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**SITTING DAYS—2012**

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FORTY-THIRD PARLIAMENT
FIRST SESSION—SEVENTH PERIOD

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

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

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

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

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

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

(4) Chosen by the Parliament of Western Australia to fill a casual vacancy (vice J. Adams, died in office 31.3.12), pursuant to section 15 of the Constitution.

(5) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. B. Brown, resigned 15.6.12), pursuant to section 15 of the Constitution.

(6) Chosen by the Parliament of Tasmania to fill a casual vacancy (vice Hon. N. Sherry, resigned 1.6.12), pursuant to section 15 of the Constitution.

(7) Chosen by the Parliament of South Australia to fill a casual vacancy (vice M. J. Fisher, resigned 15.8.12), pursuant to section 15 of the Constitution.

**PARTY ABBREVIATIONS**


**Heads of Parliamentary Departments**

Clerk of the Senate—R Laing
Clerk of the House of Representatives—B Wright
Secretary, Department of Parliamentary Services—C Mills
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<tr>
<td>Prime Minister</td>
<td>The Hon Julia Gillard MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Digital Productivity</strong></td>
<td>Senator the Hon Stephen Conroy</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Asian Century Policy</strong></td>
<td>The Hon Dr Craig Emerson MP</td>
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<tr>
<td><strong>Minister for Social Inclusion</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on Mental Health Reform</strong></td>
<td>The Hon Mark Butler MP</td>
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<tr>
<td><strong>Minister for the Public Service and Integrity</strong></td>
<td>The Hon Gary Gray AO MP</td>
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<tr>
<td><strong>Minister Assisting the Prime Minister on the Centenary of ANZAC</strong></td>
<td>The Hon Warren Snowdon MP</td>
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<tr>
<td>Cabinet Secretary</td>
<td>The Hon Mark Dreyfus QC MP</td>
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<tr>
<td>Parliamentary Secretary to the Prime Minister</td>
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<tr>
<td><strong>Treasurer</strong></td>
<td>The Hon Wayne Swan MP</td>
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<tr>
<td>(Deputy Prime Minister)</td>
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<tr>
<td><strong>Minister for Financial Services and Superannuation</strong></td>
<td>The Hon Bill Shorten MP</td>
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<tr>
<td>Assistant Treasurer</td>
<td>The Hon David Bradbury MP</td>
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<tr>
<td>Parliamentary Secretary to the Treasurer</td>
<td>The Hon Bernie Ripoll MP</td>
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<td><strong>Minister for Tertiary Education, Skills, Science and Research</strong></td>
<td>Senator the Hon Chris Evans</td>
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<tr>
<td>(Leader of the Government in the Senate)</td>
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<tr>
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<td>The Hon Greg Combet AM MP</td>
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<td><strong>Minister for Small Business</strong></td>
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<tr>
<td><strong>Minister Assisting for Industry and Innovation</strong></td>
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<tr>
<td><strong>Minister for Broadband, Communications and the Digital Economy</strong></td>
<td>The Hon Sharon Bird MP</td>
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<tr>
<td>(Deputy Leader of the House)</td>
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<td>Minister for Families, Community Services and Indigenous Affairs</td>
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<td>Senator the Hon Bob Carr</td>
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<td>Parliamentary Secretary for Pacific Island Affairs</td>
<td>The Hon Richard Marles MP</td>
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<td>The Hon Richard Marles MP</td>
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<tr>
<td>Minister for Sustainability, Environment, Water, Population and Communities (Vice-President of the Executive Council)</td>
<td>The Hon Tony Burke MP</td>
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<td>Senator the Hon Don Farrell</td>
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The President (Senator the Hon. John Hogg) took the chair at 09:30, read prayers and made an acknowledgement of country.

**BILLS**

**Australian Charities and Not-for-profits Commission Bill 2012**

**Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012**

Second Reading

Debate resumed on the motion:

That these bills be now read a second time.

Senator McKenzie (Victoria) (09:31): It is up to the Australian Charities and Not-for-profits Commission Commissioner to determine the size of an entity for a financial year. There are also some concerns in the industry as to how the commission will use the prescribed enforcement tools. Don’t we just love that? When you read about enforcement tools you know you have something to worry about. How the commission will actually operate on a day-to-day basis is yet to be clearly established. How typical of this government—the devil is always in the detail. I note that that is quite an apt phrase to use today of all days—the devil is in the detail. We are waiting for the detail on the Murray-Darling Basin Plan. We are waiting for the detail on the Charities and Not-for-profits Commission so we can understand how this will work in practice. This government is constantly lacking.

The Australian Charities and Not-for-profits Commission Bill 2012 and the Australian Charities and Not-for-profits Commission (Consequential and Transitional) Bill 2012, which are before us today, will provide the Australian Charities and Not-for-profits Commission with the authority to, amongst other things, issue warning notices, issue directions and enter into enforceable undertakings. These powers will make the commission amongst the most powerful of all of our government agencies—not a power to look at the areas of concern in our community but a power over those committed to caring for our community.

There is dispute about the role of the advisory board and its advice being provided on request. How much advising will the advisory board really get to do? The Smith Family outlined its concern in its submission to the House of Representatives Standing Committee on Economics. It stated:

While understanding the advisory nature of such a Board, the inclusion of the phrase ‘at the request of the Commissioner’ in relation to the provision of advice … is, in The Smith Family’s view, unnecessary and undesirable, as it could result in the Board not offering advice in a proactive way.

Policy direction is still decided by the Australian Taxation Office. The ATO determines charitable status and the eligibility of the not-for-profits to access tax exemptions and other concessions, but the ATO’s aims may not always be the same and it therefore may not be independent enough, as it is responsible for revenue raising and deciding if a not-for-profit should be given charitable status. As I have said, the states have made their desires known around the relinquishment of their powers to the commissioner, yet large not-for-profits will have to submit the same information to a number of different agencies and so the cost of compliance obviously will be high. The Productivity Commission says a variation in legislation reporting will also add another layer of complexity. I think we can justly ask why there is a need for an increase in power. As Mahatma Gandhi said:
I look upon an increase in the power of the State with the greatest fear because, although while apparently doing good by minimizing exploitation, it does the greatest harm to mankind by destroying individuality which lies at the heart of all progress…

Across civil society; that is my little added extra there. I think we need to be wary of those things. We have got an entity being established with unheard of power over people and organisations. The coalition have a better idea, one that is going to focus on innovation, advocacy and education. Above all, it will introduce measures that would make it easier to meet the reporting and contractual requirements of charities and the not-for-profit sector. I will not be supporting these bills.

Senator XENOPHON (South Australia) (09:35): I indicate that I will be supporting the second reading stage of this bill, the Australian Charities and Not-for-profits Commission Bill 2012, and I am generally supportive of the intent of these bills subject to concerns in ensuring that the bills are effective and that they will be fair on issues in terms of compliance. I think this is a significant move forward and rather than, as some members of the coalition have said, stifling the not-for-profit sector, I see this as having great potential to nurture the not-for-profit sector, and I think that it is reform that is long overdue.

I also think that these reforms will enhance the role of charities and the not-for-profit sector in this country. We have seen multiple past inquiries held by various organisations from parliamentary committees to the Productivity Commission and the Henry tax review, and they have recommended the establishment of a body to oversee the charity and not-for-profit sector. I am grateful for the briefing from the minister's office and his advisers in relation to this because that has been a very useful part of the exercise.

This is an issue that I came to largely by accident, in the sense that I became aware of difficulties with one part of the not-for-profit sector, if you like, or a religious organisation, the Church of Scientology, several years ago as a result of speaking out about the whole issue of tax concessions for the Church of Scientology. After speaking out about that particular organisation, my office was flooded with many, many letters of concern from individuals that described horrendous and quite terrifying experiences with the Church of Scientology, an organisation that receives, effectively, a subsidy from every taxpayer in the country by virtue of its tax-free status.

That prompted me to introduce legislation, the Tax Laws Amendment (Public Benefit Test) Bill 2010. It was the subject of an extensive inquiry by the Senate Economics Legislation Committee, an inquiry in the very best traditions of a Senate committee process in the sense of the cooperation between both coalition and government members and the way we all worked cooperatively to get the best outcome in terms of establishing the best way forward to deal with a public benefit test for not-for-profits for organisations that receive tax-free status. I would like to place on record my gratitude to the brave people who came forward who were involved in the Church of Scientology and gave evidence and made submissions that articulated their concerns very well. I am sure that that did have an impact, a considerable and beneficial impact on the deliberations of the committee.

Let us look at what the Economics Legislation Committee in a unanimous report said back in September 2010, just over two years ago. The report said, basically, that my bill should not be accepted. I obviously
dissented from that, but coalition and government senators took the view that my bill in relation to setting up the specific public benefit test in our tax laws was not the way to go. But the committee unanimously, through every ALP and coalition senator on the committee, made a number of recommendations. They recommended that there ought to be the establishment of a commission which applies a public benefit test. In other words, what the government is doing now, effectively—the same sort of approach. The committee recommended that there be a working group to consider the functions and role of an Australian commission, and that they should include, but not be limited to, the following: promote public trust and confidence in the charitable sector; encourage and promote the effective use of charitable resources; develop and maintain a register of all not-for-profit organisations in Australia using a unique identifying number as the identifier; develop and maintain an accessible, searchable public interface and so on; allow for monitoring and promoting compliance legislation; and stimulate and promote research into any matter relating to charities.

In essence, the committee recommended—and I quote from this unanimous report—that incoming government:

... should follow the emerging international best practice and work with the Council of Australian Governments to amend legislation governing not-for-profit entities to include a definition and test of 'public benefit'.

The reason why we need a public benefit test is that if an organisation is going to receive a tax-free status, it is important that there be a benchmark. The public benefit test, as it has been applied in the United Kingdom and as it has been applied in other jurisdictions—but particularly in the United Kingdom, where the law and practice are best developed—is not an onerous test.

It is a test that effectively sets a benchmark of fairness. The organisation receiving the tax-free status has to show that on balance it does more good than harm. It does not mean that the organisation has to be perfect and it does not mean that the organisation does not make mistakes, but it means that overall the community, or a section of the community, benefits from the work of that organisation. And I want to pay tribute, at this stage, to the enormous good work that the not-for-profit sector does in this country in the many tens of billions of dollars that it provides in net terms as a result of the work of its volunteers and the work of these organisations each year.

The consequence of us not having a strong, viable, robust not-for-profit sector is that it would create a huge chasm that I do not believe any government, even with incredibly deep pockets, could fill. The work they do cannot just be measured in terms of its dollar value or the billions and billions of dollars of good work that is done; it is in terms of the impact that has on the social fabric of our community. The work of those volunteering organisations is something that is tremendous. I know that from his background in Western Australia with not-for-profit organisations and his tremendous contribution, Senator Back paid tribute to that, as he should have. My concern is that the recommendations of a committee of both coalition and government senators made it very clear that we do need not-for-profit commission and that we do need an organisation that is robust and transparent, and one that would actually enhance and benefit the not-for-profit sector.

I think it is important to look at the Charity Commission for England and Wales and to explain their approach, which is at
page 19 of the Senate committee report. The charity commission sets out that it is really a question of how the organisation self manages those sorts of issues. It talks about how an organisation functions and the organisation's ability to demonstrate that it satisfies the public benefit requirement. There is, if you like, developed case law or precedents in the United Kingdom which set out how this test has been set out.

I think it is important to set out the reasons why we need a public benefit test, which is not in this legislation. That concerns me, because we simply do not know the extent of the benefits that are provided. I think that the Productivity Commission has estimated it at between $1 billion and $8 billion in tax benefits in this sector. I do not quibble with that, even if it is at the higher end, but I think that it is not unreasonable for there to be a measure of accountability and a measure of robustness; a measure that is not onerous on the sector but a measure that actually increases public confidence in the sector. It is important to make reference to Mr David Gonski, who has been quoted by a number of my colleagues in opposing the bill. Apparently Mr Gonski was concerned—or he is reported as saying—that the liabilities of directors of not-for-profit organisations are actually more onerous than those for for-profit companies—in other words, for public companies. That, to me, bears some examination.

It is fair to say that there were some concerns expressed in the earlier drafts of this bill, but the amendments that I have seen from the government indicate that those issues have been dealt with and that the regulatory regime here is tailored to the size of the organisation. If it is a major charity such as World Vision, with a huge budget and huge work that it does here and around the world, there are obviously greater levels of control or scrutiny. I note that World Vision is one of the major charities in this country that is very much on board with this legislation. It welcomes this legislation. But in terms of the smaller not-for-profit organisations—the small community organisations with tiny budgets—the level of compliance is much lower. It just provides a benchmark and a framework. I see it as a support mechanism for those organisations to flourish.

It is interesting to note that there was concern expressed as recently as the end of July 2012. The Chief Executive Officer of Catholic Health Australia, Martin Laverty, expressed concerns in the context of this bill about the regulatory framework. That was at an inquiry by the House of Representatives Standing Committee on Economics into the exposure draft of the legislation. A lot has happened since then and I think that the government has listened to a substantial degree to some of these concerns. I note that a report in the Financial Standard online of 5 September, just under two months ago, said Mr Gonski:

… welcomed the government's response to revise the bill, saying they have listened to industry feedback and that there are now strong grounds for optimism that the ACNC—the body that this bill sets up—will not just regulate but also nurture giving in Australia.

I see this bill as having the ability and the potential to nurture giving in Australia rather than stifling it, and to encourage these organisations to do well and to effectively be able to contribute even further to the wellbeing of our society.

At this stage I move the second reading amendment standing in my name in which the Senate calls on the government to introduce legislation relating to definitions of public benefit within 12 months of the bill passing. I move:
At the end of the motion, add:

but the Senate calls on the Government to introduce legislation detailing the definition of 'charities' and 'charitable purposes' and including a public benefit test, within 12 months of the passage of these bills.

My concern is that the legislative framework in its current form is somewhat too vague.

If you look at the work that the Senate Economics Legislation Committee has done on this in a bipartisan sense, in the best spirit of the way Senate committees work, it made very clear recommendations of the need to include a public benefit test in any not-for-profit or charity organisation's commission framework. That would allow an extra level of scrutiny. It would ensure that the tiny minority of organisations that are not doing the right thing or acting for the public benefit, on balance, are subject to appropriate scrutiny.

I note that the government will not be supporting the secondary amendment. I am fairly confident that the opposition will not be supporting it either. But I think it is important to put on the record that without these new definitions the commission will not have a strong foundation on which to act. It is important that there be some clarity as to what public benefit means in the context of how this commission works. These two issues are inextricably linked. There is no point in establishing a commission without a strong enough definition of charity to work from. I believe a delay in introducing a new definition will mean the commission is not working as effectively as it could. The government has dedicated $53.6 million over four years to establish the commission, and it has committed to introduce the new definitions, so there is a clear intent that this should succeed. So it is difficult to understand why the government feels it cannot support my amendment. I think it is also vital that the government expand the commission's powers to cover the not-for-profit sector as soon as possible. I acknowledge the government's reasons for this delay, and I think it is important that there be an appropriate transitional approach to ensure the smoothness with which this legislation operates.

I think also that it is worth mentioning that the economics committee's second recommendation from the inquiry into my bill two years ago was that the Attorney-General's Department provide a report on the operation of overseas agencies tasked with monitoring and controlling the activities of cult-like organisations, making specific reference to the MIVILUDES agency in France. I was lucky enough to meet the then head of the MIVILUDES agency here in Canberra at a conference on cults that Senator Sue Boyce, coalition senator for Queensland, played a key role in. We co-sponsored and assisted the organisers of that conference here at Parliament House last year.

I think it is important that we put that in context, because that is at the sharp end of when things go wrong when an organisation receives tax-free status. Clearly there needs to be a level of scrutiny such as there is in France for these cult-like organisations. Again, that is at the very fringes, but I think it is important in the context of any regulation of this sector that there be that level of scrutiny. The government rejected this recommendation, saying that the establishment of an agency like MIVILUDES would restrict religious freedom in Australia, which I find incomprehensible. I subscribe to the view, which I hope is held by everyone in this chamber, that religious freedom is absolutely fundamental in our society, but I see this as being not about beliefs but about behaviour, and that is what MIVILUDES in France deals with. That agency looks at the
behaviour of organisations on the fringes which could be described as 'cult-like organisations' and which abuse their positions of trust. I think that it is important that we look at what the French have done in relation to this.

I look forward to the committee stages of this bill. I hope that it does go into the committee stages. I believe that these measures in this bill will lead to greater transparency and confidence in the sector, because the public will know that there will be a 'nurturing organisation', to use the words of Mr Gonski, to deal with the not-for-profit sector. Again, I think it is reasonable to ask the government what the level of regulation will be for those smaller not-for-profit organisations, but my clear understanding from the amendments and from the briefings I have had from the government is that it is a graded level of regulation depending on the size of the organisation and that this bill does actually provide a framework of support and nurturing for the not-for-profit sector. Therefore I support this bill, but I believe it needs to be clearer in definitions and we need, sooner rather than later, to have a public benefit test in any legislative framework, as has existed in the United Kingdom for many years and as has existed in other jurisdictions in a way that ensures accountability and ensures nurturing of the sector but also provides increased public confidence in the sector.

Senator IAN MACDONALD (Queensland) (09:53): My objection to the Australian Charities and Not-for-profits Commission Bill 2012 is in relation to both its specific detail in various areas and, more broadly, its general philosophy. I think Kevin Rudd summed it up pretty well when he spoke about the Labor Party's approach to power and governance:

Politics is about power. It is about the power of the state. It is about the power of the state as applied to individuals, the society in which they live and the economy in which they work.

That is why I am proudly a member of the Liberal Party, or the Liberal-National Party in Queensland, and could never become a member of the Labor Party: because of its underlying philosophy that they, being the government or the people that run the government, seem to know better how individuals should run their lives than individuals do. We see that so often in legislation that comes before this parliament. Members of the Labor Party—people sitting opposite us, people who are probably mainly nice, honourable and honest but whose experience in life is very limited—have these ideas. I do not know where they come from. Perhaps it is their education or perhaps an unfortunate view of the world, but they have these ideas that there are wrongs in the world that only they and their group of friends can address.

Labor politicians have this broad approach of saying to people: 'You are not good enough to look after yourself. You are incapable of looking after yourself. We know better than you what is better for you and, therefore, we will attain power and we will, for your best interests, impose upon you what we know is best for you.' That of course has always been my great aversion to the way that the Labor Party deals with Indigenous people and always has done. The Labor Party says to Indigenous people: 'Hey, guys, you're incompetent. Because you're Indigenous you're not capable of doing the things that we whiteys can do, so we'll do it for you. We'll tell you what it's all about and we'll make some rules that you'll abide by which we know are better for you.' That is a view that the Labor Party, generally speaking, has about society and which is, as I say, encapsulated by Mr Rudd's famous maiden speech, when he said that politics was about power of the state.
This bill is telling not-for-profit organisations that the Labor Party knows more about how to run them honestly and properly than they do. I venture to say, and again this is a generalisation, that there are not too many people in the Labor Party who have ever been involved in not-for-profit organisations. I know a lot of them have been involved in for-profit organisations called unions but, when it comes to the Apex Club, which I was proudly involved in for many years, or to the local basketball club, which again I was involved in, and people volunteering their time to help others, the Labor Party seems to be either unaware or sadly remiss in understanding the basic philosophies of these not-for-profit community groups.

One would hope that the Labor Party would start with these sorts of regulatory arrangements in the union movement. We have seen with the HSU what an appalling mess the union movement in Australia is in. Nobody can tell me that that is confined to the HSU. The HSU, through the efforts of some courageous members, actually blew wide open the graft and corruption that exists in that particular union. But, as I say, it defies belief that this is not happening in other unions where there is no accountability and where a small coterie at the top seems to rule the roost and use members’ money as if it were their own personal plaything. If the Labor Party were interested in regulating something, it should be more regulation of the union movement rather than regulation of not-for-profit community groups. As I read this bill and as I read the evidence that has been given by various parties to the Senate committee on this, I almost get the feeling that this is a move by the Labor Party to better control some of the church groups in our country. Whilst none of the church groups actually gave that evidence, they did give a lot of evidence which indicated that the good works they do would be curtailed by the extra regulation that would be imposed upon them and none of them could really work out—and neither can I, I might say—what ills this bill is supposedly intending to cure. It seems to me, and to my colleagues who were involved in the committee who have gone into this at some length both in their dissenting report and in speeches given here, that this bill will only bring more regulation on the not-for-profit sector for no particular value.

That is why I am delighted that the coalition, and Mr Andrews in his lead speech on this, have indicated that we will be opposing this bill for the reasons that I have mentioned, but as well for the reason that the sector itself sees the bill as heavy-handed and an unwarranted interference in the activities of civil society in Australia. We in the coalition believe—and were we fortunate enough to become government at some time in the future we would act in this way—that there should be a small body in this area that could act as an educative and training body to help lift standards without the quite overbearing regulatory enforcement powers that are being proposed in this bill. That is, we would pursue the opposition’s general approach to life and governance, as opposed to that enunciated by Mr Rudd in his speech, on empowering people.

We want to empower people. We want to bring the best out in people. We want to help them to achieve their highest goals. We do not want to exercise power over them. We think that human beings, no matter their education or their background, have an ability to do good, to work things through, to work out what is best for their families and for their society. We do not believe that government should always be there regulating the way people work.
In my life, particularly before parliament, I was involved in many community organisations. People do not always do things correctly. Perhaps at times they cut the corners, but they are striving for the right purposes. They are there for the betterment of their society. To have the government come in now with this sort of regulation will just dampen any enthusiasm people might have had for selflessly giving up their time to help others.

I see Senator Williams in the chamber. Senator Williams is also an Apexian, as I understand, and he would recall the hundreds of hours young men volunteered to help those in society less fortunate than themselves and less able to get things done. People in the days of Senator Williams and I were happy to do that. But here is the government coming in now and saying: 'We want to regulate you. We want to tell you how to work. We want to tell you what you have got to do. We want to tell you that you have got to put in all these forms and do all this red tape and raise a bit more money so you can pay a professional accountant and a professional solicitor to double-check these forms that you have got to fill in.'

One of the witnesses to the Senate inquiry—I think it was the Australian Institute of Company Directors—said, 'For every hour we pay for compliance we lose about 1½ hours of one-to-one support for our ageing residents'. No, I am sorry, they were quoting the CEO of an aged care company that was part of the membership of the Australian Institute of Company Directors.

So someone in an aged-care home said, 'We can do two things: we can spend an hour filling in additional government forms and regulations or we can spend an hour and a half actually helping the aged-care people that we are here to help'. This legislation effectively says to that organisation: 'Forget the aged people who need your care and attention; for the hour and a half that you would have given to that person—sorry—you will fill in some forms now. You will complete these forms'.

I recently had the following experience that, again, demonstrates what I am talking about. I have not paid as much attention as I should have, I might say, to ABSTUDY matters, but it has become a bit of an issue in the north at the moment because a school that was doing fabulous work for Indigenous kids is in the hands of the receiver. It was likely to close, although I understand that events in the last day or two have led to some arrangement with the liquidators. But the reason this school was in difficulty was that claims for ABSTUDY had not been met by Centrelink.

Centrelink act by the rules given to them by their government, and Centrelink would just say, 'Claim rejected'. I was told that they would not explain why it was rejected—what was wrong with the application; they would just say, 'Claim rejected'. Consequently, the school continued to educate, travel, accommodate and feed the students for whom the ABSTUDY claim had been made but they were not getting the money back to do it. Clearly, they fell into some difficult financial operations. I said to them, 'Why haven't these claims being met?' They then showed me the form—it is 40 pages of questions to be answered by Indigenous people or their parents, many of whom are illiterate, and which I, I might say, as a former lawyer, found difficult in comprehending myself. Very often, the explanatory little note under each question on these 40 pages of questions had 'Refer to some website address for a further explanation'. Madam Acting Deputy President, as you would know, there are many parts of Australia where Indigenous parents do not quite have the access to the
website or a computer to actually see what they are supposed to be doing.

This is regulation gone mad: 40 pages to be filled in by either the students or, in many cases, their semi-literate parents. In many cases the school will try to help the parents complete the forms, but in many cases the parents cannot give the information that the school needs to actually complete the form. So the forms go in uncompleted and Centrelink says, 'Claim rejected'. It will not tell them why. Consequently, whilst the school continues to fly the kids down from country Northern Territory or country Queensland and continues to feed them, to clothe them and to educate them they are not getting the ABSTUDY money in because the students—silly kids!—could not fill in this 40-page form that I could not fill in. Or their parents did not have all the information about where the birth certificate was or where other certified information was that had to be attached to the form. This is typical of the philosophy of the Labor Party: overregulation. Again, that exemplifies my opposition and, I am pleased to say, the opposition of the coalition to this bill.

I draw the Senate's attention to the evidence given by the Anglican Diocese of Sydney. They said this in evidence to the committee:

It is likely that we will need to employ someone on a full-time basis to deal with the compliance issues that this legislation is likely to raise for the Diocese of Sydney—and I am sure we will not be alone in this regard.

That is what they said in their evidence. What is it in the Anglican Diocese of Sydney that the government is trying to regulate that requires them to employ someone on a full-time basis to look at the compliance? I would have thought that the Anglican Church has been going since the days of Henry VIII! I often say to my Catholic friends that the one true church was started by Henry VIII back in the 16th century. But they have managed to get through to where we are today without the need for the assistance of this legislation before the chamber. The Anglican Church—and I am an Anglican—does good pastoral work but also good missionary work where it helps people. That is what its whole philosophy has been for many years. But now, instead of employing someone to go out and help others, they will have to employ someone on a full-time basis to deal with the compliance issues of this legislation.

I ask a government speaker, if there are any government speakers on this, to indicate what it is that they think the Anglican Church needs to do that it has not been doing and that this legislation is going to address? What is the Australian Council of Social Service—which also had very severe concerns that it expressed to the committee—not doing that requires this draconian legislation to overregulate it, to divert its scarce resources into filling in forms to satisfy government red tape?

My colleagues and Senator Xenophon before me have been specific on particular parts of the legislation that need to be addressed. I have not gone there and I will not go there. I simply raise the objection yet again on why it is that the Labor Party thinks it knows better how to control civil society—how it has to better control volunteers doing community work? How is it that members of the Labor Party know better than these community groups on what is good for community groups? I do not want to be offensive or insulting, but you ask me who I would rather have looking after my life and my family's life: members of community groups and volunteers working in the community, or members of the Labor Party government whose basic experience has been the trade union movement? There is really little contest in what the answer would be.
I hope that all parties in the chamber will ultimately see that this bill does not do anything. It overregulates, does not achieve anything and just makes it less welcoming in our civil society for individuals to play their part in our communities and our society.

Senator BOSWELL (Queensland) (10:13): Today we are debating the Australian Charities and Not-for-Profits Commission Bill 2012. This bill covers a range of Australian charities, including non-government organisations such as the World Wildlife Fund, Greenpeace, the Wilderness Society and the Australian Conservation Foundation. These and other environmental activist NGOs have taken advantage of the significant privilege of charity status to spend large amounts of money campaigning in ways that are hurting both Australian primary producers and consumers. This bill allows the opportunity to take a look at the activities of these tax-exempt NGOs and, in particular, how they are using their money and influence to restrict what products can be sold by Australian producers and bought by Australian consumers. This bill allows the opportunity to take a look at the activities of these tax-exempt NGOs and, in particular, how they are using their money and influence to restrict what products can be sold by Australian producers and bought by Australian consumers. These activities include certification schemes being run and promoted by NGOs, like WWF and Greenpeace in particular, under which they want to be the people with the final say on certifying what is and what is not sustainable in primary production and, in turn, what can and cannot be sold to consumers. We find NGOs such as these more and more trying to establish certifying bodies. All they want to do is tell primary producers how to run their operations, tell you what you can and cannot do to be certified as 'sustainable', and extort money for the privilege.

In the timber industry, we have seen the Forest Stewardship Council—a body supported by several green NGOs, including the World Wildlife Fund, or WWF—certifying products. We have seen it in the seafood industry through a body known as the Marine Stewardship Council, founded by the WWF, and we are also seeing the beginnings of a similar move in the beef industry through what is called the Roundtable for Sustainable Beef Australia, or RSBA, where again WWF is prominent. The ultimate intent of these moves by WWF and other environmental activists involved in certification is to ensure that only goods certified under their schemes are sold through Australian retail outlets such as supermarkets, furniture retailers et cetera. Of course, to have their products certified in the first place, and then have that certification renewed on a regular basis so those products can continue to be sold to the Australian public, costs producers a substantial amount of money. This is a very serious issue for Australian primary producers and Australian consumers.

I am calling on the Treasurer to refer these schemes to the Australian Competition and Consumer Commission, the ACCC, for investigation on the basis they could represent a secondary boycott. I am also calling on the Treasurer to take action to amend the Competition and Consumer Act 2010 to remove any doubt that the green NGOs who are threatening to instigate boycotts of Australian primary products—especially Tasmanian forest products following the collapse of talks between industry and the green NGOs—can be referred to the Australian Competition and Consumer Commission under sections 45D and 45E, relating to secondary boycotts. According to the ACCC definition, secondary boycotts occur when two persons together engage in conduct that hinders or prevents a third person from supplying to, or acquiring goods or services from, a fourth person. They are prohibited if their purpose is to cause substantial loss or damage to a business or a substantial lessening of competition in a market. Isn't that what is
happening when the environmental activist organisations collude with others to set up a body or scheme as the arbiter of what is 'sustainable' and what timber wholesalers, retailers and consumers should be allowed to buy or sell or what fish or, down the track, what beef people should be allowed to put on their plates? Everyone involved in this whole process of certification, roundtables and the like should consider their position very carefully. Certainly the ACCC should examine the practices related to product certification—and especially refusal to trade in products available from producers who do not agree to pay for such certification. Regardless of the findings of any ACCC investigation, all primary producers in Australia should refuse to have anything to do with these certification schemes orchestrated by environmental activists.

For example, in the case of the Forest Stewardship Council I referred to earlier, its members in Australia include WWF, the Australian Conservation Foundation, Friends of the Earth, Greenpeace and the Wilderness Society. All primary producers should look at the membership of that certifying body. What primary producer would want such a collection of radical environmentalists controlling what they are allowed to produce from their properties? No producers that I know. But this is not some far-fetched fantasy from the future. We are seeing constant pressure on timber producers and their major customers to use Forest Stewardship Council products.

While this example has nothing to do with the WWF, there is a lesson to be learned from what has happened to the Triabunna woodchip mill in Tasmania. It processed natural forest wood products from sawmill residue and forest residues from southern Tasmania. It was closed—it may be there to honour some contracts, but it was basically closed—by Gunns Limited in April last year and then purchased in July, well over a year ago, by two millionaire environmentalists. It has not fully operated since then. When or even if it will reopen is not known. The storage of thousands of tonnes of waste and wood that normally would have gone to the Triabunna facility has become a real issue for southern Tasmanian sawmills in recent months. With many storage areas full and incomes down by a third since the closure, there are concerns that some sawmills will have to close, and that is what the Greens want. Does anyone believe years of harassment by the green groups did not play a part in the demise of Gunns Limited, putting so many important Tasmanian jobs at risk? The headlines seen after the collapse of the Tasmanian forest talks last week were completely predictable. There was this one, for example, from the Australian newspaper on 27 October: 'Green groups to resume campaign against sawmills after talks collapse'. The Australian reported that green groups would resume their 'war' against the Tasmanian timber industry, with the Wilderness Society, for example, saying it would campaign to cripple the activities of large Tasmanian sawmillers. A spokesperson said the technique it would use was to target the customers of major sawmillers. That is an all-too-familiar campaign.

So in the timber industry we see green groups once again going to war against producers, launching public campaigns against sawmillers and targeting customers—and using their tax-free income to do it. It would be completely naive to think that these green groups will not follow the same pattern in other primary industries. Of course, in the beef industry right now, with the World Wildlife Fund steering the Australian Roundtable for Sustainable Beef, or ARSB—including McDonald's, JBS, Cargill, the Cattle Council of Australia and others—it is completely predictable that the...
WWF is going to try to push beef producers towards sustainability criteria and an expensive certification scheme. I warn all primary producers that, just because the WWF or one of these other green NGOs is not knocking on your door right now, do not think it will not happen—it will. No primary producer should expect to be spared the threat of environmentalists trying to dictate how you can work your own property. Primary industry sectors will be picked off one by one by green groups like the WWF and Greenpeace—pushing expensive sustainability criteria schemes—unless producers stand together and tackle this issue right across primary industry.

In the case of the Australian timber industry, those industry groups and businesses that choose to go for a certification scheme for their products at least have a choice, apart from the green-NGO-dominated Forest Stewardship Council. They have the option of the Australian Forest Certification Scheme, or AFCS. AFCS Limited, the company that manages the scheme, says that the majority of certified forests in Australia—more than 10 million hectares—are certified under Australian Standard 4708, the Australian Standard for Sustainable Forest Management. AFCS in turn is endorsed internationally by a body called the Programme for the Endorsement of Forest Certification, or PEFC. The PEFC is an umbrella organisation. It claims to be the world's largest forest certification system, with more than 30 endorsed national certification systems and over 240 million hectares of certified forests. Of course, groups like Greenpeace in particular are critics of the PEFC. No doubt one of the aims of Greenpeace is to try to remove a commercial competitor for the Forest Stewardship Council organisation it is associated with and leave the Forest Stewardship Council as the only option for the industry, a monopoly organisation able to impose its own standards at its own prices, without fear of competition. That is a nightmare scenario. And make no mistake: these certification schemes, especially those originated by the green NGOs, are expensive for producers. There are costs associated with assessments and audits and use of logos, and on and on it goes, costing thousands and thousands of dollars.

In Rural and Regional Affairs and Transport Legislation Committee discussions about the legislation in December a figure of $100,000 was mentioned as to certification. I am not sure that figure is right and I do not claim it. I do not know if that figure is correct, but what you can be sure of is that it will result in a constant stream of income for the NGOs and their friends in associated businesses, like those in assessment and auditing. It is a very popular new business model for the green NGOs, and one they are intent on applying to more and more primary industry sectors. It is a good little earner. What happens with green NGOs working together is seen in the forestry model, where they support one certification body and criticise their commercial competitors. It goes beyond that, well beyond that, and our primary producers can expect to be exposed down the track to what is called NGO 'greenmail'; that is, blackmail with a radical environmental agenda. Former leading member of Greenpeace, Dr Patrick Moore, who has since become disenchanted with the organisation he helped to establish and left its ranks, wrote earlier this year about Greenpeace:

Greenpeace is threatening name-brand retailers and manufacturers who do not agree to a Greenpeace-hacked wood fibre and paper policy that gives preference to one particular forest certifier—the Forest Stewardship Council, FSC—over all other forest certification bodies.
We have already seen green activists using exactly those sorts of tactics here. Last year, activists launched coordinated protests and stunts against retailer Harvey Norman. They climbed onto store rooftops and dangled from the Sydney Opera House with banners. Why? Because Harvey Norman sells furniture made from timber legally obtained from sustainable Australian forests. Then there was the Greenpeace Facebook campaign against the Bakers Delight chain, suggesting that it might soon be using genetically-modified ingredients in its bread products, generating customer confusion and concern. Greenpeace demanded Bakers Delight agree not to use GM products. Bakers Delight agreed. What Greenpeace never told any of those 'concerned consumers' was that there is no genetically-modified Australian wheat, and so Bakers Delight never considered using it in the first place. This was just another step in a broader Greenpeace campaign against GM products. Any damage done to the reputation or business of Bakers Delight clearly did not matter to Greenpeace.

Earlier this year, Dr David Pollard, Chief Executive Officer of the Australian Forest Products Association, said his organisation was 'deeply concerned' by misinformation being spread by extreme green groups to damage manufacturing and cause job losses in Australia. He referred to a group called Markets for Change, who have been telling customers for Australian wood products in Japan that PEFC certification is inadequate. In Dr Pollard's words:

This blatant attempt at commercial sabotage has two clear objectives: firstly, to close down a natural and sustainable industry in Australia and, secondly, to destroy the brand value of PEFC, the world's largest forest certification organisation, which currently certifies over 240 million hectares worldwide. Some environmental groups ... are on a quest to close down any industry that they take a dislike to—paying no regard to the facts (or) the science ...

If anyone thinks Greenpeace will not attack the beef industry in the same way it has the timber industry, they should think again. *Queensland Country Life* reported earlier this year that action by Greenpeace led directly to cancellation of orders for JBS Brazilian meat and leather across Europe. A Greenpeace report claimed JBS in Brazil was buying cattle raised on deforested regions in the Amazon, a claim JBS denied. Despite that denial by JBS, the British grocery chain Tesco cancelled its meat contract with JBS. Greenpeace also claimed four other JBS supermarket customers in the UK would not renew current contracts, along with the Dutch based Sligro Food Group and the Swedish based IKEA furniture chain, which was buying leather from JBS.

That is the way Greenpeace works, in cahoots with their mates in the WWF. The WWF cannot be trusted. One executive from the Cattle Council of Australia, sitting at WWF's Australian Roundtable for Sustainable Beef, has used the glib expression that 'if you're not at the table, then you're on the menu'. The WWF still wants to carve up Australian primary producers, and they made that blatantly obvious again just recently by once again attacking the beef and sugar industries in the Great Barrier Reef catchment.

On 2 October, the Australian Institute of Marine Science released a report saying that the Great Barrier Reef has lost some of its coral since studies commenced 27 years ago. One of the report's main authors, Dr Peter Doherty, stated:

In the northern Great Barrier Reef coral cover has remained relatively stable, whereas, in the southern regions, we see the most dramatic loss of coral, particularly over the last decade when storms have devastated many reefs.
Queensland senators in particular will remember the devastation caused in February 2011 by the massive Cyclone Yasi and the extensive damage from another category 5 cyclone, Cyclone Hamish, as it tracked south down the reef in March 2009. In fact, the AIMS report blamed the majority of the coral loss on cyclone damage, coral bleaching and, I think, the crown-of-thorns starfish. Well, what did WWF do? WWF blamed farmers for the loss of coral. In a media release on the same day, 2 October, a WWF spokesman said:

Revelations that chemical fertiliser pollution is driving the significant and ongoing loss of coral on the Great Barrier Reef highlights the urgent need for intervention by the Australian and Queensland Governments.

The WWF concludes its Great Barrier Reef media release by demanding that the Queensland government take tougher action on laws to cut farm run-off. This is the very same WWF some cattle producers sit down around the table with. WWF cannot be trusted, and primary producers should have nothing to do with them.

Just a week after WWF attacked Queensland farmers for single-handedly destroying the Great Barrier Reef, Australian fishermen found out what WWF really thinks about commercial fishing—especially trawling. The International President of WWF, Ms Yolanda Kakabadse, told the Australian media that trawling should be banned altogether. She was completely unequivocal in what she said:

Australia should show leadership and ban trawling altogether—ban trawling altogether were her words—to promote sustainable fishing in the region.

Of course, there are at least three Australian trawling fleets that are paying WWF big money to have their trawling operations given sustainability certification by WWF's Marine Stewardship Council, so the international president's ban trawling statement sent local WWF staff scrambling to put some backspin on her media comments. But Ms Kakabadse is no novice. She is a former federal Minister of Environment in Ecuador, and I am sure she meant what she said, 'Australia should ban trawling altogether'. So, now we know the endgame for WWF International, no matter what local WWF staffers might be telling us and the Australian fishing industry.

I again warn all primary producers to address this issue now. Just because it may not be happening to your sector right now, do not think it will not happen. It will happen. The question is not 'if' but simply 'when'. In the same way that our primary producers stand together to fight fires, floods and other threats, it is time to stand together to fight the scourge of 'greenmail' and the extortion attempts behind these extensive, expensive, unnecessary NGO-driven sustainability certification schemes. And they will be using their tax-exempt income to fund it!

**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) (10:32): I would like to thank all senators who have contributed to the debate. The establishment of the ACNC is positive and future-focused reform. It is evidence-based structural reform which review after review has recommended. It is reform which the NFP sector strongly supports.

The NFP sector is large and diverse, forming a key part of Australia's community and providing many important services to the disadvantaged and to those in need. As the NFP sector grows it is important to support...
the sector by smarter and better regulation. The NFP sector has made it clear that it wants an independent regulator with a greater focus on the needs of the sector. The ACNC will be that independent and dedicated regulator. The ACNC will drive a reduction in the regulatory burden on the NFP sector.

With the establishment of the ACNC we will have a platform for a national approach to NFP regulation. As the NFP sector grows it will be vital to support this growth by enabling the sector to consolidate its standing in the community through improved transparency and accountability.

Senator Cormann: More red tape!

Senator CONROY: I note that a senator on the opposite side did interject there. A senator who sits there and votes against the deregulation of the wheat market should not really say anything about regulation. You really should not open up a debate about regulation when you are voting for more regulation in the wheat sector.

Senator Cormann: No, I'm not.

Senator CONROY: Yes you are. We are voting to deregulate the wheat sector and you are saying no.

Senator Cormann: Let's see what you're doing!

Senator CONROY: You are saying no. So do not interject and distract in this debate; your credibility on this issue is zero, Senator Cormann, as you are going to continue to interject.

This government is undertaking forward-thinking and evidence-based reform now to avoid a knee-jerk regulatory response to any issues that may arise as the sector grows.

In conclusion, the Senate will vote shortly on legislation to establish the ACNC. It has taken many years to get to this position, but after numerous reviews and reports, extensive consultation and stakeholder engagement and three parliamentary inquiries into the ACNC bills, the time has come for this important reform. The government wants to support and sustain a vibrant, independent and innovative NFP sector. Those supporting these bills in the Senate today share this aim. I commend the bill to the Senate.

Senator XENOPHON (South Australia) (10:35): I seek leave to make a very short statement in relation to my second reading amendment. I will be less than 30 seconds.

Leave granted.

Senator XENOPHON: For the benefit of senators who are not familiar with it, this second reading amendment calls on the government to introduce legislation detailing the definition of 'charities' and 'charitable purposes', including a public benefit test, in the next 12 months.

Question negatived.

The PRESIDENT: The question is that the bills be now read a second time.

The Senate divided. [10:40]

AYES

Bilyk, CL
Brown, CL
Cameron, DN
Carr, KJ
Conroy, SM
Crossin, P
Di Natale, R
Farrell, D
Faulkner, J
Feeney, D
Furner, ML
Gallacher, AM
Hogg, JJ
Ludlam, S
Ludwig, JW
Marshall, GM
McEwen, A
McLucas, J
Milne, C
Moore, CM
Polley, H (teller)
Singh, LM
Stephens, U
Sterle, G
Urquhart, AE

Noes

Bilyk, CL
Brown, CL
Cameron, DN
Carr, KJ
Conroy, SM
Crossin, P
Di Natale, R
Farrell, D
Faulkner, J
Feeney, D
Furner, ML
Gallacher, AM
Hogg, JJ
Ludlam, S
Ludwig, JW
Marshall, GM
McEwen, A
McLucas, J
Milne, C
Moore, CM
Polley, H (teller)
Singh, LM
Stephens, U
Sterle, G
Urquhart, AE
Question agreed to.

Bills read a second time.

In Committee

Bills—by leave—taken together and as a whole.

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) (10:43): I table a supplementary explanatory memorandum relating to the government amendments to be moved to these bills. I thank the Clerk. I seek leave to move the amendments together.

Leave granted.

Senator CONROY: I commend our amendments and move (1) to (23) on sheet AP218 and (1) to (11) on AP219:

(1) Clause 40-10, page 21 (after line 4), after paragraph (2) (d), insert:
   (da) all of the following subparagraphs apply:
   (i) the information is the details of a warning issued to a registered entity by the Commissioner under Division 80, as mentioned in paragraph 40-5(1) (f);
   (ii) the information has the potential to cause detriment to the entity, or to an individual;
   (iii) the contravention, likely contravention, non-compliance or likely non-compliance mentioned in subsection 80-5(1) was not, or would not be, in bad faith;
   (iv) the contravention, likely contravention, non-compliance or likely non-compliance has been dealt with, or prevented, such that declining to include the information, or removing the information, would not conflict with the objects of this Act;

(2) Clause 45-5, page 23 (line 8), omit "a registered entity", substitute "an entity".

(3) Clause 45-5, page 23 (line 12), omit "registered entity's", substitute "entity's".

(4) Clause 45-10, page 23 (lines 20 to 27), omit subclauses (1) and (2), substitute:
   (1) The regulations may specify standards (the governance standards) with which an entity must comply in order to become registered under this Act, and to remain entitled to be registered under this Act.

(2) Without limiting the scope of subsection (1), those standards may:
   (a) require the entity to ensure that its governing rules provide for a specified matter; or
   (b) require the entity to achieve specified outcomes and:
      (i) not specify how the entity is to achieve those outcomes; or
      (ii) specify principles as to how the entity is to achieve those outcomes; or
   (c) require the entity to establish and maintain processes for the purpose of ensuring specified matters.

(2A) Without limiting subparagraph (2) (b), (ii), the principles mentioned in that subparagraph may reflect the size of the entity, the amount and nature of contributions to the entity and the nature of the activities undertaken by the entity in pursuit of its purposes.

(5) Clause 45-10, page 23 (line 30), omit "registered entity", substitute "entity".
(6) Clause 45-10, page 23 (line 33), omit "registered entity", substitute "entity".

(7) Clause 45-10, page 24 (line 6), omit "a registered entity", substitute "an entity".

(8) Clause 45-10, page 24 (line 11), omit "registered entity", substitute "entity".

(9) Clause 45-15, page 24 (after line 22), at the end of paragraph (1) (a), add:

(iv) the Commissioner; and

(10) Clause 45-15, page 24 (lines 25 to 31), omit subclause (2), substitute:

(2) Without limiting, by implication, the form that consultation mentioned in paragraph (1) (a) might take, consultation to which all of the following paragraphs apply is appropriate consultation:

(a) the consultation involves consultation with the public;

(b) the consultation involves:

(i) notifying, directly and by advertisement, the entities mentioned in paragraph (1) (a) of the consultation; and

(ii) inviting them to make submissions by a specified date and, where necessary, to participate in public hearings to be held concerning the proposed regulation;

(c) the consultation is facilitated by the Commissioner.

(11) Page 25 (after line 6), at the end of Division 45, add:

45-20 Parliamentary scrutiny of standards

Despite subsection 12(1) of the Legislative Instruments Act 2003, a provision of a regulation made for the purposes of subsection 45-10(1) of this Act does not commence until the day after the earlier of:

(a) if both Houses of the Parliament pass a resolution approving the provision—the day the resolution is passed by the second House to do so; and

(b) the last day on which the regulation could be disallowed in either House, unless:

(i) the regulation is disallowed; or

(ii) either House passes a resolution disapproving the provision;

on or before that day.

(12) Clause 50-5, page 27 (line 1), omit "a registered entity", substitute "an entity".

(13) Clause 50-5, page 27 (line 8), omit "registered entity's", substitute "entity's".

(14) Clause 50-10, page 27 (lines 15 to 22), omit subclauses (1) and (2), substitute:

(1) The regulations may specify standards (the external conduct standards) with which an entity must comply in order to become registered under this Act, and to remain entitled to be registered under this Act.

(2) Without limiting the scope of subsection (1), those standards may:

(a) require the entity to ensure that its governing rules provide for a specified matter; or

(b) require the entity to achieve specified outcomes and:

(i) not specify how the entity is to achieve those outcomes; or

(ii) specify principles as to how the entity is to achieve those outcomes; or

(c) require the entity to establish and maintain processes for the purpose of ensuring specified matters.

(2A) Without limiting subparagraph (2) (b)

(ii), the principles mentioned in that subparagraph may reflect the size of the entity, the amount and nature of contributions to the entity and the nature of the activities undertaken by the entity in pursuit of its purposes.

(15) Clause 50-15, page 28 (after line 4), at the end of paragraph (1) (a), add:

(iv) the Commissioner; and

(16) Clause 50-15, page 28 (lines 7 to 13), omit subclause (2), substitute:

(2) Without limiting, by implication, the form that consultation mentioned in paragraph (1) (a) might take, consultation to which all of the following paragraphs apply is appropriate consultation:

(a) the consultation involves consultation with the public;

(b) the consultation involves:
(i) notifying, directly and by advertisement, the entities mentioned in paragraph (1) (a) of the consultation; and

(ii) inviting them to make submissions by a specified date and, where necessary, to participate in public hearings to be held concerning the proposed regulation;

(c) the consultation is facilitated by the Commissioner.

(17) Page 28 (after line 19), at the end of Division 50, add:

50-20 Parliamentary scrutiny of standards

Despite subsection 12(1) of the Legislative Instruments Act 2003, a provision of a regulation made for the purposes of subsection 50-10(1) of this Act does not commence until the day after

(a) if both Houses of the Parliament pass a resolution approving the provision—the day the resolution is passed by the second House to do so; and

(b) the last day on which the regulation could be disallowed in either House, unless:

(i) the regulation is disallowed; or

(ii) either House passes a resolution disapproving the provision;

on or before that day.

(18) Page 31 (after line 16), after Subdivision 60-A, insert:

Subdivision 60-AA—Object of this Division

60-3 Object of this Division

(1) The object of this Division is to promote:

(a) the transparency and accountability of registered entities; and

(b) the reduction of reporting obligations of registered entities under other Australian laws.

(2) The Division does this by requiring registered entities to provide information to the Commissioner that:

(a) relates to this Act or the taxation law; and

(b) the Commissioner:

(i) will use for the purposes of this Act; or

(ii) may pass on to other Australian government agencies, removing the need for those agencies to require the information from the registered entities; or

(iii) will make publicly available by publishing it on the Register.

Note 1: Other Australian laws provide that giving information to the Commissioner in accordance with this Act satisfies the reporting requirements of those laws.

