(2) D'Appolonia, as the lenders' IESC, is required to liaise with civil society (including civil society organisations, government, local leaders and local communities) as part of its work.

(3) Equator Principle 9 (Independent Monitoring and Reporting) requires the lender to appoint an independent environmental and/or social expert; or to oblige the borrower to retain qualified and experienced external experts to verify the borrower's monitoring information.

Paragraph 24 of IFC Performance Standard 1 (Social and Environmental Assessment and Management Systems) provides that for Category A projects, the borrower must retain qualified and experienced external experts to verify its monitoring information.

In the case of the PNG LNG project, an independent expert has been retained by the borrower. Under the terms of the financing documents, EFIC and other lenders to the project will also have access to the services of an independent environmental and social consultant for the duration of the loan agreements.

(4) (a) D'Appolonia S.p.A. ("D'Appolonia"), located in Genoa, Italy, was appointed in March 2010 as the post-financial close Independent Environmental and Social Consultant ("IESC").

(b) and (c) Since financial close D'Appolonia has conducted two site visits and one report has been finalised. Refer to the PNG LNG website for a copy of this report.

http://www.pnglng.com/quarterly_reports/e_s_reports.htm

(d) Section 2 of the D'Appolonia report (website link to report provided above) includes an Issues Table which summarises non-conformances (as that term is used in the D'Appolonia report).

(5) EFIC has not received notice of any breach of any obligation, undertaking or covenant with respect to the financing documents. Under the terms of these documents the borrower has an obligation to inform all Lenders, of which EFIC is one, of any such breach. Further, with each drawdown request (the frequency is approximately monthly) the borrower warrants that it is in compliance with the conditions under which the finance has been provided. In addition, no breaches of the agreed environmental and social obligations have been identified by independent monitoring undertaken by D'Appolonia.

The following four answers have been provided by the Minister for Foreign Affairs:

(6) Australia is working closely with the PNG Government to monitor implementation of the mutual understandings and commitments made under the Joint Understanding. This has included the first meeting of the Australia-Papua New Guinea LNG Ministerial Subcommittee in Melbourne on 1 July 2010.

The Australian Government is providing assistance in establishing Sovereign Wealth Funds (SWFs), which would allow the PNG Government to manage effectively and transparently future petroleum (oil and gas) revenue. In a media statement on 21 December, PNG Treasurer, Peter O'Neill, stated that the SWFs would be held offshore, while the establishment, ownership and control of those funds would remain in PNG.

Australia is providing technical and advisory support on the development of SWFs, particularly using our experience with the Future Fund. The Chairman of Australia's Future Fund Board of Guardians, Mr David Murray, AO, travelled to PNG from 29 November to 1 December 2010 as part of
his engagement by the Australian Department of Finance and Deregulation (Finance) to provide advice on the establishment of SWFs.

Since then, Finance has provided the PNG Government with an outline of its assessment of the critical tasks/elements and timing in establishing SWFs in PNG. Finance, where asked by the PNG Government, will continue to work with the PNG Government to develop an implementation plan for the SWFs as well as provide assistance with the implementation, as required.

Australia is emphasising the need for consistency with the Santiago Principles, which represent global best practice in the transparent management of SWFs.

(7) (a) Point 13 of the Joint Understanding states PNG and Australia will establish a subcommittee of our annual Ministerial Forum to facilitate cooperation and review progress on the matters set out in the Joint Understanding. Terms of reference for the Australia-Papua New Guinea LNG Ministerial Subcommittee were agreed at its first meeting in Melbourne on 1 July 2010.

(b) The terms of reference are not currently public. Their publication would require PNG Government approval.

(8) Officials from the Department of Finance and Deregulation are providing technical and advisory support, particularly using the experience gained in establishing the Future Fund and the Nation-building Funds. Finance has engaged Mr David Murray, AO, to provide advice and assistance to Finance on the development of PNG's SWFs.

(9) Any advice or assistance PNG may be receiving on sovereign wealth funds from third parties is a matter for the PNG Government.

Export Finance and Insurance Corporation
( Question No. 348)

Senator Ludlam asked the Minister representing the Minister for Trade, upon notice, on 13 December 2010:

With reference to the Export Finance Insurance and Insurance Corporation (EFIC), AusAID and the liquefied natural gas project in Papua New Guinea (PNG LNG):

1. What is AusAID's role in the PNG LNG project.

2. Does AusAID have a monitoring and advisory role; if so, how many reports has AusAID provided on PNG LNG and what was the nature of those reports.

3. Given that in the past 6 months there has been more conflict in PNG in relation to this project, with the most recently reported attacks involving high-powered weapons occurring on Friday, 24 September 2010 at the site of an Australian contractor:

(a) can the Minister comment on reports in the PNG daily newspaper, The National, as well as local civil society groups, advising that the violence is a result of uprising of leaders from landowner groups within the project area who believe they have been excluded from the benefit sharing agreements; and

(b) is the Minister aware that in July 2010 a dispute between warring factions from Moran, a lucrative site in the Southern Highlands province where part of the PNG LNG project is located, erupted in a gun battle at PNG's main domestic airport, with the gunmen and a number of bystanders wounded.

4. Can details be provided on the level of violence and security issues relating to this project over the past 12 months.

5. Is any review process currently being employed by EFIC (or the Australian Government) to consider the escalation in security threats and project associated violence; if so, can details of the review be provided.
Given that on 12 November 2009 The National reported that Australia is assisting the PNG Government with the establishment and administration of the PNG LNG sovereign wealth fund and that AusAID's chief economist would assist with economic modelling for the fund and provide guidelines for ideal use of government revenues: Can details be provided outlining:

(a) the guidelines for ideal use of the revenue entering the sovereign wealth fund; and
(b) the precise assistance or involvement the Australian Government has in the establishment of the sovereign wealth fund for PNG LNG revenues.

Given that a security assessment for the LNG PNG project was completed by Control Risk Australia Pacific, which concluded that security risks will be manageable if their recommendations are implemented, can an outline of the recommendations be provided together with advice as to whether these recommendations have been implemented to date.

In a recent ANZ report, the bank's Chief Economist for Asia stated that the revenue boom from the PNG LNG project is a significant opportunity, but he warned that it will only lift the living standards for people of PNG if it is prudently managed, citing Botswana and Chile as examples of prudent management of resource revenues, while citing Nigeria as the opposite: Given this analysis:

(a) what evidence does EFIC and the Minister have that PNG has institutions in place to 'prudently manage' the revenue generated from the PNG LNG project; and
(b) is the Minister concerned that PNG, like Nigeria, has seeds of conflict already showing.

Can an outline be provided of what the Australian Government will do if conflict in PNG escalates further.

Noting the warning in the ANZ and D’Appolonia reports which cite that 'fair and transparent distribution of project benefits to PNG stakeholders is a critical path-item', why did EFIC or the Australian Government not make the EFIC project finance conditional on the adoption by the PNG Government of the Extractive Industries Transparency Initiative (EITI).

In relation to the relocation of 416 households during Phase 1 of the LNG PNG project, have:

(a) project sponsors complied with IFC Performance Standards; and
(b) resettlement action plans been disclosed to all communities.

Given that under section 8F of the International Monetary Agreements Act 1947 (the Act), the Joint Standing Committee on Foreign Affairs, Defence and Trade is required to report on international loans made under that Act and that in 2001, the Australian Government produced a National Interest Statement to be considered by the committee for an Australian Government loan of AU$133.2 million to PNG:

(a) why is an Australian export finance loan to ExxonMobil and other PNG LNG project proponents, valued at more than $500 million dollars, not subject to a National Interest Statement and review by the committee; and
(b) why was the Act in this instance not applicable.

The Minister for Trade and the Minister for Foreign Affairs have provided the following answer to the honourable senator's question:

The following answers have been provided by the Minister for Foreign Affairs:

1) AusAID was consulted by the Department of Foreign Affairs and Trade (DFAT) in the drafting of the Joint Understanding between Papua New Guinea and Australia on further cooperation on the PNG LNG Project (the Joint Understanding).

As part of implementing the Joint Understanding, AusAID is providing funding for the Department of Finance and Deregulation (Finance) to advise the PNG Government in developing sovereign wealth
funds for the management of revenue from the PNG LNG Project. AusAID has also agreed to assist PNG with economic modelling to identify potential impacts of the LNG project. This work is ongoing.

In addition to the Joint Understanding, AusAID has participated in DFAT-led bilateral consultations requested by PNG to identify short term capacity gaps in PNG departments and agencies as a consequence of additional demands generated by the construction phase of the LNG project. No final decisions have been taken on what, if any, assistance will be provided.

(2) No.

(3) (a) Benefit Sharing Agreement arrangements are a matter for the PNG Government, landholder associations and the Project Partners. There have been reports that confusion and dissatisfaction regarding access to revenues, government grants, employment and business opportunities have given rise to a number of protests and violent incidents. It is not always clear the extent to which these activities are directly linked to the PNG LNG Project or are rather a reflection of long-standing and complex conflicts.

(b) I am aware of the shooting incident involving landowner groups from the Southern Highlands at Port Moresby's domestic airport in July 2010. It is not clear whether this incident was primarily linked to the PNG LNG Project or whether there were other issues involved.

(4) The Project's Quarterly reports, published on the PNG LNG website (http://www.pnglng.com/quarterly_reports/), note project-related security incidents. Project managers have reported some improvements in security on the ground over the past six months.

