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### SITTING DAYS—2011

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FORTY-THIRD PARLIAMENT
FIRST SESSION—FOURTH PERIOD

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

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

Senate Party Leaders and Whips
Leader of the Australian Labor Party—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Australian Labor Party—Senator Hon. Stephen Michael Conroy
Leader of the Liberal Party of Australia—Senator Hon. Eric Abetz
Deputy Leader of the Liberal Party of Australia—Senator Hon. George Henry Brandis SC
Leader of the Nationals—Senator Barnaby Thomas Gerard Joyce
Deputy Leader of the Nationals—Senator Fiona Nash
Leader of the Australian Greens—Senator Robert James Brown
Deputy Leader of the Australian Greens—Senator Christine Anne Milne
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 Judith Anne Adams and David Christopher Bushby
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.

**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—A Thompson
Prime Minister
Hon. Julia Gillard MP

Deputy Prime Minister, Treasurer
Hon. Wayne Swan MP

Minister for Regional Australia, Regional Development and Local Government
Hon. Simon Crean MP

Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate
Senator Hon. Chris Evans

Minister for School Education, Early Childhood and Youth
Hon. Peter Garrett AM, MP

Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate
Senator Hon. Stephen Conroy

Minister for Foreign Affairs
Hon. Kevin Rudd MP

Minister for Trade
Hon. Dr Craig Emerson MP

Minister for Defence and Deputy Leader of the House
Hon. Stephen Smith MP

Minister for Immigration and Citizenship
Hon. Chris Bowen MP

Minister for Infrastructure and Transport and Leader of the House
Hon. Anthony Albanese MP

Minister for Health and Ageing
Hon. Nicola Roxon MP

Minister for Families, Housing, Community Services and Indigenous Affairs
Hon. Jenny Macklin MP

Minister for Sustainability, Environment, Water, Population and Communities
Hon. Tony Burke MP

Minister for Finance and Deregulation
Senator Hon. Penny Wong

Minister for Innovation, Industry, Science and Research
Senator Hon. Kim Carr

Attorney-General and Vice President of the Executive Council
Hon. Robert McClelland MP

Minister for Agriculture, Fisheries and Forestry and Manager of Government Business in the Senate
Senator Hon. Joe Ludwig

Minister for Resources and Energy and Minister for Tourism
Hon. Martin Ferguson AM, MP

Minister for Climate Change and Energy Efficiency
Hon. Greg Combet AM, MP

[The above ministers constitute the cabinet]
GILLARD MINISTRY—continued

Minister for the Arts
Minister for Social Inclusion
Minister for Privacy and Freedom of Information
Minister for Sport
Special Minister of State for the Public Service and Integrity
Assistant Treasurer and Minister for Financial Services and Superannuation

Minister for Employment Participation and Childcare
Minister for Indigenous Employment and Economic Development

Minister for Veterans' Affairs and Minister for Defence Science and Personnel
Minister for Defence Materiel
Minister for Indigenous Health
Minister for Mental Health and Ageing
Minister for the Status of Women
Minister for Social Housing and Homelessness
Special Minister of State

Minister for Small Business
Minister for Home Affairs and Minister for Justice
Minister for Human Services
Cabinet Secretary
Parliamentary Secretary to the Prime Minister
Parliamentary Secretary to the Treasurer
Parliamentary Secretary for School Education and Workplace Relations

Minister Assisting the Prime Minister on Digital Productivity
Parliamentary Secretary for Trade
Parliamentary Secretary for Pacific Island Affairs
Parliamentary Secretary for Defence
Parliamentary Secretary for Immigration and Multicultural Affairs
Parliamentary Secretary for Infrastructure and Transport and Parliamentary Secretary for Health and Ageing

Parliamentary Secretary for Disabilities and Carers
Parliamentary Secretary for Community Services
Parliamentary Secretary for Sustainability and Urban Water
Minister Assisting on Deregulation and Public Sector Superannuation

Minister Assisting the Attorney-General on Queensland Floods Recovery
Parliamentary Secretary for Agriculture, Fisheries and Forestry
Minister Assisting the Minister for Tourism
Parliamentary Secretary for Climate Change and Energy Efficiency

Hon. Simon Crean MP
Hon. Tanya Plibersek MP
Hon. Brendan O'Connor MP
Senator Hon. Mark Arbib
Hon. Gary Gray AO, MP
Hon. Bill Shorten MP
Hon. Kate Ellis MP
Senator Hon. Mark Arbib
Hon. Warren Snowdon MP
Hon. Warren Snowdon MP
Hon. Mark Butler MP
Hon. Kate Ellis MP
Senator Hon. Mark Arbib
Hon. Gary Gray AO, MP
Senator Hon. Nick Sherry
Hon. Brendan O’Connor MP
Hon. Tanya Plibersek MP
Hon. Mark Dreyfus QC, MP
Senator Hon. Kate Lundy
Senator Hon. David Bradbury MP
Senator Hon. Kate Lundy
Senator Hon. Stephen Conroy
Hon. Justine Elliot MP
Hon. Richard Marles MP
Senator Hon. David Feeney
Senator Hon. Kate Lundy
Hon. Catherine King MP
Senator Hon. Jan McLucas
Hon. Julie Collins MP
Senator Hon. Don Farrell
Senator Hon. Nick Sherry
Senator Hon. Joe Ludwig
Hon. Dr Mike Kelly AM, MP
Senator Hon. Nick Sherry
Hon. Mark Dreyfus QC, MP
SHADOW MINISTRY

Leader of the Opposition                          Hon. Tony Abbott MP
Deputy Leader of the Opposition and Shadow Minister for
Foreign Affairs and Shadow Minister for Trade      Hon. Julie Bishop MP
Leader of the Nationals and Shadow Minister for Infrastructure and Transport  Hon. Warren Truss MP
Leader of the Opposition in the Senate and Shadow Minister for Employment and Workplace Relations Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate and Shadow Attorney-General and Shadow Minister for the Arts Senator Hon. George Brandis SC
Shadow Treasurer                                  Hon. Joe Hockey MP
Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House Hon. Christopher Pyne MP
Shadow Minister for Indigenous Affairs and Deputy Leader of the Nationals  Senator Hon. Nigel Scullion
Shadow Minister for Regional Development, Local Government and Water and Leader of the Nationals in the Senate Senator Barnaby Joyce
Shadow Minister for Finance, Deregulation and Debt Reduction and Chairman, Coalition Policy Development Committee Hon. Andrew Robb AO, MP
Shadow Minister for Energy and Resources           Hon. Ian Macfarlane MP
Shadow Minister for Defence                        Senator Hon. David Johnston
Shadow Minister for Communications and Broadband   Hon. Malcolm Turnbull MP
Shadow Minister for Health and Ageing              Hon. Peter Dutton MP
Shadow Minister for Families, Housing and Human Services Hon. Kevin Andrews MP
Shadow Minister for Climate Action, Environment and Heritage Hon. Greg Hunt MP
Shadow Minister for Productivity and Population and Shadow Minister for Immigration and Citizenship Mr Scott Morrison MP
Shadow Minister for Innovation, Industry and Science Mrs Sophie Mirabella MP
Shadow Minister for Agriculture and Food Security Hon. John Cobb MP
Shadow Minister for Small Business, Competition Policy and Consumer Affairs Hon. Bruce Billson MP

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

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<td>Shadow Minister for Employment Participation</td>
<td>Hon. Sussan Ley MP</td>
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<tr>
<td>Shadow Minister for Justice, Customs and Border Protection</td>
<td>Mr Michael Keenan MP</td>
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<tr>
<td>Shadow Assistant Treasurer and Shadow Minister for Financial Services and Superannuation</td>
<td>Senator Mathias Cormann</td>
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<td>Shadow Minister for Childcare and Early Childhood Learning</td>
<td>Hon. Sussan Ley MP</td>
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<td>Shadow Minister for Universities and Research</td>
<td>Senator Hon. Brett Mason</td>
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<td>Shadow Minister for Youth and Sport and Deputy Manager of Opposition Business in the House</td>
<td>Mr Luke Hartsuyker MP</td>
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<td>Shadow Minister for Indigenous Development and Employment</td>
<td>Senator Marise Payne</td>
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<td>Shadow Special Minister of State</td>
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<td>Senator Hon. Michael Ronaldson</td>
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<td>Assisting the Leader of the Opposition on the Centenary of ANZAC</td>
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<td>Hon. Bronwyn Bishop MP</td>
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<td>Senator Mitch Fifield</td>
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<td>Senator Marise Payne</td>
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<td>Chairman, Scrutiny of Government Waste Committee</td>
<td>Mr Jamie Briggs MP</td>
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<td>Shadow Cabinet Secretary</td>
<td>Hon. Philip Ruddock MP</td>
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<td>Shadow Parliamentary Secretary Assisting the Leader of the Opposition</td>
<td>Senator Cory Bernardi</td>
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<td>Shadow Parliamentary Secretary for International Development Assistance</td>
<td>Hon. Teresa Gambaro MP</td>
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<td>Shadow Parliamentary Secretary for Roads and Regional Transport</td>
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Thursday, 18 August 2011

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

BILLS

Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator LUNDY (Australian Capital Territory—Parliamentary Secretary to the Prime Minister and Parliamentary Secretary for Immigration and Multicultural Affairs) (09:31): I am pleased that Labor will be supporting this private member's bill to strengthen the rights of territories. The Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010 has been referred to a committee. That committee has reported back to the Senate. I would like to warmly welcome their recommendation that this bill be passed.

At the outset, before I talk to some amendments, I would like to make it very clear that there are fundamental differences between this bill and another private member's bill that has also been introduced to the Senate, the Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2010—not the one we are debating today—is to repeal the euthanasia laws of 1997 and to repeal the provisions that preclude the ACT and NT from legislating on euthanasia. We will have an opportunity to speak about that another time. My own view is that it is about restoring territory rights.

But the purpose of this bill is to remove the power of the executive to overturn territory legislation behind closed doors without a parliamentary process. This has become known as the power of veto, if you like, over territory legislation. It is an executive mechanism that we in the Labor Party agree does not accurately reflect the status, the capability and the maturity of either the ACT assembly or the Northern Territory parliament. This bill will not stop the federal parliament acting in the national interest in an open and transparent way—in other words, from dealing with issues through both houses of parliament—should there be a conflict between Commonwealth and territory legislation.

I would like to foreshadow government amendments to the bill that were recommended by the Senate committee. These amendments will remove some words in clause 4 of this bill, which at the moment says, 'providing relevant territory legislatures with exclusive legislative authority and responsibility for making laws'. Our amendment would remove that reference because it does not accurately reflect the current power of the Governor-General to recommend amendments to territory laws. As such, it cannot be achieved by the bill. And this parliament can use a legislative process to override territory laws. To reflect in this private member's bill that this did create exclusive legislative authority and responsibility for making laws was indeed inaccurate. Nonetheless, this bill is an important change, because it does remove that executive veto, as I mentioned.
The other government amendment that I wish to foreshadow reflects the recommendation of the Senate committee and removes the reference to Norfolk Island. Norfolk Island is currently undergoing an extensive reform process. That reform process has bipartisan support and the support of the Norfolk Island assembly. That process is underway and we need to give due regard to that reform process, which involves governance and various accountability and transparency measures. It would be appropriate to consider the status of Norfolk Island's governance arrangements through that reform process.

Through the course of the inquiry into this bill many comments were made, particularly by the opposition, recognising that it was time for a broad update of the Australian Capital Territory (Self-Government) Act. That recognition was across the board. In speaking to this bill as an ACT senator, I tend to agree. In fact the ACT government and Chief Minister have for some time been saying that it is probably time for an update of and a closer look at the Australian Capital Territory (Self-Government) Act, given that it came into force back in 1989. There are so many things one could say about the progress of the Australian Capital Territory. We can reflect positively on the maturity, stability and functioning of the ACT assembly in its governance role. All of these things stand up to scrutiny and support the general bipartisan view that an update of that act is due.

However, it was disappointing that through the course of the inquiry it became clear that the opposition's position on this bill was to oppose it and that they were hiding behind a call for a broader review of the Australian Capital Territory (Self-Government) Act and using that as a reason not to support this bill. I will be very interested to hear what the opposition have to say, because there is nothing in the context of a more comprehensive review or consideration of an update of the ACT (Self-Government) Act that would preclude their support for this bill right now. I know Senator Humphries is very tuned in to this issue. He has spoken many times on the right of the territories to create their own legislation. Indeed, we exchange words fairly regularly about this very issue. I would like to take this opportunity to remind Senator Humphries, the other ACT senator, of his past expressed aversion to federal interference in territory affairs and remind him that this is a significant opportunity for him and, indeed, for the opposition to respect the capacity and power of the legislature and remove this feature of an executive veto that is not shared by any of the states. It is something which applies only to the territories and, therefore, supporting this bill and the foreshadowed amendments by the government to remove that executive veto would bring the ACT and the Northern Territory into line with the states.

The final point I would like to make about this bill is that it really is about respecting those democratic rights. That is the basis upon which this bill has been proposed and the basis upon which we have debated similar issues in the past. The way in which we have seen this measure used by the former Howard government reminds us all that when we provide for self-government it is about trust, it is about respect and it is about the democratic authority of the government that has been put in place by an act of this parliament.

This is an opportunity to bring ACT democratic rights in line with those of the states and to stand up for the ACT assembly and, through it, all the people of Canberra. If the opposition turn their backs on this issue now, it will provide evidence that that is not a core principle which informs their view on
these matters and will enlighten everybody that there is a strong thread of opportunism in the opposition's stance on the issue of territories' rights.