Note 2: Division 40 limits the information the Commissioner may publish on the Register.

(3) The requirements this Division places on a registered entity are proportional to the size of the registered entity.

(19) Clause 100-10, page 85 (line 26), at the end of subclause (3), add:

; and (d) setting out the effect of section 100-25 (prohibition on suspended responsible entity managing the registered entity); and

(e) if the registered entity is a trust—setting out the effects of subsections 100-70(1) and (5) (former trustees' obligations relating to books, identification of property and transfer of property).

(20) Clause 100-15, page 87 (line 12), at the end of subclause (2), add:

; and (c) setting out the effect of section 100-25 (prohibition on removed responsible entity managing the registered entity); and

(d) if the registered entity is a trust—setting out the effects of subsections 100-70(1) and (5) (former trustees' obligations relating to books, identification of property and transfer of property).

(21) Clause 130-5, page 104 (line 12), at the end of subclause (2), add ", including how the ACNC has promoted the objects of this Act".

(22) Clause 130-5, page 104 (after line 12), at the end of subclause (2), add:

Note: The objects of this Act include promoting the reduction of unnecessary regulatory obligations on the Australian not-for-profit sector (see subsection 15-5(1)).

(23) Clause 205-35, page 152 (line 29), at the end of paragraph (3A) (c), add "or any greater amount prescribed by the regulations for the purposes of subsection 205-25(1)".
(1) Schedule 1, Part 2, page 6 (before line 2), before item 2, insert:

Division 1—Endorsed entities

(2) Schedule 1, item 2, page 6 (line 9), after "item 3 or 4", insert "or paragraph 4D(4) (b), (5) (b) or (6) (b)".

(3) Schedule 1, items 3 and 4, page 6 (line 28) to page 8 (line 2), omit the items, substitute:

3 Health promotion charities

(1) This item applies to an entity that, on the day before the commencement day, is:

(a) endorsed under section 123D of the Fringe Benefits Tax Assessment Act 1986 as a health promotion charity; or

(b) endorsed under Subdivision 30-BA of the Income Tax Assessment Act 1997 as a deductible gift recipient because the entity is a fund, authority or institution covered by item 1.1.6 of the table in subsection 30-20(1) of that Act (charitable institution whose principal activity is to promote the prevention or the control of diseases in human beings).

(2) The Commissioner is treated as having registered the entity on the commencement day under Division 30 of the ACNC Act as:

(a) the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act (charity); and

(b) the subtype of entity mentioned in column 2 of item 6 of that table (public benevolent institution).

(4) Schedule 1, Part 2, page 8 (after line 2), after item 4, insert:

Division 2—Entities endorsed for the operation of institutions

4A Scope of Division

(1) This Division applies if, on the day before the commencement day, an entity (the operator) is:

(a) endorsed under Subdivision 30-BA of the Income Tax Assessment Act 1997 as a deductible gift recipient for the operation of one or more institutions covered by item 1.1.6 of the table in subsection 30-20(1) of that Act (charitable institution whose principal activity is to promote the prevention or the control of diseases in human beings); or

(b) endorsed under that Subdivision as a deductible gift recipient for the operation of one or more institutions covered by item 1.1.6 of the table in subsection 30-20(1) of that Act (charitable institution whose principal activity is to promote the prevention or the control of diseases in human beings); or

(c) endorsed under subsection 123C(3) of the Fringe Benefits Tax Assessment Act 1986 for the operation of one or more public benevolent institutions.

(2) This Division applies:

(a) for the purposes of this Act (other than item 5 of this Schedule) from the day before the commencement day; and

(b) for the purposes of the ACNC Act and the taxation law from the commencement day.

4B Institutions treated as separate entity

(1) The operator is treated as if it were 2 or 3 entities:

(a) the entity (the non-institution sub-entity) the operator would be if it did not include the institutions; and
(b) the entity (an institution sub-entity) the operator would be if the operator included only the institutions (if any) mentioned in paragraph 4A(1) (a); and

(c) the entity (an institution sub-entity) the operator would be if the operator included only the institutions (if any) mentioned in paragraph 4A(1) (b) or (c).

Effect of revocation of registration of institution sub-entity

(2) From the time (if any) the Commissioner of the ACNC revokes under the ACNC Act the registration of an institution sub-entity:

(a) paragraph (1) (a) has effect as if the reference in that paragraph to the institutions did not include a reference to the institutions included in the institution sub-entity; and

(b) paragraph (1) (b) or (c) (whichever applies to the institution sub-entity) has no effect.

4C Non-institution sub-entity

(1) The ABN of the operator is treated as being the ABN of the non-institution sub-entity.

(2) If the operator was, apart from this Division, endorsed on the day before the commencement day as mentioned in paragraph 2(1) (a):

(a) the non-institution sub-entity is treated, on that day, as being endorsed in that way; and

(b) to avoid doubt, each institution sub-entity is treated, on that day, as not being endorsed in that way.

Note: Item 2 applies to that non-institution sub-entity

4D Institution sub-entities

ABN

(1) The A New Tax System (Australian Business Number) Act 1999 applies to an institution sub-entity as if the institution sub-entity were carrying on an enterprise in Australia.

(2) During the period:

(a) starting on the commencement day; and

(b) ending on the earlier of:

(i) the day the Registrar of the Australian Business Register registers an institution sub-entity in the Australian Business Register; and

(ii) 12 months after the commencement day;

paragraph 10(1) (a) of the A New Tax System (Australian Business Number) Act 1999 (entity must have applied for registration) does not apply to the institution sub-entity.

Note: Subitem (2) has the effect that the Registrar of the Australian Business Register must register the institution sub-entity in the Australian Business Register (including allocating the institution sub-entity an ABN).

(3) During that period (and without limiting item 4C), the institution sub-entity may treat the ABN of the non-institution sub-entity as being the ABN of the institution sub-entity.

Endorsements

(4) In a case to which paragraph 4A(1) (a) applies:

(a) the endorsement mentioned in that paragraph is treated as being an endorsement of the institution sub-entity mentioned in paragraph 4B(1) (b); and

(b) the Commissioner of the ACNC is treated as having registered the institution sub-entity on the commencement day under Division 30 of the ACNC Act as:

(i) the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act (charity); and

(ii) the subtype of entity mentioned in column 2 of item 5 of that table (institution whose principal activity is to promote the prevention or the control of diseases in human beings).

(5) In a case to which paragraph 4A(1) (b) applies:

(a) the endorsement mentioned in that paragraph is treated as being an endorsement of the institution sub-entity mentioned in paragraph 4B(1) (c); and

(b) the Commissioner of the ACNC is treated as having registered the institution sub-entity on the commencement day under Division 30 of the ACNC Act as:
(i) the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act (charity); and

(ii) the subtype of entity mentioned in column 2 of item 6 of that table (public benevolent institution).

(6) In a case to which paragraph 4A(1) (c) applies:

(a) the Commissioner of Taxation is treated as having endorsed the institution sub-entity mentioned in paragraph 4B(1) (c) under subsection 123C(1) of the Fringe Benefits Tax Assessment Act 1986 as a public benevolent institution; and

(b) the Commissioner of the ACNC is treated as having registered the institution sub-entity on the commencement day under Division 30 of the ACNC Act as:

(i) the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act (charity); and

(ii) the subtype of entity mentioned in column 2 of item 6 of that table (public benevolent institution).

ACNC Act

(7) For the purposes of the ACNC Act:

(a) the institution sub-entity mentioned in paragraph 4B(1) (b) of this Schedule is treated as being the subtype of entity mentioned in column 2 of item 5 of the table in subsection 25-5(5) of that Act for as long as each of the institutions included in the institution sub-entity is an institution whose principal activity is to promote the prevention or the control of diseases in human beings; and

(b) the institution sub-entity mentioned in paragraph 4B(1) (c) of this Schedule is treated as being the subtype of entity mentioned in column 2 of item 6 of that table as long as each of the institutions included in the institution sub-entity is a public benevolent institution.

4E Regulations

The regulations may, for the purpose of giving effect to this Division, provide for how this Schedule, the ACNC Act or the taxation law applies in relation to the non-institution sub-entity or an institution sub-entity.

Division 3—Opt-out

(5) Schedule 1, item 5, page 8 (line 8), omit "Items 2, 3, 4 and 6", substitute "Divisions 1, 2 and 4".

(6) Schedule 1, Part 2, page 8 (before line 14), before item 6, insert:

Division 4—Religious institutions

(7) Schedule 1, item 6, page 8 (line 21), after "item 2, 3 or 4", insert "or paragraph 4D(4) (b), (5) (b) or (6) (b)".

(8) Schedule 2, page 46 (after line 9), after item 44, insert:

44A Subsection 57A(1)

Omit "subsection 123C(1) or (5)", substitute "section 123C".

(9) Schedule 2, page 47 (after line 16), after item 56, insert:

56A Subsection 123C(1) (heading)

Repeal the heading.

(10) Schedule 2, items 58 and 59, page 47 (lines 20 to 25), omit the items, substitute:

58 Subsections 123C(3) to (5)

Repeal the subsections.

(11) Schedule 2, item 68, page 49 (lines 10 to 12), omit the item, substitute:

68 Paragraph 426-5(d) in Schedule 1

Repeal the paragraph.

68A Subsection 426-40(1) in Schedule 1 (paragraph (b) of note 1)

Omit "and (4)".

68B Subsection 426-55(1) in Schedule 1 (paragraph (b) of the note)

Omit "and (4)".

68C Paragraph 426-65(1) (d) in Schedule 1

Repeal the paragraph.

Senator CORMANN (Western Australia) (10:44): I might just indicate on behalf of the coalition that we will not be opposing those amendments, but note that this is yet another series of amendments to a bill which is fundamentally flawed. The government have been making it up as they go along. Just before, as the minister was concluding the
second reading debate, he was essentially telling the Senate that what we desperately need is more red tape now so we can have some cuts to red tape sometime down the track. But of course we know that that time 'sometime down the track' would actually require some agreement from the states to effectively hand over a whole series of powers to the Commonwealth which, on present indications, is highly unlikely. These amendments, while they improve a bad bill, do not fix the fundamental core problem. What we would get with this bill is a massive new bureaucracy which would make life harder for our charitable and not-for-profit sector, impose significant additional red tape, and come on top of existing state regulatory arrangements.

Of course what the government is trying to put to the Senate is, 'Trust us, there might be this massive increase in red tape now but at some unidentified time in the future this additional red tape will help us to reduce the red tape down the track.' Based on the government's track record, we do not trust the government's assurances in relation to this. We do not trust that this massive increase in red tape will ever lead to genuine reductions in red tape. We think that, when all is said and done, this new federal bureaucracy here in Canberra, which will have its fingers in every voluntary organisation across Australia, will be there to stay, and it will come on top of all the other processes already in place at state level. In fact this is a pretty far-reaching new federal bureaucracy which will get them involved in every aspect of the charitable not-for-profit sector. So with those few remarks, I say that we will not be opposing those amendments because we do recognise that they make some slight improvements to what overall is a very bad bill. But it does not actually improve this bill sufficiently for us to be able to support the bill as a whole.

Senator SIEWERT (Western Australia—Australian Greens Whip) (10:47): I have a series of questions that I would like some information around that pertain to the amendments that have been moved. The amendments that have been moved are largely in response to the additional comments report that the Greens submitted during the Community Affairs Committee process.

I am pleased to see these amendments. In fact, as I indicated in my second reading speech, the Greens would not be supporting this legislation unless these amendments, or significant improvements, were made. These amendments aim to improve the Australian Charities and Not-for-profits Commission Bill 2012 to the point where we can support it, but we need some answers to some questions first.

I would also like to just correct a few of the misconceptions that anyone listening to the second reading debate would have taken away from that, particularly if listening to some of the coalition senators' contributions. One of these misconceptions was that this legislation is not supported by the not-for-profit sector. While the not-for-profit sector had a number of concerns, a lot of the concerns that were canvassed through the debate were in fact about the exposure draft and the first version of the bill. Subsequently there have been quite a few amendments in response to the community input.

I would like to point out here that one of the reasons we have a committee process is so that the Senate and the House of Representatives, when they look at bills, can look at the flaws in a bill and make amendments. Otherwise why do we bother with the committee process? We have a committee process to do due diligence to look at legislation. That is exactly what happened to this legislation. Lo and behold,
the government actually listened to a committee and made the amendments. So I for one think that that is a really good process and I am really glad to see our democracy operating in that way.

I had a contribution from UnitingCare—and I do hope my voice holds out for the rest of this debate. UnitingCare contributed substantively, as did a number of other community and charity not-for-profits, to the three committee inquiries that were held into this suite of legislation. Their name was taken in vain a bit, they felt, during the debate on Monday night. They said that UnitingCare had raised some points of concern. In fact, they did through the initial process. But I would like to read an email that I have permission to read in response to some of the taking of UnitingCare's name in vain. This is from Lin Hatfield Dodds, the CEO of UnitingCare Australia. She said:

These quotes—these are the quotes that were used during the debate—are in relation to the draft Bill which appeared before the Standing Economics committee. Since that time there have been two other committees, a series of amendments made to the Bills and associated legislation, and two key commitments from the Government to anti-gag clauses and red tape reduction that have secured our support for this Bill as it stands before the Senate.

This legislation is about more than simply the establishment of a new national regulator for the sector—it is recognition that our sector has come of age. A sector which is not an arm of government nor a subset of the business sector but one which has its own identity defined by its altruistic mission and characterised by its diversity and independence.

The introduction of this Bill together with the introduction of an Anti-gag clause legislation and amendments to the Commonwealth Grant Guidelines … are important in securing a robust and independent sector. It is important that Government legislate it's anti gag clause arrangements and implement its proposed changes to the Commonwealth Grant Guidelines to address some of the outstanding red tape issues and enshrine the capacity of community service organisations to do advocacy.

Help us get on with our mission, Australian Parliament and support this Bill.

As I said, I have permission to read that quote. That is exactly what I have been trying to do in terms of actively engaging with this piece of legislation to try and achieve change and to reflect the comments of civil society and the not-for-profit and charities sector to try and improve this bill. With this aim, I would like to start my series of questions if that is the will of the chamber. In particular, I would like to start where Lin Hatfield Dodds was talking about the gag clauses. In particular, I point out again that, as I articulated in my second reading speech, the independence of the sector is very important to the sector and it is something that the Greens hold very dear as well. So we were particularly keen to see the government respond to that with its amendment that was passed in the House of Representatives, but that has since gone further with the anti-gag-clauses legislation, which we are pleased to see. This is particularly important because the government has a monopoly over funding arrangements. In other words, it is often the sole contractor and the sole funder, which gives it an imbalance of power in negotiating contract arrangements. We have seen that abused in the past with gag clauses in contracts, and we do not want to go back to the bad old days. So this particular piece of legislation is very important.

So what I would like to ask the minister is: can the minister please provide us with a timetable for the introduction of that promised legislation, and can the minister please demonstrate how the government has engaged or intends to engage the not-for-profit sector in drafting this legislation to
ensure that it is sufficiently robust to provide the reassurance that the sector is looking for that gag clauses will no longer be included in the Commonwealth funding arrangements.

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) (10:53): On 17 September the government announced that it would introduce legislation to ban gag clauses in Commonwealth contracts with the not-for-profit sector, ensuring ongoing positive engagement and open debate between the government and the not-for-profit sector. The government recognises that a strong, independent and innovative NFP sector is essential to provide an inclusive community. In contrast to this, the Howard government tried to silence the not-for-profit sector through gag clauses. The great doyens of freedom of speech, as they always pretend they are, wanted to gag charities. So they tried to muzzle the independent voice of the not-for-profit sector, and it took the election of a Labor government to act to remove these insulting gag clauses in 2008. We are now seeing a rerun. We are seeing Premier Newman doing the same in Queensland—gagging charities. You guys! You pretenders of protection of free speech: gagging charities because they might disagree with what you are doing. It is just a disgrace and you should be ashamed of yourselves. You pretend in this chamber to be a great, great supporter of free speech. The great defenders of free speech! You have actually been gagging charities. You have actually passed laws to gag people. Don't you stand up in here and try and pretend remotely—you are an absolute disgrace.

Senator Cormann interjecting—

Senator CONROY: Are you in a Collingwood outfit again? You can keep interjecting!

The ACTING DEPUTY PRESIDENT (Senator Crossin): Order! Let's get back to answering Senator Siewert's question.

Senator CONROY: When we get to debate the bill, you can try and pretend the bill is about gagging the media. What you will not be able to hide from is the fact that you gag charities with legislation. You did it. We undid it. The Greens supported it being undone. You did it. And now Premier Newman is doing it again. So everybody knows that if the coalition were to win government again nationally they would put those gags back in place. It is part of your DNA. You cannot help it. It is in your political DNA; you want to gag charities.

The government has announced that it will introduce legislation to ban gag clauses in Commonwealth contracts with the not-for-profit sector because we respect the independence of the sector. The government is currently progressing the preparation of legislation to ban these gag clauses. We are firmly committed to its delivery. Targeted consultation with stakeholders on the legislation is planned to take place during early December. The government will be introducing legislation in the first sitting weeks of 2013 with a view to prompt passage through the parliament.

Senator SIEWERT (Western Australia—Australian Greens Whip) (10:57): This will apply to Commonwealth funding arrangements. Where there are joint agreements between the states and the Commonwealth, is it the intent that the legislation would also apply? In other words, could this legislation also apply to funding that is made available through such joint agreements to ensure that states cannot use that funding and impose gag clauses?
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) (10:57): We will need to get some further detailed advice for you, Senator Siewert, but we intend for this to reach as far as we can.

Senator SIEWERT (Western Australia—Australian Greens Whip) (10:57): I thank the minister for his answer and I would appreciate any further information, because obviously there is a lot of money that is delivered jointly. This came up in estimates the week before last when I was in fact canvassing some of the issues around the next bill we will be debating in this chamber, the social and community services pay equity bill. There is a lot of funding delivered through joint agreements. So being able to deal with that through this legislation would give us and the sector a great deal of reassurance. That would be appreciated.

I am aware of the time so I am trying to move through these as expeditiously as possible. The issue of the volunteer individual directors was raised a lot in the various committee inquiries, and we flagged it in our additional comment report. Many of the organisations, as we have been discussing in the chamber second reading contributions, have few if any staff and rely heavily on volunteers to run their organisations. I note the comments from World Vision Australia during the Senate inquiry that it is well accepted that noncompliance is usually a matter of ignorance or underresourcing. In light of these comments the Australian Greens would expect that the commissioner would take an active role—that is what we understand from discussions in the various committees—in educating registered organisations about their obligations and ensuring that volunteer directors have easy access to plain English explanations of their duties and responsibilities under the act and how to perform. Can you tell us how the commissioner will support and educate volunteer directors and what safeguards has the government put in place through the legislation to ensure that volunteer directors are aware of their obligations?

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) (10:59): The government recognises and values the vital contribution made by volunteers and volunteer directors to the not-for-profit sector. We want to encourage them to continue to make an important contribution to Australian charities and not-for-profits. As part of its role, the ACNC will provide education and guidance to relevant responsible entities, including volunteer directors of unincorporated associations, to assist them to meet the requirements under the bill. This is consistent with the ACNC Commissioner's general approach of resolving compliance issues primarily through education and guidance rather than using heavy-handed enforcement powers. This regulatory approach is outlined in the ACNC's implementation report released in June 2012. In addition, as part of the development of the ACNC's regulatory framework governance standards, the government will also be seeking important feedback on the possibility of additional protections for volunteer directors of registered entities.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:00): I thank the minister for his answer. In terms of the review process, I am pretty certain this is going to be an area of ongoing concern and we are aware that there are already...
provisions to allow the commissioner to have regard to the size and nature of organisations and the Australian Greens expect the commission to consider whether directors have acted in good faith and the extent to which compliance issues can be resolved through education particularly with volunteer directors and unincorporated organisations. However, we do have concerns about the extent to which the directors of unincorporated entities are exposed to legal liability on behalf of an entity under this legislation. Minister, what approach will the ACNC take in dealing with these issues that involve volunteer directors? Will the review process include an assessment of the impact that the ACNC arrangements have had on entities that are run by volunteers, particularly the impact on the ability of organisations to recruit volunteer directors? One of the points that came up through the inquiries is that this will put off people wanting to volunteer to be on these organisations.

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) (11:02): This is obviously an issue where, because we are stepping into a new jurisdiction, the culture of the ACNC organisation and commissioner is vital. The government's view is that it is vital that the commissioner follow through with the education and training aspect long before any other action is needed. We would be concerned if the first step was enforcement action. We think this would lead to a culture that you are describing. So we would only envisage that these powers would be needed in the most extreme examples of misbehaviour. I think we are right to be cautious and we are right to ask these questions as the culture of the agency is very important, but we do not believe that needs to be the first step; it needs to be the last resort in the most extreme circumstances.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:03): I thank the minister for his answer. As I said, I know this is an issue that is exercising the minds of a number of people. Could I perhaps bring his attention to the second part of my question, which was about the impact of this legislation, given a review of any impact that has been had on the ability of organisations to attract volunteer directors and on the functioning of organisations. So can we go to that second part of the question?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:04): I am advised that the government will continually review the impact of this legislation including how it impacts on volunteer directors. The minister and I have swapped, Senator Siewert, and I come a little unprepared. I apologise for that. I had not realised that Senator Conroy, who was doing this, was leaving.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:04): I appreciate the answer that there will be a continuing review rather than an overall review of the legislation. Would that be something that the commissioner might be able to include therefore in the report to the parliament that the commissioner will make annually?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:04): We can ask the commissioner to consider that.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:04): That would be very much appreciated, thank you. Perhaps I can move on to the ACNC Commissioner upholding the objects of the act. We heard in the Senate inquiry that the
ACNC Commissioner should be given specific responsibility for upholding the objects of the act and advising the minister on its implementation in the text or in the bill. Could the government and the minister please confirm that the commissioner will uphold the objects of the act? Can you please explain how they will do this and what resources will be made available for them to do that?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:05): I am advised that the commissioner does have responsibility for upholding the objects of the act and the report to parliament will include an assessment of how the commissioner has promoted the objects of the act, including the reduction of unnecessary regulatory obligations. My recollection is there is a provision in the budget for this reform, but I might have to take on notice the details of that at this point.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:06): I thank the minister for her answer. There is continual discussion around whether the bill defined enough the objects that the commissioner was responsible for upholding, so I very much appreciate that clarification.

I want to go to issues around the basic religious charities. Basic religious charities are recognised as complex entities that have evolved over time in a way that is different from other not-for-profit organisations. They have been given some special status in these bills and, as a result, some different reporting thresholds and responsibilities apply to this type of entity. Some issues were raised during the committee's inquiries. The Australian Greens are still concerned that these arrangements may not provide sufficient requirements to ensure the accountability and transparency and hence maintain public trust and confidence in these organisations. The amendments introduced in the House of Representatives even further relax the non-financial-reporting thresholds for basic religious entities that operate for schools. While we are not seeking during this stage to amend the legislation in this regard, we would like a commitment that these thresholds will be reviewed when the legislation is reviewed. We would like a commitment that these thresholds will be included as part of that review.

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:07): First, as part of establishing the commission, in consultation with stakeholders the government has decided to provide a targeted exemption for basic religious charities, and I think the senator referred to this. The practical effect is to exempt certain unincorporated religious entities from a number of requirements under the legislation. We do believe the exemption is appropriate. As with all elements of legislation, it will examine the effectiveness of the exemption as part of the five-year statutory review of the legislation.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:08): I thank the minister for her answer. I have a similar question in terms of the thresholds for small, medium and large entities. Another point of very significant debate during the various committee inquiries was whether those sizes were appropriate. You have a number of organisations that are just over $1 million and some that are hundreds of millions of dollars. That group seems to be very wide. It is the same with small organisations. There is some concern about the definitions of small and medium organisations. When I subsequently looked into it and talked to various organisations I did not hear any better examples. The other examples raised also raised their own issues. I was persuaded to the argument that it is best to see how it
runs for the time being and then maybe amend it in the future. Again I am seeking a commitment that specifically that issue will be looked into as part of the process of reviewing the operation of the act.

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:09): Yes, I am advised that that is the case. There is no carve out, as I understand it, for the statutory review. The thresholds would therefore fall within its purview. I also refer the senator to page 3 of the revised EM, which sets out the financial impact of the establishment of the ACNC.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:09): Thank you. During the committee inquiry, an issue was raised about the inconsistency in the EM on the role of the ACNC board. Can you please clarify how the board will operate and under what conditions it will be able to offer advice to the commissioner? Can the minister expand on the make-up of the board, how the participants will be selected and how the board will ensure that its membership includes individuals with strong experience in operating not-for-profit organisations? To elaborate on that a bit more, during the Senate inquiry there were issues about the board only being able to provide advice on request, and there seemed to be another element in the legislation that conflicted with that and seemed to not quite rely on the concept of the board only providing advice when requested. I seek clarification so that they are really clear on that point.

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:10): I understand, firstly, that the intention is that the advisory board be appropriately representative of the sector. In the EM, however, on page 171, it says that the board would provide advice ‘that is not in response to a request from the commissioner’.

Senator Siewert interjecting—

Senator WONG: If you look at page 171, it indicates that it is not intended that the board would provide advice that is not in response to a request from the commissioner. I am advised that the commissioner has indicated that they would be actively seeking the board's advice.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:11): I did understand that that is what the bill said but, because of that issue having been raised during the committee hearing, I was seeking clarification. So it is the intent that, despite any other contradictions, it is only ‘can provide advice upon request’?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:11): That is what the legislation provides but, as we said, in practice this is unlikely to become a significant issue. If the commissioner is genuinely going to be seeking the advice of the board on appropriate matters, they obviously have the opportunity to provide that.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:12): Thank you. What is the timeline for the establishment of the board? You have partially answered the question in terms of members with expertise in the not-for-profit sector and the board et cetera, but what is the timeline for the establishment of the board?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:12): I suspect that this is going to be one of the 'in the near future' answers, Senator Siewert. I am advised that that work is underway, so we would anticipate being able to do so in the near future.
Senator SIEWERT (Western Australia—Australian Greens Whip) (11:12): Does 'near future' mean by Christmas?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:13): We will do our best.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:13): Thank you. There was quite a bit of debate during the Senate inquiry and out there in not-for-profit land about the governance standards. I am very pleased about the amendments that are planned for the way in which the regulation process will operate. They do not go as far as we would like, which is that we wanted the process in the legislation. As I articulated during my second reading contribution, I understand the reasons that cannot happen in terms of time frame, because it is a very complex issue. These are critical parts of the functioning of this act, and I am particularly pleased that the section that gave the commissioner the power to direct an entity to act or not act in a specific manner has been taken out, because that went to the very heart of the independence of the sector.

I have a couple of questions about the consultation process. That is an area to which we paid particular attention, and another amendment that I am particularly pleased to see is the inclusion of the consultation process and, further, the inclusion of the commissioner's role in the consultation process. I would just like to tease out here, and get a confirmation of, who will actually be the lead in the consultation process over the government's standards. Will it be the commissioner? Will it be the Treasurer or the minister? I understand it to be the minister. I do understand the process and that the minister is the final decision maker. But from our perspective it is important that the consultation takes a very active role in this consultation process. That is the clear message that I have received from the sector. They want to be dealing with the commission; that is why they support a commission, because they see the commission as the body that will now be helping to look after them and helping them to enhance their vibrancy and their independence.

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:15): On the first two points: obviously, I understand that the commission will take an active role in consultation and that the minister will seek the commission's advice.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:15): With all due respect, that did not answer the question! I am glad that the government will seek the commission's advice, but how strongly will the commission be a lead in these discussions? And a supplementary to that one: will there be resources for the not-for-profit sector to be able to engage in this? This is going to be a really heavy-duty process; these go to the very heart of the operation and how it relates to the not-for-profit and charity sector. So it is vital that this particular process happens appropriately.

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:16): As I understand it, under the legislation it is the minister who consults. But, obviously, that is not an unusual statutory provision and my first answer stands, which is that we would envisage an active role by the commissioner in consultation as well as, I assume, officers of the Treasury in that process.

I do not quite understand the 'lead' concept, to be honest. We would often have
a consultation process where you would have a number of levels of consultation. That is not so unusual; you might have ministerial and you might have the different levels of the public service in any consultation process.

It is not intended as part of this legislation that there be any additional resources. I am sure that you will tell me why we should do that, but it is not intended. We have made various decisions, as you would know, through supplementation for SACS and so forth, for some parts of the not-for-profit sector. But that is for a different process.

**Senator SIEWERT** (Western Australia—Australian Greens Whip) (11:17): Thank you. Maybe I need to be more blunt? The sector does not want Treasury determining it; they want to see the commissioner, whose role is to support the objectives of this legislation, such as an independent, vibrant sector, cutting red tape and raising public trust and confidence. They have more trust in an organisation that is coming from the perspective of understanding the sector, rather than Treasury.

I will just cut straight to the chase and say that that is the reason they want it. Quite frankly, some of the iterations of this legislation that we have seen have been because there has not been an understanding of the sector. I am not having a go at Treasury and I am not having a go at the ATO; they have their jobs to do. But the commissioner will bring an understanding and a relationship with the sector that those government departments just do not have. That is what we are looking for, an ability to be able to negotiate and work with the sector.

**Senator WONG** (South Australia—Minister for Finance and Deregulation) (11:20): I am advised that the consultation is already starting and that the NFP reform council has been engaged. You are wanting an indication about the board's involvement in structural matters. Is that right?

**Senator Siewert**: Yes.

**Senator Wong**: The board has not yet been appointed, obviously, but perhaps we
can deal with it this way: we will ensure that the board is involved in consideration of the consultation process.

Senator XENOPHON (South Australia) (11:21): I have a series of questions, and these follow on from my spectacularly unsuccessful second reading amendment—I think I was the only voice supporting it—where I called on the government to introduce legislation detailing a definition of charities and charitable purposes and including a public benefit test within 12 months of the passage of these bills. Following on from that, can the minister provide any information on when legislation relating to the definition of 'charity' and 'charitable purpose' will be introduced, and will this contain a public benefit test? By way of background, the position in the United Kingdom, which I think is the benchmark for accountability for charities—it is something that has been tried and proven and works well with charities and the not-for-profit sector—has included these definitions for a number of years. I support the broad intent of this legislation, but my question is: when will we go further with a definition of 'charity' and 'charitable purpose' and will it include a public benefit test?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:22): As I understand it, the government is committed to introducing legislation to provide for a statutory definition of charities by 1 July 2013—obviously it would be anticipated that legislation will be introduced prior to that date. I am not in a position to give you any public indication of the content of that at this stage in the terms you have sought.

Senator XENOPHON (South Australia) (11:22): What consultation process will there be as part of that, in broad terms? The minister does not have to be too prescriptive, but does the government acknowledge that in the United Kingdom there is a definition of 'the public benefit' that has been usefully used for a number of years?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:23): We would anticipate a public consultation process, so obviously people would be able to raise issues, such as public benefit, that you have raised.

Senator XENOPHON (South Australia) (11:23): Does the minister have a timeline for extending the commission's responsibilities to NFPs—in other words, going beyond the scope of this legislation? And what further consultation will take place before this happens?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:23): Obviously the framework we are discussing is focused on charities. The government's intention is that the ACNC be able to fulfil the responsibilities it currently has in the legislation before considering any expansion to other not-for-profits. As a matter of logistics, the earliest point that other not-for-profits could be included in the regulatory framework would be 2014. However, it would be premature to make any decision regarding this as we first want the commission to be up and running and focused on charities and doing an effective job in that regard.

Senator XENOPHON (South Australia) (11:24): My final question to the minister in relation to these preliminary matters: can the minister clarify concerns that have been expressed in relation to the responsibility of board members where charities have been found guilty of non-compliant actions? I note some of my colleagues—I heard Senator McKenzie's considered contribution yesterday—talked about concerns raised by Mr Gonski about sanctions for non-
compliance amongst directors being more onerous than in the for-profit sector. I did read into the Hansard in my contribution what Mr Gonski said just last month—that he was reasonably satisfied with the revisions. But, given that this was a legitimate concern that was raised, can the government clarify that what has previously been raised as a concern is no longer the case in terms of the proposed framework of this piece of legislation?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:25): The provisions of the legislation governing obligations, liabilities and offences of incorporated and unincorporated entities have been redrafted, I am advised, consistent with the recommendations of the House of Representatives standing committee inquiry. Criminal liabilities for directors of incorporated charities have been removed completely. The bill also makes clear that, where there is a non-criminal contravention of the bill, the director of an incorporated charity is only liable for any amount payable by the body corporate where this arises from a deliberate act or omission of the director involving dishonesty, gross negligence or recklessness.

I am also advised that the director liability regime in the bill is not onerous when compared with other Commonwealth acts. For example, the bill imposes no personal criminal liability on directors at all, whereas the Corporations Act imposes personal criminal liability in certain situations—for example, breaches of directors duties, which may result in penalties of up to the $220,000 or imprisonment for five years or both. There are also references in the advice I have to similar types of provisions in the tax laws, which are obviously more onerous than the bill before the chamber.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:26): Senator Xenophon, you touched on an area that I wanted to follow up, which is about the extension of this to other entities. Minister, you have already answered the first part of the question I was going to ask. You were a bit vague about the plan being to do this in 2014. Do I take from your subsequent comments that that time line is not a set time line—that it may depend on how the act is being implemented with existing entities?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:27): I think I said 'at the earliest would be', didn't I? Is that what you mean by 'vague'?

Senator Siewert: Yes.

Senator WONG: I do not think that indicated a specific commitment to a date. Rather, that in terms of the progress of this reform, that that would be the earliest time at which it could be introduced. So I think I got that right.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:27): Thank you. Is the extension to the broader range of entities part of the harmonisation consultation and discussion process through COAG or is it completely separate?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:27): I am not sure if I understood the question. Were you asking if this was part of an existing consultation process?

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:27): There is a consultation process being undertaken at the moment, which is the harmonisation process. I am wondering, as part of that harmonisation process, whether this is part of that discussion?
Senator Wong (South Australia—Minister for Finance and Deregulation) (11:28): It is not part of the current process, but, obviously, were there to be any extension, that would be the subject of consultation with states and territories.

Senator Siewert (Western Australia—Australian Greens Whip) (11:28): Thank you for that clarification. I would like to move on to red tape. This was a major issue and the sector has been following it up very strongly about wanting to cut down red tape and whether this is going to increase it. I am pleased to see that there has been more clarification in the bill. But I still have a couple of questions that I would like to follow up on and place on the record.

The ACNC establishes a time line for reducing unnecessary regulatory obligations on the Australian not-for-profit sector, and I am pleased that, as part of its annual report, it will be detailing its progress against the time line in reducing red tape. However, the red tape issues are, unfortunately, broader than those that are just under the influence of the ACNC and while the ACNC has been given the task of promoting greater integration and fewer reporting requirements, the government as a whole has set forth its commitments to the sector in having ongoing regard to the delivery on that commitment. Will the government also commit to ensuring that an independent regulatory impact assessment is undertaken and factor in the cost of compliance with the ACNC process be factored into that process?

Senator Wong (South Australia—Minister for Finance and Deregulation) (11:31): We have a very clear set of requirements under our regulatory assessment process. The costs of compliance, for whichever entity, are part of that assessment process. We do not differentiate between for-profit and not-for-profit; you still have to look at the costs of compliance.

Senator Siewert (Western Australia—Australian Greens Whip) (11:30): With regard to the regulatory calculator, will the cost of compliance with the ACNC process be factored into that process?

Senator Wong (South Australia—Minister for Finance and Deregulation) (11:31): During the inquiry—as I am sure many on that side of the chamber will be aware—various opportunities were looked at for red tape reduction. One of the proposals that was traversed was item 10 in schedule 1 of the transition bill, which states ‘The Commissioner may treat a statement, report or other document given … to an Australian government agency’ as being an information statement for a financial year or an annual financial report. During the inquiry process the Bishops’ Council suggested that the government should amend the statement to read, ‘The Commissioner will…’ and argued that this arrangement would protect organisations from unnecessary duplication as a result of the ACNC registration until other arrangements can be resolved.
We agree, and the government responded to that. I partly accept the government's concern that taking this step to amend the text of the bill to replace 'may' with 'will' could have unintended consequences. But for all government departments there is no reason this could not be used as a standard until other arrangements are instituted, or put in place for a short-term process to see how it could operate.

Could the minister explain how the process of helping this to happen has been incorporated into the bill and the implementation of the bill to give effect to that concept. Even if you cannot amend the bill from 'may' to 'will', it is the intent that we are looking for. We are seeking a commitment of goodwill that until some of these other measures are put in place and all the harmonisation processes are achieved that for all intents and purposes an effort will be made to replace 'may' with 'will', even if it is not in the bill. Am I making myself clear there? What we are looking for is a commitment that while maintaining transparency and accountability every intent will be made in this transition process to ensure that reports are, as the government has said, 'done once, used often'.

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:34): The difficulty that I have with one of the implications behind the question—and it may not be the intention—is the suggestion that the commissioner would not do the right thing. The government's view is that it is appropriate for there to be discretion. When you are determining a document to comply with a regulatory requirement you would not want that to be mandatory, because you would want to make sure that a person is considering whether that document should comply with it. If it should comply then they have the discretion to do that. If the commissioner is doing the right thing, and we operate on the basis that they will, I do not think the issue that you raise is going to be a problem. With the alternative construction of 'will', you would still have to have an assessment against criteria, which arguably becomes a more legal type of test—'I can only do this if this ticks all these boxes'. What you have here is discretion. The commissioner has to have regard to a range of factors, but the government thinks it is appropriate for the commissioner to have discretion.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:35): I was not intending to imply that the commissioner will not do the right thing. I put that on the record. I will also put on the record that, as you articulated earlier, there has been a great deal of faith expressed through the inquiry process in Ms Pascoe, and there is very strong support for her as the commissioner. I acknowledge that on the record.

What organisations are looking for is a commitment from government that in this transition process there will be every endeavour made to reduce red tape and to use reports as often as possible so that they do not have to keep reporting. This is not just about the commission; it is also about government agencies and how the commission can facilitate that relationship between government agencies and re-using reports as much as possible. Where is the government up to in meeting those commitments that it has already made to the not-for-profit sector about reducing red tape?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:36): First, in relation to the specific bill, I understand the commissioner has made that intention clear. I say to the Senate that we have done quite a lot of work in this area. I do not want to pretend to the senator or the chamber that it is easy to reduce some of the
compliance requirements with government because, particularly in a devolved financial management framework, a particular entity might have a grant or an arrangement with two or three departments or with the same department but with different funding arrangements, and so that obviously creates a compliance burden, which is a function of the way government works. We have been doing a fair bit of work with Minister Butler, Treasury and Finance and Deregulation to try to work through some of the ways of how we can improve arrangements. You might be aware that we announced on 17 October that we would implement a report-once, use-often reporting framework by the ACNC and that we would support that with the Commonwealth Grant Guidelines. There have also been other arrangements in terms of contract management out of my portfolio from which I am happy to try to arrange a briefing. The intention is there—I do not want to overstate it, because having worked in this area for a while I know it is a lot easier to talk about red-tape reduction than actually deliver it. Delivering it requires quite a lot of work, but I think the bill before you and the commitments that the commissioner has given really indicates the approach the government is taking.

**Senator Siewert** (Western Australia—Australian Greens Whip) (11:38): I thank the minister for that explanation. I think your comment about it taking a while to happen is the reason for the sector's nervousness. There were commitments on red-tape reduction before and it is not that the sector is questioning the commitment, it is how it is being done and, in particular, the difficulty of working across various government agencies, and the issue of providing financial reports to one organisation or to continue having to report to individual organisations on individual grants.

Is it the government's intent that where an organisation has reported to one agency on a particular government grant that they could use that same report to report against other grants, if appropriate?

**Senator Wong** (South Australia—Minister for Finance and Deregulation) (11:39): That was what I was referring to in the first part of my earlier answer: that we have announced the implementation of a report-once, use-often reporting framework and we have supported that through changes to the Commonwealth Grant Guidelines. The Commonwealth Grant Guidelines are administered by me out of Finance and they establish the grants policy and reporting framework for departments and agencies subject to the Financial Management Accountability Act. I can read all of the effects of that if you wish.

**Senator Siewert:** Table it.

**Senator Wong:** I do not really like tabling these notes, per se. I can read it:

The change will benefit many organisations that will be registered with the ACNC and are recipients of grants from Commonwealth agencies and departments. These changes will state that agency staff should not seek information from grant applicants and grant recipients that is collected by other inter-Commonwealth entities and is available to agency staff. In particular, they will provide that agency staff must not request information already provided to the ACNC by an organisation regulated by it. The changes also state that when determining whether acquittal reporting requirements are required for a grant, agency staff must have regard to information collected by regulators, such as the ACNC. The changes will state that if an entity provides an annual audited financial statement to the ACNC then a grant acquittal should not be required, unless the nature of the activity for which the grant was being provided is regarded as high risk.

I am advised also—I think I made reference to this—that the ACNC has undertaken to
develop and make public a red-tape reduction time line and plan, and the annual report of the commission to parliament will also provide details of performance against this time line.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:41): I have two final questions on that particular area then I have one more set of questions and I promise I will finish then. I want to pick up on the last point about the time line. Will that include, both for that reporting process and for the long term review, the success of the legislation in reducing red tape, measures of red-tape reduction or what measures will be used to work out whether red tape has been reduced? I should say, what indicators will be used? Has that been determined, and will you determine some?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:41): As I understand, not by government so I would assume, if the obligation is the commission has undertaken to develop and make public a red-tape reduction time line then probably that will be a matter that the commission will consider, what, I suppose, the KPIs are.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:42): Fair enough. I should put on the record to the commission that it would be useful for some indicators, some KPIs, to be developed for that. I will go very quickly to the state-federal harmonisation process. I understand that process has started. It is an issue that is a hot topic for the not-for-profit sector and charities. Can you give us a quick update on where that process is up to and how soon you expect it to be completed?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:42): The lack of an independent regulator focused on charities and the specific needs and characteristics of the sector has been a hindrance to delivering a national approach to NFP regulation. The government has made a decision to establish a regulator at the Commonwealth level and to provide a platform to deliver harmonising and consistent regulation of charities across Australia. The government is working collaboratively with the states and territories through the NFP Reform Working Group, established under the Council of Australian Governments. I am advised that the South Australian government earlier this month announced that that state will make amendments to its incorporated associations and charitable collections legislation to harmonise reporting requirements and authorise charities to collect charitable donations in South Australia once they are formally registered with the commission. We welcome South Australia's leadership in this regard and look forward to working with other states and territories to deliver similar reform outcomes across Australia. I understand that is also the position that has been expressed by quite a number of entities within the NFP sector.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:43): Thank you. In the meantime, before the harmonisation process is complete, will there be circumstances where the ACNC can accept state reports as a substitute or as part of their reporting requirements to ACNC?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:44): I am advised the answer is yes.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:44): I am sorry, I misunderstood or did not catch what was the possible time line for completion of the harmonisation process.

Senator WONG (South Australia—Minister for Finance and Deregulation)
As you would probably be aware, what first ministers do is agree to processes and then they have a report-back date, so that is probably the best time line to give you. I understand the reporting-back date for this reform is early 2013.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:44): I thank the minister. Would that be through a COAG process?

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:44): Yes. It will be a report from the working group, I assume, to first ministers.

Senator SIEWERT (Western Australia—Australian Greens Whip) (11:44): That is the end of my questions. I thank the minister. As I indicated earlier, the Greens will be supporting the government amendments.

The TEMPORARY CHAIRMAN (Senator Furner): The question is that government amendments (1) to (23) on AP218 and (1) to (11) on AP219 be agreed to.

Question agreed to.

Bills, as amended, be agreed to. Bills reported with amendments; report adopted.

Third Reading

Senator WONG (South Australia—Minister for Finance and Deregulation) (11:45): I move:

That these bills be now read a third time.

The ACTING DEPUTY PRESIDENT (Senator Furner): The question is that the Australian Charities and Not-for-profits Commission Bill 2012 and related bill be agreed to.

The Senate divided. [11:50]

(Acting Deputy President—Senator Furner)

Ayes ................. 35

Noes .................... 29

Majority ............. 6

AYES

Bilyk, CL
Brown, CL (teller)
Carr, KJ
Crossin, P
Farrell, D
Feeley, D
Gallacher, AM
Ludlam, S
Lundy, KA
McEwen, A
Milne, C
Polley, H
Rhiannon, L
Singh, LM
Thistlethwaite, M
Urquhart, AE
Whish-Wilson, PS
Xenophon, N

Bishop, TM
Cameron, DN
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Siewert, R
Sterle, G
Thorp, LE
Waters, LJ
Wright, PL

NOES

Abetz, E
Bernardi, C
Boswell, RLD
Bashby, DC
Colbeck, R
Edwards, S
Fawcett, DJ
Humphries, G
Joyce, B
Madigan, JJ
McKenzie, B
Parry, S
Ronaldson, M
Ryan, SM
Williams, JR

Back, CJ (teller)
Birmingham, SJ
Brandis, GH
Cash, MC
Cormann, M
Eggleston, A
Heffernan, W
Johnston, D
Macdonald, ID
Mason, B
Nash, F
Payne, MA
Ruston, A
Smith, D

PAIRS

Carr, RJ
Collins, JMA
Evans, C
Hanson-Young, SC
Stephens, U
Wong, P

Sinodinos, A
Field, MP
Fierravanti-Wells, C
Boyce, SK
Scullion, NG
Kroger, H

Question agreed to.

Bills read a third time.
Social and Community Services Pay Equity Special Account Bill 2012
Social and Community Services Pay Equity Special Account (Consequential Amendments) Bill 2012

Second Reading
Debate resumed on the motion:
That these bills be now read a second time.

Senator CASH (Western Australia) (11:53): I rise to speak on the Social and Community Services Pay Equity Special Account Bill 2012 and the Social and Community Services Pay Equity Special Account (Consequential Amendments) Bill 2012. The coalition welcomed the finalisation of the long-running equal remuneration case which required Fair Work Australia to objectively consider the plight of employees in the social and community sector—or SACS, as it is known—where it was shown that there was a significant gap between the remuneration of men and women carrying out the work of equal or comparative value when compared with workers in state and local government employment. On 22 June 2012, Fair Work Australia published its final determination in what had been a long-running case in favour of the applicants.

The decision of Fair Work Australia's historic equal remuneration order will see around 150,000 SACS workers benefit from regular wage rises totalling between 23 and 45 per cent over an extended period of time from 1 December 2012 until June 2021. This bill has been introduced in response to the FWA determination and, given the important role and services provided to our community by the social and community sector, care must now be taken to ensure that the benefits which are due to these workers are properly recognised. But, at the same time, we must ensure that services are not reduced or jeopardised and that jobs in the sector are not lost.

This bill will provide supplementation to community organisations who receive Commonwealth funding, directly or through a national partnership, to cover the Commonwealth share of the wage increase awarded by Fair Work Australia. The Commonwealth supplementation will be delivered through funding drawn from the special account by eight Commonwealth agencies and paid to assist employers who are directly or indirectly funded by the Commonwealth for the purposes of a program prescribed under the new legislation and who are required to make payments to their employees under the pay equity arrangements. The Social and Community Services Pay Equity Special Account (Consequential Amendments) Bill 2012 will make a consequential amendment to the COAG Reform Fund Act 2008 in relation to supplementation for programs funded under agreements with and payments to state and territories, such as national partnership payments and national specific purpose payments.

Whilst the coalition will not be opposing this legislation, we do have a number of concerns with it. The first concern that we have is in relation to the rushed nature of the legislation. After the introduction of the legislation on 10 October 2012, the government insisted that the bill pass the House of Representatives on 11 October. When we asked the government why there was such a rush to have this legislation passed, the government failed to provide any substantive reason for the rushed nature of this legislation other than to say it was urgent because of the 1 December 2012 commencement date.
Given that Fair Work Australia had made some preliminary determinations in May 2011, recognising that SACS workers were undervalued, and that the Prime Minister in November 2011 made an announcement that the government would set aside $2 billion in support of pay increases for SACS workers, it is clear that, despite the forewarning of Fair Work Australia in its earlier decisions, the government has been dragging its feet in bringing this legislation before the parliament. The legislation could have been introduced some months ago, soon after the decision of Fair Work Australia was actually published. The government's handling of this bill is another clear example of the chaotic and indeed shambolic nature of this government and its ever-present contempt for the Australian parliament.

The coalition also has serious concerns about issues affecting the implementation of this legislation. Labor has refused to date to guarantee that community service organisations will not close or will not have to reduce their services as a result of the cost pressures that the Fair Work Australia decision may cause. There is no doubt that equal remuneration is important. However, steps must be taken to ensure that equal remuneration is paid and, at the same time, we do not seek to effect reductions in costs which would decrease the significant and indeed critical services that these organisations provide.

Again, to date, the Labor government has refused to guarantee the people of Australia that there will not be a closure of services or a reduction in the services that are actually provided. Indeed, in the Australian newspaper recently, we have seen concerns raised in the community that this funding 'will lead to job losses and service cuts to programs for the nation's most vulnerable.' Even the full bench of Fair Work Australia expressed concern about the impact of this decision on some parts of the sector that provide services for which costs cannot be recovered, or which receive no government funding.

The coalition, unlike the government, harbours serious concerns that the government's plan to fund pay rises in the community sector may change the workplace landscape and fuel further wage pressures across the economy. The coalition also has concerns relating to the nature of the rubbery figures that the government has provided in bringing forward this legislation. Prime Minister Gillard attempted to dress up a political announcement by suggesting that the government was injecting $2.8 billion in funding into the social and community sector and that the government was doing this out of the goodness of their hearts. The reality is that the workers will be receiving their pay rises as a consequence of the decision of Fair Work Australia rather than an additional magnanimous handout from the Labor government.