The following answer has been provided by the Minister for Trade:

(5) EFIC and other lenders to the PNG LNG Project required the borrower to engage an independent environmental and social consultant (IESC). While the IESC, D'Appolonia S.p.A (D'Appolonia) is paid by the borrower, it is solely responsible to the lenders including EFIC. D'Appolonia is required to regularly report to the lenders on a range of issues including community security. The results of D'Appolonia's first report, including an analysis of community security, can be found at:

http://www.pnglng.com/quarterly_reports/e_s_reports.htm.

D'Appolonia has been appointed on behalf of the lenders to monitor the Project's performance against environmental and social benchmarks. This includes following up any areas of non-conformance (as that term is used in the D'Appolonia report) and reporting publicly on the outcomes. In the event that an issue of non-conformance is not satisfactorily resolved by the Project this may constitute a breach of loan conditions and result in the requirement to repay the loan.

The following answers have been provided by the Minister for Foreign Affairs:

(6) (a) The guidelines for the use of revenue entering the sovereign wealth funds is a matter for the PNG Government to consider. As part of the Australian Government's assistance under the Joint Understanding, the Department of Finance will be providing advice to the PNG Government to consider as they develop these guidelines.

The guidelines for the use of the revenue entering the Sovereign Wealth Funds (SWFs) may also be informed by the economic modelling. The specific objectives of the economic modelling will be formally agreed with the PNG Government in 2011. The broad areas of focus will include (1) assessing the capacity of the PNG economy to efficiently absorb LNG funds, and (2) assessing the broader macroeconomic impacts of the LNG project.

(b) Australia is providing technical and advisory support on the development of SWFs, particularly using our experience with the Future Fund. The Chairman of Australia's Future Fund Board of Guardians, Mr David Murray, AO, travelled to PNG from 29 November to 1 December 2010 as part of his engagement by Finance to provide advice on the establishment of SWFs.
The Department of Finance, where asked by the PNG Government, will continue to work with the PNG Government to develop and implement SWFs. As stated in the Joint Understanding, Australia is emphasising the need for consistency with the Santiago Principles.

(7) The Project's security arrangements are a matter for the PNG Government and the Project Partners. The PNG LNG Quarterly Social and Environmental Report provides information regarding management of security at project work areas.

See from page 11 at http://www.pnglng.com/quarterly_reports/e_s_reports.htm.

(8) (a) It is not appropriate to comment on the institutional strength of specific PNG Government bodies. The PNG Government has committed to establish the SWFs in accordance with the Santiago Principles. When requested, the Australian Government will provide advice and assistance to the PNG Government to manage the revenues of the LNG project in accordance with the Santiago Principles.

(b) The PNG Government faces significant ongoing challenges in achieving and maintaining law and order. Australia has been a long term partner in assisting the PNG Government's law and justice sector address these challenges.

(9) Law and order within PNG is a sovereign matter for the Government of PNG and it will ultimately decide how to manage its internal security issues. Future Australian assistance to this sector will be jointly agreed between the Australian and PNG Governments in the context of the overall priorities of the aid program.

(10) The adoption of the Extractive Industries Transparency Initiative (EITI) is a sovereign matter for the Government of PNG to consider. As noted in the Joint Understanding, however, Australia is supportive of PNG implementing the EITI.

The following answers have been provided by the Minister for Trade:

(11) (a) and (b) The independent consultant, D'Appolonia undertakes site visits to monitor the project's compliance with the Lender's environmental and social standards (principally the IFC Performance Standards) which includes reporting on the Project's resettlement activity. All resettlement is subject to the free, prior and informed participation of affected people and communities. D'Appolonia reports on the Project's compliance with these requirements. See the reports on the PNG LNG website:

http://www.pnglng.com/quarterly_reports/e_s_reports.htm.

Section 2 of the D'Appolonia report includes an Issues Table which summarises non-conformances (as that term is used in the D'Appolonia report) while sections 5, 6 and 7 provide a detailed analysis of the Project's social performance including resettlement.

(12) (a) A National Interest Statement is required only where Australia has provided financial assistance under the International Monetary Agreements Act 1947 (Cth) (the Act), to a recipient country under an International Monetary Fund (IMF) program for the benefit of that country or a World Bank or Asian Development Bank program for the benefit of that country. Australia did not provide financial assistance under the Act for the reasons outlined in paragraph (b) below.

(b) The Act was not applicable because it only covers funding by the Commonwealth of Australia to a recipient country in support of IMF, World Bank or Asian Development Bank programs. The PNG LNG funding was made available to a corporation (Papua New Guinea Liquefied Natural Gas Global Company LDC) and not to a recipient country as specified in the Act.

Special Broadcasting Service

(Question No. 356)

Senator Ludlam asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 13 December 2010:
With reference to the Special Broadcasting Service (SBS) and, in particular, p. 13 of the SBS Corporate Plan 2010-2013 (the Corporate Plan):

(1) What are the brief definitions of 'government base funding' and 'government appropriation' for SBS.

(2) (a) How is government base funding for SBS determined; and

(b) is there a requirement for the Government to fund SBS according to a specific method; if so, what is that requirement and where can it be found.

(3) (a) How is any amount greater than government base funding determined; and

(b) is there any requirement on the Government to fund SBS for an amount greater than government base funding; if so, what will determine that.

(4) If advertisements on SBS television were restricted to be placed before or after programs only, and not in a program:

(a) by what amount (in both dollars and percentages) does SBS estimate government base funding would need to be increased in order to maintain the same total revenue for each of the financial years from 2010-11 to 2014-15 (see p. 13 of the Corporate Plan); or

(b) alternatively, if there was no increase in Government funding, what amounts (in both dollars and percentages) does SBS estimate would be lost in each financial year from 2010-11 to 2014-15, of:

(i) television (only) advertising revenue, and

(ii) total SBS advertising and sponsorship revenue.

(5) If advertisements on SBS television were allowed during live-to-air sports programs (as occurred in programs such as the Tour de France, the FIFA World Cup, etc) but were not allowed in all other programs and were permitted before or after every program, what amounts (in both dollars and percentages):

(a) of television (only) advertising and sponsorship revenue does SBS believe would be lost in each financial year from 2010-11 to 2014-15;

(b) of total SBS advertising and sponsorship revenue does SBS believe would be lost in each financial year from 2010-11 to 2014-15;

(c) would government base funding need to be increased by in order to maintain the total revenue for each of the financial years from 2010-11 to 2014-15 (see p. 13 of the Corporate Plan).

(6) In the 'Advertising and Sponsorship' figures for each of the financial years from 2010-11 to 2014-15 (see p. 13 of the Corporate Plan), what amounts (in both dollars and percentages) account for:

(a) television (only) advertising and sponsorship revenue; and

(b) radio (only) advertising and sponsorship revenue.

(7) If advertisements on SBS television and radio were only allowed between programs, by what amounts (in both dollars and percentages) does SBS estimate government base funding would need to be increased in order to maintain the total revenue for each of the financial years from 2010-11 to 2014-15 (see p. 13 of the Corporate Plan).

(8) If advertisements on SBS television and radio were restricted to before or after programs only, what amounts (in both dollars and percentages) of total SBS advertising and sponsorship revenue does SBS estimate would be lost in each of the financial years from 2010-11 to 2014-15.

(9) For the financial years from 2007 to 2010, what amount (in both dollars and percentages) of all advertising revenue can be attributed solely to television advertising and sponsorship revenue over that 3 year period.
(10) For the financial years from 2007 to 2010, what amounts (in both dollars and percentages) of
television advertising and sponsorship revenue, can be directly attributed to advertisements in sports
programs only, for example, the Tour de France, the FIFA World Cup, etc. (Please do not include sports
segments that are in non-sports programs, for example, do not include the sport segment within a news
broadcast).

(11) If the placement of advertisements on SBS television were restricted, as outlined in paragraphs
(11)(a) and (11)(b) below, what method or methods (irrespective of the dollar values at any given time),
would SBS suggest might be useful as a guide to current and future governments in considering how to
cover a potential loss of advertising revenue in future years due to a restriction that provided for:
(a) advertisements on television to be placed between programs only and not in them; and
(b) in-program television advertisements to be placed only in live-to-air sports programs (as occurred
in programs such as the Tour de France, the FIFA World Cup, etc) but, for all other programs in-
program television advertisements were prohibited and television advertisements were permitted to be
placed before or after programs.

If there are legislative restrictions placed on advertising on SBS, would SBS be in favour or against
substituting revenue from advertising, for funding from the Government of the same amount.

Senator Conroy: The answer to the honourable senator's question is as follows:

(1) Government appropriation represents funds appropriated for SBS by Parliament through the
annual budget process. Base funding represents the portion of the appropriation funding that SBS has
discretion to spend, as it sees fit, to perform its functions, and excludes appropriated funds for specific
or tied purposes, such as transmission funding.

(2) (a) Base funding for SBS was determined through the Department of Finance's "running costs"
arrangements in the 1990s, indexed for price increases according to the WCI6. This amount is reviewed
through the triennial funding process (every three years) by the Government.

(b) No.

(3) (a) and (b) The total SBS appropriations, including both tied and untied funding, are determined
through the Budget process.

(4) (a)\

<table>
<thead>
<tr>
<th></th>
<th>2010-11 ($'000)</th>
<th>Per cent* (%)</th>
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* Proportion of forecast Government appropriation (SBS Corporate Plan 2010-2013, p.13).

(b) (i)—\

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* Proportion of forecast television advertising and sponsorship revenue (SBS Corporate Plan 2010-2013).