In closing, I would like to remind people that this does not prevent the federal government from engaging in a parliamentary debate in order to challenge state or territory legislation that is inconsistent with the Commonwealth. Any fear campaign to purport that it will is misleading.

Finally, I would like to take this opportunity, because I think it is directly relevant to the subject matter today, to congratulate the new—not so new any more actually—Chief Minister, Katy Gallagher. She is the new Chief Minister following the retirement of former Chief Minister Jon Stanhope. I would like to acknowledge that the transition was a smooth one and that I am extremely proud to work very closely, as I always have, with an ACT assembly, a Chief Minister and an ACT Labor government so focused on the best interests of the people of Canberra. I know they are committed to their ongoing campaign to ensure that they have the democratic right that reflects that of the states and that is commensurate with the status, maturity and broad rights of the people of the ACT.

I commend the bill to the Senate. I was very pleased to speak to it today. I look forward to the government moving the amendments, as they reflect the recommendations of the Senate committee, and I will watch with interest what is happening on the other side of the chamber.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (09:42): The opposition has always been a strong proponent of the rights of people who live in the territories and, in particular, the rights of people who live in the three territories affected by this bill—the Australian Capital Territory, the Northern Territory and Norfolk Island. We note in particular that the Northern Territory has resumed a movement towards statehood. That was a movement which, in the 1990s, although ultimately defeated, was strongly supported by the then coalition government led by John Howard. I recently met with a bipartisan delegation of parliamentarians from the Northern Territory to discuss the movement towards statehood for the Northern Territory with them.

Equally, the coalition has always been represented in this place by ACT senators—my distinguished friend Senator Gary Humphries, a former Chief Minister of the ACT, and his predecessor, Senator Margaret Reid—who have been very, very ardent advocates for the rights and interests of citizens of the ACT. The issue of statehood for the ACT does not generally arise in these discussions because of the peculiarity of the ACT's constitutional position.

So respecting the rights of citizens who live in Australia's territories, particularly the two territories represented in the Commonwealth parliament, is core business for us in the coalition. What this bill purports to do is to bring about a fundamental constitutional change to the status of those territories and the relationship of those territories to this parliament. Those of us who take the interests of territorians seriously have grave concerns that, because of the piecemeal, haphazard and sloppy manner in which this is presented to the Senate by the Greens, by Senator Brown, passage of the bill in this form will in fact retard and set back the recognition of the rights of territorians. In particular, having regard to the fact that the process in the Northern Territory is proceeding towards statehood in a methodical and careful way, those who would like to see statehood for the Northern Territory do not want this bill in this form. This is by no
means easy. I know Senator Brown enjoys the luxury of pontificating about issues without having the responsibility to put those views into effect. But if Senator Brown had met with voters who are seeking to prosecute the case for Northern Territory statehood—

Senator Crossin interjecting—

Senator BRANDIS: I know you have, Senator Crossin. I do not doubt your interest in and commitment to this issue. If Senator Brown had met with those people, he would understand better than he does how constitutionally and politically difficult this is. Those who seek to advance the cause of Northern Territory statehood need a gratuitous intervention like this from the Senate like they need a hole in the head. So we will not be supporting this bill. We support the wisdom of the observation made by the Senate Legal and Constitutional Affairs Legislation Committee when it reviewed the legislation and cautioned against a piecemeal approach to issues of self-government. My distinguished colleague Senator Humphries will shortly be moving a second reading amendment and addressing this issue and elaborating further upon what the Senate committee report found.

There is another reason why the coalition opposes this legislation. We look with a very sceptical eye on anything that comes from Senator Bob Brown and the Greens. With a deeply sceptical eye, we have followed through the media the debate about gay marriage that has riven the Australian Labor Party and the concerns expressed, in particular by former Senator Mike Forshaw and former Senator Steve Hutchins—reflected, by the way, in their dissenting comments in the committee report—that this bill, although on its face a constitutional bill, is in fact being sought to be used as a vehicle for gay marriage to be introduced in the Australian Capital Territory. In forming that sceptical, dare I say somewhat cynical, view of Senator Bob Brown's purposes here, we are emboldened by comments that the former ACT Chief Minister Mr Jon Stanhope made in the context of this debate when Mr Stanhope belled the cat and made it perfectly clear that he would like to use this legislation, were it to be passed, as a vehicle to introduce gay marriage in the ACT. Mr Stanhope—who was a dreadful Chief Minister, a real no-hoper and one of the worst heads of government I have ever come across, on either side of politics, in any state or territory—revealed the purpose and the thinking behind this bill. Whether that purpose is continued by the current ACT Chief Minister I do not know, but at the time this bill was being shaped in the mind of Senator Brown we know what Mr Stanhope thought it would lead to and what he wanted it to lead to.

We know, as I said a moment ago, that on the issue of gay marriage the Labor Party is riven between those who are proponents of that issue and those—particularly the more conservative elements in the Labor Party—who are trenchantly opposed to it. We have no such division on our side of politics. We in the Liberal Party and the National Party support the Howard government's amendments to the Marriage Act; we do not support gay marriage. We are not having the argument among ourselves about gay marriage that is tearing the Labor Party to shreds at the moment. We are perfectly prepared to watch from the sidelines as the Labor Party tears itself apart. But anybody who thinks that there are not some in the Labor Party who see this bill as a pathway to that outcome.
We do not accept the good faith of Senator Brown's public assurances that this bill is purely about the rights of territorians. On its face, as I said before, it is a constitutional bill. On its face, it is a bill of general application, but we know that it is also part of this move to achieve an outcome in relation to the Marriage Act to which we in the coalition are resolutely opposed. For that reason as well, we will be opposing this bill and we will be supporting the second reading amendment which I foreshadowed and which Senator Humphries will outline in his contribution.

Senator CROSSIN (Northern Territory) (09:53): I rise to provide a contribution to the debate on the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010. I do that in two respects: firstly, of course, as one of the two senators from the Northern Territory and, secondly, as Chair of the Legal and Constitutional Affairs Legislation Committee that inquired into this bill earlier this year.

I want to begin by saying that there are some aspects of Senator Brandis's remarks that I tend to agree with and there are some aspects of his remarks that I totally disagree with, and I think that what is happening in the Northern Territory and the views of people who are supporting statehood were a little misconstrued in his contribution. Can I say in providing some input into this debate that I often feel that, representing the Northern Territory, I am a bit like the youngest child in a family of 250 here. Sometimes when you are representing the Northern Territory in this chamber, you feel like you are at the bottom of the pecking order. You feel like you have to fight for every piece of recognition and acknowledgement you can get for the Northern Territory.

For the last 13 years it has always eluded me as to why we are constantly coming into this chamber for debates such as this when we would not have these debates if we were a state or if people somehow did not feel that they could pick on the Northern Territory all the time. They do that by using some sort of hook rather than letting the legally competent, elected governments of the Northern Territory—whether they be under the Country Liberal Party or under the Labor Party—just get on and do the job they are elected to do. They enact euthanasia legislation, but for some reason here in Canberra, if we do not like it, we think we can overturn it. They enact mandatory sentencing legislation, but for some reason here in Canberra, if we do not like it, we will overturn it. People fought to keep euthanasia laws; people here overturned them. People wanted to keep mandatory sentencing laws; people here wanted to overturn them. It is always about an issue when you come to the Territory. It is never about the competency of the governments.

I have lived in the Northern Territory for 30 years. Let me tell you: there are some laws that the CLP enacted that I did not particularly like at all, but I did not think that that was a key for me to open the door to Canberra and say, 'Overturn the legislation.' I think people down here have got to get out of that mind-set and totally get off picking on the Northern Territory and its government, no matter which party leads that government. Just leave us alone. Just let us get on with governing in our own right.

We inquired into this piece of legislation. It is not a comprehensive review of the self-governing aspects of the ACT and the Northern Territory, and we make those strong recommendations here. I look at the amendment that Senator Humphries wants to make, and in some respects perhaps that does need to happen, but at least I am saying,
'Pass this piece of legislation,' because this piece of legislation could become law while a review of the self-governing acts is occurring. I will get on to why I would not support that for the Territory in a minute.

What this bill simply does is remove the power of the executive government to veto legislation that has been enacted in the territories. That is all it simply does. It stops somebody in the executive arm of the federal government deciding they do not like a piece of legislation that has been enacted in the Northern Territory or the ACT. But it still leaves in place the provision for this federal parliament to overturn a piece of legislation. To me, that is not good enough either. I think the Territory government should be allowed to just get on with what it is competently elected to do. But for me at least this is a first point of call. At least we could be assured in the Northern Territory that one particular minister or one particular Prime Minister of any governing party in this country could not go off to the Governor-General or the Administrator and seek to overturn a piece of legislation.

So is this a perfect piece of legislation? It is not a comprehensive piece of legislation in terms of the self-governing act of the territories, but at least it is one start. You could argue: 'Let's not do it at all. Let's do a comprehensive review.' But I think at least it gives the people of the Northern Territory some confidence to know that not one single person or one part of the executive government will be overturning legislation. Unfortunately, it does leave the door open, as I said, for this federal parliament to overturn legislation. Can I go to some of the remarks that Senator Brandis had to make on behalf of the opposition. You cannot step away from the fact that both the Chief Minister of the ACT at the time, Jon Stanhope, and the current Chief Minister of the Northern Territory, Paul Henderson, flew specifically to Canberra. Jon Stanhope made himself specifically available to appear before the Senate Legal and Constitutional Affairs Legislation Committee to support this legislation. That in itself showed me that both those governments and parliaments supported this legislation.

Another thing that impressed me, not only as a Territorian but as chair of that committee, was that members of the Northern Territory Legislative Assembly Standing Committee on Legal and Constitutional Affairs flew here, including the Hon. Jane Aagaard and Kezia Purick. Members of that committee were in person at the committee hearings here in Canberra. I want to impress on people here that that was a bipartisan committee. That was a bipartisan attempt, to come down here and say, 'This legislation is okay; we support it.' But really what we in the Northern Territory are trying to do is get support for statehood. That is the endgame here. A 10-year process has been put in place by the Northern Territory government, which has been supported by the opposition. I am very impressed by the way in which both political parties have worked towards achieving this outcome. There has been a five-year consultation period and there will now be a five-year period of actually drafting a constitution and working out exactly the questions we will be asking Territorians.

This is where I differ from the comments that Senator Brandis put on record. The Chief Minister of the Northern Territory did come down here and, in endorsing the bill's proposals as they pertain to the Northern Territory, said:

'It is a very basic principle that we are arguing for here. The 25 members of the Territory parliament, who make laws for the good governance of the people of the Northern Territory, are elected by Territorians and they are accountable through fixed-term elections … For the Commonwealth executive arm of government
to have the power, essentially at the stroke of a pen, to make a recommendation to the Governor-General to disallow a law in the Territory undermines democracy in the Northern Territory. So, yes, he was supportive of this legislation. However, both he and the members of the Northern Territory legal and constitutional committee fervently put to us that the endgame for them is a move to statehood. That is what they really want. In your proposed amendment, Senator Humphries, you seek not to consider this bill but only to consider the interests of the ACT, in examining the self-government act for the ACT. I say to myself again: the Northern Territory would miss out on both counts here. We would not get this legislation through and support the wishes of the Northern Territory parliament, the submitters and the representatives of the Northern Territory. This amendment does not suggest that we would look at a move to statehood in the Northern Territory. We do not want the self-government act in the Northern Territory reviewed. We actually want an endgame where, essentially, that act is repealed. So this amendment is not a win for the Territory either.

But I think we need to clearly understand that this piece of legislation 'ought to be about votes, not about vetoes'. That is a phrase that was written yesterday by a journalist in the *Age*. It ought to be about democracy, not about particular issues. It ought to be about, at least, taking a first step in recognising that the Northern Territory has competent governments. Those governments are elected by the people of the Northern Territory, just like the New South Wales and the Victorian parliaments are elected by the people of New South Wales and Victoria. They put legislation in from time to time that people do not like, and that also happens in every other state in this country. But what this bill seeks to do is ensure that those laws are not overturned by the executive government of the federal ruling party. That is all we are asking for in this legislation.

It is a first step. It is not the best step and it is not the step that we want to achieve at the end of the day. We want to see legislation go through this parliament that grants the Northern Territory statehood in our own right. This is another example of where you have to come in here time and time again and keep flying the flag for the Northern Territory. It somehow eludes me why it is always the case that people here in this building believe that they can continually interfere in what is happening in the Northern Territory. This is one piece of legislation where, for a change, we would get some positive interference. Yet it seems it will not be supported unanimously in this chamber.

I am speaking in support of this legislation, but I am speaking more in support of the view that the Senate Legal and Constitutional Affairs Legislation Committee expressed in section 3.6.1 of this report:

The committee places on record its strong support for statehood in the NT …

The committee would also welcome any opportunity to work cooperatively with the NT Legislative Assembly Standing Committee on Legal and Constitutional Affairs towards achieving that goal.

I can say that, as Chair of the Senate Legal and Constitutional Affairs Legislation Committee, it is an issue that we will pick up and write to that committee about. Perhaps for the first time in the history of this country, we might see a standing committee at a federal level and a state level come together to hold an inquiry or do some work together to achieve that outcome.