In relation to this legislation, the fact of the matter remains that this is a government that is driven by spin rather than substance. As usual, the Prime Minister of Australia was trying to reinvent political history with her political announcement. In fact, when you analyse what is in this bill and what was previously promised by the government, you will see that the $2.8 billion actually represents a $300 million cut in Labor's previous promises to the sector. Let me say that again: if you look at what is in the bill that is currently before the Senate, and if you look at what was promised by the government when it was making its grandiose, attention-seeking statements, you will see that the $2.8 billion represents a $300 million cut in Labor's earlier election promises to the sector. First Ms Gillard announced a $2.1 billion financial boost; then she increased it by an additional billion
dollars, before reneging on that promise and cutting it back to $3 billion; and today Australians are witness to yet another broken promise as the financial injection is further reduced to $2.8 billion. Again, in the scheme of things, that represents a $300 million cut to a sector that the Labor government consistently tells Australians it supports.

While many of the workers in this industry are covered by the ASU, some are covered by the infamous HSU. We all know the history of the workers who are covered by the HSU; they have already been ripped off by corrupt union officials. On top of being ripped off by corrupt union officials they are now facing a further $300 million cut from a Labor government. The workers in this sector must be totally disillusioned as they see the Labor government rip them off on one hand while on the other hand Labor continues to dish out millions of dollars in grants to union bosses. That is standing up for the workers, Labor-style!

Despite the government's continued rhetoric that it has consulted with stakeholders on this legislation the coalition notes that, ahead of putting its submission to Fair Work Australia, the government once again only consulted with union bosses—as is Labor style. It failed to consult with the providers of the services who may well be seriously affected by this legislation; it failed to consult with state governments who are responsible for the implementation of a lot of this legislation; and it failed, contemptibly, to consult with employees on the ground who are directly affected by this legislation.

In its submission to Fair Work Australia the Labor government was also trying to short-change these undervalued workers. At clause 122 of the FWA interim decision of 16 May 2011, the summary of the Labor government submission noted in part:

Any increase in wages in the industry could impose significant cost pressures which could have adverse impacts on service delivery. Such impacts could be partially mitigated through improving the efficiency of funding and other arrangements between the Commonwealth and service providers. It also referred to the importance of collective bargaining at the enterprise level on improvements in pay and conditions, employment and productivity. It noted, however, that the cost to the Commonwealth of significant wage increases could still be considerable, even taking into account a phased introduction, and budget constraints mean that “any additional Government funding would likely come at the expense of other Government services”.

Let me just say that again so that the people of Australia are very clear on what is being said: because of Labor's budget constraints directly as a result of Labour's fiscal incompetence, 'any additional government funding would likely come at the expense of other government services'. Gross debt is now in excess of $257 billion when Treasurer Swan recently promised Australians that it would not exceed $250 billion by the end of this year. That is another Labor promise that he could not keep—gross debt has now exceeded $257 billion. This country has never seen figures like that in its history.

So while the Labor government was out on the hustings soft-selling the workers that were supporting them the reality was that, in its formal submission to Fair Work Australia, the Labor government was urging Fair Work Australia to recognise the impact on cost pressures that any increases would cause. I would like to know which Labor member of parliament, when they were gloating about the decision that had been made, actually went to the workers and said, 'Do you know what we said in our submission to Fair Work Australia?' I bet not one of them did.

In discussing this bill it would be remiss of me not to state for the record that under Labor the statistics involving pay equity in
Australia today are an absolute disgrace. Statistics from the Equal Opportunity for Women in the Workplace Agency in August 2010 show that across Australia women's full-time weekly earnings are on average 17.3 per cent less than men's. When one considers part-time and casual work, the total wage gap between men and women is even worse: it is 35.3 per cent. And despite women making up approximately 45 per cent of the labour force, only 29 per cent of managers are women. What does this mean, in terms of actual financial figures? Female graduates who enter the workplace earn $3,000 on average less than male graduates. Women earn on average $231.40 per week less than men. If current earning patterns continue, the average 25-year-old male would earn $2.4 million over the next 40 years, while the average 25-year-old female would earn significantly less: $1.5 million.

As you would expect, the gender pay gap has a major impact on women's earnings over their lifetime. Women are 2½ times more likely to live in poverty in their old age than men, and by 2019 on average women will have half the amount of superannuation than men have. This is simply not acceptable and it is made more unacceptable because it is happening under a Labor government, the same Labor government that likes to stand up time and time again and say that it is the only government in Australia that (a) represents women and (b) represents the lower-paid in society.

There is no doubt that women in Australia have been disillusioned to find that, when they strip away the rhetoric of the Australian Labor Party, the facts expose a party with no clear agenda, a party with no policy coherence, a party driven exclusively by opinion polls and a party under which, ashamedly, the gender wage gap has worsened in recent years. In 2006, under former Liberal Prime Minister John Howard, the World Economic Forum listed Australia as 45th in the world for wage equality between men and women for similar work. By 2009, under the great Australian Labor Party, which likes to talk about pay equity but in reality takes absolutely no action to effect it, Australia had slipped by a full 15 places. In 2009, the World Economic Forum listed Australia as 60th in the entire world for wage equity between men and women. This means that under Labor, Australia is even behind developing countries such as Sri Lanka and Tanzania in this important measure.

Why has pay equity lessened under a Labor government over the past few years? Why does pay inequality still exist, particularly in a country with so many highly educated and highly capable women? The answer is very simple and very, very disappointing: because Labor in its time in government continues to promote spin instead of promoting policy reform in the area of pay equality. At last the electorate is waking up to the reality of a Labor government and now understands that a Labor government is more concerned with its own survival than the survival of women who continue to suffer discrimination through pay inequity and pay inequality.

Unlike the government, the coalition genuinely believes in supporting low-paid workers. We are disappointed that the government are once again using this place as their own plaything so that Prime Minister Gillard, the Minister for the Status of Women, Ms Collins, and Mr Shorten can take a decision of Fair Work Australia, which recognised SACS workers were being undervalued, and try and turn the proposed pay increases into a special one-off Christmas gift made possible by the sheer courtesy of the Labor government, when that is just not what the facts add up to.
The coalition will not oppose the bill, as I have already stated. But we have serious concerns about the way the government has tried to manipulate the SACS workers with false statements. We also have serious concerns about the way the government has tried to get the credit for the Fair Work decision when the government in fact in its own submissions actually urged formal restraint by Fair Work Australia. As I said when I commenced, the coalition has very serious concerns that the Labor government has refused to guarantee that under this legislation community service organisations will not close or reduce services as a result of cost pressures that the Fair Work decision may cause. I would be interested to see, when the minister is summing up this legislation, whether or not a Labor government is prepared to go on the record to put its money where its mouth is and give a formal guarantee to the people of Australia that services will not be reduced by this legislation. (Time expired)

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:13): The Greens are pleased that this legislation has come before the parliament. From the beginning of the campaign by the ASU and others, including workers in the sector, the Greens have been supportive of the pay equity case. That is because we appreciate the value of the work of the not-for-profit and charity sector on which we have just had a lengthy debate in this chamber when discussing the Australian charities and not-for-profit commission. During that debate we talked a lot about the important role that charities and not-for-profits play in our civil society and our democracy. The sentiments expressed then have continued in the debate on this bill. Those not-for-profits and charities could not deliver the services they deliver without the work of those working in the not-for-profit sector. It has been well recognised that those working in the not-for-profit sector are largely women, and for decades they have been significantly underpaid and doing the work that they do because of their commitment to community and their commitment to the people they work with and support. So a lot of the work that has been done, let's face it, has been done due to their sense of commitment, their love for their work and their commitment to the people and the organisations that they work with.

Many of them have been working for very, very poor pay rates compared to what they could get, say, in the Public Service or in the private sector. Having worked in the not-for-profit sector I can speak with authority on this issue. You do the work because you love it but, I have to say, it does not pay the mortgage, the power bills or the rent—if you are not lucky enough to own your own home—and it does not pay the essential food bills. So the findings of Fair Work and this legislation are very important in trying to close that gap and give pay equity to these workers who, for so long, have contributed to a better Australia, have filled the gap when it comes to services that government has not provided, and have picked up after government decisions. Those workers who work in emergency relief organisations are filling the gaps.

As I have articulated in this place on numerous occasions, Newstart is $130 below the poverty line. Where do you think single mothers and single parents who are living below the poverty line get help from? They go to charities and the not-for-profit sector for emergency relief. It is the workers in those emergency relief organisations that are supporting these people through emergency relief, financial counselling, family counselling, mental health services and aged care—but most of the workers there are under a separate determination. These
workers are the people who keep our society going. They are critical. Without them we would not have a well-functioning society—or a society that is functioning as well as it is. They are absolutely critical to the delivery of services and to our democracy. Civil society is an important part of our democracy.

The Greens indicated right from the start that we were supportive of that case, and I am pleased to see that we have now got to the point where we are discussing legislation that will deliver these outcomes—albeit that people are going to have to wait eight years. Although people do tend to stay for long-term periods in the not-for-profit sector, that is a long time to wait to see the final outcome of this legislation. Having said that, the Greens will be supporting this legislation. However, I do have some issues that I would like to traverse here. I would like to raise some issues that the Australian Council of Social Services has raised. Also, I indicate now that I have a few questions for the Committee of the Whole, which have been brought to my attention particularly by the not-for-profit sector, in terms of how this will actually operate. I do not have amendments, but if the minister can answer these questions in his summing up I will be more than happy to take those answers. If he cannot, I would like to traverse a couple of questions in Committee of the Whole.

I have been pursuing this issue over a series of Senate estimates. Some answers have been satisfactory and some have not been satisfactory. Subsequently, in discussions with the not-for-profit sector, I had concerns articulated to me about how some of this process is going to roll out. Having said that, as I said, we are supportive of the concept, but there are concerns about the process of how it is going to go roll out. While I do not share all the sentiments expressed in Senator Cash's contribution in this debate, I do share her concerns around how this will play out for the not-for-profit sector and ensure that they are still able to function in a viable manner.

ACOSS point out that they are supportive of this piece of legislation but they also have some concerns. They articulated in one of their briefing papers that one of the greatest challenges arising from the equal remuneration case has been to quantify the cost of the higher wages and ensure that representative government's supplementation funding will cover these costs. Recognising that there would be key challenges at the outset of the process, ACOSS have strongly advocated for a nationally consistent approach to government supplementation funding in responding to this case.

There we have an initial problem and there are a couple of issues that come up here. The way this is being delivered to not-for-profit organisations is that each government agency is going to be providing a letter of offer to each not-for-profit organisation or charity that it has a contractual relationship with. A number of not-for-profits have a lot of government grants—and we traversed in the previous debate the issue of red tape—across a number of agencies. While this deals with, I think, eight government agencies, some have regular, ongoing contracts with, say, three or four. So some organisations will be getting four different letters of offer from the Commonwealth. That is if the contract is directly with the Commonwealth. They will be getting four different letters. Admittedly, one letter will cover all the different grants an organisation has—which is better, I acknowledge than getting a letter about each grant—but they will still be getting three or four.

If they have a relationship with a state government that is part of a national
agreement or a national partnership arrangement—and I traversed some of these issues in Senate estimates the week before last—the Commonwealth then negotiates with the states, not with the not-for-profit, even though the funding potentially is coming from the government via the partnership or agreement, as I understand it, and if the state is contributing some of the funding arrangement for that. That is another way that funding will be delivered. So you can see already that not-for-profits will be dealing with a number of entities over this. You can see why confusion is setting in. In my home state of Western Australia we have already had a process where the state government has put in a substantial amount of money. I have in the past taken my hat off to the Barnett government in this respect, in that they have already contributed a large amount of money to help the not-for-profit sector in the Western Australia. I acknowledge that it is not perfect, but it is making a significant progress made between the not-for-profit sector and the Barnett government over that amount of money. So here you have a sector that is already dealing with a state government in that process—which, I understand, has been quite long and complex.

I am not across the Queensland issue as much as I am across my home state's situation, but last year we were traversing the issue in Queensland because not enough money was being contributed to the process in Queensland. Some states have already made some progress. The New South Wales government was in the media a couple of weeks ago saying that it did not think the intended offer from the Commonwealth was enough.

However, I go back to where the individuals are with their negotiations with the Commonwealth. The not-for-profits get an offer from a Commonwealth department and it may or may not be adequate and they may in fact contest it. As I understand it, there is a process whereby they can contest that. I have now established through estimates—and I would like to know if this is in fact correct—that if I am not-for-profit A and I contest an offer from DEEWR, for example, it will not affect the offers that I have from the other agencies that I deal with if I am happy with the offer. Originally, there was a suggestion going around that if, as not-for-profit A, I contest that offer, that puts all my offers on hold.

Bear in mind that if I, as not-for-profit A, have three or four grants and am negotiating with three or four agencies at the same time, then I am also trying to work out what is going on through any grants, money or projects I have via a national partnership agreement where the money is being delivered via the state. Then I have to deal with the state over that process. So that is another complicating factor. These are the sorts of issues that I would like to get a bit clearer.

I think that is one of the reasons that ACOSS were strongly advocating for a more nationally consistent approach. They were also really clear that the full range of work undertaken by the not-for-profit sector needs to be taken into consideration and that funding needs to be delivered, determined and allocated through a transparent formula—and I have just traversed some of the complexities about negotiating this outcome.

I am not trying to minimise the fact that this is a complex situation, but it is very difficult for the not-for-profit sector to deal with this complex situation when what they are trying to do is deliver services to the community. This is time taken away from their real missions and real work.
The offer that the Commonwealth will be making will be based on their assessment of what work is undertaken by the organisation as part of Commonwealth related activities and under the industrial relations instrument. That is where it gets complicated for my home state of Western Australia, because Western Australia has not referred its industrial relations powers. So there is some disquiet and potentially some disagreement between what the Commonwealth have calculated as their contribution to the services that are provided by those workers that are employed under the federal industrial relations system.

I have traversed this issue in estimates as well, and I understand from the answers that I got in estimates, in particular from the discussion I had with DEEWR—it is all very well getting reassurance from DEEWR, but I would like the government to confirm this—that, regardless of how the Commonwealth has calculated the percentage of people employed by not-for-profit organisations in Western Australia that come under the ambit of this particular mechanism, if their calculation is wrong, they will still ensure that, if it is a higher percentage, all of those services will in fact be paid. So I am seeking government assurance on that particular point.

The other issue, which touches on the issue that I traversed before, is the implementation cost of this to not-for-profit organisations. I think this is where Senator Cash was going in terms of the impact it has on not-for-profits in terms of implementation. All the not-for-profits that I have spoken to—and I speak to a great many—support this mechanism. I am not for one minute saying the not-for-profit sector are not supporting this mechanism. But what they are very clear about is that there is an implementation cost around these particular issues. ACOSS termed it as an industry support package to ensure that there is additional support to the sector to be able to address this particular issue. I understand the government has not taken up that issue, but I would like to ensure that there is some measure of support for the not-for-profit sector to be able to engage in the ongoing process of negotiation, because it is very time consuming, particularly, as I understand from Senate estimates—and it would be good to have this confirmed—that offers will be going out some time in late November. I would like to confirm what the timing is for the offers that would be made through the state and federal negotiation process—the agreement/partnership process. What has been put to me by the not-for-profit sectors is they particularly would like to know—and it goes to that issue I raised earlier around appeals—the process by which services can appeal the offers made of government funding. They believe it needs to be an independent mechanism to determine the basis on which governments or departments determine services covered by the equal remuneration order, as well as to review the quantum of offers they have made. I would specifically like the government to address that issue.

They also have ongoing concerns that the process of supplementation funding by the Australian government should include an independent process of audit or evaluation throughout the life of the implementation period to ensure that the value of the equal pay decision is maintained. They appreciate—and I appreciate—that these bills are not specifically about that, but quite frankly we are not going to get an opportunity through this place to traverse these issues. They are fundamental to how this funding is going to roll out. They are fundamental to the ongoing viability of the not-for-profit sector.
I would appreciate the government answering those questions, if they can, during the summing up contribution. The not-for-profit community is vitally interested in these issues, in particular in my home state of Western Australia where we do have the added complexities of (a) not being part of the federal industrial relations system and (b) having already been through an equal pay equity process. I am not critical of that. Western Australia is in a lucky situation in that respect, but it does bring with it some additional complexities. I would like to traverse those issues through either the summing up or the Committee of the Whole. I promise I will do it very quickly.

**Senator Farrell** (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (12:31): I thank those people who have spoken in this debate. I will make a few comments about the legislation generally and then I will respond as best I can to the questions that Senator Siewert has asked me. We will see if that solves the problems. If not, then we will see what it will take to solve the problems.

This Social and Community Services Pay Equity Special Account Bill 2012 establishes a special account under the Financial Management and Accountability Act 1997, underpinning the Commonwealth’s contribution of around $2.8 billion to Australia’s social and community services workers following Fair Work Australia’s historic equal pay ruling earlier this year. The Fair Work Australia landmark decision awards equal pay to social and community services worker sector workers in recognition of their tireless work for our community and details how those pay rises are to be delivered. Under the order, around 150,000 of Australia’s lowest paid workers will benefit from substantial pay rises of between 23 and 45 per cent phased in from 1 December 2012. The vast majority—120,000—of the workers who will benefit from this order are women. These workers make a real difference every day to the lives of many vulnerable members of the community, taking on some of the most demanding jobs including counselling families in crisis, running homeless shelters and working with people with disabilities and victims of domestic violence or sexual assault. Around $2.8 billion in funding is being provided to meet the Commonwealth share of the costs of these pay rises for social and community sector workers. The pay increases are to be phased in over eight years in nine equal instalments from 1 December 2012 through to 1 December 2020.

The Commonwealth supplementation will be provided through funding drawn from the special account by eight Commonwealth agencies. It will be allocated to assist employers who are directly and indirectly funded by the Commonwealth for the purposes of the program prescribed under the new legislation and who are required to make payments to their employees under the Fair Work Australia order. The phased introduction recognises the complex funding arrangements in the sector which involve local, state and territory governments, not-for-profit organisations, commercial providers and the Commonwealth. A significant amount of funding will be provided to the sector through state and territory governments for agreements with the payments to the states and territories such as the national partnerships payments, the national specific purposes payments. This bill will enable funding to be paid to the COAG Reform Fund established under the COAG Reform Fund Act 2008 for this purpose.

Every day the social and community service sector delivers vital services to hundreds of thousands of vulnerable Australians. Not only are these workers...
deserving of a fair day's pay for a fair day's work, but properly valuing caring work and providing decent wages in industries dominated by women is an important part of keeping our economy strong and resilient.

There are some consequential amendments, assuming that this bill passes. I will comment on those before I start to respond to Senator Siewert's questions. The Social and Community Services Pay Equity Special Account (Consequential Amendments) Bill 2012 makes one minor amendment to existing Commonwealth legislation to complete the new arrangements. This amendment will insert into the COAG Reform Fund Act 2008 a note pointing out that an amount may be credited to the COAG reform fund under the new social and community services pay equity special account.

The first question of Senator Siewert relates to what the supplementation is covering. The response to that is a phase in over eight years as part of our equal remuneration order. The Commonwealth will pay direct funding through the Commonwealth and state agreements. The second issue relates to disagreements over the amount of supplementation and appeals. The response to this is that, if an organisation disagrees with an offer, they raise it with the relevant departments, provided there is evidence that their costs are higher than the government estimates, and then the government will recalculate. This information will be online in the next two weeks and in letters and offers.

The third question relates to Western Australia: has the government underestimated the costs involved in this? I know you are from Western Australia, so you have a special interest in this. The Australian government is committed to paying its fair share of the costs, and organisations will not be disadvantaged. The condition of the offers will be going out to all of the incorporated and public companies in Western Australia in November this year. The Commonwealth is negotiating with the states and the territories to deliver supplementation in a fair and transparent process.

Senator Siewert, I am sure you will indicate to me if there is something I have missed. If you require any further information, I am happy to attempt to provide that to you.

Question agreed to.

Bills read a second time.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:39): I would request that we go to Committee of the Whole. I will commit to try to get it done by the time we break at 12.45. I would just like to put some questions through the chamber that the minister could take on notice.

In Committee

Bills—by leave—taken together and as a whole.

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In Committee

Bills—by leave—taken together and as a whole.

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (12:40): The answer to that is they are still proceeding.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:40): Thank you. Is there a time line once the appeal process starts? What is the time frame for
resolution of that? Is there a mechanism to
go to an independent resolution process if
there cannot be a resolution with the agency?

Senator FARRELL (South Australia—
Parliamentary Secretary for Sustainability
and Urban Water) (12:40): The answer, as I
understand it, is that it is 30 days from the
time that we have the response, but there is
no independent process.

Senator SIEWERT (Western Australia—
Australian Greens Whip) (12:41): Does that
mean it is 'take it or leave it' after 30 days?

Senator FARRELL (South Australia—
Parliamentary Secretary for Sustainability
and Urban Water) (12:41): We will be
basing the response on their costs, as long as
we have the evidence in relation to that.

Senator SIEWERT (Western Australia—
Australian Greens Whip) (12:41): Thank
you. I appreciate the minister's answer in
terms of commitment to the Western
Australian situation with the federal IR
process. In terms of the partnership or the
appeals process, where the Commonwealth
is negotiating with the state, I can see the
not-for-profit sector getting caught between
the Commonwealth and the state. Is there a
process that you have in mind for resolving
any disputes there?

Senator FARRELL (South Australia—
Parliamentary Secretary for Sustainability
and Urban Water) (12:42): I thank Senator
Siewert for the question. We are negotiating
with the states over those and hope to have a
satisfactory outcome.

Senator SIEWERT (Western Australia—
Australian Greens Whip) (12:42): I am not
trying to be dense here, but do you mean
over the whole process or an appeals
process?

Senator FARRELL (South Australia—
Parliamentary Secretary for Sustainability
and Urban Water) (12:42): I am talking
about an appeals process for the
Commonwealth-state relations.

Senator SIEWERT (Western Australia—
Australian Greens Whip) (12:42): I thank
the minister for his answers. If I require any
more detail, I will put that on notice.

Bills agreed to.

Bills reported without amendments; report adopted.

Third Reading

Senator FARRELL (South Australia—
Parliamentary Secretary for Sustainability
and Urban Water) (12:43): I move:

That these bills be now read a third time.

Question agreed to.

Bills read a third time.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT
(Senator Boyce): Order! It being
almost 12.45 pm, with the House's concurrence we
will move early to matters of public interest.

Asian Century

Senator POLLEY (Tasmania—Deputy
Government Whip in the Senate) (12:44): The Prime Minister is to be congratulated on
the leadership and vision she has offered our
nation through the Australia in the Asian
Century white paper, unveiled last Sunday.
As we know, the white paper delivers a bold,
comprehensive and pragmatic blueprint for
policymakers both within the government
and in the wider community, particularly
those driving policy within industry and
education.

The Asian century white paper is both
solidly pragmatic and boldly strategic. The
white paper is pragmatic because it responds
shrewdly to the realities of the world we find
ourselves in as a nation—a world in which
over the past 20 years China and India have
increased their absolute economic size
almost six times over and have tripled their
share of the global economy; a world in which by the end of this decade Asia will overtake the economic output of Europe and North America combined; a world in which by 2025 our Asian region as a whole will account for almost half the world's output. The white paper is boldly strategic because, as the Prime Minister has reminded us, 'The whole world is moving eastwards,' and that places our nation of Australia in a uniquely advantageous position. Our geographic location, our high standard of living, along with our well-resourced and highly skilled education sector can and will provide Australia with a valuable edge, if the government is given the opportunity to lead our nation into the Asian century.

Of course, a central feature of the Prime Minister's bold vision for our nation is education. The Asian century will afford Australia countless opportunities to boost our national income and lift productivity. But in order to take advantage of those opportunities we must as a nation become 'Asia literate'—that is, all Australian students must gain a better understanding of the culture, history and languages of Asia. In this way, future Australians will be equipped to engage meaningfully and productively with our Asian neighbours, who are rapidly becoming the economic powerhouse of the world and are increasing in global strategic importance.

The Minister for School Education, Early Childhood and Youth, Mr Garrett, has been explaining to the public how Asian literacy will be achieved through the three educational objectives to be implemented nationally. Those objectives, as you know, are: that every Australian student will have significant exposure to studies of Asia across the curriculum to increase their cultural knowledge; that all students will have the opportunity to study an Asian language from their first day of school through to year 12—priority Asian languages will include Chinese-Mandarin, Hindi, Indonesian and Japanese; and that Australia's school system will be in the top five schooling systems in the world, delivering excellent outcomes for all students of all backgrounds and systematically improving performance over time, as outlined in the National Plan for School Improvement. These are bold objectives but ones that must be pursued if Australia is to position itself to harvest the rich opportunities that the growth of the Chinese, Indian and Indonesian economies will present. If we are strategic in our education policy, we can create thousands of high-tech, high-skill and high-wage jobs for Australians.

In concrete terms, the government will require that, from the first day of school, all students will have the opportunity to study Asian culture, history and languages, and all Australian schools will engage with at least one school in Asia to support the teaching of a priority Asian language including through increased use of the much anticipated and beneficial National Broadband Network. The Commonwealth government will negotiate these educational reforms with the states and territories under the National Plan for School Improvement. The government have already made it clear that we are prepared to pay our fair share in delivering the National Plan for School Improvement, including the Asian languages objective.

The visionary educational objectives of the Australia in the Asian Century white paper will build on the significant investments already being delivered by the Gillard government in education, including: $62 million to increase the number of Australian students becoming proficient in languages and understanding the culture of China, Indonesia, Japan and Korea under the National Asian Languages and Studies in Schools Program; $41.2 million to support
flexible delivery of language education, including online materials for teaching students in key areas, including about Australia's engagement with Asia; $22.8 million to promote the study of Asia across all curriculum areas in Australian schools through the Asia Education Foundation; substantial investment in developing languages curriculums, with Chinese-Mandarin being one of the first developed; and $27.2 million for the NBN-Enabled Education and Skills Services Program, including the Asia ConneXions Utilising HD-Videoconferencing project.

Given the investment the government is already making and is committed to continue making in negotiation with the states and territories, it is disappointing to see the negative reaction of the Liberal states, especially when you consider that the white paper has been warmly welcomed by business and Asian experts. Industry has no problem understanding the importance of Asian literacy for Australian prosperity. That is why employer groups have welcomed the white paper. Jock Laurie of the National Farmers Federation is just one industry spokesperson who has welcomed the white paper, saying in his statement to the Adelaide Advertiser:

… the important role for farmers in providing food, fibre, knowledge and expertise to the Asian region, and the challenges we must overcome to succeed in doing so, have been recognised. That is why the government will push on, regardless of the nay-sayers, and work with business and community groups to encourage students to study Asian languages, history and culture.

The Gillard government, along with Australian industry, understand that we face a choice as a nation: either we drift into our future, as the opposition would have us do, or we actively shape it. The Prime Minister's white paper is a bold attempt to respond creatively and strategically to the world in which our nation finds itself at the dawn of the Asian century. It reminds us that how we are positioned as a nation in 10 years from now, in 20 years from now and in 50 years from now will depend on the choices we make, the directions we take and the policies we implement now. We cannot afford to bury our heads in the sand and wait for the future to happen to us. We cannot afford to sit around braying like Mr Hockey on Lateline last Sunday that planning strategically for Australia's future is 'a waste of time'. The Gillard government's plans for Australian education are visionary. Our determination to make Asia literacy a core feature of Australian education and industry is ambitious but it is also necessary and it demonstrates this government's commitment to act now to ensure a promising future for our children and grandchildren.

But what vision does the opposition have to offer Australia? If the Prime Minister's white paper is a 'waste of time', as Mr Hockey would have us believe, let us hear what the opposition has been spending its time planning. Let us hear what directions the opposition is setting, what decisions they are making, what policies they are seeking to implement to achieve the best educational outcomes for Australian children and to ensure the welfare of Australian families. We know what the opposition has been planning. Mr Hockey announced it proudly on last Sunday's Insiders program. Let me outline for you the opposition's bold vision for the future of Australian schools and for the welfare of Australian families. Madam Acting Deputy President, I am sure you know better than I what your plan is.

For a start, Mr Hockey announced proudly that the opposition plans to destroy, at its first opportunity, Labor's Schoolkids Bonus. This visionary piece of policy will hurt 1.3 million families straight off the bat. For
those 1.3 million families—families whom our government has determined can do with a little extra help with their educational expenses—Labor's Schoolkids Bonus is worth $410 a year for each primary school aged child and $820 a year for each of their high school children. It is not much, some may say, but it makes a big difference to Australian families with children at school who are struggling to make financial ends meet. It is not a lot, perhaps, but over the duration of a child's education it equates to significant assistance to their family. By destroying Labor's Schoolkids Bonus the Liberals intend to rip away about $15,000 from a typical family with two children over the time that their children are at school.

And how did Mr Hockey justify the opposition's plans to sabotage much-needed assistance to these 1.3 million families with school children? He claimed, ignorantly—very ignorantly for a shadow Treasurer—that the Schoolkids Bonus is budgeted to be funded by the mining tax. But Mr Hockey knows by now, if he did not know before, that the money for the Schoolkids Bonus has already been accounted for in the federal budget and has nothing to do with the mining tax. So it is clear that the opposition's plan to scrap the Schoolkids Bonus is not a reaction to a projected shortfall in income from the mining tax, as Mr Hockey would have us believe. It is not a reaction, it is a deliberate policy decision. It is part of the opposition's 'grand vision' for Australian education.

What is step 2? Again, according to Mr Hockey on Lateline, if the opposition get into office we can count on them to not reinstate the education tax refund. So they will destroy the Schoolkids Bonus, ripping $15,000 from a typical family over the course of their children's schooling, but they will not replace it with their own education tax rebate. And this is despite the fact that their own website currently advertises their promised commitment to increase the tax rebate for children's education. I have it here; I printed it off their own website. Their 'Real Action Plan' to reduce pressure on families hinges on 'increasing and expanding' the tax rebate for children's school expenses. So one has to ask the question: when it comes to opposition policy on financial assistance to families with school children, which Real Action Plan is the real action plan? Is the real action plan the one they promised which is still advertised on their website or is the real action plan the one announced by their shadow Treasurer on national television?

The opposition's grand vision for helping Australian families and improving Australian education promises no Schoolkids Bonus and no education tax rebate.

But wait, there's more. It seems the shadow Treasurer's ambition for our nation knows no bounds. Mr Hockey also confirmed loud and clear on Lateline that the Liberal Party plans to slash up to $600 a year in extra family tax benefit payments. This means that 1.5 million Australian families will lose up to another $600 from their annual budgets. And all this is on top of the Liberals' planned cuts to the household assistance package which includes tax cuts for workers and increased family payments and pensions. The Labor Minister for Families, Community Services and Indigenous Affairs, Jenny Macklin, put it correctly when she said that Joe Hockey's plan is 'to wreck the household budgets of Australian families'. So the opposition's grand vision for Australian families and
Australian education hinges on misinformation, cutbacks and negativity.

Mr Hockey also tried to convince the Australian people that the Australian economy has collapsed and is flatlining. And this is despite midyear budget predictions which give every indication that the economy will continue to grow close to three per cent this financial year. It seems pretty clear to me that the only thing that has collapsed or is flatlining at the moment is the opposition’s sense of vision for the future of this nation. Their imagination has flatlined, their ambition has flatlined, their courage has flatlined. They have no positive vision to offer. All they have left to give us are misinformed justifications for negative policies and complaints that our visionary policies are ‘a waste of time’.

In contrast, Labor offers our nation the bold vision of the Prime Minister’s Asian century white paper, a vision which, as I said, is both solidly pragmatic and shrewdly strategic. Our Prime Minister has made a choice. She has chosen to set a clear direction for our nation. She has chosen to implement policies now that will pay dividends for our children and grandchildren into the future. The nation as a whole also needs to make a choice. Leaders in education, industry and the community need to make a choice: either we follow the Prime Minister’s leadership and position ourselves strategically for the Asian century, or we hang back with the opposition and wait for the future to happen to us, hoping it will all turn out all right. (Time expired)

Australian Public Service

Senator MASON (Queensland) (12:59): I rise today to speak on a matter of public interest. It is of public interest because it concerns Australian public servants and, in particular, absenteeism in the Commonwealth Public Service. Absenteeism in the Commonwealth Public Service has been steadily increasing over the last decade or so. By way of contrast, in recent years in Australia’s private sector unscheduled absences have been falling, with employees having to work longer and harder to keep up with the demands of the tougher economic climate. The fact that employees of the Commonwealth Public Service are taking more and more sick leave and other types of leave is not strictly a partisan issue. I first raised this matter in parliament in 2004 during the previous coalition government. Indeed, it is not strictly a political issue, although some will say this is an attempt to score cheap political points by attacking public servants and their so-called ‘sickies’. They are wrong. Not only that; they are trivialising an issue that affects the value every taxpayer gets for their tax dollar.

The facts are very simple. The rates of unscheduled absence in the Public Service have been increasing steadily over the last nine years. In 2001-02 the median unscheduled absence rate was 8.9 days per year per employee, of which sick leave accounted for seven days and other types of leave for the remaining 1.9 days. In 2010-11, the rate of unscheduled absence climbed to 11.1 days per year per employee, of which sick leave accounted for 8.4 days. This means that in nine years, unscheduled absences in the public service increased by 25 per cent or 2.2 days per year per employee. The median figure hides a great divergence across government departments and agencies, with the levels of workplace absence varying widely from 3.9 days per employee to 23½ days per year per employee. It is a huge difference—23.5 days median absence is a lot. That is almost five working weeks which, combined with four weeks of annual leave, means that some employees are not working for almost 9 weeks, or two months a year. This is not the
experience of those working in the private sector. While reliable data is hard to come by, Direct Health Solutions in their 2011 absence management survey reported that while absence levels across Australia fell for the first time in three years, public sector employees took 22.5 per cent more time off than those in the private sector.

Why has the rate of public service absenteeism been so high and why is it still rising? Over the years, as I have questioned the Australian Public Service Commissioner and other Australian Public Service officials at Senate estimates, I have received a range of different suggestions. One time I was told that there had been a particularly bad flu season that year. This might have explained a temporary spike in numbers, but not a consistent trend across the course of nearly a decade.

Another time I was told that public servants are on average older than private sector workers; therefore, they get sick more often. The Public Service indeed has a different age profile than the labour force as a whole; that is true. The Public Service is more middle-aged than the private sector; but the private sector has larger cohorts proportionately at the younger and the older ends of the spectrum. In any case, the Public Service Commission does not collect data on absences across the various age groups, so this is merely guesswork and a hypothesis unsupported by any data. Do 40- to 50-year-olds take more leave than 20- to 25-year-olds? I am not so sure, and in any case there is no data.

On yet another occasion I was told: …the dominant reason those numbers have been rising is the use of carer’s leave. This, too, turned out to be a furphy. The data clearly shows that the increase in carers leave accounted for only 0.3 days’ increase in absences between 2006-07 and 2010-11 out of a total of 1.7 days increase in overall unscheduled absences over the same period. Carers leave accounts, therefore, for just over one-sixth of the explanation for the increase in unscheduled absences.

We still do not know why public servants take more sick and other leave than private sector employees. We also do not know how much this problem is costing the taxpayer. We do not even know that, because, as I was told: The Commission does not collect data on the cost of unscheduled absence.

I even had difficulty in assessing the performance of public sector agencies and the public sector as a whole because of the opacity of the information provided in the commission’s annual report and, more importantly, the State of the service reports. I will be watching to ensure that there is sufficient clarity in future information provided in annual reports and the State of the service reports so that parliament and the public can hold agencies and the commission accountable for their performance.

But do we know if anyone is doing something about this problem—that is, a 25 per cent increase in unscheduled absences in less than 10 years? The Australian Public Service Commission is an umbrella agency whose vision is: To lead and shape a unified, high-performing Australian public service.

When in February this year I asked the commissioner, Mr Stephen Sedgwick AO, whether he has a responsibility to act to reduce absenteeism, he answered: …I do not actually manage a hundred agencies across the Australian Public Service; I manage my own. … … …

But we are quite keen—and we have—to share good practice and that is what we tend to do. In
these circumstances we encourage good practice and we promulgate good practice.

Or, as the commissioner put it to me in the budget estimates in May this year:

We can exhort and we can test but ultimately it is the manager who has to do that—

that is, to deal with the problem of absenteeism. So, how much exhorting and testing has the commission been doing? In 2006, two years after I first raised the issue of absenteeism with the commission, it put out a document called Fostering an Attendance Culture: a guide for APS agencies. It was a good document but, as I discovered recently, it has not been updated or re-issued since 2006. I also discovered that absenteeism had not been placed even once on the agenda of the Management Advisory Committee or its successor, the Secretaries Board, for the past five years. The board consists of the commissioner and secretaries of all departments and is charged with the stewardship of the Australian Public Service.

I have been told, though, that absenteeism has been taken up at internal human resources management forums. Well, the data speaks for itself. For whatever encouraging and promulgating good practice has occurred, whatever exhorting and testing, it clearly has not worked. The problem persists and it continues to get worse.

In the end, though, what it comes down to can be summarised, perhaps, in one word—that is, leadership. The Australian Public Service Commissioner's annual report was tabled today in this Senate. On the front cover, in colour, it shows what the aims of the Australian Public Service Commissioner are and right on the left-hand corner is 'Effective Leadership'. I noted it when I picked up the annual report—effective leadership—so this is about leadership. Moreover, it is true that the commissioner does not have a statutory responsibility or, indeed, statutory powers to oversee all government departments and agencies and to intervene, for example, to deal with the rising rates of absenteeism. I accept that. But as noted in the annual report tabled today: the commission will assume greater responsibilities for issues such as absenteeism under proposed amendments to the Public Service Act.

In any case, the commission is the top Public Service body. It is the only body that has the reach and the perspective to inspire and guide collective action. If not the commission, then, who else? If the commissioner does not do it, who else then will do it? Who else is in a better position to understand the factors that have caused a 25 per cent increase in absenteeism and lead a whole-of-government approach to reduce the current high levels to something more comparable to the wider workforce?

I was glad to hear at estimates the other day that absenteeism will finally be placed on the agenda of the Secretaries Board's meeting in November. It has taken five years but this is a start. I do hope that the commission will use its moral authority and the power of persuasion to lead the Public Service in seriously addressing this issue. In these tough times, when more is being asked of all Australian workers, we should expect the public sector to also pull its weight and those with leadership positions in the Public Service to take substantial action when this does not occur. I make no apologies for that.

I recognise the hard work of the Australian Public Service and I thank it on behalf of, perhaps, all senators for the contributions in diligently performing their duties, in particular, of course, during Senate estimates, which I suspect—it might be fun for some of us—might be rather harrowing for some of the public servants. Australian
taxpayers deserve a public service that is functioning as effectively and productively as it can, is managed competently and is administered to ensure best value for money. It is a shame that the Australian Public Service Commission has made so many excuses but made such little effort to combat public service absenteeism. Let us all hope that next year brings some improvement.

Cycling

Senator LUDLAM (Western Australia) (13:11): I rise this afternoon to make some observations about cycling in Western Australia and, in particular, in my home city of Perth. There are very few experiences more frustrating than sitting in a crushing traffic jam. I live in Perth WA, which is one of the most car-dependent cities in the world. While the state government is still sucking down hundreds of millions of dollars in Commonwealth transport funding to add extra lanes to our freeways, and effectively just make our traffic jams wider, I think Perth and the residents of Perth are looking for a different transport future. Public transport is obviously a very big part of this. I have spoken at length about our light rail proposal and getting more out of our bus system. Getting freight off roads and onto rail is also a big piece of the picture, as is higher frequency train services and better land-use planning to bring people closer to jobs and services.

Today, I want to talk about something simpler—bringing back the bike, not just as some marginal afterthought in our transport planning and thinking but as a central element of transport planning, giving us an alternative to the private car, reducing obesity and keeping us fit, improving air quality and, perhaps most importantly of all, providing us with a more enjoyable way of getting from A to B. We know the benefits: the statistics are very familiar, but for some reason we spend at a state and Commonwealth level only an absolute pittance on cycling. It is as though, somehow—and I have spent many sessions in budget estimates trying to unpick the thinking behind the total absence of Commonwealth spending on cycling—this is not seen as infrastructure for grown-ups. Grown-ups do freeways and freight rail and ports but cycling somehow is seen as being something not serious enough to really bother with.

At a state level, the Perth bicycle network is half built, poorly maintained, disconnected, fragmented and it is patently dangerous in some parts—and regional towns in Western Australia are really no better. Instead of a well-connected network, allowing people to get safely from anywhere to anywhere without mixing it up with fast-moving motorised traffic, it is as though parts of the Perth bike network were written in morse code—just bits and pieces of bike lanes that disappear and reappear totally at random. This really matters. The biggest reason given for not cycling, particularly for parents justifying not sending their kids out to school on bikes, is safety.

In Perth, we have some of the world's worst practice going on right now. We force cyclists to share road space with fast-moving motorised traffic. This kills and injures people. In a collision between a car and a cyclist, the cyclist will always come off second best.

One thing we do have in Western Australia is an abundance of good cycling advocates, so there is every reason to believe that we are on our way to turning the situation around, and there are certainly some signs of hope. Over the last 12 months or so, my office has been working with some of the best cycling advocates in the country, particularly in Perth with Heinrich Benz of
the Bicycle Transport Alliance, Clint Shaw of West Cycle and Marianne Carey of the RAC. As this lobby is going around the country, the RAC is doing really useful and important work on mobility. The RAC see mobility as a much bigger picture than simply being able to drive a car. I congratulate the RAC in WA for the leadership position that they have taken. We have also been working with Garry Chandler from Cycling WA and Jeremy Murray from Bicycling WA.

Nationally, we have been working with Stephen Hodge, who is a tireless advocate through his work in the Cycling Promotion Fund. I also want to mention Harry Barber from the Bicycle Network Victoria who I had the good fortune to meet when he was briefly in Western Australia earlier this year. I could not go without mentioning Lynn MacLaren MLC, our state transport colleague in Western Australia, who also cares a lot about safety for cyclists and about creating a sustainable cycling network for our city. Over the last year or so, Chantelle Caruso in my office has worked very, very hard to pull this together to produce a costed proposal—we were actually hoping the state government would do this—that would not only finish the Perth bike network but make it world-class.

As our city grows, we want to make sure we are not forgetting cyclists and leaving them behind but also retrofitting, back-fitting those parts of the city where we have almost intentionally designed cyclists out of the transport picture. The proposal and the purpose is to harness the potential that Perth has for this bike plan and make it one of the best cities in the world and certainly one of the best in the country for cycling. We have some of the best weather of anywhere in the country. We have flat topography. We have perfect circumstances for making a serious go at being the best cycling city in the world.

Our target date is 2029. The outcomes we are looking for are that 29 per cent of all trips will be made by bike—currently that level is about six per cent; and 15 per cent mode share by 2029—that is, commuter cycling, how people get to work. At the moment in Perth less than 1½ per cent of people choose to get to work by bike. This can change. Our target is to really raise these levels up.

Funding for cycling should reflect these aspirational targets and we want a dedicated proportion of the state and federal transport budgets to be allocated to cycling. Our state transport target arrived at with Lynn MacLaren MLC is three per cent. If you were to just hive off three per cent of the state transport budget for cycling, here is what you could do. By 2029, we could deliver around 6½ thousand kilometres of safe and, most importantly, separated bike lanes and paths that would cover around 50 per cent of our roads. This could be done. Look at how it could be incrementally done over a period of years. There would be 300 kilometres of principal shared paths—effectively, these are the cycling highways, the commuter freeways, for getting rapidly from A to B. The Perth bicycle network has half of this plan completed. So this is about filling a gap of nearly 140 kilometres and then adding new routes to fill in the principal shared path network.

There would be at least 2,000 kilometres of local bike routes—this is the backbone of the system that allows people to get from place to place. The Perth bike network is half-finished and it is time we completed that job. There would be a new 2,000 kilometre network of protected crosstown bike paths. This is about not just looking at the needs of motorists of getting from place to place but how cyclists get from suburb to suburb or from activity centres to shops or to places of work. They would be located mostly on
district distributors—that is, subarterial roads—to connect neighbourhoods together.

Perhaps, most importantly, there would be a new network of 1,800 kilometres of safe routes to schools. It would also take in railway stations and major employment hubs. Schools are what we really want to focus on. We are at risk of losing a whole generation of kids to the joy of the bike. That is something that we can fix. Parents and kids need to be given the confidence that they will not be sharing road space with fast-moving, motorised traffic. Safe routes to school are an absolutely key component of the plan that we are releasing.

Lastly, there would be an entirely new 120-kilometre greenways network of safe, continuous, separate bikeways, running through some of Perth's spectacular natural bushland assets—the valuable parklands and the wetlands; those areas of urban bushland that remain on the Swan coastal plain.

That is the vision. That is the plan that we want to deliver by 2029. And it can be done with three per cent of the state's transport budget. That comes to around $64.2 million per year. It is also very important that we remember not to let the Commonwealth government off the hook. Again, this is something that the Greens have been pursuing and working on, certainly since well before I got here.

The fact that there is no Commonwealth appropriation for cycling is an absolute scandal. We are being ripped off. Millions of Australians enjoy getting out on their bikes but they are not confident that it is necessarily going to be safe to do so. It is absolutely no longer appropriate for the Commonwealth to sit back and expect local governments and the states and the territories to pick up the slack. It is absolutely urgent that we get a Commonwealth cycling appropriation in place. We have proposed an $80 million national cycling fund and we put that to Treasury last year. Here is the scandal: the only way at the moment that you can get the Commonwealth interested in putting in a cycle lane anywhere in the country is if it is next to a freeway. If you have a freeway proposal costing billions of dollars, yes, the Commonwealth can make it three feet wider and stick in a bike lane, and maybe if we are lucky they will paint a line down the side of the road. Again, we are noticing in Perth that this is world's worst practice; this is how not to protect cyclists.

Under no circumstances, if you have high volumes of traffic moving very quickly along a freeway, should you paint a white line on the side of that road and tell cyclists to share that road space with traffic. That is what is causing injuries and indeed deaths. So there are much better ways of doing this. We have plenty examples of good practice here in Australia and some wonderful examples from around the world of how to do this well. We want an $80 million Commonwealth cycling fund and we will be taking the proposal into the next budget cycle as we have done for the previous two. We know that this can work. One of the lesser known components of the government's stimulus package, passed and modified with the support of the Greens, was the $40 million cycle package. The reason that I say it is little known is that it was not scandal plagued; it worked. No bad news came out of it. It was not on the front page of any papers but it produced hundreds of kilometres of new cycling infrastructure. It was very well regarded and, apart from some useful critiques raised by the Auditor-General in its recent report, it is something that we think should be scaled up and made a standing appropriation.

Finally, there is local government funding. Local government already picks up the vast majority of cycle funding in this country. We
want to acknowledge that but we also want to provide sources of matched funding so that our local governments can get on with the job. If you total that up for Western Australia, pro rata, that amounts to a fund of $80 million per year. A fair chunk of that going to a Perth bike network and the remainder going to regional cycling infrastructure gets you the 6½ thousand kilometres of fully integrated cycling network for the city of Perth that will genuinely look after the interests of cyclists.

As well as the advocates whom I mentioned earlier, we have spent a huge amount of time working with people in Perth who actually use the bike network, such as it is. Six months or so ago, my colleague Rachel Pemberton developed an iPhone app to crowdsource bike black spots. If you visit bikeblackspot.org, you can actually see it working. We launched this earlier in the year in Perth but we have also launched it across Australia—in Sydney, in Melbourne, in Adelaide, in regional centres, including Geraldton and Newcastle—I was going to say 'including Hobart', but that would probably get me into trouble.

If you visit that URL you will see it working. You can photograph the black spot, the place where the network has just tried to spit you into fast-moving traffic or where there might be a maintenance issue, or you can photograph an area that really works for you—a piece of network that works. It sends that photograph, it sends any notes that you add and it sends your location to the transport minister, Anthony Albanese. It also sends it to your state transport minister and it pins that photograph and that annotation to a Google map. The public can now see, and planning authorities can now see, where cyclists are reporting the black spots.

It has been extremely popular. I got an email this morning from some folk in Queensland, who have thanked us because the black spot app has fed back into a decision to improve a place that people were complaining about—that was dangerous and that was throwing people off their bikes. So the system is working. We want three per cent of the state transport budget to do this within 15 years, we want $80 million from the Commonwealth transport budget, and then we want to let people get on with the job of building a world-class cycle network for Perth and for other Australian cities. But we do need these dedicated funds. We have to kick this idea that the only serious infrastructure is freeways, railways and ports.

Although we have not been able to persuade the Commonwealth to actually provide some money to back these ideas up, there are some signs of hope. I have very high regard for the people in the Major Cities Unit. They are conducting or have conducted an active transport study that will hopefully, once and for all, put the evidence base on the minister's desk and make the case that it is time to get on our bikes. To be able to do that—and Australians want to do that—we need to provide the infrastructure so that parents know their kids are safe when they are on their bikes on the road and so that people can take it up in a major way, as they have done in cities all over the world, and remember the joys of the bike.

Foster Carers

Senator THORP (Tasmania) (13:25): I rise today to acknowledge the hard work of Australian foster carers. These individuals truly are an inspiration and deserve the most sincere acknowledgement for their commitment to provide love, care, support and safety to children and young people in need. As a community, we know it is not always possible for children and young adults to live with their biological parents.
This may produce death, abuse, neglect, addiction or other issues. Foster carers dedicate their time, their home and their love to children who are unable to live with their immediate family members. Foster care is often used to provide temporary care for young people while their biological parents are getting help sorting out their own problems. Foster care may also be a way of providing role models for children or young people to assist them through difficult periods in their lives.