(b) (ii)—\

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* Proportion of forecast advertising and sponsorship revenue (SBS Corporate Plan 2010-2013, p.13).
The Corporate Plan 2010-2013 included content sales, subscription television and In Language revenue in the advertising and sponsorship category.

(5) (a) —

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* Proportion of forecast television advertising and sponsorship revenue (SBS Corporate Plan 2010-2013).

(b) —

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(c) —

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(6) (a) —

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* Proportion of forecast advertising and sponsorship revenue (SBS Corporate Plan 2010-2013, p.13).
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(b) —

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QUESTIONs ON NOTICE
* Proportion of forecast Government appropriation (SBS Corporate Plan 2010-2013, p.13).

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* Proportion of television, radio and online advertising and sponsorship revenue.
** FIFA World Cup year.

(10)—

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<th>Year</th>
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* Proportion of television, radio and online advertising and sponsorship revenue.
** FIFA World Cup year.

(11) (a) Increase base funding by the shortfall, indexed according to WCI6, and also fully index SBS for all other price rises, in particular increasing content costs. SBS notes that this would require a substantial increase in appropriation without providing additional services and benefits to SBS audiences.

(b) Increase base funding by the shortfall, indexed according to WCI6, and also fully index SBS for all other price rises, in particular increasing content costs. SBS notes that this would require a substantial increase in appropriation without providing additional services and benefits to SBS audiences.

(12) If SBS were to have reduced commercial revenue due to further legislative restrictions it would require additional funding to maintain its level of current services.

**Australian Electoral Commission**

(Question No. 357)

Senator Ludlam asked the Minister representing the Special Minister of State, upon notice, on 13 December 2010:

With reference to the Australian Electoral Commission (AEC):

(1) Who makes the decision on what issues are covered in voter education and information provided by the AEC.

(2) What steps did the AEC take, in the lead up to the 2010 federal election, to explain to electors how the preferential voting system works.
(3) During the 2010 federal election a booklet was mailed to householders that contained approximately eight pages of information about how voters could physically and practically cast a valid vote, however there was no information contained in the document as to why each of the boxes are numbered, or what that means and its effect, i.e. there was no explanation of the preferential voting system: Why does the AEC not include this detail in its material sent to voters.

(4) In light of the apparent misconceptions about preferences amongst voters, particularly in the lower house, can the Minister confirm whether the AEC will endeavour to better educate and inform voters about how our electoral process actually works in the future.

Senator Wong: The Special Minister of State has provided the following answer to the honourable senator's question:

(1) The Commonwealth Electoral Act 1918 (subsection 7(1)(c)) requires the AEC to promote public awareness of electoral and parliamentary matters through information and education programs. Within this broad description, the AEC determines the content, scope and delivery modes for the AEC’s education and information program. These decisions are informed by:

(a) market research to determine the information and motivation barriers to full engagement in electoral processes in different sectors of the community;

(b) specialist advice on how the AEC can best highlight electoral issues and broader civic education in the education sector; and

(c) budget, staff and resource limitations that dictate how programs are best prioritised.

(2) Market research has indicated that in the immediate pre-election phase, voters most want to know about their rights and responsibilities regarding enrolment and casting a formal ballot. To this end, in the weeks prior to election day for the 2010 Federal Election, the AEC rolled out an extensive advertising campaign in three stages which focused on these matters – enrolment; voter services (where, when to vote, etc); and casting a formal vote. The AEC also delivered to all households and post office boxes a booklet, “Your official guide to the 2010 federal election”, which contained election related information including how to correctly complete a ballot paper; information on the revamped AEC website to facilitate navigation and comprehension, and contact details for a specialist call centre to deal with voter enquiries. Further, the AEC trialled a community-based voter education program using educators to deliver information sessions in a range of languages to voters in south western Sydney, an area which previous election data indicated had the highest levels of informal voting at federal elections.

(3) The development of the official guide booklet for the 2010 Federal Election was informed by independent market research with eligible electors. Users indicated that information on casting a formal vote was of most use to them and they did not seek more details on how the votes are eventually counted. Unsolicited information that arrives in the post can end up not being read at all if it is too dense in content and provides more information than is sought by the reader. For those who require more detail, there are several pointers in the official guide booklet to the AEC website.

(4) Because of its complexity, a detailed understanding of our preferential voting system is best explained in the context of an education session rather than as content in a general public information campaign. Therefore, the AEC’s general information campaigns focus on informing voters how to correctly complete a ballot paper rather than going into the detail of counting votes and the process of distribution of preferences. The detail of the preferential voting system is already key content in ongoing education programs of the AEC. For example:

(a) Students and adults visiting the National Electoral Education Centre in Canberra (90,000 visitors in the 09/10 financial year) took part in a ‘mock’ election including a full scrutiny of the vote.
Divisional staff visiting schools explain the federal voting system, run a 'mock' or student election and demonstrate how the votes are counted (over 200 school visits were conducted in the 09/10 financial year).

Professional development of pre-service teachers in universities which covers broader principles underlying democracy and the mechanics of elections and counting the vote.

Electoral education resources are provided to all schools, as well as individual teachers on request, that outline the voting process and how an outcome for the election is reached.

A series of web-delivered DVDs called Down for the Count explain how votes are counted for elections in the House of Representatives, the Senate and in referendums. Copies of the DVDs are available on request.

(f) Explanatory content available on the AEC's website plus a practice voting tool which allows voters to practise correctly completing both House of Representatives and Senate ballot papers.

After a federal election, the AEC undertakes a survey of informal ballot papers to try to gain an understanding of the factors that contribute to voters casting informal votes and to determine how best to focus AEC efforts to reduce the level of accidental informal voting. Analysis of informal voting at the 2010 election is currently being undertaken and the resulting report will be published on the AEC website.

The AEC also uses feedback obtained during the election and from its education sessions to assess the effectiveness of its efforts. This feedback comes from sources such as evaluations forms, market research, correspondence from voters, an analysis of calls made to the election call centre and so on.

Further, the AEC is liaising with the Australian Curriculum Assessment and Reporting Authority on the inclusion of appropriate content in the national curriculum concerning civics and citizenship, and with the Department of Immigration and Citizenship concerning appropriate electoral process content for their information programs and publications.

Cambodia
(Question No. 369)

Senator Bob Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 12 January 2011:

1. How much Australian aid funding has gone to Toll Holdings Limited, Toll Royal Railway and/or the Royal Group since the selection of Toll Royal Railway as the concessionaire of the Cambodian railways in November 2007?

2. Can a list be provided documenting correspondence between AusAID and Toll Holdings Limited and/or the Royal Group and/or Toll Royal Railway relating to the funding of the Asian Development Bank (ADB) Project 37269 'Supplementary Loan and Administration of Grant and Technical Assistance Grant Kingdom of Cambodia: Greater Mekong Subregion: Rehabilitation of the Railway in Cambodia Project' (the project).

3. Can a list be provided outlining the items classified as 'institutional support and capacity building' and 'civil works' budget lines for AusAID's funding of the project.

4. What assistance did the Australian Embassy in Phnom Penh and/or the department provide to Toll Holdings Limited relating to the selection of Toll Royal Railway as the concessionaire of the Cambodian railways by the Cambodian Government in November 2007.

5. Did AusAID receive any advice raising concerns about the resettlement program managed by ADB and the Government of Cambodia before committing finding to the project; if so, how were such concerns addressed.
(6) Has AusAID received advice regarding breaches of ADB resettlement guidelines in the project, specifically, involuntary relocations in Sihanoukville and Battambang; if so, what action did AusAID take.

**Senator Conroy:** The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) None.

(2) The following is a list of correspondence between AusAID and Toll Royal Railways

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<tr>
<th>Date</th>
<th>From</th>
<th>To</th>
<th>Subject</th>
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<tbody>
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<td>09/04/10</td>
<td>TRR</td>
<td>AusAID</td>
<td>Email: Regarding the Royal Government of Cambodia’s management of the project</td>
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<td>09/04/10</td>
<td>AusAID</td>
<td>TRR</td>
<td>Email: Suggestion of meeting to follow up on email regarding Royal Government of Cambodia’s management of the project</td>
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<td>TRR</td>
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<td>Email: Rail welding</td>
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<td>30/04/10</td>
<td>AusAID</td>
<td>ADB/TRR</td>
<td>Email: Response regarding technical aspects of rail welding</td>
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<td>19/07/10</td>
<td>Australian Ambassador</td>
<td>TRR</td>
<td>Email: Regarding concession of land to Boeung Kak Lake developer and impact on rail project</td>
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<tr>
<td>19/07/10</td>
<td>TRR</td>
<td>Australian Ambassador</td>
<td>Email: Response to Ambassador's email regarding concession of land to Boeung Kak Lake developer</td>
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</table>
| 21/07/10   | TRR                 | ADB/AusAID     | Email: Update on Toll's track maintenance from Phnom Penh to Samrong Junction Email: Proposed road access for Boeung 
| 29/07/10   | TRR                 | AusAID         | Kak lake development and impact on rail project                          |
| 12/09/10   | TRR                 | AusAID funded consultant | Email: Daily report on track maintenance work |
| 13/10/10   | TRR                 | AusAID         | Email: Removal of Kings Coach warehouse as part of Boeung Kak Lake development and impact on rail project |

(3) Total project financing USD21.5 million.