But let us be very clear here: what we want in the Northern Territory is statehood.
We want to get to it in a measured way and in a bipartisan way where people of the Northern Territory are comfortable and confident about that on the day they vote yes. This legislation is just one step on the journey. It removes the power of the executive arm to overturn our laws. Unfortunately, it still leaves provision for the federal parliament to overturn our laws, and that is still not good enough. But, at the end of the day, this bill is certainly worthy of support. Unfortunately, Senator Humphries, I think that your amendment, again, really ignores the wishes and the wills of the Northern Territory and that there would be no benefit for us if your amendment actually succeeded.

Senator HUMPHRIES (Australian Capital Territory) (10:07): I move the second reading amendment standing in my name:

Omit all words after "That", substitute:

"the Senate declines to consider the bill further, and:

(a) notes the comments of the Legal and Constitutional Affairs Legislation Committee on the bill that "an approach which fails to look at the broad range of issues affecting the autonomy of the ACT and the NT may not be the most appropriate way of addressing outstanding self-determination matters in those territories, and may not ultimately represent the most considered solution. The committee believes that a systematic and holistic review of self-government arrangements in the ACT and the NT holds merit, and would help to address some of the specific issues raised during this inquiry.");

(b) affirms that the process by which the Australian territories move towards greater legislative independence, consistent with the overall framework of the Australian Federation, should continue, but that a more systematic and comprehensive approach is to be preferred; and

(c) calls for a full review of the Australian Capital Territory (Self-Government) Act 1988 in lieu of piecemeal amendments to that Act".

I will come back to speak about that a little more later. The question that I ask today in looking at the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010 that Senator Bob Brown has put before the chamber is: what garments does that ultimate populist, Senator Brown, parade around in the Senate today? He appears to be wearing the clothes of the friend of the territories—the man who cares deeply about territorians and their rights to make decisions for themselves, the man who is the champion of regional autonomy, the man who stands up for Canberra against the federal government. This disallowance bill is brought forward to prevent the ACT, the Northern Territory or Norfolk Island being pushed around by ministers in a federal government. This bill gives expression, presumably, to ideals of self-determination which were inherent in the self-government acts of the 1970s and 1980s.

There is something about that image of Senator Bob Brown today which does not seem quite right. Something does not quite gel about Senator Brown as the champion of the second tier of government in this country. Something is more akin to a masquerade than to reality, because I recall a very differently attired Bob Brown not all that long ago. I recall that Dr Bob Brown, as he then was, came to national attention in the 1980s as the scourge of the Tasmanian government that wanted to build a certain dam, and Dr Brown argued that the conflict over the dam to be built in Tasmania should be resolved in a certain way. How did he want that resolved? He wanted it resolved by the federal government interfering and intervening in the affairs of the self-governing Tasmanian polity to stop the building of that dam. Where were the rights of territory or state governments at that stage of Senator Brown's career?

People might say that perhaps Senator Brown today feels differently about the
territories than he felt about Tasmania back in the 1980s. He is now a member of parliament; perhaps he has a different view. I am not sure that that is the case either. Senator Brown's record with respect to the territories is not a lot better. I look at Senator Brown's bill, the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, which was introduced by Senator Brown to override the rights of the self-governing Northern Territory to legislate in favour of mandatory sentences for certain people committing crimes. Senator Brown was unhappy with that and was quite comfortable in 1999 to introduce legislation to override the rights of the Northern Territory to legislate in that way. I have had this debate with Senator Brown before and I know what he is going to say. He is going to say, 'We were justified in intervening in the affairs of the Northern Territory at that time because we were dealing with a fundamental human rights matter which cut across Australia's international obligations under treaties; therefore, despite the principle which I strongly adhere to being violated, it was okay to intervene in the Northern Territory on that occasion.'

Unfortunately, Senator Brown's record of intervention in the affairs of self-governing states or territories does not end there, because in 2003 Senator Brown returned to this issue with a motion of disallowance. Bear in mind that he is now moving a bill in the Senate to stop disallowance of territory legislation. Back in 2003 Senator Brown was quite happy to move a motion of disallowance in this place to prevent a certain road project proceeding in the Australian Capital Territory, the widening of the Gungahlin Drive extension, despite the fact that it was supported by the then territory government, because Senator Brown did not approve of the building of that road. He did not like the idea of that road being built and did he want the territory to make its own decision about that at that stage? No, he did not. He knew better. He would bring the might of the federal parliament down on the ACT and prevent the building of that road.

Senator Brown has no credibility on such issues. Senator Brown is no friend of territory autonomy. He is in this respect an opportunist, happy to champion the rights of territorians to legislate when he agrees with what they propose to do with that power and equally happy to trash territory rights when he believes that his interests are not being served. You may say that today he is not talking about the right to interfere or not; he is talking about the way that you interfere. At the end of the day, Senator Brown, it does not really make much difference. If you are going to do somebody over, the way in which you do it does not have as much bearing on the matter as the fact that you are doing them over in the first place.

The coalition is not going to play along with the cynical game that Senator Brown is playing here today. There are serious issues about the form and the effectiveness of self-government, certainly in the ACT, and I suspect my colleague Senator Scullion—and we have heard from Senator Crossin already—will flag questions about the effectiveness of self-government arrangements in the Northern Territory. Those are real issues which deserve systematic, careful examination by the federal parliament, not piecemeal legislation designed more for political purposes than to advance a systematic examination of what is wrong and what needs to be fixed about the institution of self-government in those places. This bill does not address those fundamental issues, issues that Senator Crossin talked about that I know vex Senator Scullion. This bill is an opportunistic intervention to clothe the Greens in the most favourable electoral light, not an
attempt to fix what I think we all know needs to be addressed.

I have moved a second reading amendment which first of all acknowledges the findings of the Senate Legal and Constitutional Affairs Legislation Committee that there are issues which simply have to be addressed and which this legislation does not address. The second reading amendment affirms the process by which the states and territories move towards greater legislative independence consistent with the framework of Australian Federation. In the case of the Northern Territory, that may well include statehood within a few years. That is probably not the case for the ACT, but certainly the ACT’s need to overhaul the institution of self-government, which is now more than 22 years old, is a real and urgent need and, again, the piecemeal approach taken by this legislation is not a satisfactory solution to that problem. The amendment calls for a full review of the Australian Capital Territory (Self-Government) Act. If a colleague, particularly Senator Scullion, supports the view that the Northern Territory should also be included in such a review, I am very happy for that to occur. Indeed I would foreshadow that in the next few sitting days Senator Scullion and I will put forward a matter for the Senate to consider with respect to the question of the structure and future of self-government in the Northern Territory and the ACT.

I hear the support of the Labor Party for this bill and I note that there is a pretty large measure of cynicism in that position as well. I recall it was only three years ago that the Labor Party was perfectly content to support the decision of then Prime Minister Kevin Rudd to intervene, through the disallowance power, to overrule the then-proposed resurgence of civil unions legislation in the ACT—legislation which had been proposed during the Howard government and which the ACT government came back to propose again when the Rudd government was elected. Of course, the Rudd government at that stage rebuffed that suggestion very clearly, and the senators who today rise to tell us what a wonderful idea this bill is were perfectly happy to use that power back in 2008.

Senator McLucas: Not true, Gary.

Senator Humphries: It is true.

Senator McLucas: No, it's not true.

Senator HUMPHRIES: If you want, Senator McLucas, I will table the press statement that was made at that stage. You did not use the power because the ACT government backed down. You did not carry it through but you threatened to use it.

The DEPUTY PRESIDENT: Senator, through the chair, please.

Senator HUMPHRIES: Yes, Mr Deputy President. Let us not be holier than thou. When it suited your purposes you were quite prepared to use this power in this way. This is a process bill. It is about how decisions are made affecting the powers of territories. It is not a substantive bill about those powers, and those issues do need to be addressed and in other ways they will be addressed. I would prefer that they were addressed through a comprehensive review of the status of self-government, not through some piecemeal approach. That is the appropriate way to deal with this. I represent the ACT. I understand what I think the people of this territory aspire to and want. I do not think they want the institution of self-government to be toyed with by federal politicians. They want these issues to be dealt with systematically and comprehensively. I believe the citizens of this territory would welcome an opportunity to engage in a full, comprehensive consultative process to examine the status of self-government here. That is the better approach,
not the approach inherent in this very piecemeal piece of legislation.

Senator SINGH (Tasmania) (10:17): I rise to make a contribution to the debate on the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010. Obviously, I rise as a senator from what is clearly Australia’s smallest state, but a state that has had responsible government for over 150 years and one that is fiercely attached to its democratic institutions. Tasmania is also a place with a profound sense of identity—an island which has a particular tradition, a unique history and strong sense of community. Tasmania is a special place, a place with which I am deeply connected, and a place to which as a citizen—as a Tasmanian—I feel a sense of belonging. I belong to Tasmania. And Tasmania belongs to those communities who have had the honour of calling themselves Tasmanians.

We have the oft-remarked right of being well represented in this place, a right that allows our members of parliament to connect with our constituents at a very close level. At a state level, we have a particular electoral system, one which I know the other Tasmanian senators in this place know very well. It is the Hare-Clark system—shared with one of the territories with which this bill is concerned—which gives people the opportunity to choose from amongst a wide range of candidates to find the one who best reflects their views and by whom they want to be represented. If those views are not carried to the parliament and reflected in the laws of the state, then the representative will be held to account at the next election. This is a very basic expectation of a democracy. And it is a very basic conclusion of the kind of belonging about which I spoke a moment ago. When one of those elements is not present in a system of governance, then it is difficult to call that system fully democratic. It is difficult to say that connection between a people and their place has been respected.

The way the law operates at the moment does not respect the important principle that people should be able to elect people to represent them, and that those representatives should have the capacity to deliver on the promises that they make and the values they espouse. This bill is about enabling the Australian Capital Territory and the Northern Territory to shape their own futures in a more democratic way. Both territories have proven themselves over a long period of time to be more than capable of governing themselves in a responsible way, in the same web of interdependency between the levels of government in which the states participate. In fact, the ACT especially has led the way on a number of issues, and I want to take a moment to reflect on the very positive legacy left by Jon Stanhope and, in doing that, reject the characterisation of him made earlier in this place by Senator Brandis. Under Jon Stanhope’s leadership, and importantly reflecting the values of the people of the ACT, his government led the nation on issues of rights, an important example of which is the Human Rights Charter.

This bill does not remove the interdependency and the checks and balances we expect in a federal and a national democracy. Under this bill, there remains parliamentary oversight of the territories, and I am sure that is an issue about which future debates will rage. But it is notable that this bill is relatively conservative in that sense. It is not a wide-ranging constitutional reform. It is about honouring the principles of democracy that we have already declared in this place, some time ago, and the will of territorians as reflected in their legislative assemblies. And when there is a conflict between those wills, or if there is a need to act separately to territorial legislators, we will have a debate
in this place, as we should. We should have to put our case in detail on particular issues. We should have to respect that the destiny of the territory should be up to the territories unless we can justify intervention.

No doubt governance in this country is a complex matter and the issues involved are complex. We have international obligations and we have national priorities. We have differing levels of capacity in our different institutions. But what should underpin all of that is an understanding that the will of the people should be respected wherever it is most clearly expressed. I believe, in this case, that this means we should respect the laws enacted by our territorial assemblies. As we are aware, these territories were created by acts of this parliament. Their legislatures are rightly subject to the deliberations of this parliament, not executive government. It is important that the Commonwealth parliament enable the ACT and Northern Territory legislative assemblies to be independent, to be responsible and to be accountable to their citizens. That is what I believe this parliament is for and what Australians expect. Australians do not expect people elected for a different role to be able to override the will of the territories lightly.

Senator CORMANN (Western Australia) (10:24): This bill is another example of the Green tail wagging the Labor dog. It has nothing to do with wanting to improve the self-governing arrangements that apply in the territories. This started in 2006 when the Howard government decided to exercise section 35 of the ACT act to disallow the ACT Civil Unions Bill. That is what got this process underway. If you look at this bill as it was originally introduced by the Greens, it did not then mention anybody other than the ACT. This had nothing to do with wanting to improve self-governing arrangements for the territories in Australia; it was entirely and exclusively driven by the Greens' desire to stop the then Howard government and subsequent governments preventing the ACT government legislating for civil unions in the Australian Capital Territory. In 2006 the Howard government made that decision and, as Senator Humphries indicated, Kevin Rudd as the then Prime Minister in 2009 took a very similar view. Because he had good relations with the then ACT Chief Minister, Jon Stanhope, no doubt they were able to organise these things behind closed doors and did not have to run through the whole process. But the effect was the same.

I want to correct something that Senator Lundy said. Senator Lundy suggested this is somehow about restoring territory rights, as if it were going to take things back to somewhere they had been before. The capacity for Commonwealth governments to make the sorts of decisions that the Howard government did in 2006 has been in this relevant legislation as part of the self-government arrangements since the word go. This is not new; this is not just something that came out of nowhere in 2006. The Howard government exercised an existing section in the existing act. As Senator Brandis and Senator Humphries have said, and as I am sure Senator Scullion will say, the coalition is very supportive of having a comprehensive look at how self-government arrangements can be improved. But this is not what is driving the Greens. The Greens are being driven by their social agenda in relation to same-sex marriage, euthanasia and other bits and pieces for which they cannot get support, despite repeated attempts, in any of the state parliaments.