Being a foster parent is not like other volunteer service. It is not a volunteer service that ends at the end of the working day or that can be measured in hours of service. Being a foster parent is a 24-hour a day, seven days a week, commitment. This commitment may last for many years or, in some cases, even decades. It is a whole-of-community duty to protect children who are unable to live with their immediate family members. When it comes to supporting these children, our responsibilities are clear and indisputable. When unfortunate family circumstances arise, foster carers selflessly step into parenting roles to ensure that our children are raised in supportive and understanding environments.

In Australia there are thousands of dedicated men and women who provide guidance and support to children and young adults in out-of-home care every day. In 2009 it was reported that there were over 34,000 children living in out-of-home care in Australia. This number has since increased, creating additional demand for out-of-home care. Foster carers are invaluable citizens who come from many walks of life. They may provide care for the duration of one night or for up to 18 years under arrangements such as permanent guardianship orders. The care provided will depend on the child's needs and family situation, as well as the personal circumstances and availability of the carer.

Foster carers may live in the city or the country, may be single or in a relationship, and may have biological children already in their care. However, one thing all of our foster carers have in common is a shared commitment to our children, a commitment to better the lives of the children in their care and give them the best possible outcomes and opportunities in life. Regardless of their own personal circumstances, foster carers have decided that they have enough time and space in their own life and home to welcome a child or young person in need of their support. I am proud to note that there over 270 foster homes in my home state of Tasmania. I honour and hold immense respect for all carers who make this commitment.

Today I would like to share Clyde's story, courtesy of the Raising Children Network. Clyde is a foster parent who lives in Victoria. Clyde and his wife have been committed foster parents for over 25 years. Over this time, Clyde and his wife have cared for not just tens of children in need but over 250 children and young people. Clyde considers all of the children and young people in his care to be part of his family. He and his wife open their home to children of all ages and from all backgrounds. Many of the children in Clyde's care have come from homes where incidents of domestic violence, neglect and drug abuse are a common occurrence. Clyde commits to caring for these children and continues to support these young people even after they become independent adults.

Carers such as Clyde and his wife are truly inspirational. These volunteers contribute a valuable service to our community that is too great to measure. Individuals like Clyde, along with all other foster carers, directly better the lives of
others each and every day. But, sadly, we know that the number of individuals willing to become foster carers is decreasing. We are also aware that many foster carers who are currently contributing their support to children in need are ageing. Finding enough foster carers to support children in Australia who are not able to live with their birth parents is a major challenge we face as a nation. It is often a difficult task to attract new foster carers to volunteer their time and support.

There have also been increases in the number of children placed in out-of-home care, placing further pressures on demand. It is clear that we need to do more to promote and endorse campaigns which enhance the public's ability to locate information about providing foster care and the options that are available with regard to short- and long-term care arrangements. While providers of foster care have traditionally placed an emphasis on providing quality care and directing their resources accordingly, resources must also be directed towards recruitment. It is apparent that effective communication is the key to recruiting future foster carers. The issues surrounding foster carer recruitment and retention have been voiced by Tasmanian Child and Family Services. Child and Family Services received information in 2008 from carers suggesting that at least 20 per cent of existing carers will cease being foster carers over the next few years. The challenge and need to recruit new foster carers in Tasmania has now become a reality. A much greater effort is required by state departments to recruit and train additional foster carers.

The increasing demand for foster carers is a nationwide trend. Real Carers, Really Needed was a successful campaign, run in Tasmania, which noted the need to recruit new foster carers. This campaign represented a significant investment by the Tasmanian government and featured television and print advertising, as well as bus and taxi advertising, through 2009, 2010 and 2011. The campaign was initially run in Queensland and the Queensland government very generously shared those resources with Tasmania. While this campaign was successful in attracting a large number of inquiries and increasing the number of ready and willing foster carers, it is clear that more needs to be done.

Providing support to foster carers in our community is primarily the responsibility of state governments. In my home state of Tasmania, foster carers receive non-taxable regular payments to reimburse them for the costs associated with their role as carers. The state also provides appropriate training for carers such as after-hours emergency advice and assistance. However, as in many other states, the funding and support available from the state system is inadequate and fails to resource carers appropriately. This creates a heavy reliance on the community sector and volunteers, who by acting selflessly have often already placed themselves in difficult circumstances physically, emotionally and financially.

In Tasmania, foster carers are the primary caregivers for approximately 52 per cent of children in out-of-home care. The majority of children and young people who enter out-of-home care are between five and 14 years of age. Research compiled by Child and Youth Services Tasmania indicates that potential carers generally spend two to three years weighing up the idea of becoming a foster carer before they lodge a formal application. Support services provided by the Tasmanian government through recent reforms such as Gateway Services and the Integrated Family Support Service are crucial in assisting vulnerable families and children. Since these services have been implemented the Department of Health and
Human Services, in partnership with Child Protection Services, has already noted a decrease in instances of reported child abuse and neglect.

In 2008, a paper produced by Child and Family Services noted many issues of concern in respect of payments and reimbursements available to foster carers. Many of these issues persist today and include payment guidelines too difficult for foster carers to understand; inconsistency in the payment of reimbursements and additional allowances; and standard payments that are considered inadequate—only just covering the basic costs of caring for a child; and these payments have not increased with the rising cost of living. Foster carers are not always aware of departmental policies and allowances such as additional allowances for children experiencing temporary physical conditions or disability.

The Foster Carers' Association of Tasmania was formed by a small group of carers and has since consistently continued to provide support to foster carers in Tasmania. The association was established with the support of the Department of Health and Human Services. The association acts as a resource for many carers providing information and training, events and conferences, and support services such as a 24-hour support hotline. It also ensures there is support for families and children in areas that are lacking the support of the department due to restraints and frameworks that must be adhered to. The association ensures that all members are informed of current government policies and relevant law. It holds regular meetings in all regions of Australia, releases regular newsletters informing members of upcoming events and up-to-date advice, and has built strong partnerships with national bodies as well as Child and Family Services.

A recent grant from the Department of Health and Human Services enabled the association to purchase the FAST program from Foster Care Queensland—once again, Queensland is helping Tassie. This initiative enabled the state committee to establish this valuable program in Tasmania and allowed the director of Foster Care Queensland to travel to Tasmania to work with foster carers who will become trained delegates. The initiative involves a group of trained carers who volunteer their time to individuals to provide support, advice and information. In particular, I must acknowledge the hard work of John Flanagan of the Foster Carers' Association of Tasmania and others including Maggie Phillips, Tammy King, John Flack, Molly Arming, Roxy Moulder, Maureen Flanagan, Ken Abery and Anne Bailey for their enduring commitment to protecting and supporting Tasmanian children.

The association has also recently worked in partnership with DHHS to introduce a new model of carer payment system. The implementation of this new system was linked to the new child protection information management system to ensure that payments are made in a timely manner and with fewer errors. What is achieved by the Foster Carers' Association of Tasmania is quite significant, considering as an association they get less funding than any of their counterparts in other states. No staff are paid—all of the time and effort committed by these individuals is voluntary.

I understand that to raise a child is one of life's most rewarding experiences. However, as many other parents, grandparents caring for grandchildren and foster carers understand, many challenges exist. It is important to recognise that children who enter care often have complex needs. For children who have been placed in foster care arrangements due to abuse, neglect or
addition, the ability of foster carers to provide a secure and stable environment is vital. Therefore it is important that training is provided wherever appropriate.

Bryan Jeffrey, the keynote speaker at the National Foster Carers Conference 2010, posed the question: what training should foster carers receive? His answer was:

As much as they need; as much as they want; as much as they deserve; and as much as we can afford.

The Foster Carers' Association of Tasmania are to be congratulated for the training events they organise and oversee. Training initiatives conducted in recent months have included seminars on understanding the trauma caused by abuse, briefings on how to communicate with children about their sexuality, along with providing first aid training courses to foster carers.

Whilst fiscal and primary responsibilities may fall on state governments, there is much that can be done at a federal level. Within organisations and state agencies, there is considerable support for consistent and informed national reform to take place. In 2010, the Australian government released draft national standards for out-of-home care. These guidelines essentially recognise the need to provide support and care to children and carers. National standards are a step in the right direction. I am pleased to report that we are also currently on track to implement the plan for the National Framework for Protecting Australia's Children. Within this plan, increasing the levels of support for carers is noted as a key national priority.

I must also endorse the work of the CREATE Foundation which represents all Australian children and young people in out-of-home care. CREATE Foundation is Australia's peak body representing the voices of all children in out-of-home care. The once small, volunteer-driven group founded in 1993 by Jan Owen is today a national organisation with offices located in every state and territory of Australia. CREATE plays a vital role in organising programs and events, and is a loud and influential advocate for children and young people.

We must acknowledge that foster carers are a vital part of our society. The support and services foster carers volunteer to our communities are truly significant not just in my home state of Tasmania but Australia wide. All foster carers and volunteers must be supported by government to ensure that the best outcomes for our children and young people are achieved. For their ongoing commitment to supporting and protecting children, foster carers are worthy of our greatest praise and appreciation.

Forced Adoption

Senator McKENZIE (Victoria) (13:40): Madam Acting Deputy President Moore, I am so glad you are in the chair for my contribution, because I rise to speak on a matter of public interest which is of interest to both of us— that is, the Senate Community Affairs References Committee inquiry into former forced adoption policies and practices. Late last year the committee held an inquiry into this issue. As I joined the Senate I was thrown into the middle of the inquiry, and it was with great interest that I joined the inquiry as a member of the committee.

Given the work of the committee, I was extremely satisfied on behalf of not only other members of the committee, submitters to the committee and the committee secretariat but also those people directly affected by past adoption practices. Many were present in Melbourne on 25 October when my own state, Victoria, made a formal apology to those men and women affected by
the forced adoption policies of the 1950s, sixties, seventies and eighties.

I would like to refresh the Senate's memory of one of the key recommendations from the inquiry. This recommendation was that we set up a national framework with elements to address the needs of those directly affected. Another recommendation was that there needed to be public acknowledgement that past adoption practices forced some parents to give up their children for adoption against their will and there needed to be formal statements of apology from state governments. Through our inquiry we also recognised the need for specialist support services for people affected by past adoption practices and that the people delivering these types of support services needed to be appropriately trained and specialised. We also recognised that natural parents and their children should as adults have free access to all their personal records, regardless of the state or territory in which the adopted person was born. We recommended that all extant organisations involved in past adoptions establish grievance procedures to appropriately redress where wrongdoing has been established.

Those were the elements that we recommended to be part of a national framework to deal with this issue. It was with great satisfaction that I was in Melbourne to hear Premier Ted Baillieu, leader of the coalition government in Victoria, move in the state parliament the apology. I will read his full apology, because I was quite moved by the words as were the people sharing the experience with me in the gallery:

That this Parliament expresses our formal and sincere apology to the mothers, fathers, sons and daughters who were profoundly harmed by past adoption practices in Victoria.

We acknowledge that many thousands of Victorian babies were taken from their mothers, without informed consent, and that this loss caused immense grief.

We express our sincere sorrow and regret for the health and welfare policies that condoned the practice of forced separations.

These were misguided, unwarranted, and they caused immeasurable pain.

To the mothers and fathers who were denied the opportunity to love and care for your children, and for the pain and trauma you experienced, we are deeply sorry.

To the sons and daughters for whom adoption meant continual anxiety, uncertainty and the deprivation of a natural family connection—we offer our sincere apology.

He then went on to say:

Today, with all Members of the Parliament of Victoria gathered in this House, we acknowledge the devastating and ongoing impacts of these practices of the past.

To all those harmed we offer our heartfelt sympathy and apologise unreservedly.

We undertake to never forget what happened and to never repeat these practices.

It was quite a momentous day to be sitting in a very tiny public gallery that our beautiful state parliament has, with people who had been lobbying all levels of government over a long period of time to have that apology—and to have members of the legislative council squashed into our tiny parliament was indeed fantastic.

The apology was publicly promoted. It was broadcast in the Queen's Hall because of the small space available in the public gallery, in the Speaker's Gallery, and also over at one of our lovely hotels in Melbourne's Spring Street, The Windsor, where the public could gather and witness our state parliament's sincere apology. On that day people decided to line up pairs of shoes, to represent some of the 19,000 Victorian children adopted under these past
adoption practices. Nearly 1,000 shoes lined the steps of our state parliament, representing those children who were forcibly adopted, and hundreds attended to hear the apology.

The apology was bipartisan, which was fantastic, obviously. After the apology was given, the Leader of the Opposition, the leader of the Greens and my old local member, the leader of the National Party, all delivered apologies on behalf of their political parties. The minister responsible for this area, Minister Wooldridge, also delivered an apology. Parliamentarians then crossed the road, along with everyone listening in the Queen's Hall, to have lunch together and to talk in a more informal way with parliamentarians and Premiers and those affected, while the leaders of the parliamentary parties signed the apology itself. I congratulate the Victorian coalition government, as it now joins Tasmania, New South Wales, Western Australia and South Australia as the states that have issued a public apology for these practices.

The Senate inquiry found that 225,000 children were removed from often young, unmarried women. Fathers were often left off birth certificates deliberately by the organisations involved in facilitating the adoptions. It is thought that 19,000 of those children given up for adoption were from Victoria. I noted the comments made by the Deputy Premier, Peter Ryan, in his contribution and apology, and I will directly quote. He said: 'Thousands of families, not just in Melbourne but right across rural and regional Victoria, were denied the opportunity to love and care for their sons and daughters because of policy implemented in this place in the last century.' I think that was important, because we need to acknowledge the effect these practices had in small rural communities. If you were the new baby being adopted by a couple within a country town, everybody knew that your mum had not actually birthed you, because you arrived and she clearly had not been pregnant. Similarly, there are stories about the young women who would be whisked away to Melbourne or Sydney for a specified period of time and then return home. So I thought it was really important for the Deputy Premier to recognise that the reality plays out differently in different places.

An anonymous submission to the inquiry shared how living in a small town only magnified their situation, as almost everyone knew what had happened to them. One mother who was forced to give her baby away told reporters on the day of the apology that she felt like she had been serving a life sentence. I cannot even begin to imagine what it might feel like. The enduring pain and trauma cannot be erased, and what happened was wrong and, in some instances, illegal.

I further commend the Victorian government in that it has actually announced practical assistance measures for those directly affected by past adoption practices. Minister Mary Wooldridge announced, with the Premier, a number of measures. Many were those recommended by the national framework elements that we set out in our report. These include an amendment to the Victorian Adoption Act 1984, which allows birth parents to receive identifying information about their adult sons and daughters, in line with other Australian jurisdictions. Many adopted people at the time ended up with two birth certificates. One was secret, stored in a place where it would not be found by the child—the one with the real information on it—and the other was the public birth certificate, which named only the adopting parents. For many adopted children, this might have been the only birth certificate that they saw. So that is a welcome change for Victorians. Our recommendation No. 13 was that all
jurisdictions adopt integrated birth certificates and that these be issued to eligible people upon request, and that jurisdictions investigate harmonisation of births, deaths and marriages register access. So that is fantastic; thank you very much, Minister Wooldridge.

Another measure is a contact statement allowing adopted persons to regulate contact if desired—so facilitating adoptees and natural parents to find each other. In Victoria, we had restrictions on releasing the identifying information. Adult adopted people were entitled to receive information only about their origins—which was the name of their birth parents—whereas the new measure will facilitate greater freedom and access to information. There will also be enhanced support for access to specialised counselling to be available not only in metro areas but in rural and regional Victoria. That is exciting, and that shows the benefits of a coalition response in terms of ensuring that all those affected will be able to access specialised counselling. It is not just access to counselling that will be available; the minister announced professional development, specifically around the issue of postadoption psychotherapy so that those who need assistance can get it. They also removed fees. It used to cost people to find out the truth, so that is a welcome addition by the Victorian coalition government.

I commend those people who shared their journeys and their experiences with us at a Senate inquiry but also with Minister Wooldridge, the Premier and the Deputy Premier on the day. By speaking out, we uncover that which is hidden, and that is sometimes our role as leaders in the community. The submissions to the Senate inquiry show that it is clear that these experiences are not easy to cope with over time, and sometimes that makes it worse. So I am glad that there is some practical assistance to the people of Victoria.

One of the reasons I am so proud of my state and the state coalition government is because of the bipartisan approach to the apology. Every party leader stood behind it. Sometimes when we are living in the environment we operate in, our positions can be poles apart, but on this matter all parliamentarians were united, and I think that says a lot about the leadership of not only Minister Wooldridge and Premier Ted Baillieu but all leaders of the party within the Victorian state parliament.

Sittings suspended from 13:54 to 14:00

DISTINGUISHED VISITORS

The PRESIDENT (14:00): I welcome former senator Baden Teague in the gallery. Welcome back and it is good to see you.

QUESTIONS WITHOUT NOTICE

Mining

Senator CORMANN (Western Australia) (14:00): Mr President, my question is to Senator Wong, the Minister representing the Treasurer. Can the minister confirm that, under Labor's special mining tax deal with the three biggest miners, the government will have to pay more than 10 per cent compound interest on any royalty credits which are accumulating while those miners do not pay any tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:01): I am not in a position to give that level of detail.

An opposition senator: It is hardly a surprise.

Senator WONG: Senator, you may be able to recall every aspect of every tax in detail, but I am not in a position to provide the particular detail which is being referred to. I am not sure if this was in the letter that I
got some time ago. Maybe Senator Cormann can refer me to it. But, as I said to him at the time, it is still a question without notice. I am happy to take that on notice and see if I can provide any further details. Obviously the usual caveats would apply. We are not going to be disclosing the individual tax affairs of companies. That is obviously not appropriate for the government to do. I also make the more important point from the budget perspective that the design of the tax—

Senator Brandis: Mr President, on a point of order: the minister has already said she is taking the question on notice. That is fair enough. If she does not know the answer, it is the appropriate thing for her to do. But having indicated to the chamber that she has taken the question on notice, anything more is gratuitous commentary that just uses up question time.

The PRESIDENT: Order! There is no point of order. The minister has 51 seconds.

Senator Brandis: I am never gratuitous.

Senator WONG: I am afraid that I beg to differ.

The PRESIDENT: Order! These exchanges are disorderly.

Senator WONG: And I suspect if we had a secret ballot we might have a few on the coalition side who might agree with me. Leaving that to one side, I will return to the issue.

Senator Ian Macdonald: Mr President, on a point of order about the grounds of direct relevance: the minister is required to be directly relevant. She has said she does not know; therefore, she should sit down and we should move on.

The PRESIDENT: Order! I have ruled on this already. The minister was continuing the answer. The minister will address myself as the chair and has 26 seconds remaining.

Senator WONG: Thank you, Mr President. The senator does not like a bit of fun in question time clearly. The point I was trying make was: whatever the design, details and behavioural assumptions behind this question, those would have been factored into the budget bottom line and the revised estimates for the take on the MRRT. So whatever he— (Time expired)

Senator CORMANN (Western Australia) (14:04): Mr President, I ask a supplementary question. I refer the minister to the 1½ pages of the minerals resource rent tax heads of agreement, signed by the Prime Minister, the Treasurer and the Minister for Resources and Energy, and the three managing directors of three big mining companies which says: All State and Territory royalties will be creditable against the resources tax liability … Any royalties paid and not claimed as a credit will be carried forward at the uplift rate of LTBR plus 7 percent. How come the Minister for Finance and Deregulation is not aware of the significant cost? (Time expired)

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:05): We have had a number of discussions about royalties, and I have made clear in terms of the midyear update that the design of the MRRT has been reflected in the estimates for that revenue line item. I have also made clear that the announced royalty changes by the Queensland government have been taken into account in the updated MRRT estimate and that the decision by the New South Wales government to increase royalties has not been included because specific policy details are yet to be announced. If there is any further information I can provide the senator.
with, I will do so, but he is on the side of advocating—I think from what he is asking me—for royalties as a good tax but not a profits based tax which was a bad tax.

Senator CORMANN (Western Australia) (14:06): Mr President, I ask a further supplementary question. Given the minister is unaware how many royalty credits have been accumulated so far and how much compound interest on those royalty credits the government expects to accumulate, how can the government possibly estimate the net revenue it expects to collect from the mining tax over the forward estimates?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:06): Senator, this was the answer I gave you in the first question which you clearly were not listening to. I made the point that, when Treasury considers and updates its estimates, it makes assumptions about how much revenue the tax will collect. It obviously applies the existing architecture of the tax and makes assumptions also about various other factors such as commodity prices and so forth. The whole point of the answer I was giving you is that those factors have been taken into account in the revised MRRT estimates, which of course do reflect a write-down because—surprise, surprise—as the senator should know, being a senator from Western Australia, commodity prices have come off significantly since the budget. When you are in a profit based tax regime, it is unsurprising that it will affect the revenue take.

Asia-Bound Grant Program

Senator BILYK (Tasmania) (14:07): My question is to the Minister for Tertiary Education, Skills, Science and Research, Senator Evans. Can the minister advise the Senate on how the Gillard government is supporting more Australian students to have a study experience in Asia?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:07): I thank Senator Bilyk for her question. In the Asian century, the government believes that a study experience in Asia is the best way for young Australians to become Asia-literate. Australia's future engagement with Asia is essential to ensure our future economic prosperity. There is no better way to engage our young people with Asia than to encourage them to study abroad in Asia and get that firsthand experience.

We have a great record of educating people from Asia in Australia, with more than two million Asian students being educated here in the last 10 years, but what we have not been good at is the two-way exchange. We have not had nearly enough Australians travelling to Asia to study and to experience life in Asia. We have had a situation where students have continued to go to the traditional destinations, if you like, of the UK, Europe and the United States of America. So the government sought to substantially redesign its support for an overseas study experience and focus very much on Asia.

The new $37 million Asia-Bound Grant program will see more than 10,000 extra students travel to Asia to study. It will provide grants of between $2,000 and $5,000 to students to undertake short or semester-length study programs. It will also support language study. We will also change the guidelines for the OS-HELP Loan Scheme to provide greater flexibility. We have to change the focus of our students from Europe and the United States to Asia. We have to give them that sort of experience. It is part of the cultural shift that has to occur in Australia. These are our future leaders, our professionals, our business people. Giving them a grounding in Asia, giving them an
understanding and giving them an experience are vital for us achieving the economic growth we are after. (Time expired)

Senator BILYK (Tasmania) (14:09): Mr President, I ask a supplementary question. Can the minister advise the Senate on how the government is supporting students to get language training for their study experience in Asia?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:10): We know that Australia has a low take-up of foreign languages—this is historical—particularly Asian languages. That is why we announced at the launch of the Asian century white paper that the Australian government would ensure more school students have access to Asian languages. Often barriers to our university students travelling to Asia are their lack of language skills and their concerns about how they would fare. Even some language training at a colloquial level would assist students to visit and study in Asia. We know many Asian universities now offer courses in English. What we have to do is make it easier and more attractive for students and support them. The $1,000 Asia-bound language grants are our contribution to that improved OS-HELP Loan Scheme. We want a three-way commitment—the government, the universities and the students—to support some language training which will encourage that sort of mobility to study in Asia. (Time expired)

Senator BILYK (Tasmania) (14:11): Mr President, I ask a further supplementary question. Can the minister also advise the Senate on how the government will work with Australian universities to increase the number of students studying in Asia?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:11): We all know that an overseas study experience can change people's lives and provide a real experience that informs their professional development. That is why the study experience in Asia program is so important, but we have to get the universities working as part of that. Some of them do great work already. Some of them have some really exciting programs. We have to support them to grow those programs and also make sure that there is diversity. It is not about the government telling them which programs work; it is about encouraging universities to run programs that students are interested in and that deliver on the educational objectives. What we will do with the universities is support those programs and support the students. I do not care whether it is nurses getting practical experience in Indonesia, design students getting work experience in Hong Kong or engineers working on water projects. It is about giving them the exposure that helps them grow their understanding of Asia. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT (14:12): Order! I draw to the attention of honourable senators the presence in the chamber of a parliamentary delegation from the People's Republic of China led by Mr Zhou Tienong, Vice-Chairman of the Standing Committee of the National People's Congress. On behalf of all senators, I wish you a warm welcome to Australia and in particular to the Senate.

Honourable senators: Hear, hear!

QUESTIONS WITHOUT NOTICE

Budget

Senator FIERRAVANTI-WELLS (New South Wales) (14:13): My question is to Senator Wong, the Minister representing the Treasurer. I refer the minister to her
statement to the Senate in question time yesterday, when asked if the budget would return to surplus in 2012-13, that this was merely a forecast and her refusal when given three opportunities to confirm that it was still a promise. Why is the government walking away from a commitment reiterated by the Prime Minister no fewer than 30 times—

Honourable senators interjecting—

The President: Order! Senator Fierravanti-Wells is entitled to be heard in silence and I am entitled to hear the question.

Senator FIERRAVANTI-WELLS: Why is the government walking away from a commitment reiterated by the Prime Minister no fewer than 30 times and by the Treasurer no fewer than 15 times in the last 18 months? When will the government come clean with the Australian people and admit that it has abandoned its commitment to deliver a budget surplus in 2012-13?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:14): I am looking forward to not being sledged now, given that Senator Abetz says that is the new benchmark in the Senate. I predict—

The President: Order! Just come to the question.

Senator WONG: I predict, Mr President, that will not last 30 seconds.

Opposition senators interjecting—

Senator WONG: Here we go—30 seconds.

The President: Order, Senator Wong! Order on both sides! Senator Wong, just come to the question that has been asked.

Senator WONG: We have handed down our midyear review and found billions of dollars in savings to return the budget to surplus and we are on track to deliver it. This government will always ensure the appropriate fiscal settings to support the economy and jobs, and that will never change. That is why it remains appropriate to bring the budget back to surplus, given the economy is growing at trend, giving the RBA room to move on interest rates. Those opposite might recall that they did not enjoy official interest rates at this rate, certainly not in the period leading up to the change of government. Australians with mortgages are obviously substantially better off as a result of those interest rate cuts. Of course, the room for those cuts has been brought about by the fact that the government has engaged in fiscal consolidation—that is, bringing the budget back to surplus.

So those opposite can play all the games they like on this issue, but the reality is this: those opposite still cannot tell the Australian people whether they support the savings measures in MYEFO. They still cannot tell people. So, when they want to come—

Senator Fierravanti-Wells: Mr President, I rise on a point of order.

Senator WONG: Of course you will get up, because it is embarrassing to talk about fiscal—

The President: Senator Wong, resume your seat.

Senator Fierravanti-Wells: I thought my question was very clear, Senator Wong, and that is: why is the government walking away from its promise to deliver a budget surplus in 2012-13? I would have thought it was pretty simple, Senator Wong. You can understand plain English.

The President: Order! That is debating the issue. There is no point of order. Senator Wong, you have 37 seconds.

Senator WONG: How about this for plain English: will you support our savings measures or not, Senator? You are still going, 'We might; we might not. We might,
we might not.' For you lot, fiscal discipline is all about talk but not about actual decisions, because you are still having a fight in your party room as to whether or not you should support the reduction in the baby bonus or not. The shadow Treasurer says it is the end of the age of entitlement and then he says this is like the one-child policy. Oh, give us a break!

Honourable senators interjecting—

The PRESIDENT: We will just wait a moment until people have quietened down. On my right! And on my left! When there is silence we will proceed.

Senator FIERRAVANTI-WELLS (New South Wales) (14:18): Mr President, I ask a supplementary question. I remind the minister of her first speech as finance minister on 14 October 2010, when she said:
The need for discipline and rigour is patent. That is why the Government has made it clear that the return to surplus is not negotiable.
If it was a non-negotiable promise then, why is it not even a promise now?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:18): I would make this point: on this side of the chamber we have taken some $160 billion worth of savings over five years, including—

Senator Brandis: And you've brought in the four biggest budget deficits in Australian history!

Senator WONG: One hundred and sixty billion dollars worth of savings. How many—

Honourable senators interjecting—

The PRESIDENT: Senator Wong, resume your seat.

Senator Conroy: George, did you miss the global financial crisis?

The PRESIDENT: Senators on both sides, if you wish to debate this, the time is after question time.

Senator WONG: I am sorry, I should have said we have found $130 billion in savings over five budgets, in the context of a revenue write-down of $160 billion over five years since the start of the GFC, something that those opposite do not wish to recall.

In addition, in the midyear review we have taken some $16 billion of savings, and I would make this point: when we come to this parliament, we announce our budget or our budget updates and we list off the savings, what do we hear from the other side, the great guardians of fiscal discipline? We hear 'class warfare'. We hear comments about us not thinking second children are worth much. We hear all sorts of political comments because when it comes— (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (14:20): Mr President, I ask a further supplementary question. Will the promise that the budget will return to surplus in 2012-13 join the promise that there will be no carbon tax? That was another false promise made by the Prime Minister to mislead the Australian people. After so many lies and broken promises, why should the Australian people believe a word this dishonest government says?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:20): I am asked about belief. I am asked about the belief of the Australian people—

Senator Ian Macdonald interjecting—

Senator WONG: No, that was part of the question. I want to make this point: the Australian people know—

Senator Fierravanti-Wells: You were asked about integrity and lying.

Honourable senators interjecting—
The PRESIDENT: Order! When senators are silent we will proceed.

Senator WONG: Thank you, Mr President. I think the Australian people know which party was determined to protect jobs and the economy and which party sought to play politics with it. I think it is extraordinary that those opposite seek to pretend that the global financial crisis never happened. We know in this country we have come through that because we have worked together. Because of the actions of government, the decisions of business, the decisions of workers, we have come through the GFC in a far stronger position than any other advanced economy. And we are projected to grow faster than any other advanced economy next year. The only people who do not like it are those opposite. The only ones who do not like the fact that we have growth, low unemployment and low interest rates are those opposite. *(Time expired)*

Health: Coalmining

Senator MILNE (Tasmania—Leader of the Australian Greens) (14:22): My question is to Senator Ludwig, the Minister representing the Minister for Health. Is the minister aware of the report *Health and social harms of coal mining in local communities: spotlight on the Hunter* released yesterday which found that adults in coalmining communities had higher rates of mortality from lung cancer and chronic heart, respiratory and kidney diseases and that children and infants had high levels of heavy metal in their blood and increased respiratory symptoms? If so, does the government acknowledge that coalmining, and the particulate matter generated from it in particular, is harmful to the health of local communities, particularly those communities in the Hunter Valley, which has 30, mostly open-cut, coalmines and six coal fired power stations?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:23): I thank Senator Milne for her continued interest in rural Australia. The Gillard government is delivering better health outcomes for Australians who live in rural and regional Australia, particularly those who live in the Hunter Valley, particularly those who do suffer from diseases. In 2012 targeted rural, regional and remote health and ageing programs will exceed $2.1 billion in addition to significant funding provided to rural communities through the medical benefits schedule, the Pharmaceutical Benefits Scheme and the national health agreement. If you look at the funding overall by this government in rural Australia, you can see that it represents an increase of almost 350 per cent for rural programs compared to the last year of the Howard government.

Senator Milne: Mr President, I raise a point of order. I asked specifically about the report *Health and social harms of coal mining in local communities: spotlight on the Hunter* and the minister has yet to even refer to the report.

The PRESIDENT: I do draw the minister’s attention to the question. The minister has one minute remaining.

Senator Ludwig: I was then going to go on to say in the context of the support we provide for rural Australia that that particular report I do not have a brief on. It is a matter that the government would take seriously. The information that has been provided about that report does not tell me who released it. It was released yesterday. It does not tell me who prepared it, how it was prepared and what the use of it was, whether
it is a state or federal issue. All of those things I am sure I will be able to take on notice and provide a response to, Senator Milne. It would be helpful for the minister if she were provided with that additional information—if it remains a matter within the health portfolio for her to respond to.

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:25): Mr President, I ask a supplementary question. I thank the minister for indicating that the government would take it seriously and I will provide the report to the government. Given the evidence presented from Australia and around the world on the damage to health and social wellbeing of communities living near coalmines, does the government agree that it is a matter of urgency to conduct a full-scale study on the impacts of coalmining on people's health, and will it commit to considering measures such as monitoring and enforcement of maximum particulates and buffer zones in the interests of the people living in coal communities?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:26): I thank Senator Milne for her first supplementary question. As I was indicating, it still does not give me any confidence about who provided the report, who wrote the report and where the report is directed to; whether it was a state instrumentality, a government instrumentality or alternatively from private industry or private medical practitioners in the field. Notwithstanding that, I indicated that I would take that first question on notice. I will take the supplementary question on notice too. I do reject the premise of the question, however. The minister for health takes all of her portfolio very seriously about ensuring better health for Australians more broadly and the outcomes for workers, particularly if there are issues around safe work practices, occupational health and safety. That is why we have Safe Work Australia. That is why this federal government has done a significant amount of work in ensuring the occupational health and safety of workers and communities. (Time expired)

**Senator MILNE** (Tasmania—Leader of the Australian Greens) (14:27): Associate Professor Ruth Colagiuri is the lead author and she is from Sydney University. My further supplementary question is, can the minister confirm that COAG was told in 2010 that if particulate matter was better regulated $4.5 million per year would be avoided in hospital admissions and 1,200 lives prolonged? If that is the case, and I ask the minister to confirm it, why are the government and COAG taking so long to update the National Environment Protection (Ambient Air Quality) Measure legislation?

**Senator LUDWIG** (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:28): I thank Senator Milne for her second supplementary question. It is something I could not confirm. Clearly I am representing the health minister and this is something that was a specific COAG issue raised in 2010. I cannot confirm or deny what the veracity of that is. I am always cautious, however. It is a matter that I will take on notice. I will ask the health minister to have a look at the particular question that has been raised and provide an appropriate answer in response to it.

**Economy**

**Senator JOYCE** (Queensland—Leader of The Nationals in the Senate) (14:28): My question is to Senator Wong, the Minister representing the Treasurer. I refer the minister to a Treasury study of the nation building and job stimulus plan, authored by
researchers at the Australian National University. That study has made preliminary findings which show that, on the announcement of the government's plan to provide $900 cheques, 'the estimated consumption response was not very large'. Consumption growth increased at the time of the announcement by around one per cent. That is weekly expenditure, so it amounts to about $1.20 spending from the $900 we provided them. Does the government accept the findings of this study financed by your own government which highlights that your stimulus package was a multibillion-dollar fiasco and that is now part of the reason that we find ourselves in excess of $255 billion in gross debt?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:29): I think there are some figures here which are apposite. Since this government came to office, the Australian economy has grown 11.2 per cent. By contrast, Germany—the strong economy of Europe—is 2.7 per cent larger, the US is 1.8 per cent larger, Japan has contracted and the UK has contracted by 4.2 per cent. You can come in here, Senator, and talk down the economy all you like, but the facts speak for themselves. In addition, since we came to office we have seen some 800,000 jobs created. Compare our unemployment rate with the unemployment rate in the eurozone, which is in excess of 11 per cent, or with the unemployment rate in the US. What those opposite cannot bear—and it says something about them—is the fact that the economy is growing, unemployment is lower—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Joyce is entitled to be heard in silence—as anyone else is.

Senator Joyce: I raise a point of order on relevance. The question was about a Treasury-based study, which is quite explicit that we only got $1.20 value out of a $900 payment. The minister should be approaching the issue of her own Treasury paper, not some other peripheral data.

The PRESIDENT: There is no point of order. The minister is answering the question and has 51 seconds remaining.

Senator WONG: I find it interesting that the senator thinks that jobs growth, low unemployment and the growth of the economy is peripheral data: 'We don't want to talk about jobs or the unemployment rate; that's peripheral data.' To Labor governments that is central data. That is the central issue that governments need to confront: how do you continue to grow the economy, grow jobs and secure prosperity now and in the future? I would also make this point: Treasury estimates, which have been publicly spoken about on many occasions, make clear that the stimulus package this government engaged in—opposed by those opposite—avoided the loss of 200,000 jobs. Senator Joyce may think putting 200,000 working families on the scrapheap is—

(Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:33): Mr President, I ask a supplementary question. I refer the minister to the fact that the government justified its approach to stimulus in 2009 by relying on a draft, unpublished overseas paper by Christian Broda and Jonathan Parker. Can the minister explain why the government relied on a draft, unpublished, overseas paper to spend $8 billion in 2009, but will not accept the findings of a Treasury finance paper today?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:33): I make two points: I have been advised that the study to which you refer is not a Treasury study and I have also been
advised that this particular study considered
week-to-week consumption and it did not
look at durables, so obviously it took just one
set of data. I also refer the senator to the
200,000 jobs that Treasury have said our
stimulus avoided. We can argue about
studies, we can argue about numbers, but
what I would ask the Senate is this: which
economy is projected to grow faster in this
coming year than any other advanced
economy? Which economy has an
unemployment rate with a five in front of it?
Which economy has seen hundreds of
thousands of jobs created since the change of
government? It is Australia. The only people
who do not like those facts are the
opposition.

Senator Joyce (Queensland—Leader
of The Nationals in the Senate) (14:34): Mr
President, I ask a final supplementary
question. I refer to the same Broda and
Parker paper, which has been updated. The
paper found that in the United States, a
similar $900 payment had just a $50 effect
that was spent on consumer goods to
stimulate their economy. Does the
government accept that it is quite apparent
that this form of stimulus just is not very
stimulating, and that it is rather hard to repay
the debt once the money has gone?

Senator Wong (South Australia—
Minister for Finance and Deregulation)
(14:35): I would again remind the senator
that if he wishes to compare us with the US
their debt to GDP ratio in 2012 is 83.8 per
cent, while the government's budget MYEFO
update in 2012-13 has net debt as a
percentage of GDP at 9.4 per cent. That is 83
per cent compared with 9.4 per cent. I think
the senator is saying that we should
somehow look to the US as a better example
of how to manage an economy through a
global financial crisis than Australia. I make
no criticism of the United States—they had
to deal with an enormous financial crisis and
it was particularly difficult for the US
economy. But the reality is that our figures,
our economy and our jobs are in a far
stronger position than those of the United
States.

Recreational Fishing

Senator Furner (Queensland) (14:36): My
question is to the Minister for Agriculture,
Fisheries and Forestry, Senator Ludwig. Can the minister advise the Senate
how the government supports the
recreational fishing sector?

Senator Ludwig (Queensland—
Minister for Agriculture, Fisheries and
Forestry and Minister Assisting on
Queensland Floods Recovery) (14:36): I
thank Senator Furner for his continued
interest in the rec fishing industry. The
Gillard government is a strong supporter of
the recreational fishing industry. We
developed and held recreational fishing
round tables, which I have attended. I spoke
at the recreational fishing conferences,
bringing the sector straight to government.
We have supported the National Recreational
Fishing Conference and we have funded and
implemented the national strategy for
recreational fishing. At present we are
engaged in the single biggest review of
fisheries legislation, including how we can
look at the recreational sector and how it fits
within that framework. The Gillard
government has a mature engagement with
this sector. We have been able to balance the
needs and rights of recreational fishers with
the need to protect our environment for
future generations. You only have to
compare that history of investment and
engagement with the absolute kick in the
guts by Premier Newman in Queensland. He
has cut 60 jobs out of Fisheries
Queensland—

Senator Conroy: How many?
Senator LUDWIG: Sixty jobs. He has ceased funding for Sunfish Queensland, ceased the Fisheries Observers program, ceased the industry development program for commercial and recreational fishing, ceased the Fishcare Volunteers Program, ceased operational activity for water way barriers construction and cutting all funding for the national Fisheries Research and Development Corporation. Finally, in the ultimate insult to the recreational sector, the LNP has cut frontline fisheries research, confirmed in a letter last week. This government is working hard to support recreational fishers but we do expect states and territories to pull their weight as well, rather than just cutting 60 jobs, rather than cutting funds to fishers. (Time expired)

Senator FURNER (Queensland) (14:38): Mr President, I ask a supplementary question. I share the same concerns as the minister at what the LNP government in Queensland is doing. Will the minister outline to the Senate why it is important to support the Australian pastime of fishing? Are there any recent views that underline the value of supporting the sector?

Opposition senators interjecting—

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:38): I thank Senator Furner for his supplementary question. It is vital to support the sector. As we know, millions of Australians around the country are recreational fishers. In Queensland, there has been a visceral reaction against the cruel cuts by Premier Newman. I refer senators in this chamber to, and I am sure they all read, Bush ’n Beach—it is a good read and I subscribe to it. I will read from a selection of some articles—there was not one; there were five—about issues condemning Queensland for the cruel cuts in the rec fishing industry. Mr Robin Caddy, the President of Freshwater Fishing and Stocking Association of Queensland, said of the cuts, 'To be treated in this manner is deplorable.' Mr David Bateman, Deputy Chairman of Sunfish, said that, 'Delegates were astounded that the government's first reaction was to cut recreational fishing community projects—'. (Time expired)

Senator FURNER (Queensland) (14:40): Mr President, I ask a further supplementary question. Can the minister inform the Senate if there are any risks to federal support for fisheries and recreational fishers?

Opposition senators interjecting—

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:40): I thank Senator Furner for his second supplementary question. Premier Newman is just the curtain-raiser for the cuts that would come from an Abbott government. Those opposite know that, that is why they are interjecting so poorly today. With relentless negativity, his cuts across recreational fishing would be reflected from a government led by him.

Opposition senators interjecting—

The PRESIDENT: Order! If you wish to debate the issue, the time to debate it is after question time—not now.

Senator LUDWIG: Before the Queensland election, the LNP told recreational fishers that, if elected, 'an LNP government will closely work with stakeholders to enhance the experience of recreational fishers in Queensland.' We know how that ended. At the start of this month, Senator Colbeck said in a media release: 'The coalition looks forward to working cooperatively with the recreational fishing sector to ensure that enjoyment continues.' It sounds familiar, Mr President, does it not? The LNP provide just hollow words and spin

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before taking an axe to the recreational fishing sector. *(Time expired)*

*Senator Scullion interjecting—*

**Senator Ian Macdonald:** People have woken up to you, I have to say.

**Senator Ludwig:** Have you written to Campbell Newman?

*Senator Scullion interjecting—*

*Senator Colbeck interjecting—*

**The President:** Order! I remind you Senator Scullion, and Senator Colbeck, that one of your colleagues is waiting to be called for the next question.

### Budget

**Senator BACK** *(Western Australia—Deputy Opposition Whip in the Senate)* *(14:42):* My question is to the Minister representing the Treasurer, Senator Wong. I refer the minister to last week's MYEFO, rushed in immediately ahead of advice that the minerals resource rent tax would deliver zero revenue to government coffers in its first three months of operation. Will the minister advise the Senate who in the business community was consulted by the government when deciding to change company tax payments from quarterly to monthly from January 2014 and on what basis the minister and the Treasurer concluded that such a change would not result in an added financial burden for affected companies?

**Senator WONG** *(South Australia—Minister for Finance and Deregulation)* *(14:44):* I have already indicated that this was a budget decision. That decision was made, as most budget decisions are—and some of my colleagues may confirm this—on the basis that they are announced on the day of the budget or of the budget update. I can get further information on the Business Tax Working Group process. But, as you know, that was dealing with a different issue. Despite the shadow Treasurer's attempts for a few days to say otherwise—I think he has now backed off because he realised it was unreasonable—despite the fact that there was an assertion that this meant more tax, it is not...
the case; it is simply a change in the way the tax is paid. Again, it is the Liberal Party—

Senator Abetz: How come you're getting more money?

Senator WONG: Senator, I will try and explain to you the difference between quarterly and monthly, and what that does to the timing of payments. I will draw you a little diagram. (Time expired)

Senator BACK (Western Australia—Deputy Opposition Whip in the Senate) (14:46): Mr President, I ask a further supplementary question. I thank the minister for the explanation that the tax group was not consulted. Minister, is it any wonder that the business and indeed the wider community now have lost total confidence in this government when, as you say, it failed to consult its own business tax reform group on such an important change in tax collection procedures while at the same time it set ground rules to ensure it was bound to fail on measures to negotiate reduced company taxes in Australia?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:46): I would like to know whether there was any consultation with the business community before Mr Abbott announced a company tax hike? Silence. I suspected there would be silence on that. Yes, I am not surprised you are getting up, Senator.

Senator Back: Mr President, a point of order on relevance: my question did not go to Mr Abbott. My question went to the minister and why they failed to consult with the group—

Senator Conroy interjecting—

Senator Back: There seems to be a botfly active in the chamber. It is either that or Senator Conroy. My question went to why this government did not consult with the tax group, which was already in place consulting to it. Would she answer the question.

The PRESIDENT: There is no point of order. The minister has 46 seconds remaining. I invite the minister to finish answering the question.

Senator WONG: As I was also saying, the senator might like to be aware that there is one other tax instalment which is collected monthly not quarterly and that of course is the GST. Those opposite are now up in arms about the fact that there is a monthly instalment when in fact that was the design of the tax which they were very proud to have introduced. There are a number of OECD countries which make instalments on a monthly basis. Those are set out in the MYEFO. We have a three-year process of reform to implement this measure. There will be many consultations throughout that time. (Time expired)

Renewable Energy

Senator MADIGAN (Victoria) (14:48): My question is to the Minister representing the Attorney-General, Senator Ludwig. In light of last night's revelations by Senator Back about the content of contracts used by the wind industry, can the minister advise whether he is aware that the wind industry corporations operating in Australia use contracts that specifically prohibit signatories from discussing adverse health effects caused by wind turbines?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:49): I thank Senator Madigan for his continued interest in wind farms. As I understand it, former Senator Fielding was also interested in wind farms and the health portfolio has answered a couple of questions in relation to this matter. The issue that Senator Madigan raises goes to particular contracts that are
used by the wind industry, as I understand the import of the question. The first point about the regulations of wind farm functions and approvals is a matter for the minister for the environment, represented by Senator Conroy, in this instance, and his representatives in this place—not that I am suggesting anything in that answer!

Opposition senators interjecting—

The PRESIDENT: Order! It is nice to have a light moment, but I do need to hear the answer.

Senator LUDWIG: The government is not able to provide legal advice on the content of contracts between private parties. If a party does feel aggrieved by a particular contract then they do have their own legal recourse. I am not familiar with the contracts. I will ask the Attorney-General to take the question on notice to see what additional information they may be able to provide. Ultimately, contract law is principally a matter for the states. If the senator feels that there is an issue under current contract law protections, particularly in Victoria, that are inadequate then that also can be taken up with the Victorian Premier and the Victorian Attorney-General.

Senator MADIGAN (Victoria) (14:50): Mr President, I ask a supplementary question. Is the minister aware that there are contracts requiring a landowner to consent to the wind farm operating at noise levels that exceed the compliance guidelines of the relevant planning approval authority?

Senator LUDWIG (Queensland—
Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:51): I thank Senator Madigan for his question. Ultimately, it goes to whether I am aware of there being provisions within contracts for wind farm operations at a particular noise level. No, I am not. I will take that part on notice to see whether the Attorney-General can provide additional information. There is a question in my mind whether or not this would be a matter for the Attorney-General or ultimately a matter for the Victorian Attorney-General, more specifically dealing with contract law, or alternatively whether there are other compliance or guidelines relevant to planning approval. If it is in relation to planning approval, that would also be a local government or local authority matter for the state planning authority in the relevant state. Having said all of that, that part which may apply to the Attorney-General I will take on notice and see if further additional information can be provided.

Senator MADIGAN (Victoria) (14:52): Mr President, I ask a further supplementary question. In the interests of transparency, common-law rights and the protection of public health as related to relevant planning authorities, can the minister please outline what the government proposes to do about this intentionally deceptive behaviour?

Senator LUDWIG (Queensland—
Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Floods Recovery) (14:52): As I have been saying in my answers to both the primary and the supplementary question, that part which is in the remit of the Attorney-General is a matter that I will take on notice. However, I remind the Senate particularly that if there are issues with contracts then these are matters that parties themselves can usually find recourse on, depending on the nature of them.

From the perspective of the Australian government, the National Health and Medical Research Council issued a public statement in July 2010 which concluded that there was insufficient published scientific evidence to positively link wind turbines
with adverse health effects. I think it is important also to put in that context that this is a matter in which the government responded to a Senate Community Affairs References Committee report, The social and economic impact of rural wind farms, which was tabled on 13 September 2012. (Time expired)

**Education Funding**

Senator MASON (Queensland) (14:53): My question is to the Minister representing the Prime Minister, Senator Evans. The minister would be aware of a speech by the Prime Minister to the National Press Club on 3 September in which she undertook to spend an additional $6.5 billion annually on our education system. Is the minister also aware that officials from the Department of Education, Employment and Workplace Relations confirmed at Senate estimates that the promised new funding model currently does not exist, and neither do the details of how this new money promised by the Prime Minister would be spent? The officials also confirmed that no formal financial negotiations with the states had been commenced. What faith can parents have that the Prime Minister will deliver this additional funding to schools when the government has no money, no funding model and no agreement with the states?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:54): I am happy to answer the question because I think the Australian public are very well aware of which side of politics is interested in public education in this country. They also know which government has invested at record levels in all levels of education, be it preschool, be it primary, be it secondary, be it tertiary. They are also aware of what happened under the previous Howard government, when in its first budget it slashed funding to education. So there is no question in my mind that Australians understand who has got a commitment to education in this country.

This government has made education a priority, and what the Prime Minister did in her speech was reinforce that commitment. What she has done is say that in response to the Gonski report, the first comprehensive independent review of our school system in almost 40 years, we will implement the recommendations of that report. We will take on board that report and drive that change. As the Senate and the general public know, we have consulted about these issues and we have started negotiations with the states to drive that improvement in our school system.