Institutional support and capacity building (AusAID financing: USD3.0

- Assistance to the Royal Government of Cambodia’s railway department and Concession Management Committee to build their skills and knowledge, in particular by developing the capacity to carry out monitoring functions defined in the concession agreement;
- Development of the scope and content of required training programs, and assistance in training railway staff and evaluating the effectiveness of training;
- Preparation of manuals for the railway department's operations, including safety monitoring, international relations (for the rail links with Thailand and, in the longer term, Viet Nam), non-concession asset management, and infrastructure and rolling stock inspection;

QUESTIONS ON NOTICE
• Assistance in preparing a framework for the development and regulation of the rail network in Cambodia and in developing relationships with other countries in the greater Mekong sub-region related to the rail sector; and

• Support for monitoring the long-term benefits of railway infrastructure.

Civil works (AusAID financing: USD18.5

• Costs of railway sleepers, bridges, culverts, etc required for rehabilitation of the railway;

• Earthworks and repairs to the railway track covered by the Project;

• Design of engineering responses needed to repair and rehabilitate the railway track;

• Costs of engineering and supervision consultants to ensure quality and timeliness of the work being undertaken (including management of sub-contractors for earthworks and rehabilitation work); and

• Design and construction and/or repair of railway stations.

(4) DFAT have advised that the Australian Embassy in Phnom Penh provided assistance to Toll Holdings in support of its bid for the railway concession agreement, consistent with Australian Government policy of support for Australian business.

(5) Resettlement was identified as a risk during AusAID's routine and comprehensive assessment process for the Project. On joining the project partnership in late 2009, AusAID assessed the project’s resettlement plan which was updated and approved by ADB and the Government of Cambodia in 2009. A risk management matrix was developed by AusAID outlining mitigation strategies. These strategies included that an independent monitor be in place to ensure that the project's resettlement plan be implemented by the Royal Government of Cambodia as intended fairly and without delay (in accordance with the Asian Development Bank's international resettlement policy). In addition, AusAID agreed to finance an external international resettlement adviser to make monitoring visits to resettlement sites, produce independent reports and provide advice to the Cambodian Government, the ADB and AusAID on the implementation of the resettlement plan and the resolution of any complaints.

(6) AusAID has monitored resettlement since the project began. The AusAID funded resettlement expert visited the Battambang resettlement site in April 2010 and identified actions that were required prior to resettlement commencing in late May. The expert visited the Battambang resettlement site again in July 2010. During this visit, the community raised concerns about inadequate services which were conveyed to ADB and AusAID. On 5 August 2010, a monitoring mission report signed by AusAID, ADB and staff from the Cambodian Government formally raised the lack of services at the Battambang site as a concern. The Cambodian Government was asked to prepare a time-bound action plan in response by 31 August 2010. On 8 September 2010, ADB wrote to the Cambodian Government seeking an update on the provision of water and electricity at the site. Electricity has now been connected at the Battambang site and water is being provided by the Cambodian Government. A senior official from AusAID also visited the Battambang site in December 2010 to identify additional steps that need to be taken to ensure resettlement policies are adhered to. AusAID and ADB are working with the Cambodian Government to better manage the resettlement process for the whole of the railway project. The Cambodian Government has agreed to address all major actions recommended by the ADB and AusAID to improve resettlement for the project. This includes payment of compensation, additional monitoring, improved consultation and grievance processes and a requirement that adequate services are available at resettlement sites before people are relocated. A resettlement review mission was conducted by the ADB from 10 January to 3 February.
Australian Taxation Office
(Question No. 378)

Senator Abetz asked the Minister representing the Treasurer, upon notice, on 31 January 2011:

(1) How many agreements does the Australian Taxation Office have with businesses based in Tasmania for tax payment deferral, or arrangements to pay owed taxation instalments.

(2) How does this number compare with the previous 3 years.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question

(1) and (2) The ATO manages and reports its debt collection data on a national basis and is unable to provide exact figures for payment deferrals and arrangements to pay by instalments on a state-by-state basis. However, the tables below provide estimated figures for the number of payment deferrals and payment arrangements for businesses with a Tasmania postcode.

Table 1: Estimated number of active payment deferrals for businesses in Tasmania as at:

<table>
<thead>
<tr>
<th></th>
<th>30 June 2008</th>
<th>30 June 2009</th>
<th>30 June 2010</th>
<th>31 December 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>51</td>
<td>112</td>
<td>85</td>
<td>43</td>
</tr>
</tbody>
</table>

Table 2: Estimated number of active arrangements to pay by instalments for businesses in Tasmania as at:

<table>
<thead>
<tr>
<th></th>
<th>30 June 2008</th>
<th>30 June 2009</th>
<th>30 June 2010</th>
<th>31 December 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2,374</td>
<td>2,207</td>
<td>2,520</td>
<td>2,725</td>
</tr>
</tbody>
</table>

Based on data extracted on 14 February 2011.

Tertiary Education, Skills, Jobs and Workplace Relations
(Question No. 396)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

Can a list be provided detailing the electronic or digital publications to which the department and its agencies subscribe (listed separately) or pay a fee to access or receive, including the: (a) cost; (b) title; and (c) publisher.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

The department and agencies subscribe to numerous electronic and digital publications. Those electronic and digital publications sourced centrally are listed in the Attachment (available from the Senate Table Office).

Individual areas of the department may subscribe to other electronic and digital publications. These are not centrally recorded.

Individual staff members in the department and agencies are able to subscribe directly to external organisations to obtain free electronic and digital publications as they choose. Records of these types of subscriptions are not recorded.

Tertiary Education, Skills, Jobs and Workplace Relations: Promotional Items
(Question No. 401)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:
With reference to promotional items that include the logo, crest or other identifying branding of the department and each of its agencies (listed separately), can a list be provided detailing:

(a) the type of promotional items;
(b) the quantity of items produced;
(c) the total cost of the production of the items;
(d) to whom these items were distributed; and
(e) what proportion of stock remains undistributed.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

The department limits the type and quantity of promotional products. The preference is to use online solutions or standard printed paper products that are produced as part of the department's day to day operations.

Where promotional items are required they are usually for events of an annual nature and a specific target audience. In such cases the department is satisfied that the cost and purpose of the promotional items is fully justified and there is rarely any residual stock.

Northam Detention Centre

(Question No. 407)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 25 February 2011:

(1) Can breakdowns be provided detailing:

(a) the current anticipated capital costs to build the new detention centre at Northam, Western Australia;
(b) the current anticipated annual recurrent costs to operate the new detention centre at Northam; and
(c) the nature of the work required to be completed to provide accommodation for the 1500 male detainees that the Government has announced are to be housed at the new detention centre at Northam.

(2) What contracts were formally let for this work as at 28 February 2011.

(3) Is the Northam Detention Centre on schedule to be completed and operational on the date announced by the Minister on 18 October 2010; if not, why not.

(4) What specific construction work has been completed at the Northam Detention Centre since its establishment as a detention facility was announced.

(5) Why was the necessary planning to build a detention centre at Northam not done prior to the Minister making a public announcement on the 18 October 2010 that Northam was to receive 1500 male detainees.

(6) Is it the fact that the detainees destined for Northam will not be housed in the existing army barracks but will be housed in a separate specially constructed camp.

(7) (a) What is the estimated cost of the construction program as at February 2011; and (b) will additional funds be required to be budgeted for to complete the construction program; if so, how much.

(8) Given that the proposed transfer of 1500 male detainees from Christmas Island to Northam, with the 1200 scheduled to arrive in Northam prior to the end of March 2011 and the other 300 by the end of June, is now behind schedule, what alternative accommodation arrangements have been put in place to house these 1500 male detainees pending transfer to Northam.

Senator Carr: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:
(1) (a) The budget was originally set at $164.5 million but the reduction in client numbers announced on 9 May 2011 is expected to provide savings of about $40 million. (b) There are too many variables to provide an accurate figure on operating costs at this stage. (c) Clearing, site preparation, construction and commissioning.

(2) Contracts were let with GHD for project management services and with Wilde and Woollard for quantity surveying services. Southern Fencing was engaged to repair the boundary fence.

(3) The completion date announced on the 18 October 2010 was indicative only; completion is currently projected for October 2011. Since preparation for construction began, more detailed studies have identified the extent of bedrock, requiring design alterations. Further design alterations have been commissioned to meet environmental requirements and there will be longer than anticipated lead times to bring services to the site.

(4) Site preparation including clearing has commenced.

(5) On 18 October 2010 the Government made a decision to construct a facility at Northam. Until that point the Department did not have authority or appropriation to begin construction preparations. Preliminary site assessments had been undertaken to determine whether a facility could be constructed on the site.

(6) Yes.

(7) (a) The budget was originally set at $164.5 million but the reduction in client numbers announced on 9 May 2011 is expected to provide savings of about $40 million. (b) No.

(8) Single males who would have moved to Northam at the end of March will be accommodated elsewhere across the detention network until the facility is complete.

Northam Detention Centre
(Question No. 408)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 28 February 2011:

(1) How much land is proposed to be cleared to house the planned Northam Detention Centre facility.

(2) What due diligence did the department engage in relating to the suitability of the site prior to making a public announcement that it intended to transfer 1 500 male detainees to the location.

(3) What were the terms of reference required to be satisfied in the due diligence exercise.

(4) Is it usual for the department to advise the Minister of any constraints on a potential detention site; if not, why not.

(5) Did the department advise the Minister of any caveats in respect to the Northam site; if so, what were they.

(6) In hindsight, would it have been prudent for the department to have more thoroughly investigated adverse issues affecting the site; if not, should the department have paid greater heed to the constraints on the land.