As Senator Humphries indicated, it is not as if the Greens are consistent on this. There have been times when Senator Brown has wanted the federal government to overturn the state government of Tasmania on something happening in that state. And when it came to mandatory sentencing laws in the
Northern Territory Senator Brown was quite happy to see the Commonwealth override the Northern Territory legislation at that point in time. This has got nothing to do with a genuine commitment to improving the rights of territorians; this is entirely and exclusively driven by Senator Brown's desire to see legislation on civil unions and same-sex marriage and euthanasia become more achievable in the sorts of parliaments where he thinks that this sort of legislation has a chance to get up.

I just reflect on the fact that in 1997 this parliament voted to overturn the Northern Territory euthanasia laws. Whatever anybody's views on the substance of that matter, it was no doubt at the time a divisive debate. I was not involved as it was before my time. However, the Commonwealth parliament voted to overturn the Northern Territory euthanasia laws. No doubt that would have been a time when there would have been some robust debate inside the Northern Territory, among the good people of the Northern Territory, about how it could be that the Commonwealth parliament could do this. It was the year after the Commonwealth parliament here in Canberra made a decision in relation to euthanasia that the proposition of the Northern Territory becoming a state was put to a referendum. History shows that the people of the Northern Territory in 1998 voted against statehood. I hear what Senator Crossin is saying and no doubt Senator Scullion will have similar views, and I know there is a bipartisan effort in the Northern Territory to continue the path towards statehood. I wish them very good luck with it. But right now the situation is that it is the Northern Territory. The reason that is still the situation is because the people of the Northern Territory in 1998 voted against statehood. I was drawn to the additional comments that were made by former Labor Senators Forshaw and Hutchins, who were part of the inquiry into this legislation. I have to observe here that the fact the Australian Labor Party has decided to support this legislation is a very sad reflection on the current state of the Labor Party. The Labor Party once had courageous senators, like former Senators Hutchins and Forshaw, who were able to assess legislation as they saw it. I will just read from their comments:

This Bill should not be passed in its current form. It is flawed.

I could not have put it better. The quote goes on:

It will not achieve its stated objects. If enacted, this Bill will produce disparities between the legislation governing each of the territories and with the Commonwealth and the States.

Towards the end of their comments. Senators Hutchins and Forshaw observed:

It is not surprising that this Bill is technically flawed. Both this bill, and a previous bill proposed by Senator Brown in 2006, originally applied only to the ACT. They are clearly a reaction to the Howard Government's decision to use Section 35 of the ACT Act to disallow the ACT Civil Union's Bill. The proposed amendments to include the NT and Norfolk Island appear to have been an afterthought without any consideration of the consequences detailed above.

They recommend:

The Bill should be either withdrawn or not passed by the Senate.

Their final recommendation is:

We recommend that the Bill not be passed.

Former Labor Senators Forshaw and Hutchins do make the observation that the territories are not states. During the inquiry, the Northern Territory Chief Minister expressed support for the bill as it would be a 'small but significant step towards statehood.' As they observe:
This is not the expressed intention of the Bill. Any move toward statehood should be approached in a serious and considered manner not piecemeal nor as a reaction to a particular decision.

That is exactly what Senator Humphries mentioned and what he is trying to address through the second reading amendment that he has moved.

I read in the media earlier this week that the Labor caucus—I should say the Australian Labor Party caucus because we now have a true Labor senator among us in Senator John Madigan representing the Democratic Labor Party—decided to back the territories' autonomy because Australian Labor Party MPs, and I quote from an article in the Age on 16 August:

... received assurances that the bill would not lead to legalisation of same-sex marriage in the nation's capital.

A bit further on it says:

Caucus yesterday adopted the bill "without controversy" with members assured it was not about same-sex marriage.

But then:

A spokeswoman for ACT Chief Minister Katy Gallagher said it welcomed the decision of federal Labor but declined to comment on whether the territory would pursue same-sex marriage.

Why is that? If it is not about that, if they have got no intention of pursuing it, why wouldn't she just say so? I think that Senator Farrell has been sold a pup. I think that Senator Farrell should try and show a little bit of courage like former Senators Hutchins and Forshaw did. He is now part of an Australian Labor Party that will facilitate either civil unions legislation or same-sex marriage legislation in the Australian Capital Territory. If Senator Farrell's intention is not to see that happen then he should support an amendment to rule it out in the legislation here today. I can see that he is distracted and is not prepared to listen to the debate that is going on, even though he is here representing the government. Hopefully somebody back in his office is taking clear note.

This bill is about the Greens tail wagging the Labor dog. This Australian Labor Party is totally captive to the Greens. The Greens are driving their agenda. This has not been initiated by the Australian Labor Party government. This has been initiated by the Greens and the Labor Party is just hopping in and backing it up. Why? If you are serious about improving self-government arrangements for the ACT and the Northern Territory, go about it in a serious way. Go about it in a strategic way, support a proper review, support a proper approach that does not sort out these things in a piecemeal fashion just because Senator Brown was upset that the Howard government exercised section 35 of the Australian Capital Territory (Self-Government) Act to disallow civil unions in the Australian Capital Territory. Senator Farrell, you might have been given assurances in the ALP caucus that this would not lead to legalisation of same-sex marriage, but the Chief Minister's office refused to rule it out when they were asked about it:

A spokeswoman for Chief Minister Katy Gallagher said it welcomed the decision of federal Labor but declined to comment on whether the territory would pursue same-sex marriage.

We used to have a Prime Minister in Kevin Rudd who was prepared to stand up to the ACT government in relation to this issue. Now we have a Prime Minister who is too weak. She is captive to the Greens. The Greens have bullied her into supporting this bill. Senator Mark Bishop, Senator Collins, Senator Farrell, Senator Stephens—where are they? At least former Senators Hutchins and Forshaw were prepared to stand up and be counted and call this legislation for what it is—a flawed bill that should not be passed.
If people like Senator Farrell on the Labor side were serious about representing true hardworking Labor voters, they would seriously reflect on what they are doing with this because there is now an alternative in the marketplace called the Democratic Labor Party. There are going to be people across Australia who are going to reflect very seriously on whether they should support the Greens-wagged Australian Labor Party or whether they should go to a true Labor party. I suspect you will find that people will turn away from the Australian Labor Party because of their support for bad pieces of legislation like this.

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (10:37): It is very rare for me to rise in this place and feel sorry for those on the other side, particularly for my colleague from the Northern Territory, but I think it is reasonable to put on the public record why they are taking this position. The reason my heart goes out to them is I am actually quite sure the leather is softer on that side. It is a long time since I sat over there, but it was certainly a lot more comfortable. There are a lot of benefits that go with government which make you want to stay on that side.

The sad thing about Labor's position is that it has had a very light spray of green over all of its motives. It is really important to have a look at the motive today. Senator Crossin stood in this place today, as she always does on any issues in regard to the Northern Territory, and said that we are moving along towards statehood. I have been very pleased to stand in this place on the most recent issue, legislating for euthanasia, and I support her in that regard. If you look at the motive for all of this behaviour, it is simply to stay in government. That is the rawest deal. Of course the Greens have a great deal of influence, as they should in those circumstances, to ensure that this government does what it is told. Today we see the Labor government being pretty compliant and the Greens should be very pleased with that—it seems to be behaving appropriately and it is not being too naughty or doing things that the Greens do not require.

If we are looking to motive, perhaps we should examine the Greens' motives. Motive is very important in life. Why is it that we are moving along with this? Why is it that, suddenly, Bob Brown has a terrific love affair with the territories? He is very keen on the territories and on the people who live in the territories, but he is particularly keen on the legislation in the Northern Territory. As has been indicated today, Bob Brown hardly seems to have a consistent approach. He is, today, basically saying that the Commonwealth should not interfere with the Northern Territory or with the Australian Capital Territory—'The poor devils, we should allow them exactly the same rights as a state.' It sure seems odd. I do not know whether it was a different bloke, but whoever it was, Senator Brown, I recall him standing in here saying: 'Let's overturn the mandatory sentencing laws in the Territory. How dare they take their own stand in the Northern Territory and have their own rights to determine how they deal with the criminal justice system. Let's use the Commonwealth's powers in this place, in this Senate, to overturn them.' You can understand why I am a little bit confused in that regard.

I wonder what the motive is. You cannot accuse the Greens of not being organised or of not having a motive. They do have a motive. There is a very clear motive here and it has been indicated earlier. The cat has already been belled. If Katy Gallagher was not happy to stand up and say that this is all about introducing same-sex marriages in the Australian Capital Territory, the previous Chief Minister, Mr Stanhope, certainly was.
He said: 'Absolutely. Looking forward to introducing same-sex marriages in the Australian Capital Territory.' In regard to this piece of legislation that those on the other side have been forced to accept, they have been given foolish assurances and have been foolish to accept those assurances. Those on the other side have accepted that that is the case.

**Senator Cormann:** She is not ruling it out.

**Senator SCULLION:** Of course Gallagher did not rule it out because that is exactly what is going to happen. As sure as night follows day this will happen. Perhaps I can just briefly paint the picture of how it will occur. This legislation does, in effect, say that instead of using an executive arm of government to deal with issues that are not within a state's capacity to legislate on—things like marriage, starting your own navy, having your own currency, taxation and immigration—if the territories play with that area, we are going to have to come back and have a full debate in parliament. That takes a bit of time. The scenario is that, if the Australian Capital Territory passes a law on Monday, we might have a bit of a think about recalling parliament, if that is the will of the government, and maybe we will have an emergency session a week later. If, during that period of time, people are lawfully married, for example, in the Australian Capital Territory, what happens to them? They were lawfully married. Does the Commonwealth then come back and say, 'We've got some weird retrospectivity in all of this about how we unwind this mess.'

That is what I believe the motive for this is. If you wish to have same-sex marriages, there is a process to do that. I argued strongly in this place during the debate on one of the previous contributions from Senator Brown in the Restoring Territory Rights (Voluntary Euthanasia Legislation) Bill 2010. I know that Senator Brown is a strong proponent of introducing euthanasia. I supported that bill not on the basis of whether I thought euthanasia legislation was being supported but because it is entirely the right of a state to make that decision. I also would expect, if the Northern Territory decided to start its own navy and its own currency or decided to start its own immigration system, that there would be an immediate action from the executive to deal with that. That is just a little about motive. Without a doubt that is what is going to happen.

Those people on the other side who think they are not part of something that will lead to what I have just described are, at best, fools. I know the comfort, vaguely recalled in my distant past, of being on that side. But remember: when this happens, your constituents will remember those who led them to that circumstance. If you want to introduce same-sex marriage, there is a way to go about that: you come to this place—because it is the Commonwealth which should legislate on those matters. Do not use some sort of a backdoor agenda to deal with these issues. Sadly, in the Northern Territory a few people are quite excited. They have rung me and said that they are really excited that this is going to give them more rights in the Territory. Once they have all the information they then understand that this is not another step forward in moving towards statehood.

I would just like to speak briefly about the foreshadowed amendment from Senator Humphries. Senator Crossin said: 'This is something we can't possibly support because it doesn't do anything for the Northern Territory.' I agree with that. She said, 'We don't want the self-government act revised.' Of course I agree: we want it abolished; we want to move to statehood. The Australian
Capital Territory and the legislative framework are in an entirely different place to where we are in the Northern Territory, so I agree completely with her.

I would like Senator Crossin and people in the Territory to reflect on another contribution from Senator Humphries. In the next week of parliament we will be jointly submitting a process that will start a fair dinkum look at self-government in the Australian Capital Territory and the movement to statehood in the Northern Territory. It is not just a process on a couple of very small squeaky wheels. This will be a fair dinkum process with the motive of moving to strengthen self-government in the Australian Capital Territory and moving to statehood in the Northern Territory. That is the motive. That is what it will be about.

For those Territorians who think that this will somehow advance statehood, I can promise you that being astride a green horse with squeaky wheels is not the way to move forward. Look to the motive. This is an insult to those people who are actually striving for statehood in the Northern Territory and looking for stronger self-government in the Australian Capital Territory because it is about none of those things. On this side, we are clear-eyed and bright and we can see through the motive for this legislation. We do not accept that this is about strengthening issues for the Northern Territory and the Australian Capital Territory. That is why we will not be supporting this legislation.

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (10:46): I rise as the responsible minister, representing the Minister for Regional Australia, Regional Development and Local Government, Mr Crean, to contribute to the debate on behalf of the government. On 4 May 2011, the Senate Legal and Constitutional Affairs Legislation Committee reported back to the Senate on its inquiry into the Australian Capital Territory Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010, together with proposed amendments applying to the Northern Territory and Norfolk Island.

The bill and amendments circulated by the Greens sought to abolish the power of the Governor-General to disallow or recommend amendments to territory legislation by repealing section 35 of the Australian Capital Territory (Self-Government) Act 1988, section 9 of the Northern Territory (Self-Government) Act 1978 and section 23 of the Norfolk Island Act 1979. That is what this bill is about. It is moved by the Greens to abolish the power of the Governor-General to disallow or recommend amendments to territory legislation. It is not about a whole range of other issues, some of which have been touched on.

The committee report contained two recommendations. The first recommendation of the committee is that the Senate pass the disallowance bill subject to the following amendments: firstly, the disallowance bill apply only to the ACT and the Northern Territory; secondly, the removal of references in clause 4 of the bill that purport to provide relevant territory legislatures with exclusive legislative authority and responsibility for making laws; and, thirdly, clause 4 be further amended to more accurately reflect the current power of the Governor-General to recommend amendments to territory laws. The second recommendation is that Norfolk Island be excluded from the operation of the disallowance bill until further evidence is provided on the need for change in that jurisdiction.
The government agrees with the objectives of this bill in removing the power of the federal executive to override legislation in the ACT and the Northern Territory. However, given the technical amendments required, the government has circulated its own amendments to this bill. Again, I emphasise that this bill is about removing the power of the federal executive to override legislation in the ACT and the Northern Territory. The issues that have been referred to—whether it is euthanasia or same sex marriage—are determined and governed by other legislation of the Commonwealth. Those issues are not what this legislation is about.