We want to see every school getting the money they need to do the job in educating our children—not just the kids from wealthy backgrounds, not just the kids in the cities, but kids across this country, whether they be in the private independent system, the Catholic system or the public system. The Prime Minister has again reinforced her commitment to that. We are in the process of beginning to negotiate with the states those new funding arrangements. We are in the process of working with them to drive the most important reform in our education system in decades, and we are serious and we will do it. (Time expired)

Senator MASON (Queensland) (14:56): Mr President, I ask a supplementary question. The minister said in his answer that the government would, with respect to the Gonski review, implement those recommendations. Can I ask which recommendations of the Gonski report the minister was referring to.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:57): I think it is important also to put in that context that this is a matter in which the government responded to a Senate Community Affairs References Committee report, The social and economic impact of rural wind farms, which was tabled on 13 September 2012. (Time expired)
the Government in the Senate) (14:57): I do not have a copy of the Gonski report with me. I am not able to take the senator through it; but I am happy to get him properly briefed. This was a comprehensive, independent review of our school system. It was a review that was broadly accepted across the school system and the community—if we are going to improve the economic future of this country, we need a highly educated workforce. But you have got to start with your education system and you have got to invest in that. We are going to invest. We have already invested at record levels in education. We have made a huge transformation already in our education system across all sectors. We have adopted a National Plan for School Improvement. We are going to drive a process where Australian schools put the child's needs at the heart of all our funding decisions and we are going to drive, with the states, this important reform. (Time expired)

Senator MASON (Queensland) (14:58): Mr President, I ask a further supplementary question. Can the minister explain why the government is yet to commence negotiations with the states about what share of the extra $6.5 billion annual funding they are expected to contribute?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Science and Research and Leader of the Government in the Senate) (14:58): Unless I am mistaken, it has been very publicly announced that a ministerial select council has been established.

Opposition senators interjecting—

Senator CHRIS EVANS: I confirmed with the parliamentary secretary when they last met. She told me that they were probably meeting today. So, I do not know why the senator was not told, but I have heard various Liberal premiers wax lyrical on the issue. As I understand it, there is a select council of ministers. I remember seeing the report in Minister Garrett's last meeting with them. This council will report to the COAG processes. We are engaged with the states in implementing the national improvement plan. We are engaged with those states. There is a select council in place. There is a bit of push and shove about who is going to pay for what, but that is part of the normal COAG processes. But we are seriously engaged with the states. (Time expired)

Centrelink

Senator MARSHALL (Victoria) (14:59): My question is to the Minister for Human Services, Senator Kim Carr. I refer the minister to his previous statement that the wait times on the Centrelink call line had reached unacceptable levels due to strong growth in demand. What is the government doing to address this problem?

Senator KIM CARR (Victoria—Minister for Human Services) (15:00): I thank Senator Marshall for the question and indicate to the Senate that many senators raised this issue with me when I first came into the portfolio in March. When the problem peaked in July, the average waiting time exceeded 16 minutes. I made it very clear then that this was unacceptable and that I believed it could be fixed, and today I can report that our actions are succeeding. We have cut the average waiting time to six minutes and 15 seconds. We deployed additional staff to answer the telephones, we have been able to use new technology to lift the level of service and we have been able to adopt new techniques to ensure that we are able to provide clearer and sharper access for people who are trying to use the services provided by Centrelink.

This month I will announce the extension of the call back service to every caller; some mobile phone users already have access to
this option so they can go about their business while not losing their place in the queue. This service is now available for landline callers—for families' and for seniors' numbers—and it will be open for all landline calls from Christmas this year. We will be able to ensure that people are able to get through because, under the previous government, there was a practice in place at the Centrelink of having a permanent 'do not disturb' signal put on the lines. That is how they kept their statistics down—you actually could not get through. A permanent 'do not disturb' signal was placed on the lines to make sure the statistics looked good but it meant massive inconvenience to the citizens of this country.

We are in the business of improving services. We are in the business of ensuring that every Australian gets the rights and the entitlements that they have a right to expect and this government is committed to ensuring that we are able to lift the level of service for the people of this country.

Senator MARSHALL (Victoria) (15:02): Thank you, Minister, for the answer. I ask a supplementary question: in the light of state government cuts to community services such as we see in Victoria, will the government be able to bridge the gap?

Senator KIM CARR (Victoria—Minister for Human Services) (15:03): The community sector always has a vital part to play when it comes to service delivery but it must always be built upon the backbone of the services that are provided by government. Those opposite are peddling the line that they can transfer government responsibilities to community organisations. What we have seen is that that simply cannot be done, because what happens when community groups have resources withdrawn from them by government is that the people of this country suffer. In New South Wales we have seen long-established programs being forced to close. This includes the Liverpool Women's Resource Centre. We see the Redfern financial counselling service and we see the Welfare Rights Centre; these are all organisations that provide vital services that are able to turn people's lives around. Their judgement and their compassion cannot be replaced. So I call upon the Premier of New South Wales to help those people—(Time expired)

Senator Chris Evans: Mr President, I ask that further questions be placed on the Notice Paper.
QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS
Medical Workforce

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry and Minister Assisting on Queensland Flooods Recovery) (15:05): On Monday, 29 October, Senator Nash asked the Minister representing the Minister for Health and Ageing a question on the medical workforce. I seek leave to incorporate the answer in Hansard.

Leave granted.

The answer read as follows—

Senator Nash asked the Minister representing the Minister for Health and Ageing in the Senate on, Monday, 29 October 2012:

Does the minister agree that people studying medicine in Australia have a reasonable expectation of being provided internships in order to complete their qualifications?

Senator Ludwig—The Minister for Health and Ageing has provided the following answer to the honourable Senator's question:

The provision of medical intern training is the responsibility of state and territory governments. Under a COAG agreement, State and territory governments guarantee internships for domestic students.

My understanding is that students who come from overseas to study medicine in Australia are informed by universities that an internship at the completion of their degree is not guaranteed.

Despite this, the Gillard Government is concerned that up to 180 international graduates of Australian medical schools have not yet been offered internships in public hospitals in 2013. Australia needs more doctors to provide health services to the community, and short term cost cutting in public health systems shouldn't jeopardise the training of our future health workforce.

Overseas doctors make an important contribution to the Australian health system, so it is clear that we should be making the best use of those who have been trained in this country.

The Government is urging the states and territories to take action that will see all 2012 medical graduates placed as soon as possible in internship positions. The Government has offered $10 million to fund up to 100 internship places in private hospitals — well over half the expected shortfall in positions. We call on the states and territories to work in partnership with the Australian Government and commit to providing internships for remaining graduates of Australian medical schools next year.

The Government has massively expanded investment in medical training since 2008. The Gillard Government has provided about $1.2 billion to support the training of medical students in Australian universities and invested $1.06 billion in junior doctor, GP and specialist training for medical graduates from 2010-11 to 2014-15. This is producing world-class doctors, and increasing the number of Australian-trained doctors.

Senator Nash asked the Minister representing the Minister for Health and Ageing in the Senate on, Monday, 29 October 2012:

Is the minister then aware that the Minister for Health, Ms Plibersek, said on ABC Newcastle that part of this is a good news story. Can the minister explain what part of sending Australian internships overseas is a 'good news story'? What is the point of training more medical students through Australian universities if they cannot finish their training in this country?

Senator Ludwig—The Minister for Health and Ageing has provided the following answer to the honourable Senator's question:

The Senator has answered her own question in acknowledging that we are now training more medical students in this country than ever before. Total medical graduates from Australian medical schools will more than double over 9 years from 2007-2016 (from 1860 to 3970). That's good news for Australia.

The Gillard Government has provided about $1.2 billion since 2008 to support the training of medical students in Australian universities, and invested over $1.0 billion in junior doctor, GP
and specialist training for medical graduates from 2010-11 to 2014-15. This is producing world-class doctors, and increasing the number of Australian trained doctors. That's good news too.

It's also good news that this Government is willing to pitch in and help states and territories to find internships for 2012 medical graduates by offering to fund up to 100 internships in private hospitals. The only thing missing from this good news story is commitment by the state and territories to follow the Commonwealth's lead and support Australia's health workforce by funding the remaining positions.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator CORMANN (Western Australia) (15:06): I move:

That the Senate take note of answers given by ministers to questions without notice asked by Opposition senators today.

The mining tax has been a dog's breakfast for some time. The mining tax is an ongoing fiscal fiasco which we have argued for some time is a train wreck in the making. But not even the coalition thought that the mining tax would be such a fiscal mess as it has turned out to be. Last week we all found out that this complex new tax targeting an important sector in our economy, which is costly to administer, costly to comply with and which increased our sovereign risk profile, has not raised any revenue—at least not from those three biggest miners. No wonder the government was so desperate to rush out the Mid-Year Economic and Fiscal Outlook on the day it was released, because that was the same day that the first mining tax revenue collection was due.

Here we are and the government is not raising any mining tax revenue. In the meantime, courtesy of the deal that Prime Minister and the Treasurer signed with those three big mining companies, they are accumulating credits for the state royalties they have paid to the state governments. But there is more. Not only are those mining companies accumulating credits but also the government will have to pay compound interest on those credits. It is not a bad rate of return either. It is a risk-free rate of return, and anybody who can get a risk-free rate of return of more than 10 per cent would be pretty happy. That is exactly what the government signed up to in the mining tax heads of agreement that the Minister for Finance and Deregulation is clearly not across although it is a mere 1½ pages long. I suggest the finance minister has a close look at it. This is what it says:
All state and territory royalties will be creditable against the resources tax liability.

Then:

Any royalties paid and not claimed—

of course, you cannot claim any royalties if you have not paid any mining tax—

as a credit will be carried forward at the uplift rate of the long-term bond rate—

which right now is 3.12 per cent—

plus seven per cent.

That is a 10.12 per cent interest rate that is applied to the outstanding royalty credits.

I refer the minister to the government’s Minerals Resource Rent Tax Act and specifically section 60-25 part (2) where it describes how royalty credits are treated. When you look at the operation of the MRRT royalty credits from year to year you will see that the interest in any year will include the accumulated credit of the previous year plus interest. It is interest on interest, and that is what you call compound interest.

We have said for some time that this mining tax is not going to raise any money for a long time. It is a complex tax which is distorting, making it harder for smaller miners in particular to be the success stories of tomorrow. At the same time this incompetent Treasurer has attached billions of dollars of expenditure to this mining tax based on the revenue he thought it would raise. This is just extraordinary. No wonder this government has delivered $173 billion of accumulated deficits. (Time expired)

Senator STEPHENS (New South Wales) (15:11): I too rise to take note of answers to questions asked today of Minister Wong in particular. I was quite taken by Senator Cormann’s alliteration. He loves to use the expression ‘fiscal fiasco’. I do not know if he has heard of the latest fiscal fiasco in New South Wales where the Treasurer has discovered a $1 billion mistake in his budget which means that many of the cuts that the New South Wales government has made to community services and schools could be challenged and addressed. I will be taking that up with my local member around the issue of community services.

The questions today go in many respects to the fact that the opposition continue to talk down the economy. They fail to acknowledge the fact that we are doing so well. Last week I was at the IPU in Canada. In every bilateral meeting the question was: what is happening? What is the recipe for success in Australia? The recipe for success is responsible government spending as well as responsible government savings. We have made a serious effort and we are the envy of the world. It frustrates me to think that for people who listen to questions in question time and the discussions in our parliament, they do not understand how well Australia is performing in terms of the global the economy and the measurements that are taken by organisations like the OECD.

Senator Wong today reminded us of 21 years of economic growth. That is very significant, a stunning achievement that has not been matched by any other economy in the world. People want to know how and why we are doing it. Solid growth against the odds and low unemployment—significantly lower than in other developed countries. These are achievements we should be very proud of. We have also contained inflation. In Argentina last week we heard many discussions on the real concerns that inflation is increasing. Some people estimate that it is up to 25 per cent in Argentina. We do not have to deal with anything like that in Australia. We have strong public finances and strong public and private savings. We have solid consumption and we have investment growth. This is all very positive news.
We have low official interest rates. Again, Minister Wong spoke about how those rates compare internationally. We now have official interest rates lower than at any time under the last Liberal government. These low rates are of direct benefit to millions of families and to millions of small businesses. We have just overtaken Spain as the 12th largest economy in the world. But what we hear from the opposition is continued carping and negativity about Australia’s economic situation. Anyone would think we are all going to be ruined, and it drives me insane that this is the case. We certainly will not be ruined by the outcome of the MYEFO and the decisions that were taken by Treasury to make sure that the economy maintains stability and that the budget is returned to surplus, because our fundamentals are strong, despite the global turmoil. We only have to think about what is happening this week in the US and how the costs of a natural disaster like that are going to impact on the US economy—

Senator Feeney interjecting—

Senator STEPHENS: No, not the US election; I am talking about the US economy. The extensive devastation and the break in productivity that will occur after this US disaster are things that we really do need to be very mindful of. This will have an impact around the world and it is certainly something that we need to be thinking about.

We need to make sure that we are doing the responsible things that we need to do as a government. That is what we saw in MYEFO. We saw responsible savings that will continue to ensure that we are performing well. The Treasurer and the economic team have continued to forecast the message that we as a government are going to do everything we can to ensure that low- and middle-income people benefit from a strong budget and a strong economy—and we will continue to do that. (Time expired)

Senator PAYNE (New South Wales) (15:16): Interestingly enough, I have learned, as some of my colleagues would know, to become a student of form in recent years. And, given we are in Spring Carnival time, I think it is probably a good time to study the form that is in fact to the fore of the debate here. On the form, on the history of Labor governments and, more particularly, on the sad and sorry story that is this Labor government, the form tells me that it is looking more and more unlikely that Labor will actually make a surplus. I think they might even abandon their promise to return to surplus, on the form that we see in front of us at the moment. After all, why else would they have brought forward the MYEFO to October—for only the third time in history? They must be worried about something.

They have themselves wedged to the 'return to surplus' mantra, but their resolve, it seems to me, seems to be weakening. Just listen to the change in words used by the Prime Minister and the Treasurer—moving from their 'promise' to much more weasely words. It was a surplus which was 'promised' to start at $3 billion but was reduced to $1.5 billion in the last budget. Now, if you just move the numbers around a little more under the thimbles, you get to $1.1 billion. So let us hope, for the sake of the Australian people, that those thimbles do not move too much further. They have brought $2 billion out of the Future Fund into the budget to save just over $400 million this financial year—and then they launch into the superannuation accounts of Australian workers to try to find themselves $500 million more.

There are a lot of things you hear in coffee shops around the towns and cities of this country. But I was actually sat back on my
chair by a woman the other day who was talking to her ageing parents. She said to her ageing parents—

Senator Feeney interjecting—

Senator PAYNE: Well, I did leave; there were some undesirables. She said to her ageing parents—

Senator Feeney interjecting—

Senator PAYNE: No, they were members of the Labor Party, Senator. I heard her say to her parents, 'You know; if Gillard does that—and I am quoting; not using an inappropriate term—that's the end of it for me and it should be the end of it for every other Labor voter.' That is just coffee chat; that is not people on a political soapbox or anything like that. It is falling apart at the seams for this government.

Senator Feeney interjecting—

Senator PAYNE: The person who should be listening to that is the member for Lindsay—but, of course, he and his glass jaw will be off somewhere else on a patrol boat doing something entirely different. This whole government is falling apart at the seams. It is a 'commitment' and a 'promise' that is apparently now a 'plan' and a 'determination' to deliver a surplus. It is absolutely typical of a crazy-spending, irresponsible government that has absolutely no plan to fill a gaping $120 billion black hole in its own budget. It is absolutely inconceivable that the Australian people would trust this government to deliver even a $1.1 billion surplus or any surplus at all with the red ink that is flooding across the pages of their balance sheet.

Apparently the Treasurer thought that delivering a surplus was as easy as raking off the record profits from Australia's miners through the MRRT. Wrong again. Now the government, apparently, is going to receive nothing meaningful from the MRRT. Only a government that could invent a carbon tax that costs more money than it recoups, than it takes in, could conjure up a tax that raises no money. If it were not so serious it would be funny.

In fact, I am not entirely sure it is not an episode of The Hollowmen. I am just waiting for Rob Sitch and Lachie Hulme to pop up in various roles across the chamber—and, I am sad to say, neither Rob nor Lachie will be playing Senator Feeney in that regard—and to pop up in the House of Representatives and say: 'It’s ok; it was a joke. It's a script for The Hollowmen.' But, ladies and gentlemen, it is not a script for The Hollowmen; it is our country; it is our economy; it is the Australian people—it is their lives, it is their livelihoods, it is their businesses.

Fifteen billion dollars of the MRRT windfall was promised to people who probably fell for The Hollowmen joke and who thought that there really would be regional infrastructure funds paid for, superannuation increases paid for and concessions to small business paid for. But they will not be paid for by the MRRT; they will be lost in the vortex of Labor spin that is this government and this budget—and the Australian people deserve better. (Time expired)

Senator PRATT (Western Australia) (15:21): Mr Deputy President, through you, I would like to thank Senator Payne for sharing with us her thoughts about TV programs. But we are actually here today taking note of answers, to talk about the economy—because that is what question time was largely about today. The minerals resource rent tax was always likely to be a volatile tax. The PRRT did not generate the dollars that it was expected to at the time that it was introduced many years ago. In fact, it made about half the amount of revenue that was forecast. I am somewhat surprised that
those opposite seem to be so opposed to the idea of progressive taxation as opposed to royalties on Australia's mining companies—particularly at a time when we know that commodity prices have fallen. We want to keep strength in the Australian economy, and it completely befuddles me why those opposite do not subscribe to the idea of progressive taxation—taxation based on profits, which have clearly fallen given the fact that commodity prices have fallen. It is not within their economic rhetoric. I do not believe that those opposite, when they were in government, taxed nearly enough of the super profits that were made by many of Australia's mining companies. Frankly, I would say the same of my own state Labor government under its royalties regimes. The simple fact is that this government has delivered a surplus. Those opposite have tried to argue that there is no surplus. We have just delivered a midyear economic forecast with billions of dollars worth of savings to return the budget to surplus as forecast. We are committed and we are very much on track to deliver it. This is really very important, because a budget surplus gives the Reserve Bank the flexibility that we want them to have to keep interest rates in this nation low—as it has several times in the past year when it has cut interest rates. This is of maximum benefit to the Australian economy and to Australian households.

What we are about are fiscal settings that will always be appropriate for our economy, for the nation and for the jobs that we seek to create. That will never change. These are Labor's values and Labor's priorities. That is why this government stepped in to support the economy at the height of the global financial crisis. We have had some debate today about the so-called success of the stimulus package. It was successful, and it is proven by the 200,000 jobs that were saved at a time when many economies around the world were losing jobs hand over fist.

What have we got from the opposition at this time? What have we got when it comes to their economic fundamentals? We have a Liberal Party with a $70 billion budget crater. We know, because they said it on Sunrise, and they have never been able to refute it. We have a party that has botched their costings, and we have a party that voted against the stimulus package—voted against the very measures that have saved hundreds of thousands of Australians' jobs and have kept momentum in our economy. If we had taken their advice during the global financial crisis, we would have been in recession and I think we would be in a much greater state of deficit. It would be much harder to come to surplus, because the momentum would be completely sucked out of the economy.

We should not forget that official interest rates are now less than half the level that the government inherited from those opposite. That speaks to our good economic management and the fact that we are making the right decisions to put downward pressure on interest rates. We have a proven track record of putting in place the fiscal settings that are appropriate for our economy. (Time expired)

Senator RUSTON (South Australia) (15:26): I have sat in this chamber for 14 days now, and I have endured 14 hours of question time. In that time, I honestly do not think that I have heard a question answered that has been put to the other side by the Liberal Party, the Nationals, the Independents or even the Greens. I am sure it is not a new phenomenon over the last 14 days. I am sure that questions have not been answered for a lot longer than that. I do not think that is acceptable. It is an extraordinary waste of everybody's time, and I think it is
deflecting us from the real issues that we should be here talking about.

Today, again, there were a whole heap of questions asked in relation to the so-called budget surplus. It now seems that that budget surplus may not eventuate. I believe that over the last 18 months the Treasurer and the Prime Minister, collectively, have said 45 times that it was entirely not negotiable and we were going to have a budget surplus. So I can only hope that the assurances from the other side are true and that we are going to get a budget surplus.

The question that we really need to ask the Prime Minister and the Treasurer is: if this budget surplus is not going to be achievable, how long have they known that it was not going to be achievable and when are they actually going to come clean on it? Only a matter of a couple of months ago, I was running my own business. A lot of the decisions that I make in my own business are based on the information that is in the market. If this government knows that we are not going to have a budget surplus, they have got a responsibility to tell the people of Australia that we are not going to have one, so that they can use that market information to make the kind of investment decisions that they need in their business. I think it is an absolute disgrace if we are not getting that information. If business fails to provide that sort of information about the market, ASIC comes down on them like an absolute tonne of bricks. So why is it that the government can fail to provide information to the market that could reasonably be expected to mislead the market and have significant consequences?

Moving on from the fact that there seems to be one rule for the government and one rule for the rest of us, what of the MRRT? Where are the plans and what are the projects in relation to filling and plugging that gap with these billions of dollars that we were supposedly going to get but have not seen? We need to know what projects are going to be funded and what projects are not going to be funded. Are there projects that are going to be shelved? My understanding is that we did warn the government when this mining tax was brought in that it was highly unlikely that there was going to be any money earned from the tax—certainly in the short term. And yet now we have got a situation where they have not earned any money and yet they have allocated projects against the revenue before it was even earned.

As for so many promises that were on the agenda, we need to know which ones are going to be off the agenda, because we do not have the money to pay for them. It is the same as all those other projects that we seem to have been promised. Where is the money for the National Disability Insurance Scheme? Where is the money for the dental scheme? Who is going to fund Gonski? The list goes on and on and on.

I suggest that the people of Australia are, justifiably, getting pretty sick of these promises that are never likely to eventuate, and they are certainly understandably peeved they have been constantly misled. 'There will be no carbon tax under the government I lead'; now we have a carbon tax. 'There will be no cuts to private health insurance'; there appear to be. 'There will be a $9 million windfall from the mining tax'; there is not much to show or account for that at the moment. 'There will be a surplus in 2012-13'; it does not look like it.

So today we have had questions from the opposition on the mining tax, the budget surplus, the national building scheme, the stimulus package and education spending. Today, have we had answers to any of them? Senator Pratt chastised Senator Payne for
talking about TV when we are here today to talk about the really important issue of the economy. Maybe Senator Pratt should go back to her frontbench ministers and say that when they are asked questions about the economy they might like to answer them.

Senator Wong says, 'Don't talk down the economy.' I do not think we are talking down the economy. I think what we want to know is the actual truth about things out there. We are sick to death of rhetoric. If you give us the answers, we will not be talking down the economy, we will just be providing correct market information. Finally, the public are not stupid, so stop treating them as if they are stupid and give us the information so we can decide whether you are a good enough government. (Time expired)

Question agreed to.

PETITIONS

Live Animal Exports

Senator RHIANNON (New South Wales) (15:31): by leave—I table a petition of 93 signatures relating to live animal exports which is not a standard petition and which I have circulated to other members through the Whips.

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

Ginger Imports

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

This petition comes from Australian citizens who are likely to be affected either directly or indirectly by the issues herein and draw to the attention of the Parliament:

The failure of Biosecurity Australia and the Government to properly protect and support our borders, horticulture industries and Australian citizens from potentially devastating pathogens found in fresh ginger from Fiji. The "low risk" analysis reported by Biosecurity Australia is reckless. These potentially damaging pathogens can affect other horticultural industries which in turn affects 1000's of Australian citizen's jobs.

We therefore ask the Senate to instruct the Government to:

- Reassess the Import Risk Analysis of Fijian Ginger which has recently been approved to be imported into Australia.
- Protect Australia's future food security needs.

By Senator Boswell (from 9383 citizens).

Petition received.

NOTICES

Presentation

Senator Eggleston to move:

That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on Australia and the countries of the Indian Ocean rim be extended to 16 May 2013.

Senator Furner to move:

That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold public meetings during the sittings of the Senate, as follows:

(a) on Tuesday, 20 November 2012, from 12.30 pm, and on Wednesday, 21 November 2012, from 9.30 am, to take evidence for the committee’s inquiry into slavery, slavery-like conditions and people trafficking;

(b) on Tuesday, 27 November 2012, from 5.30 pm, and on Thursday, 29 November 2012, from 9.45 am, to take evidence for the committee’s inquiry into the care of Australian Defence Force personnel wounded and injured on operations; and

(c) on Wednesday, 28 November 2012, from 11 am, to take evidence for the committee’s inquiry into Australia's trade and investment relationship with Japan and the Republic of Korea.

Senator Heffernan to move:

That the time for the presentation of the final report of the Rural and Regional Affairs and Transport References Committee on the management of the Murray-Darling Basin be extended to 6 February 2013.
Senator Moore to move:
That the Community Affairs Legislation Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 12.30 pm, as follows:
(a) on Tuesday, 20 November 2012; and
(b) on Tuesday, 27 November 2012.

Senator Siewert to move:
That the Community Affairs References Committee be authorised to hold private meetings otherwise than in accordance with standing order 33(1) during the sittings of the Senate, from 12.30 pm, as follows:
(a) on Tuesday, 20 November 2012; and
(b) on Tuesday, 27 November 2012.

Senator Sterle to move:
That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 1 November 2012, from 4.30 pm, to take evidence for the committee’s inquiry into the performance of the Department of Agriculture, Fisheries and Forestry and portfolio agencies, adopted by the committee pursuant to standing order 25(2)(a).

Senator Xenophon to move:
That the Anti-Money Laundering Amendment (Gaming Machine Venues) Bill 2012 be referred to the Joint Select Committee on Gambling Reform for inquiry and report by the first sitting day of 2013.

Senators Back and Humphries to move:
That, in advance of the 10th anniversary of the devastating Canberra bushfires which occurred on 18 January 2003, the Senate:
(a) reflects on the 2003 House of Representatives report A Nation Charred, recommending measures to be implemented by governments, industry and the community to minimise the incidence of bushfires and their impact on life, property and the environment following the January 2003 bushfires, and notes that the report included 59 recommendations, many of which have not been implemented;
(b) recalls:
(i) the Black Saturday bushfires in Victoria on 6 February 2009, said to be ‘the worst day in the history of the State’, and
(ii) the subsequent 2009 Victorian Bushfires Royal Commission which made 67 recommendations, 35 of which have been implemented with progress being made by the State Government to address the remaining recommendations;
(c) notes the 2010 Select Committee on Agriculture and Related Industries report, The incidence and severity of bushfires across Australia, which made 15 recommendations, of which only five were supported by government and four accepted in principle, but only one of which has been implemented; and
(d) acknowledges the invaluable work of the Bushfires Cooperative Research Centre in working to minimise the threat of devastating bushfires to both urban and natural environments across Australia.

Senator Bilyk to move:
That the Senate acknowledges:
(a) that the week beginning 28 October 2012 is International Brain Tumour Awareness Week and, in doing so, acknowledges the impact brain tumours have on patients, their families and the community; and
(b) the statistics, which show that:
(i) brain tumours are the second highest cause of death in children aged 10 to 14 years, second only to accidental drowning,
(ii) brain tumours are the highest cause of cancer related death in females under 40 and males under 44,
(iii) between 2006 and 2010, people with a brain tumour had just a 22 per cent chance of surviving for at least 5 years, and
(iv) around 1 500 Australians a year will be diagnosed with primary (malignant) brain tumours, including 100 children, and that this number excludes approximately 2 000 benign brain tumours that may cause disability or even death.
Senator Ludlam to move:

That the Senate—

(a) notes:

(i) ongoing peaceful protests against the Koodankulam nuclear power plant, including hunger strikes, relay fasts and massive marches,

(ii) the deportation on 25 September 2012 of three Japanese citizens from India, on suspicion of supporting the peaceful anti-nuclear mass movement,

(iii) the detention on 25 October 2012 of Australian documentary maker Mr David Bradbury, who was questioned at Radhapuram Police Station,

(iv) the interrogation on 30 October 2012 in Palavur Police Station of a German journalist from Der Spiegel, picked up after he reportedly entered the Koodankulam nuclear power plant seeking an interview with officials, and

(v) brutal repression by the police and navy of the tens of thousands of peaceful protestors at the Koodankulam reactor, including at least five related deaths over struggles against Koodankulam, Jaitapur (Maharashtra) and Gorakhpur (Haryana) nuclear power plants since 2010; and

(b) calls on the Government to:

(i) make direct representations to Indian authorities about the treatment of peaceful protesters, as well as Australian and other foreign journalists in India, and

(ii) uphold the Treaty of Rarotonga by not selling uranium to countries that stand outside the nuclear Non-Proliferation Treaty and its associated safeguards system.

Senators Rhiannon and Di Natale to move:

That the Senate—

(a) notes that:

(i) government and non-government organisations have made considerable progress in reducing deaths from malaria in the Asia Pacific region,

(ii) the World Health Organization estimates that since 2000, malaria mortality rates have fallen by more than 25 per cent, and

(iii) the Global Fund to Fight AIDS, Tuberculosis and Malaria plays a key role in the malaria response in the Asia Pacific region; and

(b) calls on the Government to consider:

(i) supporting action to address malarial drug resistance with the aim of eliminating malaria in all Asia Pacific countries,

(ii) providing funding to support such action with particular focus on the poorest countries and those with high levels of drug resistance, and

(iii) measures to ensure that programs to reduce malaria also contribute to improving health services in the region.

Senator Rhiannon to move:

That—

(a) the Senate notes that:

(i) Port Waratah Coal Services is seeking approval to construct a major new coal terminal in Newcastle Harbour called Terminal 4 or T4, with a capacity of 110 million tonnes of coal per annum which would treble the current rate of coal exports at Newcastle port,

(ii) the Commonwealth owned Australian Rail Track Corporation plans to spend $3.5 billion upgrading rail infrastructure for the T4 project, which would generate more than 100
additional uncovered coal train movements per day through the suburbs of Newcastle,

(iii) many Hunter Valley residents living in coal mining areas, along coal train lines and adjacent to coal stockpiles in Newcastle are concerned that air pollution and coal dust from coal mines and coal trains is adversely affecting their health, and

(iv) a recent University of Sydney report confirmed an elevated risk of cancer, heart and lung disease and birth defects in mining regions, and concluded that there has never been a comprehensive study into the social and health harms of Hunter Valley coal mining, coal transport or coal exports on air quality in the region;

(b) the impact of the Hunter Valley coal rail, coal mining and coal export industry on air quality and public health be referred to the Community Affairs References Committee for inquiry and report by 28 February 2013; and

(c) in undertaking the inquiry, the committee must consider:

(i) what impacts, if any, the mining, transportation, stockpiling and exporting of coal has on air quality in the Hunter region of New South Wales,

(ii) what effect, if any, the air quality impacts of the Hunter coal industry has on public health,

(iii) what impacts the planned expansion of coal mining, transport and export in the Hunter region over the next decade are likely to have on public health, in particular the increase in coal mining and transport required to service the proposed fourth coal terminal in Newcastle,

(iv) what further study needs to be undertaken to fully understand the air quality and public health impacts of the Hunter coal industry,

(v) what steps the Commonwealth could take to protect public health from impacts of the coal industry in the Hunter, and

(vi) any other relevant matters.
Supporting jobs – Clean energy skills package,
(iv) Families, Housing, Community Services
and Indigenous Affairs:
Helping households – Increased payments
Improving energy efficiency – Low carbon communities
Renewable energy – Remote indigenous energy program
Helping households – Essential Medical Equipment Payment,
(v) Finance and Deregulation:
Governance – Clean Energy Regulator,
(vi) Health and Ageing:
Helping households – residential aged care,
(vii) Human Services:
Helping households – Increased payments,
(viii) Innovation, Industry, Science and Research:
Supporting jobs – Steel transformation plan
Supporting jobs – Clean technology focus for supply chain programs
Supporting jobs – Clean technology program,
(ix) Resources, Energy and Tourism:
Improving energy efficiency
Closure of emissions-intensive electricity generation capacity
Improving energy efficiency – Energy efficiency opportunities program
Innovation in renewable energy – Australian renewable energy agency
Supporting jobs – Coal mining,
(x) Regional Australia, Regional Development and Local Government:
Supporting jobs – Helping communities and regions,
(xi) Sustainability, Environment, Water, Population and Communities:
Creating opportunities on the land – Extending the benefits of the carbon farming initiative
Creating opportunities on the land – Natural resource management for climate change
Creating opportunities on the land – Biodiversity fund

Putting a price on pollution – Synthetic greenhouse gases and ozone depleting substances (related expense)
Compliance,
(xii) Treasury:
Helping households – Tax cuts
Supporting jobs – Increase in the instant asset write-off threshold to $6,500
Clean Energy Finance Corporation
Supporting energy markets – Energy security fund
Creating opportunities on the land – Extending the benefits of the carbon farming initiative (Australian Taxation Office)
Improving energy efficiency (Australian Bureau of Statistics)
Putting a price on pollution – Revenue from sale of carbon units (related expense)
Supporting energy markets – Energy security council
Governance – Productivity Commission reviews
Impact of automatic CPI indexation of household assistance payments,
(xiii) Veterans’ Affairs:
Helping households – Increased payments
Helping households – Residential aged care
Helping households – Essential Medical Equipment Payment; and
(b) if any of the matters are not being proceeded with, a statement to that effect.

Senator Cormann to move:
That—
(a) there be laid on the table, no later than noon on 19 November 2012, by the Minister for Finance and Deregulation, costings for all measures linked to the Minerals Resource Rent Tax, on an underlying cash basis and a fiscal basis, over each of the forward estimates to 2015-16:
(i) superannuation guarantee increase from 9 per cent to 12 per cent,
(ii) low income government superannuation contribution ($500 tax rebate),
(iii) higher superannuation caps for people aged 50 or more with a superannuation balance of less than $500 000,
(iv) instant asset write-off for small business ($5 000 threshold),
(v) phasing down interest withholding tax on financial institutions,
(vi) Regional Infrastructure Fund,
(vii) expanding the definition of exploration to include geothermal energy,
(viii) supplementary income support for low income earners,
(ix) increase in the rate of Family Tax Benefit Part A,
(x) tax loss carry back,
(xi) Minerals Resource Rent Tax – adoption of recommendations of the Policy Transition Group,
(xii) Accelerated Depreciation on Motor Vehicles ($5 000 upfront deduction),
(xiii) resource exploration refundable tax offset, and
(xiv) Minerals Resource Rent Tax – Exemption Threshold increase; and
(b) if any of the matters are not being proceeded with, a statement to that effect.

Senator Siewert to move:
That the Senate
(a) resolves that Newstart payments are too low and should increase by $50 per week; and
(b) calls on the Government to find an appropriate savings measure to fund this increase.

Senator Siewert to move:
That the Senate—
(a) acknowledges the Healing Foundation’s work over the past 4 years to promote emotional well being in Aboriginal communities, and particularly the work with the Stolen Generations;
(b) notes:
(i) the commitment of the Government to working with members of the Stolen Generations and the organisations which support them to address the traumatic legacy of past practices and the motion of Apology to Australia’s Indigenous Peoples and, in particular to the Stolen Generations, made by Parliament in February 2008 was a key positive step in this regard, and
(ii) that the Government provided funding of $26.6 million over 4 years to assist the establishment and operation of the Healing Foundation and to support community based healing initiatives to address the traumatic legacy of the past; and
(c) calls on the Government to ensure that the important work of the Healing Foundation will be continued and that the successful programs that are currently in place through this initiative will be maintained.

Withdrawal
Senator MADIGAN (Victoria) (15:32): I withdraw general business notice of motion No. 606 standing in my name for 1 November 2012 relating to the introduction of a bill.
PETITIONS

Mining

Senator WATERS (Queensland) (15:33): by leave—I table two documents: one of 253 signatures relating to the need to stop mining in nature refuges and nature reserves, which is not a standard petition; and one of 662 signatures, relating to the need for a moratorium on coal seam gas, which is also not a standard petition, which I have circulated to other members through the Whips.

NOTICES

Postponement

The following item of business was postponed:

General business notice of motion no. 993 standing in the name of Senator Rhiannon for today, relating to the ‘Let’s end the stigma’ campaign, postponed till 1 November 2012.

COMMITTEES

Environment and Communications

References Committee

Reference

Senator WATERS (Queensland) (15:34): I move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by the third sitting day of 2013:

The effectiveness of threatened species and ecological communities’ protection in Australia, including:

(a) management of key threats to listed species and ecological communities;

(b) development and implementation of recovery plans;

(c) management of critical habitat across all land tenures;

(d) regulatory and funding arrangements at all levels of government;

(e) timeliness and risk management within the listings processes;

(f) the historical record of state and territory governments on these matters; and

(g) any other related matter.

Question agreed to.

BUSINESS

Consideration of Legislation

Senator JACINTA COLLINS (Victoria—Manager of Government Business in the Senate and Parliamentary Secretary for School Education and Workplace Relations) (15:34): At the request of Senator McLucas, I move:

That the government business orders of the day relating to the Superannuation Legislation Amendment (MySuper Core Provisions) Bill 2012 and the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Bill 2012 may be taken together for their remaining stages.

Question agreed to.

COMMITTEES

Legal and Constitutional Affairs

Legislation Committee

Meeting

Senator McEWEN (South Australia—Government Whip in the Senate) (15:35): At the request of Senator Crossin, I move:

That the Legal and Constitutional Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 1 November 2012, from 4.15 pm, to take evidence for the committee’s inquiry into the provisions of the Law Enforcement Integrity Legislation Amendment Bill 2012.

Question agreed to.

MOTIONS

Yousafzai, Miss Malala

Senator CASH (Western Australia) (15:35): I move:

That the Senate—
(a) condemns the contemptible act of attempted murder committed on 9 October 2012 by Taliban terrorists who boarded a school bus in the Pakistani town of Mingora, sought out 14-year-old schoolgirl Ms Malala Yousafzai by name and shot her point blank in the head and neck;

(b) applauds Ms Yousafzai’s advocacy on behalf of gender equality in Pakistan;

(c) expresses particular admiration for her public speaking debut in September 2008 when, at the tender age of 11 years, she declared in speech to the media in Peshawar, Pakistan, ‘How dare the Taliban take away my basic right to education’;

(d) notes media reports that the Taliban has openly claimed responsibility for this despicable attack on Ms Yousafzai and has threatened to try again to assassinate her at the first available opportunity; and

(e) wishes Ms Yousafzai a speedy and complete recovery from her injuries.

Question agreed to.

World Health Organisation

Senator DI NATALE (Victoria) (15:36): I move:

That the Senate

(a) notes that:

(i) non-communicable diseases (NCDs) are responsible for 36 million of the 57 million deaths that occurred globally in 2008, comprising mainly cardiovascular disease, cancers, diabetes and chronic lung disease,

(ii) to guide the prevention of NCDs, the World Health Organization (WHO) has been consulting throughout 2011 and 2012 on a comprehensive global monitoring framework, including indicators, and a set of voluntary global targets for the prevention and control of NCDs, and

(iii) the framework will be finalised at a formal member state consultation meeting at the WHO in Geneva from 5 November to 7 November 2012, where the Australian Government will be in attendance; and

(b) calls on the Government to:

(i) support the adoption of the full set of 10 targets as specified in the WHO’s Third Discussion Paper, dated 25 July 2012, on a comprehensive global monitoring framework, including indicators, and a set of voluntary global targets for the prevention and control of NCDs,

(ii) support the target on alcohol of a 10 per cent relative reduction in overall alcohol consumption, and

(iii) inform the Senate of its position on the comprehensive global monitoring framework, including indicators, and global targets in advance of the WHO formal member state consultation meeting in November.

Question negatived.

Hicks, Mr David

Senator WRIGHT (South Australia) (15:36): I move:

That the Senate—

(a) notes that:

(i) the United States Court of Appeals for the District of Columbia Circuit recently ruled that providing material support for terrorism was not a war crime between 1996 and 2001 and therefore could not support a conviction of Mr Salim Hamdan, and

(ii) in 2007, Australian Mr David Hicks was convicted of this now invalid charge when he submitted an Alford plea through the United States military commission system; and

(b) calls on the Government to recognise that there is doubt regarding the validity of Mr Hicks’ conviction.

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

The Senate divided. [15:41]

(The Deputy President—Senator Parry)

Ayes .................. 8
Noes .................. 32
Majority ............... 24

AYES

Di Natale, R
Ludlam, S
Milne, C
Rhiannon, L
Question negatived.

MATTERS OF PUBLIC IMPORTANCE

Uranium Exports

The DEPUTY PRESIDENT (15:43): A letter has been received from Senator Siewert:

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

That uranium sales to India are illegal under the treaty of Rarotonga and may encourage the opening of toxic uranium mines in Australia by proponents with little experience and in states with deficient regulatory capacity and experience.

Is the proposal supported?

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

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

Senator LUDLAM (Western Australia) (15:44): You can tell at the outset the matters of public importance written by the Australian Greens compared to those that are written by the coalition. This is a matter of great urgency. I want to begin with the international law dimensions because the matter raised does speak directly to the fact that sales of uranium to a country that stands outside the nuclear non-proliferation treaty are illegal at international law. Australia is, of course, a signatory to the treaty of Rarotonga. For senators who are not aware, that is the South Pacific Nuclear Free Zone Treaty. It creates a geographical region in which nuclear weapons are banned, but it does more than that. It stipulates that a condition of nuclear trade is full-scope safeguards of the International Atomic Energy Agency. Senators may not have been aware that the only way you get full-scope safeguards with the IAEA is by signing the nuclear non-proliferation treaty; and it is because Australia has these treaty commitments that every Australian government for the last 41 years has upheld the principle of not selling uranium to non-NPT states.

Here is somebody I would not normally quote in the Senate. In fact, this might be the first time I have ever done so. The current Minister for Resources and Energy, Martin Ferguson, said in 2006, from opposition:

As the second biggest supplier of uranium, Australia cannot have one set of rules for some countries and another set for others … Labor calls on John Howard to clarify his support for the NPT and rule out the export of uranium to any state unless and until that state joins the NPT.

What a difference a change of government makes. Minister Ferguson, who has since then been a diligent sock puppet on behalf of the interests of the uranium mining industry,
has completely turned that former position on its head. What interesting timing for Australia to be undermining international laws and treaties, just when we have secured a seat on the United Nations Security Council. The same UNSC in 1998, after India and Pakistan tested nuclear weapons, adopted resolution 1172, and it is worth quoting from. That resolution:

Encourages all States to prevent the export of equipment, materials or technology that could in any way assist programmes in India or Pakistan for nuclear weapons or for ballistic missiles capable of delivering such weapons, and welcomes national policies adopted and declared in this respect;

Some senators might remember the Cold War and the Cold War suicide pact between the Soviet Union and the United States of America and the various alliances that shifted during the period of the Cold War. During that nuclear suicide pact, fortunately, although these weapons were never stood down, the finger stayed off the button. But we still have nuclear weapons targeted on the subcontinent at the enormous metropolises of Delhi, Bombay, Karachi and Islamabad. India and Pakistan are engaged in an active and expanding nuclear arms race in the Asia-Pacific region. What a remarkable contribution to the Asian century it will be to have Australia's name on a piece of paper saying that we do not particularly care about fuelling that arms race.

I understand that senators might be a little uneasy and I know there are many of them inside the Labor Party; I have always suspected there would be a handful inside the coalition, but they are very, very quiet—I am sure they are there. They would be very uneasy about expanding the uranium trade to India.

Senator Mark Bishop interjecting—

Senator LUDLAM: I can dream, Senator Bishop. You never know. But senators would at least want to know that the safeguards regime is watertight and that—and I suspect there is total agreement in the chamber on this matter—Australian uranium will not end up in nuclear weapons in India or anywhere else. I see some nodding, so I sense that is correct. Tell me, if you will, how a safeguards agreement would cope with the following. The former head of the national security advisory board in India suggested this in 2005—see if this sounds familiar:

Given India's uranium ore crunch and the need to build up our … nuclear deterrent arsenal as fast as possible, it is to India's advantage to categorise as many power reactors as possible as civilian ones to be refuelled by imported uranium and conserve our native uranium fuel for weapons-grade plutonium production.

Somebody tell me how a safeguards agreement can be written to prevent the Indian authorities from doing exactly that. Nobody is making eye contact anymore; isn't that interesting.

My colleague Senator Waters will discuss how Campbell Newman, inspired by the sale of uranium to India, swiftly dumped a clear election commitment not to mine uranium in Queensland. The rest of the country is watching with a kind of horrified fascination as Campbell Newman abolishes the Public Service and runs absolutely roughshod across environmental regulations in Queensland. I will leave those comments to Senator Waters. Senator Rhiannon will discuss the dopey reversal of the 26-year ban on uranium mining in New South Wales earlier this year. That was very, very carefully dealt with during the election campaign because it is a nasty thing to talk about. Nobody goes into an election campaign promising to expand exports of a carcinogenic material, apart from Western Australia, actually. So let us go there. I will
focus my remarks on what is happening in my home state of WA.

Many people in WA are very deeply concerned about the prospect of Toro. They are a small exploration outfit; they have no cash reserves; they have never actually run a mine; their parent company, OZ Minerals, describes them as a non-core asset. They are proposing to strip mine a relatively small by international standards calcrete deposit across an ephemeral watercourse that runs into a salt lake, Lake Way, in the north-east goldfields. The Western Australian government's Environmental Protection Authority took a look at it, and I would observe that that name was not intended to be ironic—that you would have an environmental protection authority and you would hope that its objectives would be based on protecting the environment, but that appears to have fallen by the wayside. Based on remarkably sketchy and insufficient evidence and the complete absence of some very important pieces of information, the EPA has given it the tick, as we knew it would.

The Barnett coalition government in Western Australia has turned the environmental impact assessment process into a one-way foregone conclusion. Nobody seriously believed that the EPA was going to knock that proposal out on the grounds that it did not satisfy the EPA's objectives. This is a uranium mine that has a proposed 14-year lifespan, but the company can only tell us where it is getting its water from for the first seven years. After that, I guess we just have to hope for the best. In a state with so many mining projects, with fully allocated surface water resources and a very well documented decline in rainfall, that is completely unacceptable.

Minister Tony Burke, in my view, is entirely within his rights to ask the company where it plans on getting the water for the second half of the mine life. He should ask the Western Australian government to do its job so that he can do the job assigned to him under the Commonwealth EPBC Act. He cannot do his job in assessing this project if he is not provided with the information that was required by law. The Barnett government and Toro have failed to do that. The minister does not get to be pro-nuclear or antinuclear, and I think that is kind of sad but I respect that his act says he assesses the project according to the law. It is my view that he cannot do that at the moment because Toro have not presented their proposal in full. The director-general of the WA Department for the Environment and Conservation has stated that there is a significant risk of loss of another individual taxon, probably at both species and subspecies level, of Tecticornia should the project proceed as proposed. So a uranium mine that will leave a permanent carcinogenic hotspot across a salt lake bed in the north-east goldfields may also wipe out a number of listed species. That is fantastic news. I wonder if anybody else would care to address those concerns on the way through.

The Commonwealth environment minister by law cannot preside knowingly over the destruction of species. He cannot preside over the extinction of particular species. So you would think that the proper studies and information would be provided, for example on stygofauna, nominated by the WA EPA as a threatened ecological species in 2008. But, no, we have this headlong rush to get the first uranium proposal up before the next state election. Those are the kinds of imperatives we are dealing with here. It is pretty offensive. Nobody, certainly not Toro, not Colin Barnett or the industry's man in Canberra, Martin Ferguson, appears to give a rat's.
Senator Cormann: He is actually a good Labor minister.

Senator LUDLAM: He is one of yours, Senator Cormann.

The DEPUTY PRESIDENT: Order! Interjections are disorderly. And direct your remarks to the chair, Senator Ludlam.

Senator LUDLAM: My apologies, Deputy President. But it is worth noting, isn't it, the number of times that coalition MPs in this place and the other will claim Martin Ferguson as one of their own.

Senator Fifield: Mr Deputy President, I raise a point of order. I may be mistaken but I thought I heard Senator Ludlam use the phrase 'don't give a rat's', which I think is bordering on the unparliamentary. We know what the 'dot, dot, dot' is.

The DEPUTY PRESIDENT: The 'dot, dot, dot' was not emphasised, if that is the case. Senator Ludlam is in order.

Senator Fifield: Does not give a rat's what?

The DEPUTY PRESIDENT: Senator Fifield, I am not going to debate the English language with you but I do not rule that disorderly. Senator Ludlam.

Senator LUDLAM: That is an entirely sensible ruling, Deputy President. In conclusion, I quote a friend of mine and a great campaigner, Dave Sweeney from ACF: 'On a good day Australian uranium becomes nuclear waste and on a bad day it becomes fallout.' Right now that is fallout across Japan's Pacific coast. It has shattered the farming industry and the fishing industry, it has destroyed horticulture and it has led to the evacuation of 150,000 people. I used to wonder how the Australian government would react if uranium from Kakadu and uranium from central South Australia was blasted all across the landscape, forcing mass evacuations, destroying industries and destroying lives. Now I do not have to wonder because I know what the reaction is. People avoid eye contact. They shuffle their feet. They will not discuss it anymore. They pretend it is not our problem, and it is our problem. It is time we got out of this industry once and for all.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (15:55): Here we go again. The Greens, the very bastion of moral purity, once again are telling us what is right and what is wrong: that it is right to have low carbon emissions but that it is wrong to have nuclear power; that it is right to bring the world out of poverty but that it is wrong to give people the tools they need to accomplish this. Once again in a demonstration of bizarre ethical ambiguity the Greens continue to want everything but to give nothing. Alas, what more can we expect from this confederacy of protest movements that is the Greens in the Senate.