Senator Carr: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) 29.41 hectares.

(2) The Department of Immigration and Citizenship consulted the Department of Defence to identify any known issues and obtained a copy of an environmental and heritage report. Construction consultancy firm, GHD was engaged to undertake a preliminary site assessment to determine whether a facility could be constructed on the site.

QUESTIONS ON NOTICE
(3) GHD was engaged to undertake a preliminary site assessment and assess the feasibility of the site as a potential location for occupancy as a detention centre. The brief included a requirement to undertake soil contamination analysis and a survey of services for planning purposes. Defence officials familiar with the site were consulted to identify whether there were significant impediments to construction, including possible munitions, heavy metals and other toxic materials such as asbestos.

(4) It is not normal practice for the Department to disclose the advice it provides a Minister.

(5) It is not normal practice for the Department to disclose the advice it provides a Minister.

(6) The Department was aware of constraints, but the extent of those constraints was not obvious until environmental approvals were received and the detailed site feature survey was conducted in preparation for construction to begin. It is common for site issues to become apparent only when this type of survey is conducted, which is why project budgets have contingencies built in and contracts include latent conditions clauses. The constraints are being addressed in the design of the centre.

Asylum Seekers
(Question No. 411)

Senator Cash asked the Minister representing the Minister for Immigration and Citizenship, upon notice, on 1 March 2011:

(1) Which detention centres provide telephones for the personal and business use of asylum seekers?

(2) How many telephones are available for use by asylum seekers in each detention centre?

(3) Since August 2008:

(a) how many calls have been made on a monthly basis using these telephones at each of the respective detention centres;

(b) to which countries were these calls made; and

(c) what was the total cost of these calls listed by country and detention centre?

(4) Are the phone calls made by asylum seekers monitored in any way; if so, how; if not, why not?

(5) Is there a limit on the number of calls made by each asylum seeker per day; if so, what is the limit?

(6) Is there a limit on the duration of each of these calls; if so, what is the limit?

(7) Which detention centres provide computers with Internet connections for the personal and business use of asylum seekers?

(8) How many of these computers are available for use by asylum seekers in each detention centre?

(9) Are there any restrictions imposed in relation to the use of computers?

(10) Are there any specific websites to which access for asylum seekers has been restricted; if so, which websites?

(11) Are there any specific websites to which access for asylum seekers has been banned; if so, which websites?

(12) What are the rules or policies underpinning restriction to specific websites?

(13) What monitoring is in place to determine the appropriateness of the use of websites by asylum seekers?

(14) What monitoring is in place for websites that are not in English?

(15) If an asylum seeker is found to have accessed an inappropriate website, what action is taken to deal with such a situation?
Senator Carr: The Minister for Immigration and Citizenship has provided the following answer to the honourable senator's question:

(1) All immigration detention facilities provide telephones for the personal and business use of asylum seekers.

The detention service provider, Serco, will facilitate the use of a phone for clients' business use with Migration Agents, lawyers etc. The Department also facilitates calls by the asylum seekers to family, when they first arrive by boat, to inform that they have arrived safely. All other personal calls made by clients are via the use of phone cards, purchased by clients using their Individual Allowance Points.

(2) --

<table>
<thead>
<tr>
<th>Centre</th>
<th>Phones</th>
</tr>
</thead>
<tbody>
<tr>
<td>Villawood IDC</td>
<td>23</td>
</tr>
<tr>
<td>Sydney IRH</td>
<td>8</td>
</tr>
<tr>
<td>Maribyrnong IDC</td>
<td>14</td>
</tr>
<tr>
<td>Melbourne ITA</td>
<td>13</td>
</tr>
<tr>
<td>Port Augusta IRH</td>
<td>8</td>
</tr>
<tr>
<td>Adelaide ITA</td>
<td>3</td>
</tr>
<tr>
<td>Inverbrackie APOD</td>
<td>64</td>
</tr>
<tr>
<td>Northern IDC</td>
<td>17</td>
</tr>
<tr>
<td>Darwin Airport Lodge APOD</td>
<td>18</td>
</tr>
<tr>
<td>Asti Motel APOD</td>
<td>71</td>
</tr>
<tr>
<td>Berrimah House APOD</td>
<td>1</td>
</tr>
<tr>
<td>Leonora APOD</td>
<td>5</td>
</tr>
<tr>
<td>Perth IDC</td>
<td>4</td>
</tr>
<tr>
<td>Pert IRH</td>
<td>7</td>
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<td>2</td>
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<tr>
<td>Curtin IDC</td>
<td>71</td>
</tr>
<tr>
<td>Brisbane ITA</td>
<td>5</td>
</tr>
<tr>
<td>Virginia Palms APOD</td>
<td>32</td>
</tr>
<tr>
<td>Scherger IDC</td>
<td>10</td>
</tr>
<tr>
<td>Christmas Island</td>
<td>52</td>
</tr>
</tbody>
</table>

(3) Business calls to Migration Agents, lawyers etc are not generally logged so there is no data available on number, country or cost. There is also no data available on personal calls made using phone cards.

(4) Staff at the immigration detention facilities do not monitor phone calls. Any monitoring of phone calls would be an invasion of the client's privacy.

(5) There is no limit on the number of phone calls.

(6) There is no duration limit on phone calls subject to reasonable use so that others can make phone calls.

(7) All immigration detention facilities provide computers with Internet connections for the personal and business use of asylum seekers.
(8) --

<table>
<thead>
<tr>
<th>Facility</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Villawood IDC</td>
<td>25</td>
</tr>
<tr>
<td>Sydney IRH</td>
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<tr>
<td>Maribyrnong IDC</td>
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<tr>
<td>Melbourne ITA</td>
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<td>Curtin IDC</td>
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<td>Brisbane ITA</td>
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<td>Virginia Palms APOD</td>
<td>6</td>
</tr>
<tr>
<td>Scherger IDC</td>
<td>15</td>
</tr>
<tr>
<td>Christmas Island</td>
<td>42</td>
</tr>
</tbody>
</table>

(9) Some facilities have time limits on the use of computers. These restrictions are only applied to ensure all clients have fair and equitable access to the equipment.

(10) At DIAC detention facilities, Internet access is made available to people in immigration detention. On Christmas Island DIAC provides Internet services, and the detention service provider, Serco, is responsible at all other sites.

DIAC policy is to ensure that people in immigration detention do not access:

- pornography;
- anti-social or terrorist sites;
- malware & hacking sites;
- other undesirable sites or content.

DIAC and Serco use well-regarded 'Internet Content Filter' products to review every request for access to an Internet site. A Content Filter trawls the Internet & categorises Internet sites against keywords. These services, and there are several of them, work by trawling the Internet and examining large numbers of sites. They regularly update the local content database, and they attempt to categorise every site on the Internet by matching the content against 'keywords'—'news', 'shopping', 'pornography', 'blogs', 'social networking', 'terrorism', 'malware' and many more.
On Christmas Island DIAC, through its service provider, Optus, uses the McAffée Web Gateway content filter. Serco uses the Barracuda Content Filter. Both products allow individual sites to be allowed or denied against the default category treatment.

(11) Websites are allowed or denied according to the categories which have been established in Content Management Filters. See answer to question 10 for examples.

(12) Websites are allowed or denied according to the categories which have been established in Content Management Filters. See answer to question 10 for examples.

(13) Content Management Filters block access to ranges of sites, as described in the answer to question 10. Beyond that there is only manual surveillance of viewing habits by Serco staff.

(14) Content Management Filters block access to ranges of sites, including foreign language sites. There is no additional monitoring of foreign language material accessed by detainees.

(15) If the client breaches the DIAC Computer and Internet Conditions of Use Agreement, the following actions could be taken:
- A warning may be issued;
- Restrictions may be placed on the use of any or all computer equipment;
- Access to computer and/or internet may be suspended; and
- The matter may be reported to the Police.

**Australian Taxation Office**

*(Question No. 415)*

Senator Cormann asked the Minister representing the Treasurer, upon notice, on 10 March 2011:

With reference to changes to the GST treatment of residential premises:

(1) What is the policy intention of the proposed measure.

(2) How does the proposed measure enable the policy intention to be achieved.

(3) Is the effect of the proposed measure revenue neutral:
   - (a) if so, how has revenue neutrality been achieved;
   - (b) have other saving measures been needed to achieve revenue neutrality;
   - (c) if not, how much revenue is expected to be raised as a result of the measure; and
   - (d) can the annual numbers for the forward estimates period be provided, and any further information covering the longer term.

(4) Have the likely administrative and compliance costs of implementing the proposed measure been assessed; if so, what are they.

(5) (a) What stakeholders will be directly affected by the measure;
   - (b) have these stakeholders been involved in consultation prior to and during the development of the measure;
   - (c) what consultation has the Government been engaged in; and
   - (d) have independent bodies or experts been involved in the consultation process.