The amendments will support the repeal of section 35 of the Commonwealth Australian Capital Territory (Self-Government) Act 1988 and section 9 of the Northern Territory (Self-Government) Act 1978 and incorporate the committee's suggested amendments. The government agrees with recommendation 2 of the committee that Norfolk Island should be excluded from the operation of the disallowance bill, given the differences between Norfolk Island and other self-governing territories. The recent passage of the Territories Law Reform Act 2010 also provides the Commonwealth with increased oversight and scrutiny of Norfolk Island legislation to ensure it is consistent with the national interest. It would therefore be inconsistent for the disallowance bill to apply to Norfolk Island.

The bill before the Senate today, with amendments that I have outlined, will remove the ability of the executive government to veto legislation enacted by the ACT and the Northern Territory legislatures. As these acts stand, the executive has the power to override the decision of the democratically elected legislatures of the ACT and the Northern Territory. This bill goes to the rights of those in the territories to determine the good governance of the communities in which they live. The architects of the Constitution predicted that there may be times when the national interest must be considered when looking at territory laws. That is why they drafted section 122 that allows the parliament, not exclusively the executive, to make laws for the government of any territory. As I have already said, this parliament still will have a right to determine laws in respect to the territories. This legislation that we are considering is about removing the power of the executive but not this parliament. For all these reasons, the government will support the passage of the bill with these amendments.

A second reading amendment has been moved by Senator Humphries. The government will not be supporting the amendment. I will make a couple of brief remarks as to why we will not be supporting it. Firstly, the issues raised in the amendment have been canvassed in the Senate inquiry into the bill. The committee concluded—in its majority report, at least—that the bill would improve the democratic rights of the people of the ACT and the Northern Territory and the passage of the bill would provide just recognition of the maturity and capacity of the ACT and Northern Territory legislative assemblies since they attained self-government.

The Australian government has already indicated to the ACT government that it would welcome a review of the ACT (Self-Government) Act. Such a review should be driven by the ACT government and its citizens, and the Australian government would welcome considering such a review. The timing of a comprehensive review should not delay the implementation of the practical democratic benefits provided by this bill.
I note that both the ACT and Northern Territory Chief Ministers are on the record—or at least, in the case of the ACT, the previous Chief Minister; I am not aware of anything on the record from the current Chief Minister—as supporting the bill. For those reasons, the government will not support the second reading amendment.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10:53): I thank all contributors to the debate on this very important piece of legislation to foster improved democratic rights for the citizens of the Australian Capital Territory and the Northern Territory. I will not go over in detail the reasons for the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010 because it has already been before the parliament and indeed through a thorough committee process, with the committee having endorsed the bill as it comes before the Senate today.

I note that there will be a number of amendments from the government. These reflect amendments that the Greens also had drawn up, and we will simply support the government amendments, which have the effect of extending this legislation to give the advantages of it to the voters of the Northern Territory and which cover some other related matters.

The Constitution says in section 122, with the headline 'Government of territories':

The Parliament—it refers to this parliament, of course—may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth—and that is what is in process here today. A couple of decades ago this same parliament legislated to transfer its power under the Constitution to make laws for the territories to the executive—that is, the minister of the day. As has been noted in public debate, that means that with the stroke of a pen a minister can override the outcome of a deliberated vote following a debate of the elected representatives of the assemblies either in Canberra, in relation to the ACT, or in Darwin, in relation to the Northern Territory. This bill simply goes back to where the Constitution would have it—that is, the territories will effectively legislate unless or until a vote of both houses of parliament overrides legislation or passes legislation for either of the territories. We cannot change that provision of section 122 or section 123, which also deals with limitations on the powers of the states, unless we go to a referendum.

There is the prospect that the Northern Territory, which I think is moving in that direction again, will eventually end up subject to a referendum. I would not discount the possibility, as others have, that in some future time Australians might want to give the growing population of the Australian Capital Territory the ability to have self-determination through a form of statehood which will provide for all the amenities of this being the national capital but will provide for enhanced powers for the people of the Australian Capital Territory. That is a matter for a future debate.

This legislation today simply restores at least the right of the assemblies to pass legislation for their citizens without being overridden by a minister without reference to this parliament. It is as simple as that. I take on board the issues of equal marriage and euthanasia that have been raised in here by the opposition today, but they know full well—Senator Humphries knows very well—that this legislation does not alter that. In fact, it enhances the powers of the Australian Capital Territory to legislate at least in the matter of equal marriage, if it wants to, but that is entirely a matter for the
territory, as it is a matter for New South Wales, South Australia, Queensland, Western Australia and Tasmania.

Senator Cormann: Equal marriage—so here we go; here we have it.

Senator BOB BROWN: Senator Cormann interrupts. If he does not think that is a right that the people of the Northern Territory or the ACT should have and if the opposition in this place wants to have that right withheld from the people of the territories, it is flying in the face of its own history, because it was Mr Kevin Andrews who brought in the legislation that overrode the ability of the territories to legislate in the matter of euthanasia back in 1996, and it was passed by both these houses. That is a prohibition which is not altered by this legislation today. That prohibition, which was supported by a free vote of both chambers—I voted against it, but it was still supported by a free vote of both chambers, with a majority of three, as I recollect, in the Senate—will remain on the Northern Territory assembly and on the ACT assembly unless or until some future vote of this parliament changes it. In that sense, this does not restore or give the measure of equality of the territories with the states that you might think at the outset.

I notice that Senator Brandis has said this morning that the opposition does not have the problem with equal marriage that the government has because it is unified—it is en bloc opposed to it. I had not heard that before. That is news, and I am surprised—

Senator Brandis: It's always been our policy.

Senator BOB BROWN: Senator Brandis repeats that it is the case that within the Liberal Party—note the name—members do not have the ability to have a free vote on what should be a matter of conscience. But that is up to that party and its several members to determine; it is not a matter which relates to this vote today. This legislation is important in enhancing democracy. It is one of the four pillars of the Greens party's established philosophy that we do enhance democracy where we can. I notice some criticism that I have moved in the past to have the parliament—never to have a minister but to have the parliament—use these powers to, for example, override the locking up of Aboriginal children in jail in the Northern Territory because they stole biscuits. We will remember the outcome of that, which was that the legislation did pass the Senate. It went to the House and then Prime Minister Howard contacted the Chief Minister of the Northern Territory and offered the funding which ceased that practice of locking up Indigenous children, which had led to a horrible outcome regarding one child. It has not occurred since then, so it was an outcome which was worth while at that time. The ability of the parliament to legislate or to put pressure upon the territories remains under this legislation. There is nothing inconsistent with my behaviour in wanting good outcomes and the proposal that is before the Senate today.

That said, we will oppose Senator Humphries's effort to not have this bill considered. I would have thought voting it down is one thing; to try and put it on the never-never and come to no conclusion, as Senator Humphries wants to do, to leave the voters of the ACT and the Northern Territory in limbo, would be the worst outcome possible. It is bucking the need for there to be a determination. Finally, I thank the chief ministers of both territories for their support, and most recently Katy Gallagher, the Chief Minister of the Australian Capital Territory. She has written to all members saying:
The Committee—

she is referring to the Senate committee—

has recognised that our Assembly and its Members have "demonstrated a high level of maturity and competence over many years". I believe, as you do, that it is time the ACT's self-government arrangements reflected this and it is my sincere hope that you will support the passage of this Bill to allow the citizens of the ACT to have their views represented in a legitimate, democratic parliament—the birthright of all Australians.

I could not put it better myself. I look forward to this legislation passing this place and hopefully passing the House of Representatives so that it will soon pass into law.

Question put:

That the amendment (Senator Humphries's) be agreed to.

The Senate divided. [11:07]

(Amendment put by leave—Senator the Hon. JJ Hogg)

Ayes....................29
Noes....................35
Majority.................6

AYES

Adams, J
Bernardi, C
Boyce, SK
Bushby, DC (teller)
Colbeck, R
Cormann, M
Eggleston, A
Fierravanti-Wells, C
Heffernan, W
Johnston, D
Kroger, H
Mason, B
Nash, F
Ryan, SM
Williams, JR

NOES

Arbib, MV
Bishop, TM
Brown, RJ
Collins, JMA

Crossin, P
Farrell, D
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
McEwen, A (teller)
Moore, CM
Rhiannon, L
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ
Xenophon, N

Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Marshall, GM
Milne, C
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL

PAIRS

Abetz, E
Birmingham, SJ
Fisher, M
Macdonald, ID
Payne, MA
Ronaldson, M
McLucas, J
Carr, KJ
Polley, H
Wong, P
Evans, C
Lundy, KA

Question negatived.

Original question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:11): I understood that there were some government amendments. I have committee stage amendments as well which are about to be circulated in the chamber. I respectfully suggest that we deal firstly with the government's amendments, which I think are uncontroversial. I do not know whether the opposition's amendments will be controversial or not.

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (11:11): I am happy to deal with our amendments, but I understand there are some Greens amendments and that they are
going to be withdrawn. Perhaps we could sort out the status of those first because they are first on the running sheet I have.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:11): As I indicated in my second reading contribution, we will not be moving those amendments because the government's amendments are the same—drafted a little better, I might add, because they came after the committee's report. So we will be supporting the government's amendments to the same effect.

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (11:12): Thank you. We will now deal with the government's amendments that have been circulated. I do not want to be accused of speaking too long. Are we going to get a copy of the opposition amendments, Senator Brandis?

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:12): They will be circulated momentarily.

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (11:12): by leave—I move government amendments (1) to (4) on sheet CD216:

(1) Title, page 1 (lines 3 and 4), omit "or amend any Act of the Legislative Assembly of the Australian Capital Territory", substitute "or recommend amendments of enactments of the Australian Capital Territory or laws of the Northern Territory".

(2) Clause 1, page 1 (lines 7 to 10), omit the clause, substitute:

1 Short title

This Act may be cited as the Territories Self-Government Legislation Amendment (Disallowance and Amendment of Laws) Act 2011.

(3) Clause 4, page 2 (lines 9 to 18), omit the clause, substitute:

4 Objects of Act

The objects of this Act are:

(a) to remove the Governor-General's power, under section 35 of the Australian Capital Territory (Self-Government) Act 1988, to disallow an enactment (or part of an enactment) of the Legislative Assembly for the Australian Capital Territory or to recommend amendments of any enactments; and

(b) to remove the Governor-General's power, under section 9 of the Northern Territory (Self-Government) Act 1978, to disallow a law (or part of a law) of the Legislative Assembly of the Northern Territory or to recommend amendments of any laws of the Northern Territory.

(4) Page 3 (after line 5), at the end of the Bill, add:

Schedule 2—Amendment of the Northern Territory (Self-Government) Act 1978

1 Section 9

Repeal the section.

2 Section 10

Omit "or disallows a law or part of a law".

3 Section 10

Omit ", or for the disallowance, as the case may be,".

4 Section 10

Omit "or the date of the disallowance, as the case may be".

As Senator Brown has referred to, and as I referred to in passing in my second reading speech, we have had the Senate Legal and Constitutional Affairs Legislation Committee report and the amendments reflect the issues raised in the report. We note that the private senator's bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee for consideration on 2 March 2011. While the Senate committee strongly supported the removal of the Commonwealth's
power to disallow ACT amendments and Northern Territory laws, the committee suggested amendments to the bills and consistent with the recommendations of that report of 4 May the government moved the amendments that have been circulated to the Senate.

The main purpose of the government's amendments are to include a schedule amending the Northern Territory (Self-Government) Act 1978 to remove the Governor-General's power to disallow laws of the Northern Territory Legislative Assembly. There is an amendment to exclude Norfolk Island from the operation of the bill. The government amendments to the disallowance bill will exclude application of the bill to Norfolk Island. As the committee noted, Norfolk Island's population is on a very different scale to that of the ACT and the Northern Territory. The passage of the Territories Law Reform Act 2010 provides the Commonwealth with increased oversight of Norfolk Island legislation to ensure it is consistent with the national interest. It would therefore be inconsistent for the disallowance bill to apply to Norfolk Island. The amendment to the disallowance bill would also remove from clause 4 words that purport to confer 'exclusive legislative authority and responsibility for making laws' on the ACT. As noted by the Senate committee, that is a significant misstatement of the law, apparently, as the Commonwealth's plenary power under section 122 of the Constitution to make laws 'for the government of any territory' will remain unchanged. The government's amendments would change clause 4 to more accurately reflect the current power of the Governor-General to recommend amendments to ACT enactments and Northern Territory laws. Those are the reasons for the government's amendments that we are considering in committee.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:15): On behalf of the opposition, I indicate that the opposition agrees with the amendment to exclude Norfolk Island from the operation of the bill for reasons that I outlined in my speech on the second reading. We do not agree with the extension of the operation of the bill to the Northern Territory because we do not agree with the principle of the bill at all for the reasons I explained.

Question agreed to.

Senator BRANDIS: We have opposition amendments that are about to be circulated, and I apologise that they have not been circulated already, but I will just foreshadow what they are. The effect of the amendments would be to add the words, at the end of the principal operative provision of the bill, 'if the enactment is inconsistent with a law of the Commonwealth' and to add the further sentence, 'Without limiting the application of this subsection, the Assembly may not enact any law that is inconsistent with the Marriage Act 1961.'