Let us give the reality of this situation some perspective. India is a nation where 40 per cent of people live below the poverty line, a nation that by 2025 will outnumber China with a population of some 1.5 billion persons. It is a nation that is growing quickly, as is its energy consumption. It needs the sort of stable and affordable energy that as Australians we take for granted. Currently 40 per cent of Indians have access to electricity for less than 12 hours a day and an estimated 300 million people still lack access to energy there at all. I asked the Greens how one billion people of India are going to meet their energy needs without nuclear power. How will their nation modernise, how will they grow? And how will they do this without pumping hundreds of millions of tonnes of carbon into the atmosphere? Coal, or maybe wind turbines as far as the eye can see, stretching from Calcutta to Bangalore. Or maybe the Greens
just think India should not have electricity at all.

According to the Australian Academy of Sciences, for every 10,000 tonnes of Australian uranium we export we stop the generation of 400 million tonnes of CO₂ from conventional power sources. That is quite a remarkable figure. How can the Greens sit here arguing that exporting uranium is wrong when it makes such a huge and clear difference not only to the lives of Indians but to our global environment. No matter how the Greens want to look at it, no matter how they paint it, the answer is the same: nuclear power equals development and the Greens want this stopped.

This is perhaps the ideal example to highlight the failure of the Greens party to celebrate their naive views on foreign policy with reality. It is their stance on issues such as this one that shows why Australia will never accept the Greens as a government in its own right. They just do not have the pragmatism required. It is one thing to want the world to be a better place but quite another to make it happen. If we really want a global clean energy future, not just one for the rich and privileged, we need to acknowledge that for large developing countries, particularly a country such as India, nuclear energy is one of many strategies that must be employed if this is going to happen. Australia can afford the luxury of not using nuclear power but India is not so fortunate.

Senator Fifield: You pronounce nuclear the way George Bush did.

Senator FEENEY: I always welcome your contributions, Senator Fifield. It cannot be because India has nuclear weapons. We sell uranium to Russia and China, both of which are nuclear powers. Are the Greens afraid that India is engaged in some sort of regional arms race? China is engaged in one of the fastest military modernisations in recent history and yet obviously we continue to engage with China. They surely cannot be worried about nuclear proliferation. India tightly guards its nuclear technologies and has never been found guilty of proliferating those technologies. The Greens' stance only makes sense when we look at it from a pre-2007 perspective when not selling uranium to India was part of an international strategy to bring India into the nuclear non-proliferation treaty. But this ended with the US-India nuclear agreement of 2007, which ended the international de facto ban on nuclear cooperation with India. So, although you may not agree with India's decision not to sign the non-proliferation treaty, you can certainly understand their reasoning, which is that it would force the world's largest democracy to abandon their nuclear weapons, despite the fact that the UK, the US, China, Russia and France are all allowed to hold on to theirs, and despite the fact that, on its very own border, Pakistan openly displays its nuclear capabilities. This is a treaty that asks India to have its own national security policy dictated to it by Western powers, and, no, this was not an arrangement that was ever realistic.

Until recently, Australia was the only nuclear supplier in the world that would not deal with India. Not surprisingly, this was offensive to a large trading partner. Last financial year, we exported almost 7,000 tonnes of uranium, with a value of around A$600 million, without adverse health or environmental consequences, but we did refuse to sell uranium to India. We have 33 per cent of the world's commercially recoverable uranium, and we are well placed to capitalise on growing global demand. This is an industry that can provide long-term economic benefits to Australia, including generating employment in regional areas, providing benefits to Indigenous populations
and generating export income, yet the Greens still say, 'No, you cannot export to India.'

India's importance to Australia will only grow in the coming years, and a policy of choosing not to sell uranium to India would be an obstacle to developing the strategic and economic partnerships that we want and, indeed, that we need. Make no mistake about it: India will and does have nuclear power, whether the uranium comes from us or from somewhere else. So why not have some say over the process? Why not have some say over the protections and some influence in how uranium is safeguarded? But, once again, the Greens would rather vote for 100 per cent of nothing rather than for 80 per cent of something. That is the reasoning that caused them to vote against the CPRS bills not once but twice in this Senate, and that is the reasoning that saw them stand in the way of any cross-chamber arrangements regarding immigration laws.

The Greens do not think in terms of accomplishing reforms. They would rather Australia had no say, no control and no influence over the nuclear powers in our region. Selling uranium to India is not giving them a blank cheque. Let me be clear: exports will comply with our international legal obligations. But, before any exports of Australian uranium to India can take place, Australia and India need to negotiate and conclude a bilateral safeguards agreement. This agreement would address Australia's stringent safeguards and transparency requirements and would specify that the uranium may only be exported for peaceful, civil nuclear power generation.

The legislative framework in Australia is already in place to cater to this agreement. If there are any specific legal requirements in addition to the legislative framework, these will be addressed in the context of negotiations through our bilateral agreement. The Greens policy on this issue is illogical and it is hypocritical. They seek to damage our wider relationship with India but offer no viable alternatives. They continue with posturing and rhetoric but have no practical solutions.

India is the world's largest democracy, a sobering fact worth remembering. It is a fellow member of the Commonwealth, with a strong philosophical commitment to peace and cooperation. It is a law-governed state, with a free press and a vibrant civil society. It has proven over the decades to be a stable power in an increasingly hazardous region. I not only reject the Greens stance on this matter; I applaud the government for opening our borders and giving Australia a say on nuclear safeguards in India. I also say with some pride that this was a matter that was ventilated and robustly debated at the ALP National Conference. This is a conference that is open to the public—

Senator Brandis: Dominated by trade union thugs.

Senator FEENEY: a conference that is open to the press and open to the ramblings and raving criticisms of people such as Senator Brandis. It is a conference where the whole country can sit in judgement of our public policy processes and where ALP delegates can freely debate their ideas before coming to a final resolution. It is a process that stands in stark contrast to the continuing secrecy of the Greens and their decision-making processes and stands in stark contrast to the closed conferences and secret cabals that make up the decision-making process of their party, the last secretive party left in Australian public life.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (16:04): As I have been sitting here, listening to Senator David Feeney, I have been grappling with a conundrum: which is
the greater, the depth of ignorance of the Greens or the vastness of the hypocrisy of the Australian Labor Party? I am just not sure, but they are both vast indeed. To listen to Senator David Feeney address the Senate and go through all this pious rodomontade about how terrible the Australian Greens are, this formulaic denunciation of the Australian Greens and all they represent—whilst I might agree, by the way, with every word he has to say about the Australian Greens—omits one inconvenient truth, and that inconvenient truth is that the government of which Senator David Feeney is a member is in office today because of a written agreement, signed, sealed and delivered, between the Australian Labor Party and the Australian Greens. Just as in the state of Tasmania the Australian Labor Party and the Australian Greens form a formal coalition government, here in the national capital they form an informal coalition government. So much for the hypocritical pieties of Senator David Feeney.

I rise to oppose the proposition in this matter of public importance because, as I said at the beginning, the only thing that rivals the vastness of the hypocrisy of the Australian Labor Party is the depth of ignorance of the Australian Greens. It was on display again this afternoon in Senator Scott Ludlam's speech on the Treaty of Rarotonga. First of all, one would have thought that if one were going to bring on a matter of public importance debate about the Treaty of Rarotonga, it would be a good start to be able to spell it correctly. But, in fact, the Australian Greens are not even able to spell the name of the treaty which they seek to enforce. More importantly, it would be good as well if they understood what the treaty of Rarotonga stipulated. Unlike, apparently, Scott Ludlam and his flea-bitten cohort of former communists and well-meaning fools who constitute the Australian Greens, I have actually read the treaty. In fact, I have a certified copy of the treaty in my hand. Everything Senator Scott Ludlam had to say about the treaty of Rarotonga in relation to uranium sales to India is wrong. I take those who might be listening to this contribution to the provisions of article 4 of the treaty of Rarotonga, to which Australia is a signatory of course but which applies to the South-West Pacific zone. This treaty was entered into by a previous and more honourable federal Labor government, the government of Mr Bob Hawke. Article 4 of the treaty of Rarotonga states:

Each Party undertakes:

(a) not to provide source or special fissionable material—which includes uranium—to:

… … …

(ii) any nuclear-weapon State—and we know that India is a nuclear weapon state—unless subject to applicable safeguards agreements with the International Atomic Energy Agency (IAEA).

Any such provisions shall be in accordance with strict non-proliferation measures to provide assurance of exclusively peaceful non-explosive use …

That is the obligation that Australia assumed when it signed the treaty of Rarotonga during the period of the Hawke government.

Senator Scott Ludlam, you are not right when you say that the prohibition lies on selling fissionable material to non-member states of the nuclear non-proliferation treaty. It is a prohibition against selling material to nuclear weapon states with whom there exists no current safeguards agreement recognised by the International Atomic Energy Agency. There is a safeguards agreement; there will be a safeguards agreement. That is a point that I am sure
Senator Mark Bishop, another member of the government supported by the Labor-Green's coalition, will make in his forthcoming contribution, upon which we wait with bated breath.

The substance of this issue is that throughout the entire life of this period of Labor government—this lamentable, corrupt, dishonest, incompetent, wasteful, spendthrift, profligate, hopeless Labor government—for the five years Australians have suffered under this Labor government, there has been nary any attention paid to the Indian subcontinent. Mr Kevin Rudd managed to visit India for one day during his prime ministership—a prime ministership, it must be said in his defence, was foreshortened very suddenly by a steel blade through the back from Ms Julia Gillard, his successor. Lo and behold, late in the piece Ms Julia Gillard, eager to seek photo opportunities, discovered India and visited India.

Mr Howard when he was the Prime Minister did not need to be shown a passage to India. He visited India twice during his prime ministership, for substantial state visits. It was the policy of the Howard government—condemned at the time by the Australian Labor Party—to sell uranium to India, provided a sufficient and comprehensive safeguards agreement was in place. When Mr Howard announced that policy in 2006 he was condemned to the rafters not just by the Greens but by the Australian Labor Party. Fast forward six years and all of a sudden the Australian Labor Party have caught up with where the Howard government was more than six years ago and, albeit subject to the intellectual distinction of a Labor Party national conference where a motley gang of trade union thugs and crooks were asked to rubberstamp this policy, have eventually signed off on it.

It is important that Australia nurture and foster its strategic, trade, commercial and educational relationship with India. It is important that Australia sells uranium to the Indian government, subject to appropriate safeguards agreements, so that nuclear power plants can be used to provide electricity to the starving people of India, because at the moment it is beyond the capacity of that state to provide it for all of its people. The hypocrisy of the Labor Party in pretending to be distant from the Greens is only matched by the hypocrisy of the Greens in uttering pieties about social justice while all they want to do is keep the people of India poor. (Time expired)
Senator WATERS (Queensland) (16:14):
I am glad that Senator Brandis is having fun, but I am sorry to disappoint him: I am neither flea-bitten nor moth-eaten. I am very sorry about that Senator Brandis.

Senator Brandis: I wasn't talking about you

Senator Siewert: Were you talking about me? Scottie?

The DEPUTY PRESIDENT: Order! You have the call, Senator Waters.

Senator WATERS: As Senator Ludlam said, a fortnight ago Queensland's new premier, Nuclear Newman, as he shall now be known, lifted the long-standing ban on uranium mining in Queensland. This actually came as a complete surprise to me and to every other Queenslander, given that prior to the election Mr Newman had assured us that he had no plans to mine uranium—a promise that he repeated as recently as two weeks ago.

Sadly, this was just one of a number of backflips since the election, including the promise that public servants would be safe from mass sackings, that gay surrogacy laws would remain and that there were, likewise, no plans to overturn the wild river laws which limit big mines and dams in our most pristine rivers. The premier also says that he has no plans to allow mining in national parks, so I hope that these 'no plans' are different to the no plans that he had for uranium mining.

Clearly, throwing Queensland open to uranium mining is toxic, dangerous and completely unnecessary in the Sunshine State. We are still the state with the best sunshine, despite the fact that the premier has slashed funding for both small- and large-scale solar programs across the state. We tried this before: 30 years ago we closed our last uranium mine, Mary Kathleen. And it has been leaking ever since. For the last 20 years there has been an informal ban on uranium mining. I say 'informal' because, unfortunately, the state Labor government never had the guts to legislate the ban, and they permitted exploration for uranium throughout those 20 years. Clearly, they should have legislated this ban when they had the chance and stopped exploration for this toxic stuff.

Unfortunately, federal Labor has now also overturned its opposition to uranium mining so we have a unity ticket with Julia Gillard and Campbell Newman on digging up and exporting toxic, radioactive uranium. I am pleased to say that the Greens have always had a clear and consistent position on uranium, and that is that we oppose all aspects of the nuclear fuel cycle—and that is nuclear, not 'nuc-u-lar', for the benefit of folk who might have been listening earlier. It is simply too risky, it is environmentally dangerous, it is economically foolish and, frankly, we have clean, green, renewable alternative energy sources that will not make the world's conflicts worse. Perhaps Senator Brandis might like to look up and notice that great energy source in the sky.

Yesterday, Premier Newman announced the membership of his new uranium mining committee—the one whose role is perhaps a little perfunctory, given that cabinet has already lifted the ban on uranium mining. The premier says that he is going to develop 'world's best practice' environmental and safety standards. But this is from the guy who has rolled back most of Queensland's environmental protection laws, so I am afraid that I lack confidence in that statement. Maybe the committee is going to start with doing the economic and employment modelling, which the premier admitted last week that he had not done despite making claims about the jobs and royalties that uranium mining would provide—now shown by his very words to be baseless. Frankly, he...
is just making it up as he goes along. A cursory look would show that the global price of uranium has tanked in the last five years, even before Fukushima. It is now almost one-third of what it was in 2007. It has dropped from US$138 a pound to US$43.50 a pound, and it shows no signs of recovering.

Nuclear Newman's committee might also look at the fact that Mary K is still leaking after rainfall events after 30 years. Maybe it could look at the impossibility of guaranteeing that Queensland uranium does not fill nuclear weapons? Despite the so-called safety agreements that have been bandied about in this debate, as Senator Ludlam said, there is no way that we can guarantee that our uranium simply does not free up other uranium to end up in nuclear weapons. I would like to put on record how disappointed I am that this federal Labor government is prepared to sell uranium to India, despite it not being a signatory to that non-proliferation treaty, and despite the fact that India has just killed five antinuclear activists—despite Senator Feeney's confidence in India's peacefulness.

Perhaps this new committee could look at how to store nuclear waste, which remains radioactive for tens of thousands of years? They are going to be pretty busy, really, solving all of the problems that the world's scientists have been unable to solve in the decades that we have been grappling with this problem.

One last thing in the short time that I have remaining to me is my concern that the federal Labor government is going to leave this stuff solely in Premier Newman's hands, given the COAG deal to hand over federal environment powers to the states. What a toxic and dangerous situation that will be.

Senator MARK BISHOP (Western Australia) (16:19): Before I introduce some remarks of substance in this debate, I really should address the opening comments by Senator Brandis, which coloured the entirety of his contribution. My memory is that he accused my colleague Senator Feeney of a 'formulaic denunciation of the Greens', meaning that every time there is a debate on there is a faux attack on the Greens and that it has no heart and no substance. That is my understanding of Senator Brandis's comments.

Let us test the veracity of that proposition. I think to myself, 'How does one test the veracity of the proposition that the Australian Labor Party has been engaged in a formulaic denunciation of the Greens—a pretend denunciation?' There is a way to do it. Senator Brandis, as we all know, was a member of the front bench of the former coalition government. And since the coalition have been in opposition he has constantly been in a senior position on the shadow front bench. He is one of those key people involved in the internal processes of his party who gives advice, sometimes accepted and sometimes rejected—and properly so—by their leader.

After the last election, of course, the results are known: the Australian Labor Party and the Greens Party are in some sort of arrangement. Whether that be de facto or de jure it does not matter; it is an arrangement where your support is guaranteed on the floor of the House. But, of course, before those negotiations were completed a similar set of identical negotiations was entered into by Senator Brandis's leader, Mr Abbott—with the full knowledge of the frontbench at that time to enter into a negotiated agreement—so that the Greens could be a partner with the Liberal Party if they should be a government. So that is the first test that I suggest we use.
The second test of objective reality, which Senator Brandis also well knows but chooses to ignore, is what is going on at this very moment in this very Territory in Civic, because there is a round of negotiations, engaged in by the eight Labor elected Territory representatives and the one Green elected Territory representative, in an attempt to form a majority government. But, gee whiz, there is also another set of negotiations going on, and I see my Green colleagues at the other end of the chamber nodding knowingly and the coalition ignoring the nodding. We have the eight elected Liberal Party coalition Territory members engaged in a similar set of negotiations, Senator Brandis, so that they can be part of a government, so that they can be in alliance with the Greens in the ACT. Everyone in this chamber knows it, so your description of formulaic denunciation by Senator Feeney really does sound a bit hollow and really does run a bit thin.

Having established that, let me now turn to the substance of the motion that has been brought to us by Senator Ludlam. I will not read it all out, because we know what it says, but when I examine some of the key words—'illegal', 'toxic', 'deficient' and 'capacity'—I am reminded of debates that I was involved in—30, 35 or perhaps 40 years ago when I was starting out as a very junior official—in various forums in South Australia and Western Australia. Always in those days there were debates about uranium—value-adding, export and transport—and those who opposed uranium mining, uranium transport, uranium export and indeed uranium value-adding always used the same words that are in this motion today.

Nothing has changed: fear, threat, possible Armageddon and health concerns, all of which has been addressed over at least the last 30 years by the successful use of technology. The 'solution' then was the same 'solution' as now outlined by Senator Waters: close down the mines, stop the exportation, don't develop, don't share, don't spread the technology and don't participate. Well, it did not work then and it does not work now. Indeed, I remember those debates well. Often I think I was a minority of me in those debates at various forums. But after a while other people started to understand the wisdom, and the minority of me became a minority of some; and now it is a minority of nearly all of us and we, one of the partners in this alliance, do invite the Greens to come forward into the modern age and use technology in a proper safe way to exploit uranium and even perhaps get—instead of US$131 a pound or the US$48 a pound that Senator Waters referred to—thousands of dollars a pound by value adding and having a refined product. Your party is in favour of value-adding and of going up the value chain—and that would be a useful thing. I issue that invitation to the Greens and I know they will give it mature and proper consideration, because they always say they do. But if they do not we are clearly able to forecast their future because of those four that became one a week or 10 days ago here in the ACT; and the same thing is going to happen to three of their senators at the next election because they will be replaced by Labor Party twos or threes or perhaps coalition threes or fours. So the invitation is there, we would welcome you to come forward and we would welcome your contribution.

In this discussion on the export of uranium what are the real issues? What are the real issues involved in nuclear exports to India? What does the Australian government say? We say Australian uranium sales to any country, including India, but particularly India in the case of this debate, are subject to strict framework agreements and guarantees
of safeguards and safe handling. These may potentially include safeguards on handling and security of radioactive material, restrictions on re-export and guarantees of use for peaceful purposes.

Why is it important that we engage properly, fully and sympathetically with the government of India on the issue of a safeguards agreement attached to the export of uranium from this country? What do we know? We know that about 40 per cent of the Indian people currently live below the poverty line. Forty per cent in a population of 1.1 billion or 1.2 billion is something approaching 450 million or 500 million people, and it is really inconceivable, given those sorts of figures, that almost half a billion people of India's population live below the poverty line. Over the next decade that population figure is expected to grow past China's and go to a population of 1.5 billion and if the issues of poverty are not addressed that means we will have, on an ongoing basis, almost 700 million people living in poverty in that subcontinent.

With that sort of population growth in India its rates of energy consumption are almost the fastest in the world. The WEO estimates that India's demand for energy may double in the next 25 years. If they are serious about growth and if they are serious about shifting some of those 500 million—or even 700 million—people out of poverty to a reasonable standard of living, the rate of demand for energy will not double but triple. So you have to ask the obvious question: do we say to those half a billion or so people, 'You shall remain poor forever and you shall remain without forever, but your cousins in China may go up the value chain and improve their standard of living while you'—the 500 million or 700 million Indians—'may not'?
The absolute critical precondition for those 500 million or 700 million people lifting themselves out of poverty is access to power and access to sources of power generation. With all the goodwill in the world, alternative sources of energy, as currently understood and as currently used and as forecast to grow and improve over the next 25 years, are not going to have an iota of significance in delivering power to those 500 million or 700 million people—not water, not hydro, not coal or all the other alternative sources. So the power to lift people out of poverty has to come from somewhere, and it comes from assistance by countries like—(Time expired)

Senator SMITH (Western Australia) (16:29): It appears that the Greens need a lesson in geography. We have heard more today about Queensland then we have about India. As a senator from Western Australia, I welcome the fact that after years of dithering, the Labor Party has finally came to its senses on the question of uranium sales. Not surprisingly, as a Western Australian senator, this is particularly interesting to me because, as many would be aware, uranium is poised to become a significant element of Western Australia's resource industry. Western Australia has approximately 211,000 tonnes of uranium located across 30 separate deposits with four projects currently undergoing Commonwealth and state environmental assessment, those four projects being Cameco's Yeelirrie project, the Cameco Corporation/Mitsubishi Joint Venture at Kintyre, the Mega Uranium Lake Maitland project and the Toro Energy Wiluna project. It is worth reflecting on the figure of 211,000 tonnes as large areas of the state are yet to be fully tested by exploration. The first uranium mine is expected to be in production late next year after having been subject to what I would regard as rigorous environmental assessment processes.

Equally, I welcome the Labor government's sudden discovery of India. This government has ignored India for too
long, first under Prime Minister Rudd—as we heard from my colleague Senator Brandis—whose obsession with China is well documented, and then under Prime Minister Gillard who has openly admitted she has little interest in foreign affairs. I could be unkind and suggest her ham-fisted negotiations with East Timor and Malaysia over illegal immigration suggest she has little aptitude for foreign affairs either, but that is a discussion for another day.

All the bluster from the Greens and from those in Labor who still oppose uranium sales to India overlook one simple reality: if India does not get its uranium from Australia, it will simply go elsewhere. It may well go somewhere that does not have in place the rigorous safeguards that Australia has for dealing with uranium. Australia has the strictest international safeguard agreement in the world in relation to uranium sales. Are opponents suggesting they would honestly prefer it if India went to a country that does not insist on the same high standards to source its uranium? What would that mean for the safety of the international community? Such opposition is wholly illogical but totally consistent with the head-in-the-sand approach of the Australian Greens.

It is in Australia's interests to help the world's largest democracy achieve its full economic potential. I think we would all rather deal with democracies over authoritarian regimes. Equally, it is in our national interest to pursue trading opportunities with nations that are becoming increasingly powerful in economic terms. India's economy has enjoyed rapid expansion over the past decade—not in the same league as China, but impressive nonetheless.

There were significant structural reforms made to India's economy in the 1990s: floating the rupee, dismantling trade and investment barriers and encouraging foreign investment, paying down India's external debt, and abolishing layers of bureaucratic and regulatory inefficiencies. These reforms unlocked India's economic potential and Australians should applaud it and be excited by it. As a result, the Indian economy grew on average by over six per cent per annum. That growth rate meant the economy quadrupled in size between 1991 and 2008.

Certainly, as is the case around the world, the global financial crisis beginning in 2008 had an impact. India's growth rate slowed, but there are signs of recovery. The Economist Magazine reported that India's GDP expanded at a rate of 5.5 per cent in the quarter ending June compared with the previous year. Granted, that is still at the bottom end of the growth range of the past decade in India, but it was above expectations. There is some reason to believe that this position will further improve as the Indian government implements a range of further economic reforms that will streamline processes and make it easier for development projects to get off the ground, particularly in relation to the new infrastructure that India so desperately needs.

But the lack of private sector investment is still holding India back. And part of the reason for this is that India lacks the capacity for power generation, a capacity that is desperately needed to unleash its full potential. A recent survey by India's central bank found that spending plans by private firms on large new projects dropped by almost 50 per cent in the year ending March 2012. According to India's Ministry of Power:

India needs, at the very least, to increase its primary energy supply by three to four times and its electrical generation capacity by about six times—to achieve the growth it needs. Yet this will be difficult to achieve through reliance on
coal-fired power generation alone. In fact, uncertainty surrounding the supply of coal has recently forced NTPC, India's largest power company, to drastically cut its investment levels.

This represents opportunity for Australia. The World Nuclear Association reports that India plans to expand its nuclear power capacity from under five per cent to at least 25 per cent of its total requirements by 2050. Why is it in our national interests to assist India with its electricity production? Because increasing production will drive economic growth and swell the ranks of India's middle class. A larger, wealthier middle class in India would be a boon for Australia's economy. India's population is increasingly urbanised and sophisticated. India's urban population has doubled in the last thirty years and the rapid development of tech-savvy cities like Mumbai are testament to the country's modernisation. According to the OECD:

India could witness a dramatic expansion of its middle class, from 5-10 per cent of its population today to 90 per cent in 30 years. With a population of 1.6 billion forecast for 2039, India could add well over 1 billion people to its middle class ranks by 2039.

That is an additional one billion people who will be demanding higher standard products, better quality food, and better educational opportunities, and people will be looking to travel and holiday overseas. All of these things represent a massive opportunity for the future of Australian exporters. By helping India to meet its need for power generation now thorough uranium sales to India, we will help to boost India's growth rate, lift millions who currently live in poverty out of the mire, and gain a potential one billion new consumers for Australian products and services. The economic opportunity this presents is so obvious even Wayne Swan can see it, yet once again the Australian Greens come into the chamber and complain.

Ever the enemies of progress here in Australia, the Greens now want to try and impose their backward economic policies on other countries as well. The Greens, who claim to be concerned about greenhouse gas emissions, air quality and cutting pollution, want to prevent India reducing its reliance on coal for power generation. The Greens, who pose as the great humanitarians in this parliament, want to prevent the economic development that will lift millions and millions of Indian citizens out of poverty. The Greens actively seek to deny to those living in poverty a higher standard of living—all so that they and their dwindling band of supporters in comfortable, middle-class suburbs can feel morally superior. It is shameful.

The Liberal Party welcomes the Gillard government's belated decision to sell uranium to India—a process that John Howard had the foresight to initiate when he was Prime Minister, in the face of Labor's bitter opposition. By ensuring that the export of uranium to India is undertaken with appropriate safeguards in place—the most stringent safeguards of any nation in the world—we can play a vital role in assisting India to meet its full economic potential, build on the already significant trade relationship we enjoy with India and, most importantly, help those in India who want to provide a better lifestyle for themselves and their families to achieve that objective, simultaneously creating new customers for Australian goods and services.

Senator RHIANNON (New South Wales) (16:38): I congratulate my colleague Senator Ludlam for this important debate to oppose the growing support of state and federal governments for an Australian uranium industry. Listening to the speakers...
from the coalition and Labor, you would think this was just about some other trade issue. What we are talking about here is uranium, one of the most dangerous substances that we have. It is so well documented how dangerous it is. Not one of the speakers from the other parties has at least acknowledged the tragedies that have occurred when uranium mining has been imposed on communities. That at least should have been part of this debate, not the superficial carrying on that we have seen.

When we listen to Senator Brandis thunder about hypocrisy, those words need to be turned back on that senator himself, because he was really there describing his double standards. Surely at some point he should have given attention to the radioactivity that we are dealing with here—the radon gas and how it results in the cancers, the tumours and so many illnesses, and how water and land are poisoned and can never be used. That is what we are talking about here, and that is why it is so important that we have this debate. There are the risks to workers and the risks to people who live near where uranium has been mined, has been used in power plants or is being used in nuclear weapons that have been tested. The damage has been enormous, and it is very disgraceful that the people who are backing this industry do not at least acknowledge the tragedies that have unfolded for so many communities.

Senator Brandis and his colleagues that have gone on this tirade should at least think of the Navaho people. When the Navaho people heard that a uranium mine was going to be opened up, they welcomed it. They thought that they at last had work. What they now have is the cancers, the tumours, the illnesses and the sores. Their stock is poisoned. Their lives are effectively ruined. They were never informed by the US government of what could befall them.

We have seen this tragedy closer to home, in Australia. The word 'Maralinga' is now known by many people in Australia—unfortunately, not because it is a very important spiritual place for the Aboriginal people who made their home there for tens of thousands of years but because it became the site of a large number of tests by Britain of its own nuclear weapons. The armed forces who were there and the Aboriginal people ended up with so much illness: long-lasting cancers, sores and blindness. This is a tragedy that I do not believe we have ever taken full responsibility for. Again, none of this was acknowledged by the speakers who have come into it.

Then we heard Senator Feeney and others speak about the great benefits this will bring and how essential it is for the Indian economy and India's future energy needs. You really got the impression that India is dependent on uranium for its nuclear power plants. Nuclear energy in India today only accounts for about 2.3 per cent of its energy. This is a very small component, and right now there are huge protests across India—very successful protests that are actually holding up the building of nuclear power plants. Fisherfolk, local villagers and many supporters from the larger cities across India know that there should be no future for nuclear energy in India. They should be phasing it out, not building new nuclear plants.

Right now, in the last day, about 100 people have been arrested in Tamil Nadu. Thousands have been protesting outside the assembly. One of those people arrested was David Bradbury, the Oscar-nominated Australian filmmaker. I congratulate those people, because they are doing a service not just to their immediate community, India, but to the world. The world has to say, 'The era of nuclear power and nuclear weapons is over.' We need to now be cleaning up the
world, not adding to the pollution and the dangers that will beset so many generations. When you listen to Senator Brandis, Senator Feeney and the others who have spoken from Labor and the coalition, what they are outlining is to impose dangers, hardships, sickness and illnesses that will kill so many people if their policies continue and are put in place.

This issue right now is very relevant for the people of New South Wales. The Premier, Barry O'Farrell, placed the issue of uranium mining back on the agenda last year when he approved the resumption of granting uranium exploration licences in New South Wales, overturning the state's 26-year uranium ban. The Premier of New South Wales linked the decision to the announcement days earlier by the federal Labor party that it would overturn its ban on uranium exports to India, saying that New South Wales would be crazy not to look—

(Time expired)

The ACTING DEPUTY PRESIDENT (Senator Pratt): Order! The time for this debate has expired.

Senator Ian Macdonald: I was going to move for an extension of time so she could be heard more. It is brilliant what she is saying.

The ACTING DEPUTY PRESIDENT: Senator Rhiannon did not speak over time. She was allocated the remaining five minutes of the scheduled debate. Not all other senators used all their available time, which meant that time was available to her, irrespective of what the clock said.

COMMITTEES
Scrutiny of Bills Committee
Report

Senator IAN MACDONALD (Queensland) (16:45): I present the 13th report and Alert Digest No. 13 of the Senate Standing Committee for the Scrutiny of Bills.

Ordered that the report be printed.

Senator IAN MACDONALD: Now that there is agreement that the report be printed so everyone can read it, I now move:

That the Senate take note of the report.

I thank the secretariat and the legal advisor on the quite brilliant work they do in assisting the Standing Committee for the Scrutiny of Bills. I reiterate what a professional job the committee secretariat and the legal advisor Mr Leighton McDonald do in looking through so many bits of legislation that come before this parliament and in looking at them to determine if they do unduly trespass on the personal rights and liberties of Australians, whether they have an inappropriate delegation of legislative power, whether they unduly restrict the rights of citizens, whether they give too much discretionary power to delegation of legislative power or whether there is retrospective application. These are the sorts of things that the committee looks at.

The committee in its report today highlights a number of bills. The committee always acts in a very non-partisan way. We do not get into the rights and wrongs of the bill itself but simply alert other senators to provisions of bills that might impinge upon the rights that we have as Australian citizens and which the Standing Committee for the Scrutiny of Bills is specifically asked to look at. I urge all senators to read the report. I will briefly mention a couple of the matters that are referred to in the report.

The Fair Entitlements Guarantee Bill 2012 has a delegation of legislative power. It is proposed in the bill to cover the costs associated with the payment of advances to former employees whose employer becomes bankrupt. The appropriation could also apply to any additional schemes introduced, which
can be done by regulation. The explanatory memorandum argues that a standing appropriation is necessary because the volume of payments is unknown and it will provide certainty. The committee noted that argument in the explanatory memorandum, but went back to the government to seek advice on whether the government thought a sunset clause should be considered, especially as new schemes can be introduced.

Similarly, in the Fair Work Amendment (Transfer of Business) Bill 2012, the committee alerts the Senate to proposed subsection 768CA, which would enable the making of regulations that may modify the provisions of this act or the transitional act. So this act is giving power to the regulatory process; that is, the primary legislation can be amended simply by regulations. That is regrettably all too common in legislation. It is referred to as the Henry VIII clause for the reason that Henry VIII used to have a parliament but he provided in it that laws of parliament could be amended by regulation. Not that my history of how the government worked in those days is all that good—

Senator Farrell: Just think back to the Howard years!

Senator IAN MACDONALD: I can tell you, Senator, in the short time I have been involved with the scrutiny of bills committee this time around it seems so many more issues are being raised by the scrutiny of bills committee in relation to these sorts of Henry VIII provisions and others.

Senator Boyce: Voters are going to come up with a Henry VIII solution for your government!

Senator IAN MACDONALD: You mean chop off their heads! Senator Boyce, you have led me into that. Henry VIII only chopped off the heads of certain people. You are leading me into territory where I should not go. I will be pilloried should I respond further to your interjection. Getting back to the Henry VIII clause in the Fair Work Amendment (Transfer of Business) Bill, the committee has pointed out that the explanatory memorandum did not give any reason as to why it should be that the executive government, by regulation, could change the primary legislation passed by this parliament. So, it is not whether the committee gets involved in whether that is good, bad or indifferent; it simply points it out. The committee has resolved to seek advice from the minister whether there is a justification for it. When the justification comes from the minister—and I suspect there will be a justification—that will be presented to the parliament. I mention those couple of things as a short indication of the work done by the committee in alerting the Senate to matters which should be considered when the Senate considers these bills in their more substantive form.

Question agreed to.

Corporations and Financial Services Committee Report

Senator BOYCE (Queensland) (16:53): On behalf of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services, I present the report on the statutory oversight of the Australian Securities and Investments Commission, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator BOYCE: I move:

That the Senate take note of the report.

The Parliamentary Joint Committee on Corporations and Financial Services is responsible for the oversight of the Australian Securities and Investments
Commission. As the Senate would be aware, section 243 of the ASIC act directs the committee to inquire into and report upon ASIC's activities and matters relating to those activities, including those to which the parliament's attention should be directed. We currently hold four oversight hearings a year to fulfil that function and we often direct matters of interest to parliament's attention. This report, of course, is no exception.

This report is based on our oversight hearing held in September this year. There are three matters I would like to raise and urge senators to look at the report for more details on these: the collapse of Trio Capital is the first; Australia's superannuation industry is the second; and ASIC's resources—the resources of the organisation itself—is the third.

The committee's response to the collapse of Trio Capital did not end with the tabling of our report into this matter in May this year. We continue to monitor ASIC's activities in response to this corporate collapse. At the September hearing, ASIC noted that it is undertaking a report on the custodian industry, consultation on the regulation of research houses and the development of regulatory guidance to improve disclosure by hedge funds. The committee considers that steps are fundamentally important. The Trio collapse highlighted weaknesses in key checks and balances in Australia's financial and superannuation system and expectation gaps between the perceived role of gatekeepers, such as custodians and research houses, and the actual role of custodians and research houses.

We will continue to monitor developments in this area and we will be reporting further on ASIC's activity in this area. It is a vitally important one to get right as part of our continuing effort to improve the confidence in our financial sector.

With regard to the superannuation industry, ASIC reiterated its advice that the continuing growth of the superannuation industry will strongly influence Australia's financial markets in the coming 12 months and, indeed, the coming decade. The committee was told that the superannuation industry is an area of high focus for ASIC, and I am pleased to say that ASIC has set up a self-managed superannuation fund task force to examine the advice currently available to investors and consumers, and to consider options to improve investor awareness and financial literacy.

The committee is particularly interested in the work of the SMSF task force. It is argued that the task force should be comprised of representatives from other regulators of Australia's superannuation and SMSF sectors, such as the Australian Taxation Office and the Australian Prudential Regulatory Authority. The committee will be actively seeking updates from ASIC about the work of this task force and we will certainly be keeping the Senate informed about what is happening there. From a personal perspective, I would add that I think it is a matter of regret that, whilst ASIC has oversight of the self-managed superannuation fund industry, it has no role in the industry super funds area, an area that certainly needs to be looked at carefully and monitored more closely than it currently is.

In terms of ASIC's resources, in August this year, when we tabled our third oversight report for 2012, I drew the Senate's attention to ASIC's available resources. Further information about ASIC's resources and expenditure was provided at the September hearing and the committee received a detailed analysis of the commission's allocation of its resources to undertake...
surveillance activities. In summary, ASIC considers the Australian financial system is based on self-execution—that is, on gatekeepers doing the right thing.

ASIC's Chairman, Mr Greg Medcraft, advised us that the commission is not resourced to look in at everybody and, accordingly, takes a risk based approach to surveillance. The committee appreciates ASIC's candour regarding its interpretation of its statutory duty to enforce the Corporations Act and related legislation. We would want to vociferously reiterate our previously stated view to the government that ASIC must be appropriately resourced to take all necessary and reasonable action to promote fair, efficient and safe financial markets.

It is not legitimate to continue to increase the responsibilities of ASIC without increasing the resources that they have to undertake that work. However, enforcement and surveillance are only one side of an appropriate regulatory model. We consider that proactive education is an essential part of a well balanced, effective regulatory framework. We are interested in all the measures that ASIC is taking to improve financial literacy and investor education. I would like to congratulate Mr Medcraft and his staff on what seems to be a sharpened focus in this area of improving financial literacy.

The importance of the Australian Securities and Investment Commission to the proper functioning of our financial markets cannot be overstated. Parliament established the commission to ensure the fair and efficient regulation of Australia's markets and, as a parliament, we gave the job of monitoring that to the parliamentary joint committee. The breadth of the regulators' responsibilities is substantial and growing—covering gatekeepers in Australia's financial system, Australia's superannuation system, Australia's national business names register as well as trading on Australia's domestic licensed markets. These are a few but by no means all of the areas within the regulator's purview. You will have seen in recent days in relation to the Banksia organisation that ASIC is looking at further areas where the soft landing may need to be regulated.

At the next oversight hearing, we will be asking ASIC to give us their continuing response to the collapse of Trio Capital. We will be hoping to have a report on the work of the self-managed superannuation funds task force. We will be asking about their continued supervision of real-time trading on Australia's domestic licensed markets and Australia's unlit markets. As you would all know, dark pools have become a source of some concern in a vast area of the market that is not currently transparent or regulated.

ASIC is also looking into this area, and we are waiting with great interest to hear their views on the topic next year.

The commission's enforcement and litigation strategies, particularly in light of the High Court of Australia's decision in the Fortescue Metals Group, is something else that we will be very keen to discuss. We look forward to completing our last oversight hearing in November this year. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Human Rights Committee Report

Senator STEPHENS (New South Wales) (17:03): On behalf of the Chair of the Parliamentary Joint Committee on Human Rights, I present the sixth report of 2012, Examination of legislation in accordance with the Human Rights (Parliamentary Scrutiny) Act 2011.
Ordered that the report be printed.

**Senator STEPHENS:** I move:

That the Senate take note of the report.

On behalf of the Parliamentary Joint Committee on Human Rights, I draw the attention of the Senate to the committee's sixth report of 2012.

This report reflects the committee's consideration of 10 bills introduced during the period 9 to 11 October as well as 129 legislative instruments registered between 20 September and 16 October 2012.

In tabling this sixth report of the Parliamentary Joint Committee on Human Rights, I would like to draw the attention of the Senate to the approach the committee has taken to the limitations on the right to privacy in bills considered in this report.

Article 17 of the International Covenant on Civil and Political Rights (the ICCPR) provides that no-one shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. It also provides that everyone has the right to the protection of the law against such interference or attacks.

The right to privacy is one of the rights most commonly engaged in the bills considered by the committee to date. It may therefore be helpful if I outline some of the factors the committee has considered in determining whether provisions that limit this right are compatible with the right.

A wide range of government legislation, policies and programs have the potential to limit the right to privacy, including measures that:

- involve the collection, storage, disclosure or publication of personal information;
- authorise powers of entry to premises or search of persons or premises; and/or
- provide for mandatory disclosure or reporting of information.

Such measures all amount to an interference with the right to privacy.

In order for any interference with an individual's privacy to be lawful and not to be arbitrary, the interference can only take place on the basis of law and must be for a legitimate objective and be reasonable, necessary and proportionate to that objective.

The relevant legislation must specify the precise circumstances in which interference with the right to privacy may be permitted and should not give decision makers too much discretion in authorising interferences with privacy.

The legislation should provide proper safeguards against arbitrary interference.

In this sixth report, the committee considers three bills that engage the right to privacy. The committee's comments on each of these bills highlight some key considerations that the committee applies to provisions that seek to limit this right.

The Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012 includes a range of measures that seek to strengthen the Commonwealth's serious drug offences framework and ensure this framework remains up to date and effective in combating the illicit drug trade. The bill creates new offences and police powers relating to the use of false identities for the purposes of travelling by air and gives police new powers to request identity information at airports.

The statement of compatibility for the bill acknowledges that this requirement engages the right to privacy and sets out a detailed justification for the necessity of the powers.
The statement points to the inclusion of appropriate safeguards to ensure that the powers are connected to the objective and are no more restrictive than necessary.

The committee concurs that these powers are unlikely to raise issues of incompatibility with the right to privacy and any interference with privacy would appear to be necessary to achieve the legitimate objective of investigating specific offences under the bill. The committee has noted in its report that the provisions appear to be drafted with sufficient precision and contain appropriate safeguards to ensure that the degree of interference in this case is proportionate to that objective.

The Fair Entitlements Guarantee Bill 2012 provides a scheme for the provision of financial assistance to former employees whose employment has ended as a result of the winding up or bankruptcy of their employer and who have not been fully paid for work undertaken.

This bill provides for the sharing of personal information about an employer or employee between the department and other parties who have a need for the information in relation to the administration of the bill.

The committee considers that the information-sharing provisions in this case appear to be broadly consistent with article 17 of the ICCPR as the proposed interference with the right to privacy is likely to be necessary to achieve the aim of administering this scheme and the provisions appear to be drafted with sufficient precision to ensure that the degree of interference is proportionate to that objective.

However, the committee notes that information may be disclosed under the bill to persons who are contracted by the Commonwealth for the purposes of passing an advance made under the scheme on to a recipient. The statement of compatibility notes that each specified party or agency to which information will be disclosed has its own legal and professional obligations about the collection, storage and use of personal information under privacy laws.

In addition, the statement claims that persons who are contracted by the Commonwealth will be bound by relevant privacy clauses in their contract. However, the committee notes that this requirement does not appear to be prescribed in the bill. The committee notes that there is no provision for an offence for the unauthorised disclosure of personal information, as is a common feature in legislation which permits the disclosure of personal information for certain purposes.

The committee has therefore written to the relevant minister seeking advice regarding the desirability of including express privacy obligations for contractors in the legislation and seeking clarification for the decision not to explicitly prohibit the unauthorised disclosure of personal information.

The final bill that I would like to draw the attention of the Senate to today is the Regulatory Powers (Standard Provisions) Bill 2012.

This bill establishes a framework of standard regulatory powers exercised by Commonwealth agencies. The key features of the bill include monitoring and investigation powers as well as enforcement provisions through use of civil penalty, infringement notices, enforcement undertakings and injunctions.

The explanatory memorandum to the bill states that the investigation powers contained in the bill are commonly found across the statute book. The investigation powers provided in the bill include powers to search and seize evidential material as well as inspect, examine, measure and test any thing on the premises. The bill provides for the use
of civil penalties, infringement notices and injunctions to enforce provisions and the acceptance and enforcement of undertakings relating to compliance with provisions.

To activate the bill's provisions, new or existing Commonwealth laws must expressly apply the relevant provisions and specify other requisite information such as persons who are authorised to exercise the applicable powers.

While the committee appreciates the significance of this bill in potentially simplifying and streamlining the statute book, we found it difficult to determine the operation of the individual provisions and how they may impact on human rights from the level of detail provided in the statement of compatibility.

Because the bill is one of general application, the committee considers that it would be difficult to reach a definitive view on the bill's human rights compatibility. The committee considers that each application of the bill's provisions would need to be assessed on a case by case basis.

Nevertheless, the committee considers that the overall compatibility of this bill with the right to privacy might be improved by the inclusion of adequate safeguards to ensure that the relevant powers are, as far as possible, appropriately targeted and circumscribed to minimise the risk that they could be exercised inconsistently with human rights. In this regard, the committee notes that the bill would appear to apply the full range of powers to each triggered law regardless of their necessity to the particular regulatory regime.

The committee has therefore written to the Attorney-General to seek further clarification regarding the intended operation of the bill.

My intention in drawing these three examples to the attention of the Senate today is merely to illustrate how the committee approaches the question of compatibility in relation to the right to privacy and the circumstances in which the committee may determine that further information or clarification from a minister may assist the committee's deliberations. I hope that this insight into the committee's approach will be of assistance to the parliament in making use of the committee's reports. I also hope that it will be of assistance to ministers and their departments, and private members and senators, in the consideration of human rights implications when drafting legislation and preparing statements of compatibility.

I commend the report to the Senate.

Question agreed to.

Treaties Committee
Report

Senator McKenzie (Victoria) (17:13): I present the 130th report of the Joint Standing Committee on Treaties on a treaty tabled on 14 August 2012, and I move:

That the Senate take note of the report.

Today I present the 130th report of the Joint Standing Committee on Treaties, which contains the committee's view on the Australia-Malaysia free trade agreement, which was tabled on 14 August 2012. I take this opportunity to thank committee members for the debate and discussion that ensued after our inquiry and the secretariat for their support of our work. The agreement is Australia's latest bilateral free trade agreement with a member of ASEAN. Australia has previously made bilateral free trade agreements with Thailand and Singapore and, like those agreements, this treaty has been made to build upon the ASEAN-Australia-New Zealand Free Trade Area Agreement which entered into force in 2010. According to the Department of Foreign Affairs and Trade, the agreement will deliver benefits to Australian producers,
exporters, consumers and investors and provide a platform for trade and investment liberalisation between Australia and Malaysia in the future. The department was especially pleased with the progress made towards reducing Malaysian non-tariff barriers, particularly in relation to rice and milk. Australian milk exporters will be able to access additional Malaysian quotas, including for higher value products, on MAFTA’s entry into force. Australian rice exporters will have open access to the Malaysian market from 2023 with the complete elimination of tariffs by 2026.

Other participants in the inquiry raised some issues of concern with the agreement including how this agreement will interact with others applying to trade between Australia and Malaysia; the method of demonstrating the country of origin of traded products; and the inclusion of environmental and labour standards in free trade agreements. This last issue is one close to the hearts of a number of members of the committee. This agreement contains two legally-binding side letters that form part of the agreement on labour standards and the environment. Nevertheless, the committee reiterates its previous recommendation that labour and environmental standards be included in FTAs rather than in side letters. A particular concern of mine is the role that free trade might play in increasing access to markets such as rice and milk which I mentioned earlier. Other members of the committee were concerned about the role free trade might play in job losses in manufacturing and this was highlighted by some of the submissions to our inquiry.

In August the respected US foreign policy think tank, the Council on Foreign Relations, published an article containing commentary on the role that free trade has played in job losses in manufacturing, at least in the United States, during the past decade. In terms of the agreement under consideration here, the Federal Chamber of Automotive Industries believes the non-tariff barriers and local content rules that are in place in Malaysia make it unlikely that Australian-built vehicles will be exported to Malaysia. Conversely, the chamber believes the agreement will facilitate a significant increase in Malaysian vehicle imports to Australia. In response, the department argued that studies showed the importance of free trade and complementary policies—particularly macroeconomic policy, a positive business environment, a flexible labour market, high quality education and skills training systems, and adequate safety nets—in supporting inclusive growth and job creation.

Treaty negotiations are a set of trade-offs between both parties and it is important to the people in my home state of Victoria—in regional Australia but also more broadly in the Australian community—that our negotiators provide balanced outcomes when agreements are reached rather than making compromises, for the sake of reaching an agreement, without meaningful compromises being made by the other party. But I think we all recognise that compromise is the key theme of any negotiation. When I look at the outcome of the negotiations in relation to rice—one of the highlights of this agreement—I can see that the Malaysians will not need to take any action for another 10 years. It is quite a way away before our rice growers can get their product into Malaysian markets tariff-free but, thanks to this free trade agreement, that option exists for us more quickly than it would have occurred under the existing treaty trade agreements with ASEAN nations.

I note the potential for immediate increases in Malaysia car imports. Given this, the committee has made three recommendations in this report, two of
which go to the issues I have just mentioned. The committee has in the past recommended that an independent analysis of the potential benefits and disadvantages be prepared prior to engaging in the negotiation of a free trade agreement. The committee recognises that the government has, in recent years, released statements prior to the commencement of FTA negotiations; but the committee still believes such agreements require detailed independent analysis. Accordingly, the committee has again recommended that an independent analysis of the potential benefits and disadvantages be prepared prior to engaging in the negotiation of the FTA.

In the past the committee has also recommended that the Department of Foreign Affairs and Trade undertake and publish a review of the operation of free trade agreements to ensure that their intended outcomes and consequences actually come into force. In relation to the Australia-Chile Free Trade Agreement, the committee recommended that the review take place after two years of operation and address specific concerns raised in relation to that agreement—if I remember rightly, they were specifically around horticulture issues with grapes in Sunraysia. In response, the government argued that the agreement required a review that would be presented to the relevant minister, at whose discretion it could be published. The committee is not satisfied with this approach. It does not, for example, specifically address the issues of concern expressed in the report nor is there any commitment to be transparent about the outcome. The committee strongly believes that the government needs to be responsive to the concerns around, and transparent about the actual results of, free trade agreements. Recognising the abundant evidence that free trade agreements are as beneficial as both sides of this parliament attest, it would be useful if we had some data around quantifying those benefits. Notwithstanding this, the committee concluded that the MAFTA should be supported with binding action. On behalf of the committee I commend the report to the Senate and seek leave to continue my remarks later.