(6) Is this proposed measure a government response to an identified problem; if so, what problem is it addressing.
(7) Were any alternatives considered before this approach was proposed, if so:
   (a) can details of those alternatives be provided; and
   (b) why was it decided that those options would not be implemented.
(8) Will inaction pose a risk to the integrity of the tax system or broader government administration; if so, how would you rate that risk.
(9) What modelling has been carried out in developing the proposed measure.
(10) Have the broader implications of the implementation of the measure on the economy been forecast; if so, what are they.
(11) Have international comparisons been considered and does the proposed measure accord with international 'best practice'.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

(1) The policy intention of the proposed measure is to ensure that GST is captured on the value added to real property by developers constructing new residential premises.
(2) The Government has undertaken public consultation on the design of a legislative amendment to give effect to the policy intention. Details are available in a Discussion Paper, located at:
(3) The proposal has financial implications in relation to GST revenue. However, the full impact on GST collections is offset by corresponding changes to GST payments to the States. The financial implications of the proposed measure were reported in the 2011-12 Budget.
(4) The administrative and compliance costs of implementing the proposed measure are expected to be low and because of this, no Regulation Impact Statement is required.
(5) (a) Stakeholders directly affected by the measure are property developers and tax professionals providing advice to these entities.
   (b) Stakeholders have been involved in consultation following announcement of the measure.
   (c) Public consultation on a discussion paper of the proposed measure was held between 27 January 2011 and 25 February 2011.
   (d) Yes.
(6) The proposed measure is a government response to a recent court decision (Commissioner of Taxation v Gloxinia Investments (Trustee) [2010] FCAFC 46) which found that the sale of certain residential premises to owner-occupiers and investors was input taxed rather than taxable. The court decision is contrary to the policy intent in relation to the taxation of residential premises as it results in GST not being collected on the full value added to premises by developers in some circumstances.

(7) The discussion paper outlines two alternative means of implementing the Government's policy announcement. The final design of the legislative amendment has not yet been finalised. Further consultation will be undertaken on exposure draft legislation.
(8) The proposed measure has been announced with a retrospective start date to reduce risks to revenue that might arise from behavioural change.
(9) The proposed measure has been costed in accordance with normal Treasury estimation processes.
(10) No.
(11) No international comparisons have been considered.
Senator Cormann asked the Minister representing the Treasurer, upon notice, on 10 March 2011:

With reference to an increase in the medical expenses tax offset claim threshold:
(1) What is the policy intention of the proposed measure.
(2) How does the proposed measure enable the policy intention to be achieved.
(3) Is the effect of the proposed measure revenue neutral:
   (a) if so, how has revenue neutrality been achieved;
   (b) have other saving measures been needed to achieve revenue neutrality;
   (c) if not, how much revenue is expected to be raised as a result of the measure; and
   (d) can the annual numbers for the forward estimates period be provided, and any further information covering the longer term.
(4) Have the likely administrative and compliance costs of implementing the proposed measure been assessed; if so, what are they.
(5) (a) What stakeholders will be directly affected by the measure;
   (b) have these stakeholders been involved in consultation prior to and during the development of the measure;
   (c) what consultation has the Government been engaged in; and
   (d) have independent bodies or experts been involved in the consultation process.
(6) Is this proposed measure a government response to an identified problem; if so, what problem is it addressing.
(7) Were any alternatives considered before this approach was proposed; if so:
   (a) can details of those alternatives be provided; and
   (b) why was it decided that those options would not be implemented.
(8) Will inaction pose a risk to the integrity of the tax system or broader government administration; if so, how would you rate that risk.
(9) What modelling has been carried out in developing the proposed measure.
(10) Have the broader implications of the implementation of the measure on the economy been forecast; if so, what are they.
(11) Have international comparisons been considered and does the proposed measure accord with international 'best practice'.

Senator Wong: The Treasurer has provided the following answer to the Honourable Senator's question:

(1) This measure, which was announced in the 2010-11 Budget, will improve the sustainability of assistance for taxpayers with high unreimbursed medical expenses by increasing the claim threshold for the net medical expenses tax offset, which had not been increased since 2002-03, and commencing indexation to ensure the threshold keeps in line with changes in the CPI.

(2) This measure increased the threshold above which a taxpayer may claim the net medical expenses tax offset from $1,500 to $2,000. The threshold will also be indexed to movements in the consumer price index in future years, with the first indexation to occur on 1 July 2011.

(3) Details of this were announced in the 2010-11 Budget and contained in Budget Paper No. 2.
(4) The administration and compliance costs associated with this measure are low.

(5) As the measure did not involve changes to the way in which government support for this offset is delivered, no consultation was undertaken.

(6) The threshold above which a taxpayer may claim the net medical expenses tax offset had not been increased since the 2002-03 income year. Since that time, medical costs and wages have increased significantly. This measure will improve the sustainability of assistance for taxpayers with high unreimbursed medical expenses.

(7) Government often considers various options during the policy development process.

(8) The Government considers that assistance through the net medical expenses tax offset should be adjusted to reflect changes in the CPI.

(9) No modelling was undertaken on the impact of this measure.

(10) While no formal forecasting has occurred, this measure is not expected to have any impact on the broader economy.

(11) International comparisons were not required for this measure.

Taxation

(Question No. 417)

Senator Cormann asked the Minister representing the Treasurer, upon notice, on 10 March 2011:


(1) What is the policy intention of the proposed measure.

(2) How does the proposed measure enable the policy intention to be achieved.

(3) Is the effect of the proposed measure revenue neutral:
   (a) if so, how has revenue neutrality been achieved;
   (b) have other saving measures been needed to achieve revenue neutrality;
   (c) if not, how much revenue is expected to be raised as a result of the measure; and
   (d) can the annual numbers for the forward estimates period be provided, and any further information covering the longer term.

(4) Have the likely administrative and compliance costs of implementing the proposed measure been assessed; if so, what are they.

(5) (a) What stakeholders will be directly affected by the measure;
   (b) have these stakeholders been involved in consultation prior to and during the development of the measure;
   (c) what consultation has the Government been engaged in; and
   (d) have independent bodies or experts been involved in the consultation process.

(6) Is this proposed measure a government response to an identified problem; if so, what problem is it addressing.

(7) Were any alternatives considered before this approach was proposed, if so:
   (a) can details of those alternatives be provided; and
   (b) why was it decided that those options would not be implemented.

(8) Will inaction pose a risk to the integrity of the tax system or broader government administration; if so, how would you rate that risk.
(9) What modelling has been carried out in developing the proposed measure.

(10) Have the broader implications of the implementation of the measure on the economy been forecast; if so, what are they.

(11) Have international comparisons been considered and does the proposed measure accord with international 'best practice'.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

Taxation Ruling 2010/D9 is not a proposed measure. Taxation rulings do not alter the existing tax law, but rather set out the Commissioner of Taxation's interpretation of how the existing law works. In a ruling, the Commissioner is simply expressing his view of the law enacted by Parliament and he applies accepted principles of statutory interpretation in doing so.

Taxation rulings are not legally binding on taxpayers (that is, they do not create legal obligations under the tax law for them). Rulings, once finalised, are only binding on the Commissioner. Their legal effect is to protect taxpayers who choose to follow the Commissioner's views expressed in them. Taxation rulings have no policy intent, and the Government has no involvement in the issuing of taxation rulings. The Commissioner releases draft taxation rulings for public comment before finalising them.

Most taxation rulings are considered by the ATO's Public Rulings Panel. The Panel advises the Commissioner on the issues proposed to be dealt with in taxation rulings and determinations and is made up of senior ATO officers and external experts.

Taxation rulings do not have a revenue impact on the forward estimates because, as far as the law allows, the Commissioner interprets the law consistent with policy intent on which revenue estimates were based. However, they may have a compliance leverage impact by protecting the forward estimates to the extent that revenue is at risk from taxpayers not applying the law properly. The ATO is therefore unable to provide an answer to questions (1), (2), (3), (5) (c), (6), (7), (8), (9), (10) and (11).

(4) Yes. In explaining the law, this draft Ruling may influence trustees of complying superannuation funds to change the type of total and permanent disability insurance policies that they take out.

Industry practice under the former provisions in the Income Tax Assessment Act 1936 and under the Income Tax Assessment Act 1997 (ITAA 1997) when Division 295 was first introduced was to claim deductions relating to total and permanent disability (TPD) policies irrespective of whether, in circumstances where a payout was made under the policy, the complying superannuation fund could make a payment to the member.

Under the provisions of the ITAA 1997, where complying superannuation funds continue to hold total and permanent disability insurance, the premium for which is not wholly deductible, they will need to have the deductible amount of the premium specified in the policy. If this is not done, the complying superannuation fund will need to obtain an actuary's certificate to calculate the deductible amount.

(5) (a) Micro enterprises, small and medium enterprises, large business and superannuation funds may be affected.

(5) (b) This matter was discussed with members of the Superannuation Technical Sub-group (membership comprises representatives of the major tax, law and accounting professional associations and senior members of the ATO) of the National Tax Liaison Group at a workshop in late 2008. The industry are aware of the ATO view as explained in this draft Ruling. As a consequence of the Commissioner having made industry aware of the ATO interpretation of the law, the Government agreed to transitional provisions to allow the industry time to comply with this interpretation. The transitional provisions were enacted as part of the Superannuation Legislation Amendment Act 2010.
The normal consultation process for rulings is being followed. The draft ruling was published on www.ato.gov.au on 15 December 2010 and public consultation closed on 14 February 2011.

(5) (d) This matter was discussed with members of the Superannuation Technical Sub-group of the National Tax Liaison Group at a workshop in late 2008. The industry are aware of the ATO view as explained in this draft Ruling. The Public Rulings Panel provided advice in the development of this draft Ruling.

**Taxation**

(Question No. 418)

**Senator Cormann** asked the Minister representing the Treasurer, upon notice, on 10 March 2011:

With reference to Taxation Ruling 2010/D8 (retail premiums):

(1) What is the policy intention of the proposed measure.