The purpose of the opposition's committee stage amendments is to do two things. First of all, it corrects an anomaly that would appear in the bill were it to be carried in its current form—that is, as honourable senators should know, under the combined effects of sections 51 and 109 of the Constitution the states may not legislate in areas reserved for the legislative power of the Commonwealth if there is an inconsistency between a Commonwealth law passed under one of the section 51 heads of power and a state law. That inconsistency can arise in one of two principal ways. There may be a direct inconsistency—for example, if there were to be a Commonwealth law passed under a section 51 head of power which provided to a certain effect and a state law on the same topic
which provided to the opposite effect. As honourable senators should know, that is the plainest case of inconsistency under section 109 of the Constitution, and as a result of the operation of that provision the state law would be struck down.

But very commonly a state law is found to be inconsistent with a Commonwealth law not because of a direct inconsistency but because the Commonwealth law—to use the phrase that the High Court uses—covers the field. So if, for example, the Commonwealth were to pass a law under a section 51 head of power which was intended to be comprehensive in relation to that particular topic, then an inconsistent state law, or a state law which sought to regulate the same topic in a manner at variance from the manner in which the Commonwealth law sought to regulate the topic, would also be struck down under section 109 because the Commonwealth law would be considered to cover the field. We in the coalition consider that the Marriage Act is such a law, although I acknowledge that that proposition is controversial and that some, including Professor George Williams, have opined that that is not the case, particularly in relation to same-sex marriage.

If this bill were to be passed in its existing form, without the qualification the opposition seeks to introduce, we would have the unusual situation that the territories would have broader legislative powers than the states because section 109 of the Constitution applies to state laws, not to territory laws. So the device of this amendment is to apply the same test to territory laws as section 109 of the Constitution imposes upon state laws. There is a controversy about the reach of the Marriage Act 1961 and, in particular, the reach of the 2004 amendments to the Marriage Act introduced by the Howard government—with the support at the time of the Labor Party, I might say—which introduced section 88EA into the Marriage Act which prohibited same-sex marriage. The qualifying words of the opposition's amendments, which are really inserted out of abundant caution, are to make it perfectly clear that an inconsistency between a territory law in relation to marriage and the Marriage Act will result in the Marriage Act prevailing. The better view, in my respectful opinion, is, as I said earlier, that the Commonwealth Marriage Act covers the field in relation to marriage, and that is the view of most constitutional lawyers. There is a minority view that it does not. In order to deal with the possibility—argued for, for example, by Professor George Williams—that the Marriage Act does not effectively prohibit same-sex marriage, these additional words are introduced to ensure that no territory law may be inconsistent with any provision of the Marriage Act, including in particular, though it is not set out specifically, section 88EA. That is the reason for the opposition amendments.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:23): The Greens will not be supporting these amendments. You can see from the process in committee that this is not an eleventh-hour amendment; this is a twelfth-hour amendment after a process was put in place that a week's notice be available for private members' time legislation so that parties could get their act into gear. Not only that; it has been known for many months, in fact since last year, that this legislation was coming down the line. Here we have the opposition, through Senator Brandis, bringing in amendments which were not circulated, have not been notified and which are an afterthought. They are so important to the opposition that they are an afterthought in the wake of huge publicity and a committee investigation into this matter!
Let us look at Senator Brandis’s amendments, which have now been circulated in the wake of his submission, and see what they do. They run totally contrary to the spirit of the legislation that is before the chamber. Senator Humphries may agree with them, but again they cut down the effort—talk of equal rights here!—to give equal rights to the voters of the territories, as against those of the states, in all matters as far as possible. I have explained that euthanasia is prohibited by legislation through this parliament, but the matter of marriage is not. What Senator Brandis is arguing is that we should, on the very day we are trying to enhance and make more equal the rights of the voters of the Northern Territory and the Australian Capital Territory, bring in a provision that cuts down those rights in the matter of marriage—because it will be a prohibition that is not there in state law.

The whole thrust of this legislation is to give the territory assemblies, as far as is practicable, the same rights to pass laws for their citizens as the state assemblies have. It is as simple as that. So this is a last-minute effort to pre-empt that principle of democracy. I am surprised that Senator Humphries—and presumably Mr Sezelja, the Leader of the Opposition in the Australian Capital Territory, bring in a provision that cuts down those rights in the matter of marriage—because it will be a prohibition that is not there in state law.

The Green will not support the very sensible amendments that are being put forward by Senator Brandis, amendments which would ensure that the assurances given to Labor Party members and senators would be enshrined in this legislation. Here it is; we can see very well what this is about. The Labor Party has been deceived. Of course we are not surprised that the Greens will not support these amendments. But if the Labor Party is true to the assurances that were given to members and senators in the ALP caucus then the Labor Party should support the amendments that will be moved by Senator Brandis on behalf of the coalition.

At the end of the day, we always knew that this bill was not about improving self-governance arrangements for the ACT or the Northern Territory. This bill is about promoting the cause of same-sex marriage, because Senator Brown knows that the best chance of getting this passed in any jurisdiction is by facilitating it, enabling it to happen, in a territory parliament. We heard: 'No, no, no—this is about improving the democratic rights of territorians. It has nothing to do with same-sex marriage. You want a guarantee that this is not about same-sex marriage? We are going to give it to you.' Katy Gallagher, the ACT Chief Minister, was not prepared to give that guarantee. She declined to comment when she was asked whether the territory would use this bill to pursue same-sex marriage. But Senator Brown has let the cat out of the bag. Senator Brown, in his contribution to the motion foreshadowed by Senator Brandis, has made it very clear what this bill
is all about. All this amendment does is enshrine in legislation the guarantees that were given to the Labor Party caucus so that the Labor Party caucus became comfortable to support a Greens initiated bill.

I say again: this is all about the Green tail wagging the Labor Party dog. This all about a Prime Minister who is too weak to stand up to Senator Brown. This is about a Labor Party caucus that is too weak to stand up to the Greens agenda, which many of them do not support. This is all about hanging on to government by the fingernails at any cost. This is a government that is prepared to compromise anything they stand for if it helps them to stay in government.

If the Labor Party wants to keep any semblance of political integrity in this debate, it will support this amendment because all this amendment does is enshrine in this bill the promise that was made to the Labor Party caucus about what this legislation would do and what it would not do. Labor Party members and senators were told that what it would not do is lead to same-sex marriage in the nation's capital. Senator Brown has just said that he does not want this bill to be amended such that same-sex marriage in the nation's capital would be prevented from going ahead.

It was the coalition that included the definition of marriage in the Marriage Act 1961 in 2004, the definition being that marriage is the union of a man and a woman to the exclusion of all others voluntarily entered into for life. That is the definition which the Prime Minister tells us publicly she supports, but then she is too weak in the context of this legislation to stand up for the principle she supposedly supports. If the Labor Party is serious about complying with the promise that was made to its members and senators in order to get this bill through its caucus, then the Labor Party will support this very sensible and very important amendment.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:32): To add to Senator Cormann's words, Senator Brown has now been found out. He has been smoked out. He said throughout the course of this debate that this was only about giving territorians equal rights. He now rises to object to an amendment, the purpose of which was to say that the same principles that apply to the citizens of states by operation of section 109 of the Constitution should apply to citizens of territories.

If Senator Brown's claims to believe in the equality of citizens were true, he would support this amendment. The fact that he objects to it reveals all. Senator Brown and others in the Labor Party have also said this is not about gay marriage, which is why we have included those words specifically, insisting that the territory may not pass a law inconsistent with the Marriage Act 1961. Senator Brown objects to that, too. Why would you object to that, Senator Brown, if gay marriage were not what this bill is all about?

I move:

(1) Schedule 1, item 1, page 3 (lines 4 and 5), omit the item, substitute:

1 At the end of subsection 35(2)

Add "if the enactment is inconsistent with a law of the Commonwealth. Without limiting the application of this subsection, the Assembly may not enact any law that is inconsistent with the Marriage Act 1961".

(2) Schedule 2, omit item 1, substitute:

1 At the end of subsection 9(1)

Add "if the law or the part of the law is inconsistent with a law of the Commonwealth. Without limiting the application of this subsection, the Assembly may not enact any law that is inconsistent with the Marriage Act 1961".
Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:34): I am mindful of the time and I move:

That the question be now put.

Question agreed to.

Original question put.

That the amendments (Senator Brandis’s) be agreed to.

The committee divided. [11:39]

(The Chairman—Senator Parry)

Ayes..............................30
Noes..............................36
Majority.........................6

AYES

Adams, J
Bernardi, C
Boyce, SK
Bushby, DC (teller)
Colbeck, R
Cormann, M
Eggleston, A
Ferraranti-Wells, C
Fisher, M
Humphries, G
Joyce, B
Madigan, JJ
McKenzie, B
Parry, S
Scullion, NG

NOES

Wright, PL
Xenophon, N

PAIRS

Abetz, E
Birmingham, SJ
Macdonald, ID
Payne, MA
Ronaldson, M

Wright, PL
Xenophon, N

Question negatived.

Bill, as amended, agreed to

Bill reported with amendments and an amendment to the title; report adopted.

Third Reading

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (11:43): I move:

That this bill be now read a third time.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (11:43): The moment cannot be allowed to pass without making the point that when Senator Brown spoke on my amendments he revealed his agenda—the agenda which the government has been warned all along lay behind this bill and which the Labor Party decided to go along with. My amendments gave the Labor Party the opportunity at the last minute to back off and to protect the definition of marriage in the 1961 Marriage Act. By the Labor Party voting with Senator Brown and the Greens to oppose the coalition’s amendments, they removed the capacity to protect the definition of marriage in the 1961 Marriage Act applying to the ACT. They have in effect, whether they realise it or not, given their sanction to gay marriage in the ACT.

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (11:44): The critique from Senator
Brandis is wrong. What we have seen this morning is a stunt from Senator Mathias Cormann and Senator Brandis. If the situation was so serious and of such concern, why did they come into the chamber at the 12th hour, almost literally the 12th hour, and circulate an amendment that no-one had seen? I did not even have a chance to have a copy of it in front of me. I did not even have the amendment in front of me in order to examine what its intent was. We had to rely on Senator Brandis's explanation, such as it was. It was nothing more than a stunt. This legislation is about removing executive power. It is not about gay marriage. It is not about euthanasia.

Senator Brandis: That is not what Senator Brown thinks. That is not what Senator Brown thinks, and it is his bill.

Senator SHERRY: It is not about those issues and you well know it. To conclude, having seen the amendment I can say to the chamber we have been advised by the Attorney-General—so we have received advice—that the opposition amendment is unnecessary. It is not necessary. The amendment is unnecessary to maintain the status quo in section 122 of the Constitution.

Senator Brandis: Not according to Professor George Williams, a member of the Labor Party.

Senator SHERRY: You can quote some professor. I am quoting the Attorney-General. That is his advice. Your amendment was unnecessary.

Senator Brandis interjecting—

The DEPUTY PRESIDENT: Order! Senator Brandis, if you are not taking a point of order, Senator Sherry has the call.

Senator SHERRY: Again we have an illustration of what is just a hysterical stunt. The government stands by the advice we have received from the Attorney-General. The amendment was unnecessary.

Senator CORMANN (Western Australia) (11:46): The Labor Party members of this chamber voted against an amendment which would have protected the definition of marriage in the context of this bill, the Australian Capital Territory (Self-Government) Amendment (Disallowance and Amendment Power of the Commonwealth) Bill 2010. The Labor Party voted against it. We are led to believe the only reason that the Labor Party ended up deciding to support this bill is assurances they were given that this would not lead to the legalisation of same-sex marriage in the nation's capital. So here we have it. Senator Bob Brown was so keen to shut up the Labor Party on this that he moved that the motion be put before the minister at the table was able to say anything about it. Not only is this the Green tail wagging the Labor dog; they do not even want this dog to bark. When there was a chance that Minister Sherry was about to jump up to express a view on behalf of the Labor Party on this bill, Senator Brown jumped to his feet and said, 'I move the motion be put.' He did not want Minister Sherry to be in a position where he had to formally say on the record, 'What we said to our Labor members and senators in caucus this week was a lie'. This is very simple. I saw our President, Senator Hogg, walk in, being very, very uncomfortable about what he has been forced to do in this chamber. Our President is a very honourable man, and I can tell you now that President Hogg was very, very uncomfortable about what he has been forced to do in this chamber. Our President is a very honourable man, and I can tell you now that President Hogg was very, very uncomfortable about being forced by this Green alliance with Labor members and senators to vote against the definition of marriage through this legislation—as was Senator Furner and as was Senator Stephens. Incidentally, Senator Farrell sat here with a big smile. He does not seem to mind that this
could well lead to the legalisation of same-sex marriage in the ACT.

I am mindful of the time, so I will not keep going on this except to say that this is a hypocritical Labor Party. They deceived their caucus. If they were truly committed that this legislation should not lead to the legalisation of same-sex marriage in the territory, they would have supported the very sensible amendment that was moved by Senator Brandis on behalf of the coalition.

Question put:
That this bill be now read a third time.