Leave granted; debate adjourned.

MINISTERIAL STATEMENTS
Disability Employment Services

Afghanistan

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (17:21): I present ministerial statements relating to disability employment services and Afghanistan.

Afghanistan

Senator MILNE (Tasmania—Leader of the Australian Greens) (17:22): by leave—I move:

That the Senate take note of the document.

Leave granted.

There is no more grave or responsible decision that any country's leader ever makes than to choose to send young men and women to war to risk their lives for their country. The Greens have argued for a very long time that this should be a decision of the parliament, as indeed it is in many other places. However, it is currently a decision that rests with the country's leader. There is one other equally important decision, and that is to know when to bring those troops home.

I want to talk about Australia's ongoing combat engagement in Afghanistan, where 39 young Australians have lost their lives and 242 have been officially wounded. I say 'officially' because I have no doubt that every one of our troops who comes home from Afghanistan will carry with them the scars of war and live with dealing with those scars of war for a very long time. Those of us who
are in the public sphere have to think about this very carefully. We must not see war in the abstract. We should take it personally. We should not stand back and only reflect on and pay our respects to those who give their lives for their country. But equally I do not believe that honouring those who give their lives is best achieved by saying over and over again that we are there to stay the course. Surely we must honour them by reflecting deeply on why we are at war, whether it remains the right course, whether we could not save more lives and make the world a safer and better place by bringing the rest of our soldiers home safely while transitioning our support to a humanitarian, non-combat plan.

In the case of Afghanistan we have no clear articulation of why we are there. The Prime Minister was not able to make a clear articulation of that in her speech today, except to say: 'Our commitment to Afghanistan is in Australia's national interest.' She went on to say: 'We are there to deny international terrorism a safe haven, to stand firm with our ally the United States.' In my view that is not an adequate articulation of why we are there. Too many of our soldiers are dying already in green-on-blue attacks by the soldiers with whom they are training or patrolling. Afghan civilians are dying. The situation is not improving significantly either in a military sense or in a governance and civil society sense, with corruption being rife. Many of our other coalition partners in Afghanistan, like the Netherlands, Canada and France, are pulling out, with New Zealand also having announced that it is coming out.

Surely we have a duty to ask: why are we putting young lives at risk? Why are we still there? What is the difference between now, October 2012, and 2014 in terms of outcomes in Afghanistan? It is hard to escape the conclusion that we are just waiting for instructions from Washington and have no answers of our own. What is our reaction to the news that NATO was considering bringing home the troops earlier, and why weren't we considering that ourselves rather than waiting for the instructions we get from elsewhere?

Major General John Cantwell, a former commander in Afghanistan, recently posed hard questions in his deeply moving book Exit Wounds. I would recommend to the Senate that people get a copy of Exit Wounds and read it. He has said:

We need to have a crystal clear understanding of why we're getting into the fight, how long for, what we hope to achieve, how long before we will leave, what conditions might prompt us to change strategy—this has let us down in Afghanistan. Human beings die as a result of warfare.

I want to read specifically from his book, because I do not think many people will have read it. I find it profoundly moving and it is the reason why we need to bring our troops home as quickly and safely as possible. Nobody, especially the Prime Minister, has articulated why we should still be in Afghanistan or what difference being in Afghanistan is going to make between now and 2014. Major General John Cantwell says:

Is it worth it? I recall sitting in my office one day in 2010, soon after a repatriation ceremony for another dead Australian soldier. With me was one of the senior officers on my staff. We looked at each other and I said, 'You know what, mate? I'd never say this in front of the troops, but I'm starting to wonder if these deaths are worth it.'

My colleague replied, 'You're not the only one asking that question, boss.'

Some will argue that the men and women we send to war are all volunteers, who know the risks and take them willingly. Others will say that casualties are the unavoidable cost of doing business in a combat zone. There is an argument that says the lives of a few sometimes need to be
expended for a greater good. Another line of reasoning takes the grand-strategic view of international affairs, putting the case that Australia—a relative minnow in terms of military might, albeit a well-trained and reasonable well-equipped minnow—has no choice but to maintain strong bonds with a large and powerful friend, the United States. That friendship sometimes demands reciprocal payments, in the form of going to war and spending some lives. A cold, clear-eyed analysis of these claims tells me that they are all true, much as it pains me to admit it.

He goes on to say:

But these arguments only work at the intellectual level. They do not make sense at the human level, the level at which every life is precious, where each dead soldier is someone and not just a number. These men had parents, sisters, brothers, partners and children who loved them. They all had lived and had an expectation of more living to come. They all had dreams and hopes and potential. These were the thoughts that ran through my head as I stood, time after time, in the morgue in the UAE. How could any of these lives be forfeited? What measure of success in the campaign to fight the Taliban and build Afghanistan’s army could possibly warrant the grim procession of dead men that I supervised? I know, absolutely, that the men who died in Afghanistan were doing what they loved, with mates they respected, for a cause—rejecting extremism, denying terrorism, helping a needy people—which is honourable. I also know that advances have been made in training the Afghan National Army and improving security in Uruzgan province; some of the people of the province also have an improved quality of life. But will our efforts, no matter how impressive locally, significantly influence the myriad problems afflicting the government and people of Afghanistan? Ten years from now, will anyone in Afghanistan remember that Australians shed blood for them? For a man like me, a lifetime soldier inculcated with a sense of duty and service, these are difficult questions to confront.

In the prologue to this book, I wrote that such thoughts seemed disrespectful, even treasonous. But the fundamental question has continued to gnaw at me: is what we have achieved in Afghanistan worth the lives lost and damaged?

Today, I know the answer—it is no. It’s not worth it. I cannot justify any one of the Australian lives lost in Afghanistan.

I find that an incredibly moving, courageous piece of writing from a former commander in Afghanistan, Major General John Cantwell. He has made a very powerful case in the book to say that, whilst our soldiers are doing a fantastic job, for which they are trained, it is not going to make a long-term difference in Afghanistan and yet it is becoming more and more dangerous and we are going to lose more lives.

In my view, today the Prime Minister was not able to persuade the parliament with a compelling argument as to why we need to stay in Afghanistan until 2014 when it is not going to make an iota of difference. The country is going to remain as torn as it currently is by tribal tensions. The corruption in the government of President Karzai is obviously recognised. You have seen huge amounts of money leave that country by the elite in Afghanistan preparing themselves for a life outside Afghanistan. I urge the Senate to consider this and to note the Prime Minister's speech but to support the Greens. Adam Bandt will be moving a motion in the House of Representatives later this year for a vote on bringing our troops home. We need our troops home and out of Afghanistan as safely and as quickly as possible. (Time expired)

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (17:32): I also rise to take note of the ministerial statement on Afghanistan and seek leave to continue my remarks.

Leave granted; debate adjourned.
Disability Employment Services

Senator SIEWERT (Western Australia—Australian Greens Whip) (17:33): by leave—I move:

That the Senate take note of the document.

Leave granted.

Senator SIEWERT: I rise to take note, as long as my voice holds out.

Senator Fierravanti-Wells: It is holding out quite well, Senator Siewert.

The ACTING DEPUTY PRESIDENT (Senator Boyce): It must be time that we were able to use sign language here, Senator Siewert.

Senator SIEWERT: That is true. Unfortunately, although I know a bit of Auslan, I certainly do not know enough to carry through this speech—although it would be appropriate given that I am talking about Disability Employment Services.

I rise to take note of the ministerial statement from Minister Ellis on the outcomes of the Disability Employment Services employment support service tender. The Senate may recall that there was an inquiry into some of the processes around Disability Employment Services that started about 18 months ago. It made a number of recommendations around Disability Employment Services. The government certainly paid some attention to some, but I am disappointed that they did not pick up a lot of the recommendations around the quality of the provision of services through Disability Employment Services and the star rating process.

This new process the government has gone through is based around that ratings process. One of the points that providers made to us during the inquiry into Disability Employment Services was that they were concerned about the star rating process and the fact that, because they spent more time in supporting people with disability and looking for some quality outcomes, they had foregone trying to get that fourth star—which is the all-important star.

Secondly, they identified what they were calling 'gaming processes' or what others call 'sharp practices'. The department, through Senate estimates, has responded to questions and said that they had had a look at so-called gaming practices, or sharp practices, in Disability Employment Services and said that they do not think there is an issue there. I note that that is the same answer that I got through estimates when we were asking questions about the Job Services Australia providers and it subsequently turned out, as we established during estimates just two weeks ago, that there have been some significant problems with Job Services Australia providers and some sharp practices that have been carried out—with the point being that there looks like there will be some millions of dollars returned to the department as a result of the subsequent audit into some of these sharp practices. I will put on record that there were different sharp practices, but I must admit that I do not necessarily share the department's confidence that there are no sharp practices going on, given subsequent events.

With respect to this new tender process, I only have the results for Western Australia; I do not as yet have the results across the country. But, from the information that has been provided, across the country there have been 69 providers who will leave the sector. Of those providers, 17 did not tender for new services this time and just over 50 did tender and were not successful.

What we do not know yet is what impact this is going to have on regional areas in particular. It is very clear that some clients will be moving providers, and the
government has acknowledged that there will be transition support. One issue that was raised during the inquiry is the significant impact that moving providers has on people with a disability, so we will be watching that transition process quite carefully to make sure that the process adequately supports people.

Another issue that was brought to my attention is that it takes a lot to tender for these processes, and the bigger providers can afford to hire consultants to write their tender applications. It has been reported to me that people can spend as much as half a million dollars on developing their contracts, and some of them cover multiple states as well. There is no way that smaller providers can afford to compete and to spend that sort of money on their tenders. Although they may be quality services, they are basically out-competed because the big providers can spend the money on their applications. I do have concerns around that and I know that some of the smaller providers in the sector have those concerns. I am not saying that the big providers are not necessarily capable of providing strong support, but I know that some of the small providers—I have spoken to many of them—really pride themselves on providing quality services. I think there does need to be some ongoing review to make sure that as the big providers come in they are providing the same level of support, particularly the ongoing support that people with a disability need in the workplace. That is one thing that people with a disability have told the inquiry and me personally: ongoing support as you go into a workplace—for the first time or when people have cycled in and out of work—is very important to be able to maintain a position, and it is critical that the providers continue to provide that.

It appears that the tender selection process was constructed through the competitive market. It was assessed by DEEWR, and I would like to know if there was a consumer voice involved in the assessment process and if they had someone with employer expertise also involved in the process. If the process was similar to the Job Services Australia process, we know that a lot of that process was desktop assessment. Desktop assessment, while it is very important, does not always give the best view of how a service has been provided to those requiring that service.

I am concerned that we are seeing so many providers exit. I do not think that having only big providers is the best outcome. I know some of the providers that are exiting from Western Australia have a great deal of expertise, and I am concerned about the loss of their expertise to people with disabilities in Western Australia. The new providers are going to have to be very good to be able to provide the same level of support that I know some of the providers who are leaving have been providing. I do not know if it is the same case across the rest of Australia; I have only been provided with the Western Australian figures. I presume that other senators have been provided with the figures from their states. I will seek to get the figures for the whole of Australia so that we can get a bit of a picture of where providers have exited, entered and are continuing, particularly with a view to looking at regional services—again, because we know from experience with Job Services Australia contract turnover that concerns were raised around the impact on delivery of regional services.

The services that disability employment services provide are particularly important because we know that a high proportion of those on Newstart have a partial disability, and people on a pension want to be working. People with a disability have repeatedly said to me that they want to be working but they need good quality support to find a job in the
first place and also to maintain it. It is absolutely critical that we get this right, and I am worried about the loss of expertise from the loss of 69 providers. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOCUMENTS

Women's Employment and Domestic Violence

Tabling

The ACTING DEPUTY PRESIDENT (Senator Boyce): I present a response from the Premier of Western Australia, Mr Barnett, to a resolution of the Senate of 19 September 2012 concerning domestic violence.

Senator CASH (Western Australia) (17:43): by leave—I move:

That the Senate take note of the document.

I congratulate the Western Australian state government and, in particular, the Premier of Western Australia, Colin Barnett, on his response to the resolution. The Western Australian government is committed to preventing domestic violence and ensuring that its victims are supported both in and outside of the workplace. In his response to the resolution of the Senate, the Premier refers to the WA strategic plan for family and domestic violence 2009-2013, which outlines state-wide systematic reform arrangements for family and domestic violence, focusing on better interagency responses, improved safety for victims and programs to help perpetrators of domestic violence.

In reviewing the Premier's response, I took the opportunity to have a look at the WA strategic plan. I am pleased to see that the strategies included in the strategic plan that aim to support the integrated responses are to:

- Strengthen community understanding and awareness that family and domestic violence is not acceptable,
- Focus family and domestic violence prevention and early intervention initiatives on children, young people, health and respectful relationships,
- Provide an accessible, integrated 24 hour response throughout the State that includes crisis and post crisis intervention, and
- Ensure that a range of evidence based programs and interventions for perpetrators of family and domestic violence are provided.

Certainly the aim of the strategic plan is to send a clear message to all Western Australians—and indeed all who read the strategic plan—that abuse in all forms will not be tolerated in our homes or in our communities.

I also note that the strategic plan acknowledges that family and domestic violence abuse is a fundamental violation of human rights and will not be tolerated in any way. In that vein, the coalition understands that violence against women in particular has a profound and devastating impact on both its victims and the community as a whole. The coalition has a zero-tolerance policy on violence against women. This violence is quite simply not acceptable. We believe that keeping women and their families safe from violence is the most fundamental step towards ensuring their security and their prosperity. Violence undermines our social fabric and prevents women from achieving social and economic equality and advancement.

When we were previously in government, the coalition established equitable and appropriately funded policies and programs for women, for families and for children. In particular, the coalition's policies aimed to ensure that all women could enjoy greater personal safety and that domestic violence was tackled and did not become intergenerational. The achievements of the
former Howard government in relation to domestic violence are echoed in the response of the Premier of Western Australia in his response to the Senate resolution. From 1996 to 2007, the Howard government carried on the Liberal tradition of supporting and improving the position of women in Australia. The safety of women was a top priority for the Howard government, as it is a top priority for the Western Australian government under Premier Colin Barnett.

The Howard government dedicated $75.7 million over four years from July 2005 to the Women's Safety Agenda which addressed four broad themes of prevention, health, justice and services. The initiatives included the national 'Violence Against Women, Australia Says No' campaign that so many of us will be aware of and the national 24-hour helpline on the 1800 number.

The Women's Safety Agenda under the former Howard government aimed to prevent, reduce and respond to domestic and family violence and sexual assault. The Howard government also continued funding for the Australian Domestic and Family Violence Clearinghouse and the Australian Centre for the Study of Sexual Assault national resource centres which provided central points for the collection and dissemination of Australian domestic and family violence and sexual assault policy, practice and research. This funding was exceptionally important as it enabled research into domestic violence and sexual assault, and training for nurses in regional and rural areas where we know that unfortunately the incidence of domestic violence is exceptionally high. It included assistance to release general practitioners for training for the criminal justice sector on sexual assault and continuation of the valuable research program on the various aspects of sexual assault by the Australian Institute of Criminology.

The Howard government also funded projects aimed at reducing the incidence of domestic and family violence and sexual assault in the Australian community through the domestic and family violence and sexual assault funding initiative. Many projects were directed at addressing violence and/or sexual assault experienced by women and children from Indigenous communities, non-English speaking backgrounds and rural and remote areas as well as women with disabilities and their children. In fact, a major element of the Howard government's commitment to women's safety was the $23 million national initiative to combat sexual assault.

We also noted that it is not just the women that we need to look after. We provided funding for Mensline, a professional support phone line providing advice for men to help them deal with relationship problems, and we made sure that this was continued. The Howard government also worked in partnership with state and territory governments, organisations, communities and many committed individuals. There are many committed individuals in our society when it comes to working towards reducing—and ultimately hopefully getting to zero—the number of domestic violence incidents. These individuals improve the position, participation and circumstances of all Australian women.

A future coalition government will take a whole-of-government approach to implementing policies that reflect not just a zero-tolerance attitude towards domestic and family violence but also the Liberal values of nondiscrimination and a fair go for all. As I have stated, domestic violence is just not acceptable. It is an issue that is also above politics, and I know that both the government and the Liberal Party see a zero-tolerance approach as the only approach that can be accepted by society. In going forward
as a coalition spokesperson for the status of women, I look forward to a day when we are not standing in this place and reading out the statistics that one in three women are still subjected to violence in society. That would be a great day.

Senator RHIANNON (New South Wales) (17:51): I rise to speak on the response we have here. It was welcome to see the premiers of a number of states respond to this important proposal with regard to addressing domestic violence in the context of the workplace.

I noted that the Western Australian government did supply considerable detail and I certainly acknowledge that, these days, domestic violence is taken most seriously by governments at all levels and there are many outstanding programs.

The point of the original motion that went before parliament was to address domestic violence in the context of the workplace and how we can assist the victims of domestic violence, by far the majority of whom are women, so that the discrimination and the hardship they suffer are not further exacerbated by the situation that can arise in their workplace. They may have to take time off to attend court, they may feel humiliated, there may be difficulties in being able to handle their work properly, and conditions need to be provided to assist them when they are being abused in some domestic or family situations. Clearly, workers have the right to be safe at home and at work from domestic violence. I mentioned this in my first speech in this place: while there is a lot that divides us, I have a great belief that there is a lot that unites us—and this is one of those issues. Domestic violence can put jobs at risk. It affects performance, productivity and even safety at work—the safety of not just the person who is suffering domestic violence but also their colleagues.

We need a supportive and informed workplace where the victims of domestic violence will feel that they can disclose the crimes that are being committed against them. I want to acknowledge Australia's leading role in bringing forward many programs in this area, but it is in the particular area of workplace reform that we need to bring forward a number of changes.

In 2009, the Australian Domestic and Family Violence Clearinghouse and the New South Wales Public Service Association began discussions regarding the introduction of domestic violence entitlements into industrial instruments. That is something that the Greens very much support. We believe that it is time for the government to advance this. So much work has been done. We have the proof that it is needed. Now we need the legislators to act, and that is where we have a responsibility.

The Australian Domestic and Family Violence Clearinghouse, a project of the UNSW Centre for Gender Related Violence Studies, is a national organisation. The quality of its information is really outstanding. I would recommend that senators acquaint themselves with this work because it clearly underlines why we need to ensure that in an industrial context, in a workplace context, we need to make these changes.

The ADFVC provided evidence to the Public Service Association of a link between domestic violence and workplace safety. Both safety and performance clearly can be impacted if somebody goes to work traumatised because they have been abused in their home by somebody they have had a loving relationship with at some stage, and now they have to cope with this terrible change in their life. Clearly, they and other workers could be at risk. In Britain, this issue has been taken up strongly by a number of
unions. We have considerable experience to draw on.

In December 2009, the Community and Public Sector Union, the State Public Services Federation and the Australian Domestic and Family Violence Clearinghouse resolved to develop a model domestic violence clause to log in the 2010 round of enterprise bargaining in the New South Wales university sector. This work is being advanced by unions and a number of workplaces. Some businesses are coming on board, but there is a lot more that government should do. That was the intention when I put forward the original motion, and we are now receiving the response from state governments. I am a great believer it is going to happen. So much work is being done and the need has been demonstrated. I just hope that we do not drag the chain too much and that we can give support to the people who have done the research and demonstrated the need. So many people are victims of domestic violence. It is time that we advanced this program that would help expand the suite of policies and programs for victims of domestic violence, but there is this area that has not been addressed by our government in the detail that is required. I strongly urge Prime Minister Julia Gillard to add her voice to an issue that I believe unites our parliament.

Question agreed to.

DOCUMENTS

Tabling

The Clerk: Documents are tabled pursuant to statute. Details will be recorded in the Journals of the Senate and on the Dynamic Red. A statement of compliance is tabled in accordance with the continuing order of the Senate relating to departmental and agency files. Details of the documents appear at the end of today’s Hansard.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT

(Senator Boyce) (17:58): Order! The President has received letters from party leaders requesting changes in the membership of various committees.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (17:59): by leave—I move:

That senators be discharged from and appointed to committees as follows:

Education, Employment and Workplace Relations References Committee—

Appointed—

Substitute member: Senator Wright to replace Senator Rhiannon for the committee’s inquiry into teaching and learning – maximising our investment in Australian schools

Participating member: Senator Rhiannon

Legal and Constitutional Affairs Legislation Committee—

Appointed—

Substitute member: Senator Hanson-Young to replace Senator Wright for the committee’s inquiries into the Migration Amendment (Health Care for Asylum Seekers) Bill 2012 and the Migration and Security Legislation Amendment (Review of Security Assessments) Bill 2012

Participating member: Senator Wright

Rural and Regional Affairs and Transport Legislation Committee—

Appointed—

Substitute member: Senator Back to replace Senator Nash for the committee’s inquiry into the performance of the Department of Agriculture, Fisheries and Forestry and portfolio agencies on 1 November 2012

Participating member: Senator Nash.

Question agreed to.
BILLS

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013

First Reading

Bills received from the House of Representatives.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:00): I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:00): I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013 provides additional funding to the Department of Immigration and Citizenship for:

- requirements for departmental equity injections; and
- requirements to create or acquire administered assets and to discharge administered liabilities.

The total appropriation being sought in Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013 is $267,980,000.

The Government will provide the Department of Immigration and Citizenship with $267,380,000 of administered assets and liabilities funding in this Bill for the Offshore Asylum Seeker Management program. This is to meet the initial capital costs required to establish regional processing centres on Nauru and Manus Island, as recommended by the Expert Panel on Asylum Seekers.

I note that the reestablishment of offshore processing in these places has the support of the Coalition.

The Government will also be providing the Department of Immigration and Citizenship with $600,000 of departmental equity injections funding in this Bill for the Settlement Services program. This is for the departmental capital costs associated with implementation of the recommendation of the Expert Panel to increase the Humanitarian Migration program to 20,000 places.

These are vital elements that go to the implementation of a suite of measures that can break the people smuggling trade and save lives at sea by preventing these dangerous journeys in the first place.

We want to remove the incentive for people to travel to Australia by boat, whether it's by providing more offshore refugee places, removing Special Humanitarian Program family reunion concessions for boat arrivals, or transferring post-13 August arrivals to Nauru and Manus Island.

The way in which this Government has been implementing the Expert Panel's recommendations provides clear evidence of our determination to break the people smugglers' business model.

But this is only the beginning. Transfers continue to Nauru, while Manus Island will shortly start receiving arrivals – and work is continuing on both islands to increase capacity.

Of course as we continue to implement more of the Panel's recommendations, we will start to see a greater impact on reducing boat numbers.

Should the Opposition, or the Greens for that matter, choose to stop hindering and start helping...
the Government to save lives, they would support the Malaysia Arrangement – an agreement the Expert Panel acknowledged was the pathway to a truly regional and sustainable solution to irregular migration.

Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 2) 2012-2013

There are two bills being proposed at this time:

- Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013; and

These bills seek urgent appropriation authority from Parliament for the additional expenditure of money from the Consolidated Revenue Fund. These bills require immediate passage to provide additional appropriation to the Department of Immigration and Citizenship.

These bills address the increased costs of irregular maritime arrivals resulting from higher rates of arrivals and the implementation of the recommendations of the Expert Panel on Asylum Seekers (the Expert Panel), including capital works and services for regional processing facilities on Nauru and Manus Island, Papua New Guinea.

The total appropriation being sought through these two bills is $1,674,982,000.

Turning now to Appropriation (Implementation of the Report of the Expert Panel on Asylum Seekers) Bill (No. 1) 2012-2013; the total appropriation being sought in this bill is a little over $1.4 billion.

This includes $110.6 million for Houston Report measures, including:

- $92.043 million to increase the Humanitarian Program by an additional 6,250 places to 20,000 places per annum from 2012-13;
- $8.181 million to increase to the Family Reunion Stream of the Permanent Migration Program by 4,000 places; and
- $10 million to fund capacity building initiatives in regional countries.

It also includes $1.296 billion to meet expenses arising from the management of higher levels of irregular maritime arrivals, and the operational expenses associated with the implementation of the Expert Panel's recommendations to establish regional processing centres on Nauru and Manus Island. This includes a $186 million accrual from 2011-12.

It is only this party — only this Government — that is fully committed to delivering a proper and sustainable regional solution through the full implementation of the recommendations of the Expert Panel, which was led by Angus Houston.

The funding sought in these appropriations is consistent with and already budgeted for in MYEFO.

No one should doubt the Government's commitment to implementing the 22 recommendations of the Expert Panel, to break the people smugglers' business model and help to stop people dying at sea.

This suite of measures, as outlined in the Panel's recommendations, is the only way we will begin to see a reduction in the rate of boat arrivals.

And that means, of course, the immediate implementation of regional processing on Nauru and Papua New Guinea which we are doing swiftly and effectively.

We have almost 400 people on Nauru currently and transfers will begin shortly to Manus Island.

Nauru will have a capacity of 1,500 beds — it currently has about 500 places — and we expect to see 600 places in Papua New Guinea as works continue on those facilities.

As I referred to earlier, the Government has also increased Australia's humanitarian intake to 20,000 — providing increased resettlement options for people in need from priority regions in the Middle East, Africa and Asia.

Only last week I announced the makeup of that intake, targeting those in most need, especially vulnerable people in camps around the world.
We are providing more opportunities for vulnerable and displaced people to pursue safer resettlement options in Australia — we're telling desperate people that there is a better way than taking a dangerous boat journey — a better way as part of an orderly humanitarian program.

The message here is that taking a dangerous boat journey will provide no advantage — there is no visa awaiting people on arrival, no speedy outcome and no special treatment. This tells the lie to the people smugglers' spin.

In the meantime, the cost of processing and accommodating asylum seekers is expensive, it always has been. But the only way to reduce these costs is to have fewer people arriving by boat.

No one should doubt our commitment to doing that, but it is something we could do much more effectively with the implementation of the Malaysia Arrangement.

We know that those opposite for so long stood in the way of offshore processing legislation, refusing to let the Government implement its border protection policies — because they don't want the Government to succeed.

We know the Malaysia Arrangement can indeed break the people smugglers' business model — its time to allow it to be implemented.

No one can deny that the combination of regional processing on Nauru and PNG, along with returns to Malaysia, would not stop the flow of boats and provide that iron clad deterrent.

There is still some way to go before we see the real effects of the policies the Government has been implementing — and people smugglers will continue to test our resolve.

But there can also be no doubt that we are starting to see positive —if only early — results.

To date, the Government has facilitated a number of voluntary removals to Sri Lanka, with more than 70 people choosing not to engage Australia's protection obligations and to instead return home.

With more returns expected, this is further proof that people smugglers only sell lies and make false promises about what awaits people in Australia.

Debate adjourned.

Corporations Legislation Amendment (Derivative Transactions) Bill 2012

Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012

Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012

First Reading

Bills received from the House of Representatives.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:02): I indicate to the Senate that these bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question agreed to.

Bills read a first time.

Second Reading

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:02): I present revised explanatory memoranda relating to the Corporations Legislation Amendment (Derivative Transactions) Bill 2012 and the Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012 and I move:

That these bills be now read a second time.

Question agreed to.

Bills read a first time.

Second Reading

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:02): I present revised explanatory memoranda relating to the Corporations Legislation Amendment (Derivative Transactions) Bill 2012 and the Tax Laws Amendment (Clean Building Managed Investment Trust) Bill 2012 and I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—
CORPORATIONS LEGISLATION AMENDMENT (DERIVATIVE TRANSACTIONS) BILL 2012

Today I introduce a bill to amend the Corporations Act 2001 (‘the Corporations Act’).

The Corporations Legislation Amendment (Derivative Transactions) Bill 2012 (‘the Bill’) contains measures to implement commitments made by Australia and other G20 nations regarding the regulation of over-the-counter (‘OTC’) derivatives.

The global OTC derivatives market is enormous. At end-2011 the Bank for International Settlements reported that total notional amount outstanding for OTC derivatives worldwide was $648 trillion.

The global financial crisis highlighted structural deficiencies in the OTC derivatives market and the systemic risks that those deficiencies can pose for wider financial markets and the real economy.

In many countries, these structural deficiencies contributed to the build-up of large, insufficiently risk-managed, counterparty exposures between some market participants in advance of the global financial crisis; and to the lack of transparency about those exposures for market participants and regulators.

At the G20 summit in Pittsburgh in 2009, the Australian Government joined other jurisdictions in committing to substantial reforms to practices in the OTC derivatives market. The three key G20 commitments addressed by the bill are:

- the reporting of OTC derivatives to trade repositories;
- the clearing of standardised OTC derivatives through central counterparties; and
- the execution of standardised OTC derivatives on exchanges or electronic trading platforms, where appropriate.

These commitments are intended to:

- increase transparency in the OTC derivatives market for regulators, market participants and the public; and
- reduce counterparty credit risks and operational risks associated with OTC derivatives.

The implementation of the G20 commitments is being coordinated and monitored by the Financial Stability Board (FSB). The FSB has called on all jurisdictions to aggressively push ahead to achieve full implementation of market changes by end-2012 to meet the G-20 commitments in as many reform areas as possible.

In Australia, extensive consultation on implementing the G20 commitments has been conducted by the Council of Financial Regulators (‘the Council’), which is comprised of the Reserve Bank of Australia, the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, and the Australian Treasury.

The public consultation process was wide-ranging and comprehensive. A call for submissions was made following the release of a public consultation paper. Most of the submissions received were from the financial services sector, both in Australia and internationally. Further face-to-face consultations were subsequently held with interested parties.

THE LEGISLATIVE FRAMEWORK

This bill amends the Corporations Act 2001 to allow for regulations and rules to be put in place to implement the G20 Commitments in a form flexible enough to deal with changing market conditions and to impose any future obligations on a coordinated basis with other nations.

Under the legislative framework introduced by this bill the Minister will be empowered by the Corporations Act to prescribe certain classes of derivatives.

Once a class of derivatives is prescribed, ASIC will have the power to issue rules to establish one or more mandatory obligations (reporting, clearing or execution) for transactions in that class.

The bill contains a range of checks and balances in relation to this rule making power, including a requirement that ASIC consult and obtain ministerial consent for any new rules.
It is intended that Australia’s financial regulators will conduct ongoing assessment and advise the Government on whether various derivative classes should be made subject to trade reporting, central clearing and on-platform execution requirements.

This will build on earlier assessments and consultations as well as assessments that are currently underway.

It is important to note that prior to making any decision to mandate reporting, central clearing or use of trading execution venues, the Government will engage with stakeholders further and consider any advice from the Council of Australian Regulators.

The bill will provide a high degree of flexibility in implementing trading, clearing and on-platform trading mandates. The regime can therefore be readily adapted to overseas regulatory developments.

This flexibility enables Australia’s financial regulators to work with their international counterparts to ensure a unified approach to regulation of global OTC derivatives markets.

Consistent implementation by all major economies is important to reduce systemic risk and the risk of regulatory arbitrage that could arise if there are significant gaps in implementation.

International cooperation and flexibility will also help to avoid unintended consequences of national laws such as the burden on businesses of duplicated or conflicting rules and the costs of reduced access to international markets.

Trade repositories
As well as facilitating the possible introduction of trade reporting requirements, the legislation sets out a new licensing regime for trade repositories. Trade repositories will record derivative trade data and make it available to relevant regulators. This information can be used by regulators for monitoring market integrity and stability. Trade repositories also have the potential to facilitate efficiency improvements in post-trade processing and production of high-level statistical data for market use.

This licensing regime is based upon existing licensing regimes for financial markets and clearing and settlement operators; but adapted for the different role that this new form of market infrastructure entity will play. A key aspect of the regime is the strong protections against improper use and disclosure of reported derivative trade data.

CONSEQUENTIAL AMENDMENTS
In addition to the key reforms I have outlined, the bill also contains consequential amendments to the Australian Prudential Regulation Authority Act 1998, the Australian Securities and Investments Commission Act 2001, the Mutual Assistance in Business Regulation Act 1992, and the Reserve Bank Act 1959.

These amendments relate largely to information sharing between, and the protection of the confidentiality of information held by, regulators.

MINCO APPROVAL
The Ministerial Council for Corporations has been consulted on the amendments to the Corporations Act contained in this bill.

SUMMING UP
This bill establishes the legislative framework necessary for Australia to implement its G20 commitments in relation to OTC derivatives.

The legislative framework in this bill aims to bring transparency to OTC derivatives in Australia and improve OTC risk management practices.

Implementing these reforms in a globally coordinated way will not only ensure that the risk of regulatory arbitrage is avoided but also ensure that Australian businesses can continue to participate in global markets while being primarily regulated in Australia.

Passage of this bill will enable the making of rules that will ensure Australian investors can be confident that financial markets will continue to function with certainty and transparency. The bill provides regulators and the Government with the tools necessary to improve risk management in the OTC derivatives market in a flexible way, taking account of ongoing analysis of market developments by Australia’s financial regulators, and in coordination with other economies.
CRIMES LEGISLATION AMENDMENT (SERIOUS DRUGS, IDENTITY CRIME AND OTHER MEASURES) BILL 2012

The Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012 delivers on the Government’s continuing commitment to combat serious and organised crime and corruption. The Bill includes a range of measures which strengthen existing laws and ensure that the criminal law in this country is responsive to emerging threats.

The Bill will improve and clarify aspects of Commonwealth criminal law including:

- amendments to the Commonwealth’s serious drug offences framework to allow it to be updated more quickly to list new substances, expand identity crime offences,
- create new offences and a police power relating to air travel and false identity,
- improve the operation of the Law Enforcement Integrity Commissioner Act 2006,
- clarify that superannuation orders can be made in relation to all periods of a person’s employment as a Commonwealth employee, and
- increase the value of the penalty unit for Commonwealth criminal offences and provide for its regular review moving forward.

I will address each of these amendments in turn.

Illicit drugs have a terrible impact on the Australian community and cause a wide range of social, economic and personal harms. This Government is committed to minimising the use and availability of harmful drugs in Australia and ensuring that drug laws are as strong as possible.

This Bill ensures Commonwealth laws are up to date and allow for flexible, quick responses to new and emerging drug threats.

Firstly, the Bill will move the existing lists of illicit substances from the Criminal Code to Regulations, and allow for the future listing of substances to be done by Regulation. This will make it substantially quicker to update the lists in response to new threats and will make them more responsive to law enforcement needs. This will help prevent organised crime groups and individuals from seeking to exploit loopholes created when the lists of controlled drugs do not keep pace with the market for illicit substances.

Secondly, the Bill will improve existing mechanisms for making emergency determinations in relation to particular substances.

Emergency determinations may currently be made for a period of 28 days. The Bill will strengthen this framework by allowing determinations to operate for up to a maximum of 18 months.

This will provide a greater amount of time for experts to analyse substances and assess the harms they could cause. This approach is consistent with that taken in the United States and New Zealand for the temporary listing of substances.

Law enforcement agencies have identified identity crime as a significant threat and as one of the fastest growing crimes in Australia. The internet and other new technologies have provided ideal new instruments for organised criminals to harness and exploit the identity information of others.

The Government has a comprehensive identity security strategy and has already taken steps to counter identity crime. It is an offence for a person to deal in identification information for the purpose of committing a crime against Commonwealth law.

The Bill will expand these offences to cover people who use a carriage service, such as the internet or a mobile phone, to obtain identification information with the intention of committing another offence. It will also criminalise the use of identity information with intent to commit a foreign offence.

The new offences will carry penalties of up to five years imprisonment.

In keeping with the Government’s commitment to combating organised crime and providing strong management of our borders, the Bill will create new offences relating to air travel and the use of false identities.

Travelling under a false identity is a tactic commonly used by organised criminals in Australia and overseas to evade law enforcement.
detection. The Bill will make it a crime to use a false identity to book a flight over the internet or to take a commercial flight. It will also be a crime to use a false identity when identifying oneself for the purpose of travelling on such a flight.

The maximum penalty for the offences will be 12 months imprisonment. This penalty is consistent with the penalties for similar offences relating to providing false or misleading information in the Criminal Code.

The Bill will also give police powers to request evidence of a person’s identity where person is suspected of committing, or intending to commit, a serious offence. It is important that law enforcement agencies have the powers necessary to properly deal with these crimes, although of course, safeguards will also be put into place to ensure that these powers are used appropriately.

The Bill will make amendments to the Commonwealth’s penalty unit scheme. This is part of the Government’s commitment to cracking down on serious and organised crime. We want to make a strong statement about this type of crime and ensure that courts have ability to impose appropriate penalties to deal with these offenders.

The penalty unit was introduced in 1992 to enable financial penalties across all Commonwealth criminal legislation to be easily increased in line with inflation with a single amendment to the Crimes Act. The penalty unit was last increased in 1997.

The Bill increases the value of a penalty unit to $170 to accommodate increases in the Consumer Price Index. This increase will strengthen all Commonwealth financial penalties, including those related to white collar crime and serious and organised crime. For example, the maximum financial penalty for the fraud offence of obtaining a financial advantage by deception will increase from $66,000 to $102,000 for an individual, and from $330,000 to $510,000 for a corporation. This is a significant increase and should send a strong message that crime does not pay.

The Bill also introduces a requirement for the penalty unit to be reviewed every three years to ensure its value continues to be regularly maintained in real terms in the future.

The Bill also includes amendments to strengthen the Commonwealth public sector integrity system by clarifying the functions of the Integrity Commissioner. This is consistent with recommendations of the Parliamentary Joint Committee for the Australian Commission on Law Enforcement Integrity.

Firstly, the Bill will more clearly state the Law Enforcement Integrity Commissioner’s statutory functions in relation to detecting and preventing corruption. This will better reflect the objects of the Law Enforcement Integrity Commissioner Act 2006 and enable the Commission to take a proactive approach to dealing with corruption.

Second, the Bill will provide the Minister with the discretion to refer a corruption issue involving a staff member of the Commission to the Integrity Commissioner, unless it involves the Integrity Commissioner or an Assistant Integrity Commissioner, to improve the management of internal corruption issues.

Third, the Bill will provide the Integrity Commissioner with greater flexibility in relation to holding a public inquiry.

Finally, the Bill will clarify the laws relating to superannuation orders and corruption offences.

The Crimes (Superannuation Benefits) Act allows for the forfeiture and recovery of employer funded superannuation benefits of Commonwealth employees who have been convicted of corruption offences.

The Bill will clarify that a superannuation order made under this Act relates to all employer funded contributions made or payable in relation to the person’s total period or periods of Commonwealth employment, not just the particular period of employment in which a corruption offence was committed.

Although these laws have always been intended to operate in this way, it is desirable to more clearly express this intention in response to a judicial decision in the New South Wales Supreme Court.

In conclusion, the Crimes Legislation Amendment (Serious Drugs, Identity Crime and Other Measures) Bill 2012 contains important
measures that will ensure that Commonwealth criminal law remains up to date and effective, particularly in combating serious and organised crime and white collar crime. This government is committed to making sure that we have the right laws in place to create a hostile environment for organised crime, be that through increased monetary penalties or greater protection for identity information on the internet.

TAX LAWS AMENDMENT (CLEAN BUILDING MANAGED INVESTMENT TRUST) BILL 2012

This bill amends the Income Tax (Managed Investment Trust Withholding Tax) Act 2008, the Income Tax Assessment Act 1997 and the Taxation Administration Act 1953 to provide a final withholding tax rate of 10 per cent on fund payments from eligible Clean Building Managed Investment Trusts (MITs) made to foreign residents in information exchange countries.

For these amendments to apply, the managed investment trust must only invest in new energy efficient office, hotel and retail buildings that commenced construction on or after 1 July 2012. These trusts may also hold limited assets incidental to these buildings such as car parking facilities, telecommunications infrastructure or advertising billboards.

To be treated as an energy efficient building, a building must obtain and maintain either a 5-star Green Star rating or a 5.5 star National Australian Built Environment Rating System rating.

This criteria will be reviewed after 3 years to ensure that the measure continues to apply to buildings that are above the average level of energy efficiency.

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

Debate adjourned.

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

Defence Trade Controls Bill 2011
Consideration of House of Representatives Message

The ACTING DEPUTY PRESIDENT (Senator Pratt): The President has received a message from the House of Representatives returning the Defence Trade Controls Bill 2011. The House has agreed to amendments (1) to (8) and (10) to (27) made by the Senate, and has disagreed to amendment (9) made by the Senate.

Ordered that the message be considered in Committee of the Whole immediately.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:05): I move:

That the committee does not insist on its amendment to which the House of Representatives has disagreed.

Senator JOHNSTON (Western Australia) (18:05): Before the question on the motion is put, I wish to put the coalition’s position with respect to amendment 9A, which the Senate successfully moved as an amendment to the legislation. From the outset, I wish to point out that the coalition will not be insisting upon amendment 9A. This is for a very good reason. I know some senators will be quite annoyed and upset about it, but may I say that, from the outset, the understanding by the government of the length and breadth and the practical application of this legislation has been under considerable question. Indeed, may I say, the government has imparted no confidence whatsoever to the Senate committee on several hearings and meetings or, indeed, to this chamber that it actually understands what it is doing.

It was put to the government that the wording of the Export Administration Regulations are identical to the wording contained in this amendment on which we are not insisting. The reason the amendment
was put was for the government to explain in detail how it is that such an amendment would undermine and, to use a colloquialism, render fatal, the intent of this legislation. May I say in response, and this is not a reflection on or criticism of the minister in the chamber, that the government's response to that was extremely tepid and utterly unconvincing and we are left and were left at that time with no other conclusion than that this legislation is going to provide a more strict regime on fundamental applied and basic research than currently exists in the United States, for example.

However, having said that, and having said that the government's understanding and confidence in bringing this legislation forward are under question, the coalition errs on the side of caution because the subject matter of this legislation is so important. It should not be got wrong. Accordingly the Senate has inserted a two-year transitional period requiring certain things wherein the Senate Foreign Affairs, Defence and Trade Committee can on a six-monthly basis oversight the progress of the two-year transitional period. I would underline the fact that the minister has confirmed that, notwithstanding the wording of a number of sections relating to criminal sanctions of 10 years imprisonment that appear to be strict liability offences, he interprets them as requiring intent. That is how bad this legislation is, that he has had to get up in the chamber and say things that are on the fly, are on the Hansard, to correct the clear disposition of the bill.

Senator Ludlam: Don't vote for it, then.

Senator JOHNSTON: Notwithstanding all that, we are left in the invidious position of having to support the government in dealing with this legislation because the alternative is to apply a degree of recklessness which we are beckoned to do from the far end of this chamber. We will not do that. We will work through the transitional period with or without the government, as the case may be, to make sure that there is balance and proper applicability in this legislation. That is our position. We think it is the correct position.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:09): I begin by thanking Senator Johnston and the opposition for taking the view that they have taken that they will not insist on the amendment that passed this place on Monday. I make a few comments responding to some of the remarks of Senator Johnston.

This bill is not about restricting academic freedoms. Australians researchers will be able to continue to conduct sensitive research. They will only need a permit to transfer sensitive technology overseas where it could be misused. This requirement already applies to US researchers. A list of technology subject to export control, the defence and strategic goods list, is derived from the international arms control and non-proliferation regimes. The list controls goods and technologies that can contribute to military and weapons of mass destruction programs. In the wrong hands those goods could and would pose a significant risk to Australians and indeed to Australian national security. There will be no need for a permit for research conducted in Australia, including where overseas students are involved. By contrast, in the United States a permit is required for foreign nationals to use controlled technology in research. US exemptions for fundamental research apply only to controls on the output of research. Outputs will not be controlled in Australia, so it is not possible to apply this exemption.
In summary, as Senator Johnston quite accurately said, ultimately the government did regard the amendment that passed this place on Monday to be fatal to the legislation. That is why that amendment has failed to pass the House of Representatives. I am grateful that the opposition have taken the view they have taken and I urge that the committee does not insist on the amendment to which the House of Representatives has disagreed.

Senator LUDLAM (Western Australia) (18:11): I take what I think is the last opportunity for me to speak on this bill, which has been the subject of protracted debate not only here but in the other place all week. This bill is a pretty sorry story. Many things that started on a handshake between George W Bush and John Howard ended in tears and this is just another late, straggling example of that. That is how this bill started. Let us be clear that this is a bill about enhancing the trade in weapons and interoperability between weapons systems and defence research between Australia and the United States.

The bill has been passed back to the chamber for concurrence. I am someone who does not concur at all. I was persuaded by the arguments that Senator Johnston was raising in this very place only 48 hours ago. I will put it on the record, although I may later come to regret it, that over the last 4½ years I have come to develop a grudging respect for Senator Johnston. One thing you could say about the shadow defence spokesperson is that he is across his brief, he knows his brief. You bring a defence bill into this place and Senator Johnston will give it the attention it deserves for the reasons that he brought to bear when he was advancing a perfectly reasonable coalition amendment. It was not one that the Greens sought to move. Ours lapsed, it was not acceded to by the chamber, so we voted for the fallback position, I suppose, from my party's point of view, based on arguments run by Senator Johnston.

Senator Johnston, you must have turned out to be a pretty cheap date, because 24 hours later you have been rolled, through you, Temporary Chair, by the Leader of the Opposition, who knows, with greatest respect to Mr Abbott, considerably less about these issues than you do. It is therefore a bit hard to listen to you coming back in here waving your finger and condemning the government for whatever we are condemning them for this afternoon when you are participating in facilitating what you know and what everybody knows, and what those in the other place who lined up to slam this bill yesterday know, is a terrible bill. It is a badly drafted bill. It still has some major outstanding concerns notwithstanding the fact that we did by negotiation with all parties at least achieve some amendments on the way through. The Senate committee sent Defence and others back to the negotiating table to try and get it right and the government was told to bring the bill back when it was no longer a work in progress. We are aware that the committee was forced to table its report 20 days early.

I understand that it is now fairly common knowledge. Senator Feeney was good enough not to try to obfuscate this the other night when I put it to him. This is all about a press conference in Perth in November with Secretary of State Hillary Clinton and Secretary of Defense Mr Panetta. We know that is what this is about, and this is why process has been so savagely abused in here.

The committee was robbed of the opportunity to evaluate 10 pages of complex government amendments and, while I may be expressing a degree of dismay at Senator Johnston's actions tonight, I was genuinely surprised when the three coalition signatories to the dissenting report to the committee's
otherwise very good report into this bill being a work in progress backflipped again in a magic 24 hours. Was there also a magic phone call from US ambassador Jeffrey Bleich? You would have to say that he has excelled as a lobbyist on this occasion in sticking up for the interests of the United States government. That is his job.

Our job is to stick up for Australia, for Australian researchers and for the Australian academic endeavour. The committee report did give some hope that amendments would be referred back to the committee, because a dissenting report signed by the Greens and the coalition could have ensured that that would happen. But no, that was not to be either. All the bluster, all the huffing and puffing, all the concerns and assurances provided to the universities eventually were found to be completely hollow. It is not surprising that Senator Johnston tips his hat to the chamber and then sits down again.

The bill was improved through the Greens' amendments, as I acknowledged with Senator Feeney and Senator Johnston the other night, drawing heavily from recommendations and suggestions made by the universities. What I would take to be a more accurate reflection of the outcomes of the round table is that we improved the bill. A number of very serious offences that the researchers of this country are facing have been postponed for two years. In addition, the bill was improved through the establishment of the steering committee that will evaluate the workings of the legislation, advise the minister and the research minister, and pilot the export controls regime. The steering committee will also crucially and explicitly evaluate whether Australian researchers are penalised by this legislation more than their US counterparts. That is something; that is not nothing. That is a substantive improvement to the bill. Thank goodness the coalition did not sell us out on those in the House of Representatives as well.

The bill was not improved as it should have been. We do not have to imagine this in the abstract because we had the language and we had the arguments put by Senator Johnston. The Senate passed an amendment that would have mirrored US exclusions for fundamental research. It is as simple as that. The amendment implemented the Senate committee's view that legislation should not put Australian researchers at a disadvantage compared with their US counterparts. The NTEU stated that they were appalled at the failure of the House of Representatives to legislate amendments to the Defence Trade Controls Bill 2011 proposed by their Senate colleagues only 24 hours earlier to preserve the freedom of intellectual inquiry for Australian university researchers. The NTEU stated quite correctly:

University researchers now face a great deal of uncertainty about what research they can legitimately exchange or publish without potentially facing criminal sanction. An even worse outcome is that the government and coalition have relied upon a barely comprehensible reference to national interest considerations at the expense of Australia's research and innovation efforts.

This is worth quoting at length, isn't it? They went on:

The Minister for Defence, Senator Smith, appears to have a limited understanding of the nature of academic research, when he said the legislation does not impact on domestic research. The union's objections to this legislation are that researchers might be committing a criminal offence, with a maximum of 10 years imprisonment, if they share their thoughts or results for what is ostensibly 'domestically focused research' with overseas peers and colleagues for review and or verification.

A very important question that has not been answered about this amendment and about Australian researchers being accorded
the same exclusions from export controls as their colleagues still remains. I should say that Minister Smith is the only person in the course of this entire debate who stood up and unequivocally defended the bill. Good on him—that is his job, that is fine. Everybody else who has spoken to this bill has slammed it or perhaps damned it with faint praise, as I might perhaps summarise Senator Feeney's contribution. In explaining why he did not support the insertion of this amendment into the bill, the minister in the other place said:

…I have come to the conclusion that to do that would undermine, fundamentally, the basic structure of the bill and would not meet the standards required to ratify the treaty.

That is similar language to that which Senator Feeney just read in response to Senator Johnston's contribution.