(2) How does the proposed measure enable the policy intention to be achieved.

(3) Is the effect of the proposed measure revenue neutral:
   (a) if so, how has revenue neutrality been achieved;
   (b) have other saving measures been needed to achieve revenue neutrality;
   (c) if not, how much revenue is expected to be raised as a result of the measure; and
   (d) can the annual numbers for the forward estimates period be provided, and any further information covering the longer term.

(4) Have the likely administrative and compliance costs of implementing the proposed measure been assessed; if so, what are they.

(5) (a) What stakeholders will be directly affected by the measure;
   (b) have these stakeholders been involved in consultation prior to and during the development of the measure;
   (c) what consultation has the Government been engaged in; and
   (d) have independent bodies or experts been involved in the consultation process.

(6) Is this proposed measure a government response to an identified problem; if so, what problem is it addressing.

(7) Were any alternatives considered before this approach was proposed, if so:
   (a) can details of those alternatives be provided; and
   (b) why was it decided that those options would not be implemented.

(8) Will inaction pose a risk to the integrity of the tax system or broader government administration; if so, how would you rate that risk.

(9) What modelling has been carried out in developing the proposed measure.

(10) Have the broader implications of the implementation of the measure on the economy been forecast; if so, what are they.

(11) Have international comparisons been considered and does the proposed measure accord with international 'best practice'.

**Senator Wong:** The Treasurer has provided the following answer to the honourable senator's question:

Taxation Ruling 2010/D8 is not a proposed measure. Taxation rulings do not alter the existing tax law, but rather set out the Commissioner of Taxation's interpretation of how the existing law works. In a
ruling, the Commissioner is simply expressing his view of the law enacted by Parliament and he applies accepted principles of statutory interpretation in doing so.

Taxation rulings are not legally binding on taxpayers (that is, they do not create legal obligations under the tax law for them). Rulings, once finalised, are only binding on the Commissioner. Their legal effect is to protect taxpayers who choose to follow the Commissioner's views expressed in them. Taxation rulings have no policy intent, and the Government has no involvement in the issuing of taxation rulings. The Commissioner releases draft taxation rulings for public comment before finalising them.

Most taxation rulings are considered by the ATO's Public Rulings Panel. The Panel advises the Commissioner on the issues proposed to be dealt with in taxation rulings and determinations and is made up of senior ATO officers and external experts.

Taxation rulings do not have a revenue impact on the forward estimates because, as far as the law allows, the Commissioner interprets the law consistent with policy intent on which revenue estimates were based. However, they may have a compliance leverage impact by protecting the forward estimates to the extent that revenue is at risk from taxpayers not applying the law properly. The ATO is therefore unable to provide an answer to questions (1), (2), (3), (5)(c), (6), (7), (8), (9), (10) and (11).

(4) Yes. Taxpayers who receive retail premiums should be recording them either as unfranked dividends or ordinary income. The ruling also explains to companies who pay retail premiums to non-residents that they may have withholding tax responsibilities.

(5) (a) Major corporations which have paid or may pay retail premiums to their shareholders who have not been applying the law correctly, may be affected, as may their shareholders.

(5) (b) Consultation has occurred with relevant stakeholders, their legal/accounting advisers and certain professional bodies by representatives of the ATO. These stakeholders were given an advanced draft of this draft Ruling to comment and present submissions on.

The normal consultation process for rulings is being followed. The draft ruling was published on www.ato.gov.au on 8 December 2010 and public consultation closed on 10 February 2011.

(5) (d) The Public Rulings Panel provided advice in the development of this draft Ruling. Some key stakeholders, legal and accounting practitioners and professional bodies were invited to attend, and give a presentation to, the Public Rulings Panel.

**Taxation**

(Question No. 419)

**Senator Cormann** asked the Minister representing the Treasurer, upon notice, on 10 March 2011:

With reference to Taxation Ruling 2010/7 (the interaction of Division 820 of the *Income Tax Assessment Act 1997* and the transfer pricing provisions):

1. What is the policy intention of the proposed measure.
2. How does the proposed measure enable the policy intention to be achieved.
3. Is the effect of the proposed measure revenue neutral:
   a. if so, how has revenue neutrality been achieved;
   b. have other saving measures been needed to achieve revenue neutrality;
   c. if not, how much revenue is expected to be raised as a result of the measure; and
4. can the annual numbers for the forward estimates period be provided, and any further information covering the longer term.

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QUESTIONS ON NOTICE
(4) Have the likely administrative and compliance costs of implementing the proposed measure been assessed; if so, what are they.

(5) (a) What stakeholders will be directly affected by the measure;
(b) have these stakeholders been involved in consultation prior to and during the development of the measure;
(c) what consultation has the Government been engaged in; and
(d) have independent bodies or experts been involved in the consultation process.

(6) Is this proposed measure a government response to an identified problem; if so, what problem is it addressing.

(7) Were any alternatives considered before this approach was proposed, if so:
(a) can details of those alternatives be provided; and
(b) why was it decided that those options would not be implemented.

(8) Will inaction pose a risk to the integrity of the tax system or broader government administration; if so, how would you rate that risk.

(9) What modelling has been carried out in developing the proposed measure.

(10) Have the broader implications of the implementation of the measure on the economy been forecast; if so, what are they.

(11) Have international comparisons been considered and does the proposed measure accord with international 'best practice'.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

Taxation Ruling 2010/7 is not a proposed measure. Taxation rulings do not alter the existing tax law, but rather set out the Commissioner of Taxation's interpretation of how the existing law works. In a ruling, the Commissioner is simply expressing his view of the law enacted by Parliament and he applies accepted principles of statutory interpretation in doing so.

Taxation rulings are not legally binding on taxpayers (that is, they do not create legal obligations under the tax law for them). Rulings, once finalised, are only binding on the Commissioner. Their legal effect is to protect taxpayers who choose to follow the Commissioner's views expressed in them. Taxation rulings have no policy intent, and the Government has no involvement in the issuing of taxation rulings. The Commissioner releases draft taxation rulings for public comment before finalising them.

Most taxation rulings are considered by the ATO's Public Rulings Panel. The Panel advises the Commissioner on the issues proposed to be dealt with in taxation rulings and determinations and is made up of senior ATO officers and external experts.

Taxation rulings do not have a revenue impact on the forward estimates because, as far as the law allows, the Commissioner interprets the law consistent with policy intent on which revenue estimates were based. However, they may have a compliance leverage impact by protecting the forward estimates to the extent that revenue is at risk from taxpayers not applying the law properly. The ATO is therefore unable to provide an answer to questions (1), (2), (3), (5) (c), (6), (7), (8), (9), (10) and (11).

(4) Yes. Some taxpayers may have operated on the basis that the transfer pricing provisions cannot be applied to adjust debt deductions claimed on borrowings which satisfy the thin capitalisation 'safe harbour' requirements. It follows that these taxpayers might not have adequately addressed the issue of whether the costs incurred on these borrowings satisfy the transfer pricing provisions.
These taxpayers would have to review their practices in relation to the pricing of costs such as interest expenses, discounts on commercial paper or other costs that are directly incurred in obtaining or maintaining the debt funding provided by foreign associates.

(5) (a) Although there is some potential for this Ruling to apply in the small to medium enterprise sector, large business is the sector primarily affected, where they have not operated in accordance with the ATO's understanding of the current law, and most specifically the subsidiaries of foreign owned multi-nationals.

(5) (b) The issue dealt with by this Ruling has previously been dealt with by draft Taxation Determination TD 2007/D20, now withdrawn, which was superseded by draft Taxation Ruling TR 2009/D6 in December 2009. In addition, the ATO released a discussion paper in 2008 seeking comments on approaches to pricing costs of funding on cross-border related party debt. Following the release of the draft in December 2009 the ATO issued a further revised draft of the ruling to the National Tax Liaison Group in June 2010 for consultation. Comments on all documents have been taken into account in preparing the final version of this Ruling, which was published on www.ato.gov.au on 27 October 2010.

(5) (d) The Public Rulings Panel provided advice in the development of this ruling.

Taxation
(Question No. 420)

Senator Cormann asked the Minister representing the Treasurer, upon notice, on 10 March 2011:

With reference to Taxation Ruling 2010/D7 (business related capital expenditure):

(1) What is the policy intention of the proposed measure.
(2) How does the proposed measure enable the policy intention to be achieved.
(3) Is the effect of the proposed measure revenue neutral:
   (a) if so, how has revenue neutrality been achieved;
   (b) have other saving measures been needed to achieve revenue neutrality;
   (c) if not, how much revenue is expected to be raised as a result of the measure; and
   (d) can the annual numbers for the forward estimates period be provided, and any further information covering the longer term.
(4) Have the likely administrative and compliance costs of implementing the proposed measure been assessed; if so, what are they.
(5) (a) What stakeholders will be directly affected by the measure;
   (b) have these stakeholders been involved in consultation prior to and during the development of the measure;
   (c) what consultation has the Government been engaged in; and
   (d) have independent bodies or experts been involved in the consultation process.
(6) Is this proposed measure a government response to an identified problem; if so, what problem is it addressing.
(7) Were any alternatives considered before this approach was proposed, if so:
   (a) can details of those alternatives be provided; and
   (b) why was it decided that those options would not be implemented.
(8) Will inaction pose a risk to the integrity of the tax system or broader government administration; if so, how would you rate that risk.
(9) What modelling has been carried out in developing the proposed measure.

(10) Have the broader implications of the implementation of the measure on the economy been forecast; if so, what are they.