The Senate divided. [11:53]

(The PRESIDENT: Senator the Hon. JJ Hogg)

Ayes..................... 35
Noes..................... 29
Majority............. 6

AYES
Arbib, MV
Barnett, TM
Brown, RJ
Conroy, SM
Di Natale, R
Faulkner, J
Furner, ML
Hanson-Young, SC
Ludlam, S
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Thistlethwaite, M
Waters, LJ
Xenophon, N

NOES
Fisher, M
Johnston, D
Kroger, H
Mason, B
Nash, F
Ryan, SM
Williams, JR

NOES
Humphries, G
Joyce, B
Madigan, JJ
McKenzie, B
Parry, S
Seuß, NG

PAIRS
Cameron, DN
Carr, KJ
Evans, C
Lundy, KA
Stephens, U
Wong, P

Question agreed to.
Bill read a third time.

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (11:56): I table the supplementary explanatory memorandum relating to the government amendments to be moved to the bill. The memorandum was circulated in the chamber on 17 August 2011.

COMMITTEES
Selection of Bills Committee
Report

Senator McEWEN (South Australia—Government Whip in the Senate) (11:56): I present the 10th report for 2011 of the Selection of Bills Committee.

Ordered that the report be adopted.

Senator McEWEN: I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 10 OF 2011

1. The committee met in private session on Wednesday, 17 August 2011 at 7.21 pm.
2. The committee resolved to recommend—
   That—
   
   (a) the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011 be referred immediately to the Rural Affairs and Transport Legislation Committee for inquiry and report by 21 November 2011; and
   
   (b) the provisions of the Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011 be referred immediately to the Legal and Constitutional Affairs Legislation Committee for inquiry and report by 19 September 2011.

3. The committee resolved to recommend—
   That the following bills not be referred to committees:

   • Australian Energy Market Amendment (National Energy Retail Law) Bill 2011
   • Customs Amendment (Anti-dumping Improvements) Bill 2011
   • Education Services for Overseas Students (Registration Charges) Amendment Bill 2011
   • Education Services for Overseas Students Amendment (Registration Charges Consequentials) Bill 2011
   • Excise Legislation Amendment (Condensate) Bill 2011
   • Excise Tariff Amendment (Condensate) Bill 2011
   • Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011
   • Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2011
   • Fairer Private Health Insurance Incentives (Medicare Levy Surcharge—Fringe Benefits) Bill 2011
   • Fairer Private Health Insurance Incentives Bill 2011
   • Horse Disease Response Levy (Consequential Amendments) Bill 2011
   • Horse Disease Response Levy Bill 2011
   • Horse Disease Response Levy Collection Bill 2011
   • Indigenous Affairs Legislation Amendment Bill 2011
   • Industrial Chemicals (Notification and Assessment) Amendment (Inventory) Bill 2011
   • Intellectual Property Laws Amendment (Raising the Bar) Bill 2011
   • Legislative Instruments Amendment (Sunsetting) Bill 2011
   • Superannuation Legislation Amendment (Early Release of Superannuation) Bill 2011
   • Tobacco Plain Packaging Bill 2011.

The committee recommends accordingly.

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

   • Business Names Registration (Fees) Bill 2011
   • Business Names Registration (Transitional and Consequential Provisions) Bill 2011
   • Business Names Registration Bill 2011
   • Indigenous Affairs Legislation Amendment Bill (No. 2) 2011
   • Migration Amendment (Declared Countries) Bill (No. 2) 2011
   • National Residue Survey (Excise Levy Amendment (Deer) Bill 2011
   • Responsible Takeaway Alcohol Hours Bill 2010.

(Anne McEwen)
Chair
18 August 2011

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee

Name of Bill:
Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011

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

1. The use of overseas-based crew by Australian airlines and their subsidiaries
2. The pay and working conditions of overseas-based crew operating on Australian airlines and their subsidiaries

3. The possible safety risks of using overseas-based crew, including issues related to fatigue because of flight duty limits

4. The effect of using overseas-based crew on Australian jobs

Possible submissions or evidence from:
Qantas
Jetstar
Virgin Australia
Australian Council of Trade Unions
Australian and International Pilots Association
Flight Attendants Association of Australia CASA
Fair Work Australia

Committee to which the bill is to be referred:
Senate Standing Committee on Rural Affairs and Transport (Legislation)

Possible hearing date(s):
October 2011

Possible reporting date:
21 November 2011

Possible hearing date(s):

Possible reporting date:

(signed)
Senator Siewert
Selection of Bills Committee Member

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill:
Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011

Reasons for referral/principal issues for consideration:
Examination of the constitutionality of the provisions

Possible submissions or evidence from:
Law Council of Australia
Office of Parliamentary Counsel
Attorney-General's Department

Committee to which bill is to be referred:
Legal and Constitutional Affairs

Possible hearing date(s):

Possible reporting date:

(signed)
Senator Fifield
Selection of Bills Committee Member

BUSINESS

Rearrangement

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (11:57): I move:

That government business be interrupted at 1 pm to allow consideration of the bills listed on page 3 of today’s Order of Business, under the heading “At 1 pm” till not later than 2 pm today.

The list read as follows—

No. 4—Indigenous Education (Targeted Assistance) Amendment Bill 2011 – Resumption of second reading debate
No. 5–Statute Stocktake Bill (No. 1) 2011 – Resumption of second reading debate
No. 6–Customs Amendment (New Zealand Rules of Origin) Bill 2011 – Resumption of second reading debate

Question agreed to.

Withdrawal

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (10:54): by leave—I move:

That consideration of general business under standing order 57(1)(d)(x) shall not be proceeded with today.

Question agreed to.

Senate Temporary Orders

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and
Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (11:58): I move:

That the following list of general business orders of the day be considered under the temporary order relating to the consideration of private senators’ bills on Thursday, 25 August 2011:

No. 51 Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011

No. 44 National Broadband Network Financial Transparency Bill 2010 (No. 2)

No. 15 Evidence Amendment (Journalists’ Privilege) Bill 2010 (No. 2)

No. 50 Environment Protection and Biodiversity Conservation (Public Health and Safety) Amendment Bill 2010.

Question agreed to.

NOTICES

Presentation

Senator WATERS: To move:

That the following bill be introduced: A Bill for an Act to provide Australian landholders the right to refuse the undertaking of coal seam gas mining activities on their land without prior written authorisation, and for related purposes. Landholders’ Right to Refuse (Coal Seam Gas) Bill 2011.

Senator CORMANN: To move:

That the Senate—

(a) notes that the Government has refused to provide an answer to question on notice no. 671 regarding act of grace payments without properly raising a claim of public interest immunity; and

(b) orders that there be laid on the table by noon on Tuesday, 23 August 2011, all information about:

(i) the number of act of grace payments approved by the Minister since 24 November 2007 where the department recommended against approval, and

(ii) the reason for approval, the date of approval and value of each of the above act of grace payments.

Senator CAROL BROWN:

Senator MILNE: To move:

That the Senate—

(a) deplores the actions of WIN Television in Tasmania, which has cut its weekend statewide news service, leading to:

(i) some 10 Tasmanians losing their jobs in the state's media industry, jobs which would have become future jobs for young Tasmanians, and

(ii) a marked cutting of media diversity in the state on weekends, with only ABC TV and Southern Cross Television providing local news and nightly bulletins; and

(b) notes that:

(i) WIN Television in 2010 celebrated 50 years of television history in the state, but in its 51st year WIN has cut the 'guts' out of its local coverage with no weekend news services, resulting in a loss of 28 per cent of the weekly news coverage, local news, local sport and local politics,

(ii) Tasmanian viewers, some of whom have been loyal to WIN Television for the full 50 years of its existence, are now being served up an irrelevant news service, broadcasting Victorian news on Saturdays and Sundays; and

(iii) this makes Tasmania the only state in the WIN Television network without a home-state-based weekend news service.

Senator SIEWERT: To move:

That the following matter be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report by 22 November 2011:

The administration and purchasing of Disability Employment Services (DES) in Australia, with particular reference to the Government's 2011-12 budget announcement to undertake a competitive tender of the Disability Employment Services – Employment Support Services program for contracts with a performance rating of 3 stars and below under the
Department of Education, Employment and Workplace Relations' DES Performance Framework, including:

(a) the impact of tendering more than 80 per cent of the current DES on the clients with disability and employers they support under the current contracts;

(b) the potential impact of losing experienced staff;

(c) whether competitive tendering of more than 80 per cent of the market delivers the best value for money and is the most effective way in which to meet the stated objectives of:
  (i) testing the market,
  (ii) allowing new 'players' into the market, and
  (iii) removing poor performers from the market;

(d) whether the DES Performance Framework provides the best means of assessing a provider's ability to deliver services which meet the stated objectives of the Disability Services Act 1986 such as enabling services that are flexible and responsive to the needs and aspirations of people with disabilities, and encourage innovation in the provision of such services;

(e) the congruency of 3 year contracting periods with long-term relationship based nature of Disability Employment Services—Employment Support Services program, and the impact of moving to 5 year contract periods as recommended in the 2009 Education, Employment and Workplace Relations References Committee report, DEEWR tender process to award employment services contract; and

(f) the timing of the tender process given the role of DES providers in implementing the Government's changes to the disability support pension.

Senator BOB BROWN: To move:

That the Senate condemns the Opposition's:

(a) ongoing attacks on the Tasmanian Forests Intergovernmental Agreement between the Commonwealth of Australia and the State of Tasmania; and

(b) failure to provide a constructive alternative for scores of contractors facing business ruin, closures of three export woodchip mills and regional areas of Tasmania welcoming the development opportunities the package will provide.

Senator SIEWERT:

Senator FIFIELD:

Senator McLUCAS:

To move:

That the Senate—

(a) notes:
  (i) that the week beginning 21 August 2011 is national Hearing Awareness Week and the theme for 2011 is 'I'm ready for anything! Is anything ready for me?',
  (ii) that the theme recognises that for approximately 4 million Australians with hearing impairment, technology is providing more possibilities than ever before for inclusion,
  (iii) that improvements in technology have minimised the barriers to communication,
  (iv) that technology is also making huge inroads into improving the quality of educational access and employers have more support than ever to make their workplace inclusive and accessible for Australians with a hearing impairment,
  (v) the incredible innovations that have been made by Australian organisations into assistive technologies,
  (vi) the 'Hear Us' inquiry undertaken by the Community Affairs References Committee in 2010,
  (vii) the ongoing work that is required to improve hearing health in Australia as well as ensuring that Australians with a hearing impairment are not excluded,
  (viii) the funding commitments to the Better Start for Children with Disability program which provides flexible funding for early intervention services to parents of children with hearing impairment, and
  (ix) the additional funding provided to the Hearing Services Program which provides increased access to hearing aids and cochlear speech processors for more children and young
people, and additional hearing services and aids for Indigenous adults and people with complex hearing problems; and

(b) seeks the Australian Government to:

(i) continue raising awareness of hearing impairment and chronic ear disorders in order to:

(A) reduce the incidence of hearing loss or chronic ear disorders,

(b) increase the public awareness of the needs and aspirations of hearing impaired Australians, and

(c) promote inclusion and understanding of hearing impaired Australians,

(ii) provide access to technologies, organisations and communities that can improve engagement in education, employment and community,

(iii) continue to support organisations that provide assistance to hearing impaired individuals, their families, communities, employers and schools,

(iv) continue to support and fund Australian hearing health research and innovation, and

(v) continue to implement the recommendations of the *Hear Us: Inquiry into Hearing Health in Australia* report with an emphasis on inclusion.

COMMITTEES

**Education, Employment and Workplace Relations References Committee**

Senator MASON (Queensland) (11:59):

I move:

That the following matters be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report by 7 May 2013:

(a) the adequacy and effectiveness of the current system of university funding, including:

(i) base funding,

(ii) research grants,

(iii) Education Investment Fund,

(iv) government payment of FEE-HELP and other student loans,

(v) scholarships,

(vi) private fees,

(vii) grants from state and local governments,

(viii) private sources of income,

(ix) profit from business ventures,

(x) philanthropic giving, and

(xi) other sources of income;

(b) the adequacy and effectiveness of current funding arrangements, with respect to:

(i) the capacity of universities to manage and serve increasing demand,

(ii) the adequacy of campus infrastructure and resources,

(iii) institutional autonomy and flexibility,

(iv) institutional diversity,

(v) the quality and diversity of teaching, and

(vi) the quality and diversity of research; and

(c) alternative policy and funding options for the higher education and public research sectors.

Question put.

The Senate divided. [12.04]

(The **PRESIDENT**: Senator the Hon. JJ Hogg)

Ayes ...................... 31
Noes ...................... 35
Majority ............... 4

AYES

Abetz, E               Adams, J
Back, CJ              Bernardi, C
Birmingham, SJ        Boswell, RLD
Boyce, SK             Brandis, GH
Cash, MC              Colbeck, R
Coonan, H             Cormann, M
Edwards, S            Eggleston, A
Fawcett, DJ           Fieravanti-Wells, C
Fifield, MP           Fisher, M
Johnston, D           Joyce, B
Kroger, H (teller)    Madigan, JJ
Mason, B             McKenzie, B
Thursday, 18 August 2011

SENATE

AYES
Nash, F
Ronaldson, M
Scullion, NG
Xenophon, N

Parry, S
Ryan, SM
Williams, JR

NOES
Bilyk, CL
Brown, CL
Brown, RJ
Conroy, SM
Cameron, DN
Collins, JMA
Di Natale, R
Crossin, P
Faulkner, J
Hanson-Young, SC
Hogg, JJ
Ludwig, JW
McEwen, A (teller)
McLucas, J
Milne, C
Moore, CM
Polley, H
Sherry, NJ
Singh, LM
Stevens, U
Urquhart, AE
Waters, LJ

Bushby, DC
Farrell, D
Heffernan, W
Humphries, G
Macdonald, ID
Payne, MA

Farrell, D
Evans, C
Arbib, MV
Wong, P
Carr, KJ

PARIS

Bishop, TM
Brown, RJ
Bishop, TM
Brown, RJ

Hodgson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Siewert, R
Stephens, U
Thistlethwaite, M
Waters, LJ

Question negatived.