The Congressional Record of the United States Senate of 29 September 2010 at pages S7722 and S7723—maybe Senator Feeney even has a copy of the record before him—states, only as a condition of ratification:

…Australia has—

(A) enacted legislation to strengthen generally its controls over defense and dual-use goods, including controls over intangible transfers of controlled technology and brokering of controlled goods, technology, and services …

I am taking the operative phrase in that statement from the US Congressional record to be '… enacted legislation to strengthen generally its controls …' over those things that I have listed. I am happy to table this, Senator Feeney, if that would be helpful, because I am going to put this question to you in a moment. As the Defence Trade Controls Bill 2011 meets these requirements in spades, irrespective of whether Senator Johnston's perfectly drafted clause 9A is included in the bill, can anybody advise me—either the government or the opposition; you are both voting to disregard the amendment that was passed the other night—of the detail of any standard or similar requirement for the control of intangible supplies of technology on the DSGL that the government of the US has imposed on, communicated to or requested of Australia in connection with future US ratification of the treaty? That is the question on which this all hinges, isn't it? I would like to hear anything at all that the minister has that has been put in writing that defines what the US means when it says that we need to 'enact legislation to strengthen generally its control over defense and dual-use goods'. If there has not been an insistence on any such threshold standards for 'strengthening generally', which I think is the phrase upon which this debate hinges, who has imposed them? They have been imposed domestically. Where did they come from? Senator Feeney, can you please provide us with an answer to that key question?

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:21): As it was on Monday, it remains today the fundamental assertion of the government that the insertion of clause 9A into this bill, as was proposed and executed on Monday, has the effect of weakening the legislation rather than strengthening it. Let me be plain: earlier today in this chamber you spoke earnestly, passionately and thoughtfully, as you usually do, about the uranium debate. I think it is worth noting that this is uranium that will be exported under International Atomic Energy Agency safeguards and a bilateral Australian safeguards agreement. Yet, by insisting on this amendment to this important counterproliferation legislation, that would enshrine in that legislation, you are proposing free rein for any person who has an intent to publish defence technology, to export this defence technology in electronic form to anyone in any country, and to do so in the absence of any safeguards. Indeed, this
would apply to technology that is crucial to the development of nuclear weapons.

So, Senator Ludlam, what you are effectively doing is proposing the unrestricted, unregulated transfer of nuclear-related technology to anyone anywhere in the world. You are proposing to extend that to technology crucial to the production of chemical and biological weapons. We say that, by insisting on this amendment, you are in fact weakening the antiproliferation position of this government. As we have said all along, the amendment has the effect of fatally undermining the legislation.

In terms of the amendment and its particulars, I can go through the amendment clause by clause. I will try to do this swiftly. Clause 9A(a) describes the act as not applying to information in the public domain. Information in the public domain is already exempt from controls under the Defence and Strategic Goods List. Clause 9A(b) exempts any information that has been or is intended to be published in any publication to members of the public. In effect, this clause would mean that any person could decontrol sensitive material simply by the act of intending to publish it.

As I mentioned previously, once the material has been published and is in the public domain, it is not controlled under the DSGL. That would not only decontrol the sensitive information in Australia, it would also decontrol it across other countries that have an exemption for information in the public domain. It would weaken the current control arrangements by allowing tangible transfers of sensitive technology, which are already controlled. These implications are completely unacceptable to the government, have the potential to threaten Australia’s national security and I cannot help but suspect would not comprehensively be supported by your good self. It is at odds with your stated objective, which is to strengthen the counterproliferation regime in this country and internationally.

Senator LUDLAM (Western Australia) (18:25): I suspect the minister has chosen his words carefully enough to force me to stand up again to refute that because you know, Minister, that not only do I wish to restrict the transmission of technology and the techniques behind nuclear weapons proliferation but also I am an advocate for the abolition of this technology altogether. Again, Senator Feeney, you have conducted this debate mostly in terms pretty measured apart from the last statement, which says that the amendment completely blows a giant hole through the entire bill and would allow people to start sharing enrichment technology with Iran. You know for a fact that we would not.

Senator Feeney interjecting—

Senator LUDLAM: That is correct. I am verbalising you there somewhat, Senator Feeney, but I completely understand the subtext of your comments. You may, in good faith, believe that we would not craft a vote for an amendment that allowed that. You could certainly be reasonably confident that Senator Johnston would not put his name to an amendment that allowed that to occur, so I just regret to observe that right at the late stages of the debate you have drifted into unhinged hyperbole, and that is a great shame.

I pay tribute to some of the people who have worked hard to educate and try to talk some sense to the MPs who are grappling with these quite complex and quite technical issues. Some pretended to hear them but we did hear what Professor Jill Trewhella, the Deputy Vice Chancellor of Sydney University, has been telling us. For example, there are many voices in this debate, but the deputy VC has been a leading advocate for
just a cooling-off period and a period of time
for, firstly, the committee to work through
these amendments and then, ultimately, for
the chamber itself to see reason.

Universities Australia have also played an
important role in the debate, as have the
NTEU, whose recent statement overnight I
just quoted from extensively. I particularly
thank Jill and some of her staff and the
people around her who have worked
tirelessly until pretty late at night for quite a
period of time to try to get the MPs to see
reason. The image in the House of
Representatives last night said it all. The
major parties are better at obedience than
they are at law-making in the interests of our
universities, our innovation and our research.
And they knew it—that was the saddest
thing—as Senator Bishop did the other night
when he stood up and slammed the bill. My
staff were quite critical of me when I
returned from the debate. They said, ‘Why
can’t you be as impassioned as Senator
Bishop was in condemning the actions of his
own government?’

The Independents and the Greens tried our
best. I would also acknowledge those other
members of the crossbench in the other
place. We will continue to monitor these
issues and I am at least pleased that we made
the substantive improvements to the bill that
we did, to buy some breathing space and
perhaps, over a period of 24 months, create
some space for second thoughts. I suspect
this bill is going to need it.

The TEMPORARY CHAIRMAN
(Senator Pratt): The question is that the
committee does not insist on its amendment
to which the House of Representatives has
disagreed.

The committee divided. [18:32]

(The Temporary Chairman—Senator Pratt)

Ayes .................30
Noes ................. 9
Majority ..........21

AYES

Bishop, TM ................................ Brown, CL  
Cameron, DN .................. Colbeck, R
Crossin, P .................. Edwards, S
Farrell, D .................. Fawcett, DJ
Feeney, D .................. Fierravanti-Wells, C
Gallacher, AM ................ Humphries, G
Johnston, D ................ Kroger, H
Ludwig, JW ................ Lundy, KA
Marshall, GM ................. McEwen, A (teller)
McKenzie, B ................ McLucas, J
Moore, CM ................ Polley, H
Pratt, LC ................... Ruston, A
Singh, LM ................ Smith, D
Stephens, U ................ Thorp, LE
Urquhart, AE ................. Williams, JR

NOES

Di Natale, R ........................ Ludlam, S  
Milne, C ......................... Rhiannon, L
Stewart, R (teller) ............ Waters, LJ
Whish-Wilson, PS ............. Wright, PL
Xenophon, N ..................

Question agreed to.
Resolution reported; report adopted.

Customs Amendment (Military End-
Use) Bill 2011
Returned from the House of
Representatives

Message received from the House of
Representatives informing the Senate that the
House has agreed to the amendments made
by the Senate to the Customs Amendment
(Military End-Use) Bill 2011.

Dental Benefits Amendment Bill 2012
Second Reading

Debate resumed on the motion:
That this bill be now read a second time.
Senator FIERRAVANTI-WELLS (New South Wales) (18:36): I would like to start my contribution to the debate on the Dental Benefits Amendment Bill 2012 by saying that the coalition supports investment in dental health and it has been a tenet of our policy for a long, long time. The government is now closing the Medicare Chronic Disease Dental Scheme, effective from 30 November, and the replacement schemes are not due to commence until 2014. We on the coalition side are very concerned about the many patients who are currently receiving treatment under the CDDS and who will be forced to forgo that treatment during this gap period.

On 29 August, Minister Plibersek and Greens spokesperson Senator Di Natale announced an unfunded $4.1 billion dental program, which has the touch of the never-never about it because, of course, it is not due to commence until 2014—way after the next federal election. The government have also announced the closure of the Medicare Chronic Disease Dental Scheme, effective from 30 November this year, so no new patients were able to access the services after 7 September. How typical of this government. They do it all the time. They make a decision to shut things down with very little notice and very little consideration as to the effect that these sorts of things have on patients. We saw it with the Better Access changes, when Minister Butler made a decision to change Better Access with very little to no consultation whatsoever with the sector and no regard whatsoever for the impact on patients.

What does the closure of the scheme mean? It means that the means-tested family tax benefit part A or other specified payments entitlement for children aged two to 17 years will not commence until 14 January—13 months after some children will lose access to the existing scheme. This proposal is supposedly to provide a $1,000 capped benefit over two years to eligible children, with the government claiming some 3.4 million children will be eligible, again, at an unfunded cost of $2.7 billion. The proposal for the adults will not commence until 1 July 2014—19 months after the current scheme closes. Funding will apparently be provided to state governments for public dental services, and services will no longer be available for adults through private dentists under Medicare. The unfunded cost of this is $1.3 billion. Then, of course, there is the flexible grants program for dental infrastructure, the capital and the workforce component, which will not commence until 2014. The invitation to apply for funding under that grants program will not commence until 2014, again, at an unfunded cost of $225 million.

The bill before us does not commence operation until 1 January 2014. Whilst it makes very minor amendments to the Dental Benefits Act 2008, only changing the eligibility age of the current Medicare Teen Dental Plan from 12 to 17 years to two to 17 years, it also makes other minor terminology changes. A schedule of services, fees and details of how the scheme will be funded is still not available. This is not surprising; it is a common practice with this government. This government is rushing the bill through the parliament without having this very important detail, even though it does not commence for well over a year—well after the next federal election. What does this suggest? It suggests that it has absolutely nothing to do with helping people with issues pertaining to dental care and everything to do with politics. This is not about good dental policy. It is more about politics and spin over substance.

The Minister for Health has acknowledged that services for most children will cost less than the proposed $1,000 cap,
but there will be children on the Medicare Chronic Disease Dental Scheme who will require more services, and there is no provision to ensure that they will receive this adequate treatment, especially in the period before the bill is due to commence. The available data suggests that well over 60,000 services have been provided to children under the current scheme. The closure of the scheme on 30 November will leave a 13-month gap for many children currently receiving treatment. There are children in the middle of treatment at the moment who will not be able to have their treatment completed by 30 November. Those families have nowhere to turn. There has been no consideration whatsoever of the impact that this will have on those children. The minister and the Greens need to explain why these children must suffer for 13 months with incomplete treatment and absolutely no certainty whatsoever on the provision of the schedule of services that are going to be provided. This is, of course, on the proviso that the government actually delivers on its unfunded promise in 2014.

The coalition support investment in dental care and do not oppose the intent of the bill, but we do have legitimate concerns about the children who will lose access to treatment on 30 November with the closure of the current scheme. We have concerns about the children who will not be able to complete their treatment. We have concerns about the unfunded $2.7 billion cost of the measure and we have concerns about the schedule of services and fees and the other essential details that are not available as this bill is being rushed through the parliament. Accordingly, we propose that an inquiry be conducted with respect to these issues. We reserve the right to consider the findings and provide our response in future.

I now turn to the Medicare Chronic Disease Dental Scheme. As I said, it will close on 30 November, with no new services to be provided after 7 September. The scheme was introduced by the coalition when in government and has been an absolutely enormous success. It is the only Medicare dental scheme that has provided treatment for adults. It has provided $4.250 in Medicare dental benefits over two years for eligible patients with a chronic health condition and approximately 20 million services have been provided to over one million patients since 2007. We know that Labor has repeatedly tried to shut down the scheme for its own political reasons and has gone to absolutely extraordinary lengths simply because it was established by Tony Abbott as health minister and has been a success in access to treatment. We have seen this repeatedly from former Minister Roxon; if Tony Abbott introduced it, she wanted to shut it down. Included in this obsessive pursuit to shut down the scheme has been the pursuit of dentists for minor and inadvertent paperwork mistakes. Despite claims of expenditure blowouts, the average claim per patient according to the Department of Health and Ageing is $1,716, which is well below the allowable $4,250. Indeed, recent estimates suggest that the average cost per patient has fallen below $1,200.

We offered to work with the previous health minister to refine and improve the scheme, including through a process for providing high-cost items such as crowns and bridges, but of course that was rejected. It is reported that 80 per cent of services under the current scheme have been provided to concession card holders. It should be noted that Medicare is a universal scheme that all Australians pay for through the Medicare levy and the taxation system, but this evidence suggests that dental services have been predominantly utilised by low-income Australians.
At this point in time I would like to, if I may, look at some of those Australians—particularly older Australians—who have benefited from this scheme. I would like to quote from correspondence that I have received from an organisation called Australian Aged Dental Care, which provides mobile dental services to aged care facilities. This company has been operating since 2011 and has treated over 5,000 residents in aged care facilities during this time. They will continue to do so until 30 November, when they will be effectively shut down. What, then, will happen to those older Australians who are receiving these services in aged care facilities? Clearly they will not have anywhere to go. This company has a fleet of three mobile clinics, each with three surgeries and specialised dental chairs to assist in the treatment of immobile patients. I had the opportunity to see how their operations worked by visiting an aged care facility in north-western Sydney when they were operating and to see firsthand the great job they were doing in assisting older patients to come to their facility where they provide these services.

What is going to happen to these people? Many of these people, who would otherwise have got service, will now be forced to go without treatment or be added to the 650,000 people already on the public dental waiting list. After 30 November, many will be left without access to treatment. Many will be unable to afford the full cost of private treatment. The government's vague promise of providing money to the states and territories for public dental services is not due to commence until mid-2014. Many of these patients in aged care facilities, where the services straddle a period of time, may be in the midst of complex treatment. They will not be able to complete that treatment after 30 November. Many of these older Australians and concession card holders have serious health issues; that is why the scheme is helping them. After 30 November, when the service is shut down, there will be potentially serious health, economic and social ramifications for these people.

Labor proposes to provide funding of $1.3 billion to state and territory governments for public dental services. Funding will not commence until July 2014—but of course they have not said how they are going to pay for it. Many patients, as I have said, will need the bulk of the detail about the changes—(Time expired)

Debate interrupted.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Cameron) (18:50): Order! It being 6.50 pm, the Senate will proceed with consideration of government documents.

Commonwealth Ombudsman

Senator FAULKNER (New South Wales) (18:50): In relation to the Commonwealth Ombudsman's annual report 2011-12, I move:

That the Senate take note of the document.

As senators would be aware, the Commonwealth Ombudsman is the first port of call for many Australians who believe that they have been aggrieved by an executive decision. The ombudsman, as we know, is a pillar of our administrative law regime in Australia. Without the Commonwealth Ombudsman, many Australians would not have an opportunity to seek review of government actions. Their only option, really, would be to proceed through the Administrative Review Tribunal or through the Federal Court via the ADJR Act. Despite costs orders, the prohibitive cost of litigation means that, without the Commonwealth Ombudsman, review of government actions would simply be out of reach for so many of those people who need it most. This annual
report provides some very interesting statistics. Over the past year the number of complaints to the Commonwealth Ombudsman has increased from 38,919 to 40,009. I acknowledge that this is a double-edged sword because although 40,000 Australians felt aggrieved enough by decisions of the executive government to complain to the Ombudsman, it is heartening that so many Australians are seeking justice through the merits review the Commonwealth Ombudsman provides. On the positive side, the number of complaints that related to correctness, propriety or timeliness of agency decisions or actions was down from 72 per cent to 70 per cent.

But unsurprisingly the agency which tops the list of complaints is Centrelink, then Australia Post, the ATO, child support and immigration round out the top five. Over the last three years the number of complaints about Centrelink to the Commonwealth Ombudsman fell, but in 2011-12 the number of complaints rose. The report identifies accessibility to Centrelink as a common ground for review. The report notes that telephonic communication with Centrelink can be problematic, and many Centrelink recipients had difficulties understanding correspondence from Centrelink. Many of Centrelink's services are migrating online and as a result the Commonwealth Ombudsman notes that age pension recipients and to a lesser extent disability support pension recipients have difficulty accessing these online services.

I am pleased to say that the government has listened to the complaints of those who use Centrelink and has responded. As my colleague Minister Kim Carr said today, the government was aware that the average call wait times this year peaked at an unacceptable 16 minutes. New technology and the deployment of more staff using new methods to respond to phone calls has meant that as of today the average call wait time is down to six minutes and 15 seconds. I also note that Minister Carr informed the Senate in question time today that the call-back service will be extended, allowing more citizens to go about their business while not losing their place in the queue.

There is much work that the Commonwealth Ombudsman does. It is not just a complaints hotline. The Ombudsman serves as an important purpose of following up on individual citizen's cases as well as conducting investigations, producing reports to assist agencies ensure transparency and making submissions to parliamentary inquiries. I think the work of the Commonwealth Ombudsman is critically important. I commend its work and I commend the annual report of the Commonwealth Ombudsman to the Senate.

Question agreed to.

DOCUMENTS
Consideration

The following government documents tabled were considered:


Repatriation Commission, Military Rehabilitation and Compensation Commission
and the Department of Veterans’ Affairs—Report for 2011-12, including financial statements of the Defence Service Homes Insurance Scheme. Motion to take note of document moved by Senator Back. Debate adjourned till Thursday at general business, Senator Back in continuation.


Department of Sustainability, Environment, Water, Population and Communities—Report for 2011-12, including reports on the operation of Acts administered by the department, report of the Commonwealth Environmental Water Holder, and financial statements of the Natural Heritage Trust of Australia. Motion to take note of document moved by Senator Back. Debate adjourned till Thursday at general business, Senator Back in continuation.


ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Cameron) (18:58): Order! I propose the question:

That the Senate do now adjourn.
With my father's early working class influence there was no escape for me. People used to continually ask me when I was going to join the communist party or the Eureka Youth League. It wasn't long before I decided to join them both.

Clarice embraced the activity. It was very much a social time but she was involved in politics at that time as well.

In 1945 Clarice met and married very quickly Ron Brown. They met at a Clerks Union meeting and within three months they were married at the Albert Street Methodist Church—an icon church in the centre of Brisbane. Immediately Clarice came upon the sexism that operated not just in the wider community but also in the union movement. The Storemen and Packers Union, for which Clarice worked—and she loved her job—had a policy that when women married they left the workforce. So Clarice lost her job. That was the experience of many women at that time and for many years later. Clarice went back to work in Trades Hall, where both her husband Ron and her father Curley were employed. They were working in research and they were known across the movement as 'The Three Musketeers'.

There were a number of major industrial actions at that time in Brisbane. There was the major meat strike in 1946, about which Clarice wrote:

Many people like ourselves were forced onto a diet of rabbit. In that period we ate rabbit cooked in every way it could be cooked—and sometimes in ways that it really shouldn't have been. On one occasion we bought a rabbit which proved to be bad. Luckily for us the meat strike finished the next day.

The 13-week Queensland rail strike began in early 1948. The Eureka Youth League was very active in the strike and members like Clarice distributed thousands of leaflets and sold copies of the Communist Party newspaper the *Guardian*. That was a very special memory for Clarice, and she told me almost 40 years later about being on the streets of Brisbane selling the *Guardian* and 'maintaining the rage'.

At that time there was evidence of particularly vicious police attacks. The police were called 'the demons'. They seemed to particularly focus on women. It was as though women were an easy target at that time. There were stories about particularly verbal abuse and also the 'speciality' of kicking the women on the picket lines just on their ankles. This happened many times to Clarice when she was on the picket line outside the Milton Railway workshop. Many years later she showed me her ankles and exactly how this was done and said, 'You have not felt pain until you have experienced that for the cause.'

The Queensland rail strike dragged on and became more violent—this was a famous time in Brisbane, Queensland—and led to the bashing of Fred Paterson, to this day our only Communist member of parliament elected in any parliament in Australia. This very famous incident happened on St Patrick's Day 1948 during that strike. Clarice talked about it many times for the rest of her life.

For a short time in 1949, Clarice and Ron moved to Darwin, where Ron became the editor of the North Australian Workers Union journal, the *Northern Standard*. At that time Clarice joined the Housewives' Association, which later became the Union of Australian Women. This wonderful group of women were involved in many, many effective campaigns about, for example, rationing and child care. There is a wonderful story in Brisbane about a large action they took about the quality of stockings. Women in those days wore stockings as a matter of course, but the stockings were not of high value and were
quite expensive. The women got together through the Housewives Union—just before it was called the Union of Australian Women—and had an effective campaign about the importance of quality in nylon stockings. I think that is a great example of responding to the need, taking action and having success.

Clarice and Ron moved back to Brisbane and they continued their work and raised their sons. They lived around Fortitude Valley—where Clarice lived for most of her life. She always loved that part of Brisbane, which is very close to where I live and where my office is now. She continued her campaigning and stayed in tune with the activities of the day.

In 1968, Clarice lost her dad Curley. Ron gave the oration. Ron was a great speaker and at many times was used in this way. At our meeting when we were celebrating Clarice's life, his son talked about the fact that he had learned from his dad how to make these kinds of speeches and when he was talking about his mum he was talking for his dad as well. I thought that was a particularly moving comment.

Clarice and her family were involved in the Bjelke-Petersen years in Queensland—which most of us survived—and were involved in all the activity at that time, including the Springboks Rugby League activity in 1971.

In 1984 Clarice and her family were out in the SEQEB strike—again, handing out leaflets and being involved and always working to ensure that people were comfortable. Clarice was known for her endless servings of tea, scones and sandwiches and her smile and warmth—just making sure that people were secure and that they were being looked after. My favourite memories of Clarice, after many, many marches in Brisbane around the antinuclear movement or feminism issues, was coming back to where we had started and having Clarice standing there surrounded by her teapots and making sure that we were all okay and that we had all got back to the right spot. As you know, Mr Acting Deputy President Cameron, keeping workers together in a march is sometimes a tough thing. We were known to lose a few along the way, taking different routes. Clarice was there waiting to welcome us back, to ensure that everybody was there, that they had a way home, and that they understood what they were doing and the importance of campaigning.

She was a true nurturer and a mentor to young activists. She was particularly proud of her friends in the Revolutionary Socialist Student Alliance at UQ and the Students for a Democratic Society. She was always willing to help, to have a story, to work with us to make sure that we felt important.

In 1980, she lost her husband, Ron, after 35 years of a wonderful partnership. She continued to live around the valley; she had a new partner for a number of years, Ted Williams. They remained together for 30 years. Ted passed away in December 2010, and two years later Clarice followed.

At her funeral, Clarice's son Kevin said: 'Clarice was a loving and nurturing mother to my brother Ray and myself, and she was very special. But, without contradicting myself, I believe there are many Clarice Browns in this world. Many of them, male and female alike, have been mentioned by Clarice herself in her writings.' She kept strong diaries. Her life reflected the life of struggle, the life of activism and the life of humour and love in Queensland. We miss you, Clarice, but we will always remember you.
**Medical Workforce**

**Senator NASH** (New South Wales—Deputy Leader of The Nationals in the Senate) (19:08): Senators will recall that I asked the government in question time on Monday what it was planning to do about the current medical internships crisis. The government has failed to fund internships for 80 students and failed to resolve an impasse in negotiations with the states.

The international students, who have spent hundreds of thousands of dollars training at our universities, will now have to undertake their internships overseas, where they will presumably go on to practice. This crisis has resulted in the government effectively deporting 80 Australian-trained medical students.

I asked the minister if he agreed that people studying medicine in Australia had a reasonable expectation of being provided internships in Australia in order to complete their qualifications. I further asked the minister what the point was of training more medical students through Australian universities if they cannot finish their training in this country. The minister's response was frankly bizarre. He admitted that despite extensive recent media coverage, he knew nothing at all about the issue and even suggested that I should have been talking to the Minister for Immigration and Citizenship for some reason.

To be fair to the minister, he provided a written response to me today, but it was no more helpful. In it he boasts about the government providing $2 billion for medical training while at the same time refusing to budge on the paltry $8 million needed to fix this problem—blaming the states. I seem to recall Labor being elected on a promise to end the blame game. The Prime Minister could take a leaf out of the former Prime Minister's book. The federal government should be prepared to take responsibility for this problem and just fix it.

This is a critical issue at a time when the shortage of doctors in regional Australia has been estimated to be as high as 1,600 and Health Workforce Australia has predicted a shortage of over 3,000 doctors across the country by 2025. This has been known for some time. That is why the previous coalition government took the policy decision between 2003 and 2006 to increase the number of medical students to the levels we now have. That is what the Chairman of the AMA Rural Medical Committee, Dr David Rivett, said to me in an email this afternoon:

> The increase in graduate numbers is a situation government has known of for at least 5 years. There has been ample time to put quality training positions in place in adequate numbers. To not do so spits in the face of rural practitioners and their patients. Ageing docs like me need to see reinforcements and replacements coming over the hill sooner not later or our morale will be obliterated.

Since my question on Monday I have been contacted by hundreds of medical students and doctors from all over Australia. Many of them are watching these proceedings on the internet right now, and I commend them on their campaign and thank them for their support. They are not protesting out of self-interest. More than half of the emails sent to me were from Australian students who are not personally affected by the current crisis. They are speaking out because they want a healthier future for Australia, particularly regional Australia, and they think this government is doing the wrong thing.

I would like to read out some extracts from some of the emails that have been sent to me so that senators, particularly government senators, understand that this is a crisis the health minister needs to wake up to. Dave Townsend is a third-year medical
student from the University of New England. He writes:

Time is running out; I am hearing stories of students who are giving up and who are worn out from the fight, so your support gives us hope.

Stas Ulasin is a first-year student at the University of Sydney. He says:

I believe the Australian public deserves to receive a benefit from its investment in the training of students of Australian medical schools by having them actually become practising doctors in Australia.

Karly Abrahams says:

It has been heartbreaking to watch some of my international friends not being able to complete their training after putting in so many years of hard work and developing strong ties with Australia. Keep up the good work!

Blaise Wardell is an international student on the point of graduating and is thus directly affected. He writes:

It is fantastic to know we have some support in parliament, although it was very scary to see the lack of information on the part of the senator representing the health minister.

University of Adelaide student Josh Inglish says he was extremely disappointed that the minister did not understand the issue at hand. He writes:

It is no wonder that this Labor government has managed this issue so poorly.

Zuo Li is a fourth-year student at the University of New South Wales. Zuo says:

Working in Australia is my first choice, especially in the rural areas where more physicians are needed ... I am more than happy to embrace a new environment.

Tuan Bui is a third year medical student at Monash University who would love to stay and contribute to Australia. He says:

It would be a shame if I have to leave just because of the internship shortage.

Aubrey Litvack is a Canadian international senior year medical student from the University of Wollongong currently training in Griffith. She told me this:

I am regularly asked by patients in the hospital emergency department if I plan to stay in Griffith. I dishearteningly have to answer, 'I'd love to, and hope to; but unfortunately there are massive shortages in training positions available that would allow me to stay.'

Rebecca Wood is an Australian in her fifth year at the University of Western Australia. She says:

Thank you for bringing up the issue in the Senate. Even though the point was completely missed, I applaud your efforts to have the issue dealt with. These are just some of the medical students who have contacted me with their very real and totally understandable concerns.

I would particularly like to congratulate Ben Veness, who is a medical student and Fellow of Senate at the University of Sydney. Ben's future is not at risk, because he is Australian. Yet Ben was the first to contact me about this issue after Monday and has been instrumental in spreading the word through social media. I understand that, as of about 7 o'clock this evening, the campaign by the medical students had achieved more than 14,000 tweets, which have been seen more than 4½ million times on Twitter. I encourage senators to find out more by visiting the Medical Student Action on Training website, interncrisis.org. We owe it to young men and women like Ben and his cohorts from here and overseas who are committing themselves to a lifetime of helping us here in Australia with health provision when we need it most. How much more evidence does the government need before it addresses and fixes this issue not just for this year but for future years as well? The government needs to wake up to itself and fix this. As I said on Monday, the $8 million needed is only about one-tenth of what Labor spent on its carbon tax compo advertising campaign.
Australia, and regional Australia in particular, just cannot afford to let the government export 80 young doctors at the beginning of their medical careers. One sign at a recent demonstration in Sydney by medical students sums it up perfectly. It read:

Every minute we spend out here, is another minute you spend waiting in the Emergency Department.

There is no excuse for the Labor government not to fix this problem. This is $8 million. It is nothing compared to the waste we have seen from this government. This government has absolutely no excuse but to come out tomorrow and tell all of these students, and people in regional communities that can particularly benefit, that it will stump up the money, it will fix this problem and intern places will be there for international students who need them.

Dharamsala Visit

Senator WATERS (Queensland) (19:16): Over the parliamentary winter break, I was enormously privileged to visit the town of Dharamsala, high in the Himalayas in India, home away from home for exiled Tibetans, with my colleague Senator Singh as part of an Australia Tibet Council delegation. The experience is one I shall never forget. The fortitude and happiness of these oppressed people who have suffered under Chinese occupation for five decades now was inspirational and yet heartbreaking all at once.

In what was a very busy and informative schedule, we began with a meeting at Gyuto Monastery with his Eminence the Holy Karma-pa, a man of carefully chosen words and great reflection. His advice to two new senators was to be mindful of each task in our daily busy schedules, to leave greed from our hearts, to have compassion and empathy for people, and to enjoy our good hearts and to enjoy ourselves—very sage advice.

We visited the Norbulingka Institute of Preserving Tibetan Arts and Culture, and met the student artists there charged with keeping artistic endeavours and Tibetan culture alive against the threat of assimilation of Tibet and its identity into China. We visited the Library of Tibetan Works and Archives and museum and experienced the colour and wonderful sound of performers from the Tibetan Institute of Performing Arts.

We met Mrs Rinchen Khandu, Director of the Tibetan Nuns Project at Dolmaling Nunnery, a strong, articulate and politically astute woman, who urged Australia to be braver with China and who saw no conflict between a trading relationship and insistence on human rights. We met with the Voice of Tibet, the Tibetan Radio Channel, and its Editor-in-Chief Mrs Tenzin Peldon, fighting against all constraints to try to get information into and out of Tibet. It was very moving and very sobering to see pictures, at the reception centre for new arrivals, of Tibetans who had fled their homes to escape persecution and had to brave the mountains because of the clampdown at the borders, suffering gangrene and various other maladies.

At the transit school, the school for adults, we met a Tibetan farmer in his 20s who had never been to school before and a 19-year-old girl who was selected for a scholarship back in Tibet but who was then forced to give it up when she was denied a visa by the Chinese. By this stage, desperately missing my three-year-old daughter, I found it delightful to visit the Tibetan Children’s Village, the school for younger kids, many of them orphans, who spend their school days, nights and holidays living at the village, under the care of dedicated teachers and carers and the gentle and loving tutelage of
the president of the school, the delightful Mr Yeshi. The school has $9 million in running costs annually and 60 per cent of this is met by non-government organisations, 20 per cent by alumni—many of whom are now globally distinguished—and 20 per cent by individuals. It is a truly worthy cause for any potential donor.

We were privileged to meet with the Tibetan parliament in exile including the parliamentary secretariat and the non-elected cabinet members, including the impressive Minister for Department of Information and International Relations; although, sadly, Prime Minister Lobsang Sangay was unavoidably absent, as was His Holiness the Dalai Lama.

But perhaps the most informative and inspirational part of the visit was meeting with representatives of Tibetan NGOs fighting, against all odds, against resource constraints and obvious communication restrictions to bring the plight of their people to the attention of the world. The Tibetan Youth Congress, Tibetan Women's Association, Students for Free Tibet, National Democratic Party for Tibet, Gu Chu Sum and International Tibet Network took the time to meet with us and share their work. While they all were naturally campaigning on human rights and autonomy for Tibet, some of those NGOs were also focused on environmental issues, including the impact of dam building in both India and Tibet, and the effects of climate change—especially given Tibet is the source of water for 44 per cent of the world's population.

They spoke at length about their concern with mining activities including uranium and natural gas mining and the displacement that those activities were causing for traditional nomads, who were being forcibly resettled so that their lands could be used for mining. With no land and with their animals taken away, these locals were not benefiting. While initially the Chinese had promised houses in exchange for mining the nomads' land, promises had morphed into a requirement to pay a percentage back to the government, yet with no royalties and no jobs at the mines and no animals left, this was an impossibility. The nomads were now being beaten, arrested and sometimes killed.

Gu Chu Sum, the NGO, focused on gaining freedom for political prisoners, noted that there are 300 to 400 political prisoners in exile in India, and about 1,000 political prisoners still inside Tibet; although, of course that was a hard number to quantify, given the stifled information flow and the fact that some of them had been killed. They urged Australia to accept more political prisoners and to process them quickly. They asked for multilateral pressure on China from Australia and the US, Britain, France, Germany and Canada. They wanted Australia to make statements which would encourage other countries to follow suit.

We also met with the Director of the Tibetan Centre for Human Rights and Democracy, a research organisation which produces two reports every year, and who explained they do get their information from inside Tibet but people have to be incredibly careful. Mobile phones are being tapped, as are fixed lines in Tibetan homes; the internet is obviously censored; and two people had been arrested and received 15 years and life imprisonment respectively for sharing information on human rights abuses. We were told that the Chinese call this 'leaking state secrets', which is apparently a catch-all clause, amongst various other dubious legal charges imposed by the Chinese. Another is 'endangering state security'. Another phrase is 're-education through labour', or RTL, as they abbreviate it, which is hard labour in forced labour camps for three to four years, with the sentence imposed not by a judge but
by police and with no appeal. In 2009, the UN said that this 're-education through labour' was against international law, and, while the Chinese accepted the recommendations of that UN report, they have not acted on them.

We were told of one environmental activist who had originally been awarded a prize by the Chinese government but had subsequently been sentenced to six years for 'endangering state security', simply for campaigning on environmental issues. We were told that there were rarely trials—and, if there were, they were done behind closed doors—and that, if you appeal, your sentence would be made worse. As a lawyer privileged to live in a country with the rule of law and with procedural fairness, I was truly shocked by these stories.

I am really proud to be a member of a party that continues to highlight the plight of Tibetans and continues to move motions in this place, whether they are on deteriorating human rights conditions in Tibet or on the suppression of the media in Tibet, particularly regarding the increase in self-immolations, which sadly now number more than 50 and most of those have occurred in the last two years. I am bitterly disappointed that those motions have not yet received support from the old parties, but we Greens do not give up. We are proud to recognise the rights of Tibetan people over their traditional homelands and their rights to self-determination, including cultural and spiritual expression. We, of course, recognise their elected representatives. We condemn the plundering of Tibet's natural resources and the destruction of Tibetan cultures by the Chinese government.

The Greens will continue to call on the government of China to end the repression in Tibet and to heed the call of the Tibetans for restoration of their rights and freedoms.

Obviously, as a Queensland senator, I have taken the opportunity to meet on several occasions with the Tibetan community in Queensland. They are wonderful, gentle folk. It was my pleasure to speak several weekends ago at the Flame of Truth rally, which was a worldwide torch rally instigated by the Central Tibetan Administration, the Tibetan parliament in exile, with the primary purpose of urging the United Nations to urgently take some action on the critical situation inside Tibet. There is a petition, and I urge any listeners to go to Google to find it, then sign it and support it. It asks for the UN to send an international fact-finding delegation into Tibet, which is notoriously difficult to get into. On that note, I pay tribute to former Senator Bob Brown, who was able to get inside Tibet many years ago. I think he remains only one of two parliamentarians who has been able to do so.

It was my absolute pleasure to visit Dharamsala. I thank the Australia Tibet Council for those parliamentary delegations that are open to all members and senators each year. Obviously, many senators and members from all sides of politics have attended in previous years. I assure the continued support of the council of the Greens. We will stand with them in their fight for freedom for their people and their culture.

Senate adjourned at 19:26

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number. An explanatory statement is tabled with an instrument unless otherwise indicated by an asterisk.]

Broadcasting Services Act—Broadcasting Services (Digital-Only Local Market Areas for
Remote Central and Eastern Australia TV1 and Remote Central and Eastern Australia TV2) Determination (No. 1) 2012 [F2012L02108].

Corporations Act—
ASIC Class Order [CO 12/1367] [F2012L02109].

ASIC Market Integrity Rules (Competition in Exchange Markets) 2011—ASIC Class Rule Waiver [CW 12-1520] [F2012L02106].

Corporations Act, Australian Securities and Investments Commission Act and Competition and Consumer Act—Select Legislative Instrument 2012 No. 247—Professional Standards Scheme Amendment Regulation 2012 (No. 1) [F2012L02102].

Environment Protection and Biodiversity Conservation Act—Amendment of list of exempt native specimens—EPBC303DC/SFS/2012/57 [F2012L02100].

Health Insurance Act—
Health Insurance (Bone Densitometry) Determination 2012 [F2012L02098].

Health Insurance (Midwife and Nurse Practitioner) Amendment Determination 2012 (No. 1) [F2012L02099].

Select Legislative Instruments 2012 Nos—
244—Health Insurance (General Medical Services Table) Regulation 2012 [F2012L02101].
245—Health Insurance (General Medical Services Table) Amendment Regulation 2012 (No. 4) [F2012L02103].

Higher Education Support Act—Commonwealth Grant Scheme Guidelines No. 1—Amendment No. 12 [F2012L02105].

National Health Act—Instrument No. PB 96 of 2012—National Health (Highly specialised drugs program for hospitals) Special Arrangement Amendment Instrument 2012 (No. 9) [F2012L02107].


Superannuation Industry (Supervision) Act—Request from Minister to APRA under section 230A [2].

Tabling
The following government documents were tabled:

ASC Pty Ltd—Report for 2011-12.
Australian Centre for International Agricultural Research (ACIAR)—Report for 2011-12.
Cancer Australia—Report for 2011-12.
Civil Aviation Safety Authority (CASA)—Report for 2011-12.
Clean Energy Regulator—Report for the period 2 April to 30 June 2012.


Commonwealth Superannuation Corporation (CSC)—Reports for 2011-12, including financial statements for the Commonwealth Superannuation Scheme (CSS), the Public Sector Superannuation Scheme (PSS), and the Public Sector Superannuation accumulation plan (PSSap).

Department of Infrastructure and Transport—Report for 2011-12.

Department of Sustainability, Environment, Water, Population and Communities—Report for 2011-12, including reports on the operation of Acts administered by the department, report of the Commonwealth Environmental Water Holder, and financial statements of the Natural Heritage Trust of Australia.

Department of the Treasury—Report for 2011-12.

Fair Work (Building Industry) Act 2012—Commonwealth Ombudsman’s report on reviews conducted under Division 3, for the period 1 to 30 June 2012.


Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 683/12, 790/12, 791/12, 806/12, 809/12, 856/12, 948/12 and 979/12—Commonwealth Ombudsman’s reports.

Government response to the Ombudsman’s reports, dated 29 October 2012.


National Film and Sound Archive—Report for 2011-12.

National Health and Medical Research Council (NHMRC)—Report for 2011-12.

Review of the implementation of the strategic plan 2010 to 2012—Corrigendum.

National Industrial Chemicals Notification and Assessment Scheme (NICNAS)—Report for 2011-12.


Renewable Energy Regulator—Financial report for the period 1 July 2011 to 2 April 2012 [Final report].

Repatriation Commission, Military Rehabilitation and Compensation Commission and the Department of Veterans’ Affairs—Report for 2011-12, including financial statements of the Defence Service Homes Insurance Scheme.


Indexed Lists of Files

Tabling

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2012—Statement of compliance—Sustainability, Environment, Water, Population and Communities portfolio.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Broadband, Communications and the Digital Economy
(Question No. 2172)

Senator Humphries asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 18 September 2012:

In regard to the 2012-13 financial year:

1) What is the net financial effect on the department's budget of: (a) the original 1.5 per cent efficiency dividend increase from 1.5 per cent (b) the additional 2.5 per cent efficiency dividend; and (c) other savings measures as introduced in the 2012-13 Budget papers.

2) What measures or strategies are being considered to ensure continued operation within the budget and efficiency dividend targets of the department.

3) What percentage of the department/agency's budget is designated to staffing?

4) What is the size of the department/agency's staffing establishment? Include figures for FTE, PT, casual, contractors and consultants.

5) Will or has consideration been made to reducing staffing complement including contractors and consultants?

Senator Conroy: The answer to the honourable senator's question is as follows:

1a. Refer to page 19 of the Broadband, Communications and the Digital Economy Portfolio Budget Statements 2011-12.

1b. Refer to page 18 of the Broadband, Communications and the Digital Economy Portfolio Additional Estimates Statements 2011-12.

1c. There were no additional savings announced in the 2012-13 Budget. The Finance Minister announced additional Departmental savings on 25 September 2012 and DBCDE will meet these.

2. The Department has undertaken some structural change as a result of reduced appropriation funding in 2012-13, which is now estimated to be $111.6 million, compared to $127.5 million in 2011-12. Together with the increase in the efficiency dividend, this funding change comes about as a number of reviews are completed; the Australian Broadband Guarantee program is fully wound-up; one-off funding for some activities related to the development of the National Broadband Network ends; and the digital switchover program expands into metropolitan areas. To address these changes, the department has:

- developed a new structure based around collapsing some SES jobs together, thereby reducing the size of the SES;
- offered some targeted voluntary redundancies in certain Divisions, where activities have ceased;
- reviewed a number of expense areas, such as travel, consultants and contractors, to identify savings; and
- reviewed the provision of corporate, legal and financial services of the department, and identified efficiencies in delivering these services to the department.

3. In 2012-13, employee benefits are projected to be $79.3m, or 66% of total projected expenses.

4. The Average Staffing Level for the department is projected to be 641 in 2012-13.

5. Yes. As noted in 2 above, the department has reduced staffing in certain divisions, particularly where activities have ceased, as well as around 20 positions in the corporate, legal and financial service areas.
Senator Humphries asked the Minister representing the Minister for Health, upon notice, on 2 October 2012:

For each year from 2007 to 2012 (to date), how many patients accessed the Chronic Disease Dental Scheme in the Australian Capital Territory.

Senator Ludwig: The Minister for Health has provided the following answer to the honourable senator's question:

The number of patients from the ACT who have accessed the Chronic Disease Dental Scheme are shown in the table below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Patients</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
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<tr>
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<tr>
<td>2011</td>
<td>3,249</td>
</tr>
<tr>
<td>2012</td>
<td>2,677</td>
</tr>
</tbody>
</table>

1 Number of patients enrolled in the ACT who received treatment in the calendar year, using claims data processed to 30 September 2012. The total number of patients will not equal the sum of rows as patients may have received treatment in more than one calendar year.

2 From 1 November 2007.

3 Patients who have received treatment up to 31 August 2012.

Senator Ronaldson asked the Minister representing the Minister for Health, upon notice, on 9 October 2012:

Since the introduction of the Medicare Chronic Disease Dental Scheme:

(1) By electorate:

(a) what is the total number of people who have used the scheme, including a breakdown by month; and

(b) how many times has the scheme been used, including a breakdown by month.

(2) Until 30 September 2012, what has been the national monthly usage of the scheme, noting that patients who have not received the relevant general practitioner care planning items prior to 8 September 2012 will not be able to access the scheme from 8 September 2012 and prior to 1 December 2012.

Senator Ludwig: The Minister for Health has provided the following answer to the honourable senator's question:

(1) The Department of Health and Ageing does not hold this data.

(2) The below table shows the number of services and benefits paid by month under the Chronic Disease Dental Scheme since commencement (1 November 2007 to 30 September 2012).
<table>
<thead>
<tr>
<th>Month</th>
<th>Services</th>
<th>Benefit ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>November 2007</td>
<td>3,613</td>
<td>404,526</td>
</tr>
<tr>
<td>December 2007</td>
<td>12,684</td>
<td>1,533,098</td>
</tr>
<tr>
<td>January 2008</td>
<td>20,443</td>
<td>2,413,610</td>
</tr>
<tr>
<td>February 2008</td>
<td>40,497</td>
<td>5,192,656</td>
</tr>
<tr>
<td>March 2008</td>
<td>94,617</td>
<td>12,292,930</td>
</tr>
<tr>
<td>April 2008</td>
<td>140,089</td>
<td>20,981,649</td>
</tr>
<tr>
<td>May 2008</td>
<td>129,188</td>
<td>23,255,720</td>
</tr>
<tr>
<td>June 2008</td>
<td>116,060</td>
<td>22,645,502</td>
</tr>
<tr>
<td>July 2008</td>
<td>83,899</td>
<td>14,816,438</td>
</tr>
<tr>
<td>August 2008</td>
<td>177,659</td>
<td>30,263,495</td>
</tr>
<tr>
<td>September 2008</td>
<td>193,349</td>
<td>32,461,713</td>
</tr>
<tr>
<td>October 2008</td>
<td>161,384</td>
<td>25,821,576</td>
</tr>
<tr>
<td>November 2008</td>
<td>167,316</td>
<td>26,366,462</td>
</tr>
<tr>
<td>December 2008</td>
<td>179,353</td>
<td>28,888,704</td>
</tr>
<tr>
<td>January 2009</td>
<td>161,498</td>
<td>24,155,653</td>
</tr>
<tr>
<td>February 2009</td>
<td>203,586</td>
<td>30,300,300</td>
</tr>
<tr>
<td>March 2009</td>
<td>258,275</td>
<td>37,254,205</td>
</tr>
<tr>
<td>April 2009</td>
<td>245,828</td>
<td>35,282,538</td>
</tr>
<tr>
<td>May 2009</td>
<td>277,181</td>
<td>39,929,264</td>
</tr>
<tr>
<td>June 2009</td>
<td>271,949</td>
<td>38,553,639</td>
</tr>
<tr>
<td>July 2009</td>
<td>320,103</td>
<td>45,488,742</td>
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<tr>
<td>August 2009</td>
<td>318,944</td>
<td>44,394,993</td>
</tr>
<tr>
<td>September 2009</td>
<td>343,090</td>
<td>47,175,797</td>
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<tr>
<td>October 2009</td>
<td>339,277</td>
<td>46,206,458</td>
</tr>
<tr>
<td>November 2009</td>
<td>352,282</td>
<td>49,319,085</td>
</tr>
<tr>
<td>December 2009</td>
<td>329,802</td>
<td>46,509,030</td>
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<tr>
<td>January 2010</td>
<td>251,713</td>
<td>31,933,288</td>
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<tr>
<td>February 2010</td>
<td>356,363</td>
<td>46,715,362</td>
</tr>
<tr>
<td>March 2010</td>
<td>438,915</td>
<td>58,356,965</td>
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<tr>
<td>April 2010</td>
<td>355,776</td>
<td>47,204,244</td>
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<tr>
<td>May 2010</td>
<td>436,497</td>
<td>57,176,223</td>
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<tr>
<td>June 2010</td>
<td>429,366</td>
<td>56,029,886</td>
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<tr>
<td>July 2010</td>
<td>435,688</td>
<td>56,835,623</td>
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<tr>
<td>August 2010</td>
<td>451,788</td>
<td>58,565,766</td>
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<tr>
<td>September 2010</td>
<td>484,338</td>
<td>62,869,117</td>
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<tr>
<td>October 2010</td>
<td>459,541</td>
<td>59,623,851</td>
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<tr>
<td>November 2010</td>
<td>510,284</td>
<td>66,754,502</td>
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<tr>
<td>December 2010</td>
<td>443,836</td>
<td>59,471,199</td>
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<tr>
<td>January 2011</td>
<td>322,315</td>
<td>38,440,346</td>
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<td>February 2011</td>
<td>455,472</td>
<td>56,301,881</td>
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<tr>
<td>March 2011</td>
<td>579,661</td>
<td>72,791,270</td>
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<tr>
<td>April 2011</td>
<td>447,106</td>
<td>56,681,864</td>
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<tr>
<td>May 2011</td>
<td>570,481</td>
<td>70,170,246</td>
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<tr>
<td>June 2011</td>
<td>550,271</td>
<td>67,878,223</td>
</tr>
<tr>
<td>July 2011</td>
<td>538,766</td>
<td>67,549,974</td>
</tr>
<tr>
<td>August 2011</td>
<td>616,406</td>
<td>77,249,411</td>
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<tr>
<td>September 2011</td>
<td>595,826</td>
<td>74,683,252</td>
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<tr>
<td>October 2011</td>
<td>578,001</td>
<td>71,479,276</td>
</tr>
<tr>
<td>November 2011</td>
<td>675,552</td>
<td>86,298,279</td>
</tr>
<tr>
<td>Month</td>
<td>Services $^1,^2$</td>
<td>Benefit ($) $^3$</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>December 2011</td>
<td>612,186</td>
<td>84,202,274</td>
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<tr>
<td>January 2012</td>
<td>415,814</td>
<td>48,810,434</td>
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<tr>
<td>February 2012</td>
<td>557,380</td>
<td>67,715,800</td>
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<tr>
<td>March 2012</td>
<td>657,032</td>
<td>82,532,216</td>
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<tr>
<td>April 2012</td>
<td>507,858</td>
<td>63,601,942</td>
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<tr>
<td>May 2012</td>
<td>681,538</td>
<td>83,179,563</td>
</tr>
<tr>
<td>June 2012</td>
<td>573,858</td>
<td>70,972,496</td>
</tr>
<tr>
<td>July 2012</td>
<td>618,876</td>
<td>75,255,715</td>
</tr>
<tr>
<td>August 2012</td>
<td>623,969</td>
<td>75,920,700</td>
</tr>
<tr>
<td>September 2012</td>
<td>927,161</td>
<td>108,799,523</td>
</tr>
</tbody>
</table>

$^1$ Based on the date the claim was processed through Medicare.

$^2$ A 'service' is a Medicare item number. Each visit to the dentist may result in many individual 'services' being billed.