(11) Have international comparisons been considered and does the proposed measure accord with international 'best practice'.

**Senator Wong:** The Treasurer has provided the following answer to the honourable senator's question:

Taxation Ruling 2010/D7 is not a proposed measure. Taxation rulings do not alter the existing tax law, but rather set out the Commissioner of Taxation's interpretation of how the existing law works. In a ruling, the Commissioner is simply expressing his view of the law enacted by Parliament and he applies accepted principles of statutory interpretation in doing so.

Taxation rulings are not legally binding on taxpayers (that is, they do not create legal obligations under the tax law for them). Rulings, once finalised, are only binding on the Commissioner. Their legal effect is to protect taxpayers who choose to follow the Commissioner's views expressed in them. Taxation rulings have no policy intent, and the Government has no involvement in the issuing of taxation rulings. The Commissioner releases draft taxation rulings for public comment before finalising them.

Most taxation rulings are considered by the ATO's Public Rulings Panel. The Panel advises the Commissioner on the issues proposed to be dealt with in taxation rulings and determinations and is made up of senior ATO officers and external experts.

Taxation rulings do not have a revenue impact on the forward estimates because, as far as the law allows, the Commissioner interprets the law consistent with policy intent on which revenue estimates were based. However, they may have a compliance leverage impact by protecting the forward estimates to the extent that revenue is at risk from taxpayers not applying the law properly. The ATO is therefore unable to provide an answer to questions (1), (2), (3), (5) (c), (6), (7), (8), (9), (10) and (11).

(4) Yes. It is not anticipated that taxpayers will have to change any common practices or systems to comply with the extra clarification provided by this Ruling.

(5) (a) Any taxpayers buying or selling a business may potentially be affected by the way in which the ATO thinks the law currently operates.

(5) (b) The normal consultation process for rulings is being followed. The draft Ruling was published on www.ato.gov.au on 8 December 2010 and public consultation closed on 8 February 2011.

(5) (d) The Public Rulings Panel provided advice in the development of this draft Ruling.

**Taxation**

(Question No. 421)

**Senator Cormann** asked the Minister representing the Treasurer, upon notice, on 10 March 2011:

With reference to Taxation Determination 2010/D7 (Australian source income):

(1) What is the policy intention of the proposed measure.

(2) How does the proposed measure enable the policy intention to be achieved.

(3) Is the effect of the proposed measure revenue neutral:

(a) if so, how has revenue neutrality been achieved;

(b) have other saving measures been needed to achieve revenue neutrality;

(c) if not, how much revenue is expected to be raised as a result of the measure; and
(d) can the annual numbers for the forward estimates period be provided, and any further information covering the longer term.

(4) Have the likely administrative and compliance costs of implementing the proposed measure been assessed; if so, what are they.

(5) (a) What stakeholders will be directly affected by the measure;
   (b) have these stakeholders been involved in consultation prior to and during the development of the measure;
   (c) what consultation has the Government been engaged in; and
   (d) have independent bodies or experts been involved in the consultation process.

(6) Is this proposed measure a government response to an identified problem; if so, what problem is it addressing.

(7) Were any alternatives considered before this approach was proposed, if so:
   (a) can details of those alternatives be provided; and
   (b) why was it decided that those options would not be implemented.

(8) Will inaction pose a risk to the integrity of the tax system or broader government administration; if so, how would you rate that risk.

(9) What modelling has been carried out in developing the proposed measure.

(10) Have the broader implications of the implementation of the measure on the economy been forecast; if so, what are they.

(11) Have international comparisons been considered and does the proposed measure accord with international 'best practice'.

Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

Taxation Determination 2010/D7 is not a proposed measure. Taxation determinations do not alter the existing tax law, but rather set out the Commissioner of Taxation's interpretation of how the existing law works. In a determination, the Commissioner is simply expressing his view of the law enacted by Parliament and he applies accepted principles of statutory interpretation in doing so.

Determinations are not legally binding on taxpayers (that is, they do not create legal obligations under the tax law for them). Once finalised, they are only binding on the Commissioner. Their legal effect is to protect taxpayers who choose to follow the Commissioner's views expressed in them. Taxation determinations have no policy intent, and the government has no involvement in the issuing of taxation determinations. The Commissioner releases draft taxation determinations for public comment before finalising them.

Many taxation determinations are considered by the ATO's Public Rulings Panel. The Panel advises the Commissioner on the issues proposed to be dealt with in taxation rulings and determinations and is made up of senior ATO officers and external experts.

Taxation determinations do not have a revenue impact on the forward estimates because, as far as the law allows, the Commissioner interprets the law consistent with policy intent on which revenue estimates were based. However, they may have a compliance leverage impact by protecting the forward estimates to the extent that revenue is at risk from taxpayers not applying the law properly.

The ATO is therefore unable to provide an answer to questions (1), (2), (3), (5) (c), (6), (7), (8), (9), (10) and (11).

(4) Yes. Some taxpayers might currently operate on the basis that profits on the sale of private equity investments will invariably constitute non-Australian sourced capital gains and be exempt from tax in
Australia. Such taxpayers will need to re-examine their own circumstances in light of this draft Determination.

(5) (a) The private equity industry and non-resident investors will be affected if they mischaracterise their profits as non-Australian sourced capital gains.

(5) (b) The normal consultation process for Determinations was followed and the draft Determination was also discussed at National Tax Liaison Group meetings in 2010. In addition, meetings have been held with private equity firms, their advisers and their association. The draft determination was published on www.ato.gov.au on 1 December 2010 and public consultation closed on 28 January 2011.

(5) (d) The Public Rulings Panel provided advice in the development of this draft Determination.

**Taxation**

*(Question No. 422)*

Senator Cormann asked the Minister representing the Treasurer, upon notice, on 10 March 2011:

With reference to Taxation Determination 2010/D8 (income tax):

(1) What is the policy intention of the proposed measure.

(2) How does the proposed measure enable the policy intention to be achieved.

(3) Is the effect of the proposed measure revenue neutral:

(a) if so, how has revenue neutrality been achieved;

(b) have other saving measures been needed to achieve revenue neutrality;

(c) if not, how much revenue is expected to be raised as a result of the measure; and

(d) can the annual numbers for the forward estimates period be provided, and any further information covering the longer term.

(4) Have the likely administrative and compliance costs of implementing the proposed measure been assessed; if so, what are they.

(5) (a) What stakeholders will be directly affected by the measure;

(b) have these stakeholders been involved in consultation prior to and during the development of the measure;

(c) what consultation has the Government been engaged in; and

(d) have independent bodies or experts been involved in the consultation process.

(6) Is this proposed measure a government response to an identified problem; if so, what problem is it addressing.

(7) Were any alternatives considered before this approach was proposed, if so:

(a) can details of those alternatives be provided; and

(b) why was it decided that those options would not be implemented.

(8) Will inaction pose a risk to the integrity of the tax system or broader government administration; if so, how would you rate that risk.

(9) What modelling has been carried out in developing the proposed measure.

(10) Have the broader implications of the implementation of the measure on the economy been forecast; if so, what are they.

(11) Have international comparisons been considered and does the proposed measure accord with international 'best practice'.
Senator Wong: The Treasurer has provided the following answer to the honourable senator's question:

Taxation Determination 2010/D8 is not a proposed measure. Taxation determinations do not alter the existing tax law, but rather set out the Commissioner of Taxation's interpretation of how the existing law works. In a determination, the Commissioner is simply expressing his view of the law enacted by Parliament and he applies accepted principles of statutory interpretation in doing so.

Determinations are not legally binding on taxpayers (that is, they do not create legal obligations under the tax law for them). Once finalised, they are only binding on the Commissioner. Their legal effect is to protect taxpayers who choose to follow the Commissioner's views expressed in them. Taxation determinations have no policy intent, and the government has no involvement in the issuing of taxation determinations. The Commissioner releases draft taxation determinations for public comment before finalising them.

Many taxation determinations are considered by the ATO's Public Rulings Panel. The Panel advises the Commissioner on the issues proposed to be dealt with in taxation rulings and determinations and is made up of senior ATO officers and external experts.

Taxation determinations do not have a revenue impact on the forward estimates because, as far as the law allows, the Commissioner interprets the law consistent with policy intent on which revenue estimates were based. However, they may have a compliance leverage impact by protecting the forward estimates to the extent that revenue is at risk from taxpayers not applying the law properly.

The ATO is therefore unable to provide an answer to questions (1), (2), (3), (5) (c), (6), (7), (8), (9), (10) and (11).

(4) Yes. Some taxpayers currently operate on the basis that profits on the sale of private equity investments will invariably constitute non-Australian sourced capital gains and be exempt from tax in Australia. Such taxpayers will need to re-examine their own circumstances. However, where the gains are Australian sourced business profits they will be exempt from Australian tax if derived by a limited liability partnership whose partners are resident of a country with which we have a double tax treaty unless a source country taxing right (eg for permanent establishment income) is provided under the treaty.

(5) (a) The private equity industry and non-resident investors will be affected if the partners of the limited liability partnership are not resident in a country with which we have a double tax agreement.

(5) (b) The normal consultation process for determinations is being followed and the draft Determination was discussed at National Tax Liaison Group meetings in 2010. The draft Determination was published on www.ato.gov.au on 1 December 2010 and public consultation closed on 28 January 2011.

In addition, meetings were held with private equity firms and their professional advisors.

(5) (d) No, apart from the consultation process mentioned in the answer to (5) (b).