MOTIONS

Education Funding

Senator MASON (Queensland) (12:07):
I move:

That the Senate—

(a) acknowledges the importance of the role that non-government schools play in reflecting the diversity of Australian society and serving a broad range of students, including those from a variety of religions, social backgrounds, regions and socio-economic circumstances;

(b) supports the continuation of a funding model into the future that distributes funds according to socio-economic need and which recognises that every non-government school student is entitled to a basic level of government funding;

(c) calls on the Government to continue to support parents in their right to choose a school which they believe best reflects their values and beliefs, by not penalising parents who wish to make private contributions towards their child's education, nor discouraging schools in their efforts to fundraise or encourage private investment;

(d) notes the many submissions made to the Review of Funding for Schooling panel by non-government sector authorities requesting that changes to school funding arrangements not leave schools or students worse off in real terms;

(e) acknowledges that any reduction in government funding for non-government schools would need to be addressed by increasing the level of private income required to be raised by the school community, such as school fees, or through a reduction in the quality of the educational provision in affected schools; and

(f) calls on the Government to make a clear commitment to the continuation of current funding levels to all non-government schools, plus indexation, and for this to be the basic starting point of any new funding model resulting from the review of funding for schooling process.

Question put.
The Senate divided. [12:09]
(The President—Senator the Hon JJ Hogg)

Ayes ..................32
Noes ....................35
Majority ..............3

AYES

Abetz, E
Back, CJ
Birmingham, SJ
Boyce, SK
Cash, MC
Cooman, H
Edwards, S
Fawcett, DJ
Fifield, MP
Humphries, G
Joyce, B

Adams, J
Bernardi, C
Boswell, RLD
Brandis, GH
Colbeck, R
Cormann, M
Eggleston, A
Ferravaniti-Wells, C
Fisher, M
Johnston, D
Kroger, H (teller)
AYES
Madigan, JJ
McKenzie, B
Parry, S
Ryan, SM
Williams, JR
Mason, B
Nash, F
Ronaldson, M
Scullion, NG
Xenophon, N

NOES
Bilyk, CL
Brown, CL
Brown, RJ
Cameron, DN
Conroy, SM
Di Natale, R
Feeney, D
Gallacher, AM
Hogg, JJ
Ludwig, JW
Marshall, GM
McLucas, J
Moore, CM
Pratt, LC
Sherry, NJ
Singh, LM
Sterle, G
Urquhart, AE
Wright, PL
Bishop, TM
Collins, JMA
Crossin, P
Faulkner, J
Hanson-Young, SC
Ludlam, S
Lundy, KA
McEwen, A (teller)
Milne, C
Polley, H
Rhiannon, L
Siewert, R
Stephens, U
Waters, LJ

PAIRS
Bushby, DC
Heffernan, W
Macdonald, ID
Payne, MA
Arbib, MV
Evans, C
Wong, P
Carr, KJ

(The Deputy President—Senator Parry)

AYES
Brown, RJ
Hanson-Young, SC
Milne, C
Siewert, R (teller)
Wright, PL

NOES
Abetz, E
Bilyk, CL
Brown, CJ
Cameron, DN
Colbeck, R
Cormann, M
Edwards, S
Faulkner, J
Feeney, D
Fisher, M
Gallacher, AM
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
McLucas, J
Parry, S
Pratt, LC
Seullion, NG
Stephens, U
Thistlethwaite, M
Williams, JR

Question negatived.

Question Time

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (12:11): I move:
That—
(a) the questions in question time be allocated on an equal basis to all members, including the first question; and
(b) an exception be made where any senator, or party, including the Government, asks the President for a less than equal allocation.

Question put.
The Senate divided [12:16]

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:19): I, and also on behalf of Senator Ludlam, move:
That the Senate—
(a) notes:
(i) sightings of one adult and three baby bilbies at the site of the proposed James Price Point gas hub, Western Australia, in the week beginning 7 August 2011,
(ii) that the pristine Kimberley bushland is prime habitat for the bilby, acknowledged as a
vulnerable species by both the Western Australian Government and the Federal Government,

(iii) the need to verify these sightings and establish the significance of the bilby population at James Price Point,

(iv) that the land clearing that has already been undertaken by Woodside Petroleum at this site is considered an uncontrolled action,

(v) that uncontrolled clearing through this area may contravene the Government's own bilby recovery plan, and

(vi) that the decision to locate a gas hub or other heavy industry at James Price Point is still being considered under the Federal Government's strategic assessment process and is yet to be assessed; and

(b) calls for:

(i) an immediate halt to all land clearing at the James Price Point gas hub site until the nature and extent of the bilby colony has been established, and

(ii) the Minister for Sustainability, Environment, Water, Population and Communities (Mr Burke) to:

(A) consider this new evidence of bilby colonies at the clearing site,

(B) commission further independent studies into the status and habitat of the bilby population in this area,

(C) take careful note of the information provided through the environment protection and biodiversity conservation process, and

(D) examine the gas hub proposal in light of its impact on the bilby.

Senator McEWEN (South Australia—Government Whip in the Senate) (12:19): by leave—The government does not support Senator Siewert's motion as it duplicates work we have already carried out and that we continue to do. For example, I am advised that Woodside has been in contact with the department regarding the clearing of up to 25 hectares of vegetation at James Price Point. I understand departmental officers have reviewed the proposal and have concluded that significant impacts on matters of national environmental significance are unlikely. In its consideration of the proposal, the department took a precautionary approach and that included assuming the greater bilby was present at the site.

I also understand that the department will be conducting a compliance inspection of James Price Point. That inspection will help to ensure that any activities at the site are meeting the requirements of national environmental law. I understand the compliance inspection will cover works on an access road as well as the clearing of up to 25 hectares for exploratory drilling. I am advised this inspection may be delayed into early next week as I am advised there are reports of a bushfire at the site this week.

Senator CORMANN (Western Australia) (12:21): I seek leave to make a very brief statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator CORMANN: I thank the Senate. This is a very important development for Western Australia and a very important development for Australia. The Greens are trying to do everything and anything they can to stop an important LNG project from being developed in the Browse Basin. This is just the latest attempt. It is quite appropriate for the proper processes of state and federal governments to run their course, but this sort of stunt—trying to stop by a decision of the Senate a very important project for the economic development of Australia—is completely out of order.

This is not only an important development for Western Australia; it is a very important development for the economic opportunities for Indigenous Australians in the north of Western Australia. For the Greens again to try and prevent Indigenous people in Australia from maximising their opportunities in

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CHAMBER
the context of developments like this is just completely outrageous and shows that they are antidevelopment at all costs. They do not believe in proper process. This is a project that should be assessed through the normal state and federal processes as they currently exist, consistent with the legislation.

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:22): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator SIEWERT: The point here is that they have not been following proper process. The government decided that this should be assessed as an uncontrolled action. It should never have been decided to assess it as an uncontrolled action. There are bilbies there. We know there are bilbies there—one adult and three babies. We know they are there, and by refusing to issue a stop-work order the government are saying that it is okay to clear the habitat of a national icon endangered species. That is what the government are saying. They are going ahead and allowing clearing to happen before this project has completed its strategic assessment, before the government have made their decision on heritage listing and before this project has had any environmental assessment. How is that proper procedure, may I ask? It isn't. It is not proper assessment.

There are plenty of alternatives for this project. There are plenty of other places where this project could be put. But no, the government of Western Australia and, it appears, the federal government and Woodside are determined for this project to go on land that has extreme heritage value and high environmental values. This is not carrying out proper process. If the government were concerned about proper process, it would in fact issue a stop-work order, require this area to be assessed and actually assess the information that the community has collected around the existence of bilbies. The government is saying that it is okay to trash the habitat of another endangered species in this country, and the community is saying that is not acceptable.

The DEPUTY PRESIDENT: Before I put the question, I remind senators of the Procedure Committee report that indicated that this is not the time to be debating. I remind all parties that this is not the time to be making statements; it is the time to determine motions in the manner that we have been doing.

Question put.

The Senate divided. [12:26]

(The Deputy PRESIDENT—Senator Parry)

Ayes ...................... 10
Noes ...................... 40
Majority ............... 30

AYES

Brown, RJ
Hanson-Young, SC
Milne, C
Siewert, R (teller)
Wright, PL

NOES

Abetz, E
Bishop, TM
Brown, CL
Cameron, DN
Conroy, SM
Crossin, P
Eggleston, A
Fawcett, DJ
Fifield, MP
Furner, ML
Kroger, H
Lundy, KA
Marshall, GM
McKenzie, B
Moore, CM
Polley, H
Ryan, SM
Singh, LM

Bilyk, CL
Boswell, RLD
Bushby, DC
Colbeck, R
Cormann, M
Edwards, S
Faulkner, J
Feeney, D
Fisher, M
Gallacher, AM
Ludwig, JW
Madigan, JJ
McEwen, A (teller)
McLucas, J
Parry, S
Pratt, LC
Scullion, NG
Stephens, U
Question negatived.

**Israel**

Senator BOSWELL (Queensland) (12:29): I seek leave to amend general business notice of motion No. 355, standing in my name for today, relating to boycotts of Israeli companies.

Leave granted.

Senator BOSWELL: I move the motion as amended:

That the Senate—

(a) condemns certain extremist groups and individuals and their calls for a boycott of the Israeli confectionery company ‘Max Brenner’ and all other Israeli companies that manufacture and sell products to and within Israel, as part of the Global Boycott Divestments and Sanctions, banning any links with Israeli organisations or organisations that support Israel and prohibiting any academic, government, sporting or cultural exchanges with Israel;

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

(c) recognises the right of the company Max Brenner to operate in Australia as a lawful and legitimate business, which should be able to operate unhindered and without persecution;

(d) denounces the boycott of this business and any other business engaging in free and lawful trade with the state of Israel; and

(e) calls on the Australian Competition and Consumer Commission to investigate any secondary boycotts being imposed on Max Brenner confectionery stores.

Question agreed to.

Senator Bob Brown: I ask that the Greens opposition to this motion be recorded.

The DEPUTY PRESIDENT: That is now noted, Senator Brown.

**COMMITTEES**

**Legal and Constitutional Affairs Legislation Committee**

**Reporting Date**

Senator McEWEN: At the request of Senator Crossin, I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 be extended to 22 August 2011.

Question agreed to.

**Rural Affairs and Transport References Committee**

**Reporting Date**

Senator KROGER: At the request of Senator Heffernan, I move:

That the Rural Affairs and Transport References Committee report on its inquiry into the Live Animal Export (Slaughter) Prohibition Bill 2011 [No. 2] and the Live Animal Export Restriction and Prohibition Bill 2011 [No. 2], by 21 September 2011.

Question agreed to.

**MOTIONS**

**Renal Services**

Senator SIEWERT (Western Australia—Australian Greens Whip) (12:31): I move:

That the Senate—

(a) notes:

(i) the importance of local, grass roots delivery of renal services in central Australia for closing the gap in Aboriginal health outcomes,

(ii) the vital work of Western Desert Dialysis in improving the quality of life for people with end stage renal failure and supporting other renal services in
the Northern Territory, South Australia and Western Australia, and

(iii) that the Government will cease funding Western Desert Dialysis as of December 2011, despite its success as a recipient of Commonwealth funding;

(b) draws attention to the previous motion supported by the Senate on 7 July 2011, which acknowledged the serious nature of kidney health problems for Aboriginal people in central Australia and called on the Government to show leadership and dedicate resources to implement the Central Australian Renal Services Action Plan; and

(c) calls on the Government to:

(i) take leadership on renal issues in central Australia,

(ii) implement the Central Australian Renal Services Action Plan, and

(iii) continue to fund Western Desert Dialysis, through the provision of a 3 year agreement.

Senator LUDWIG (Queensland—
Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (12:31): by leave—Senator Siewert’s motion, as I understand it, claims that the Australian government intends to stop providing funding for Western Desert Dialysis, regarded as Purple House, which is untrue. The government has allocated $1.6 million annually to support the work it does in Alice Springs, Ntaria, Kintore and Yuendumu. Regardless of any future administrative arrangements, it is our objective to secure this annual funding into the future, and Western Desert Dialysis have been assured of this both verbally and in writing. More recently, the government approved funding of $2.3 million to support the delivery of nurse assisted dialysis to Lajamanu and Kalkarindji.

In addition, the government has allocated $147,000 to the end of May 2013 for Western Desert Dialysis to provide chronic disease management and health promotion. Furthermore, the government recently announced the allocation of $13 million for accommodation in Alice Springs and Tennant Creek to house renal dialysis patients and their families. The government remains committed to working on these issues, although treatment for renal patients is primarily a state and territory responsibility. On that basis, we do not support the motion. We think it is not factually correct.

Question agreed to.

Libyan Students

Senator HANSON-YOUNG (South Australia) (12:32): I seek leave to amend motion No. 353, standing in my name for today, relating to assessing the funds of Libyan students. The amended version has been circulated.

Leave granted.

Senator HANSON-YOUNG: I move the motion as amended:

That the Senate—

(a) notes that:

(i) there are more than 650 Libyan students enrolled in Australia, and

(ii) the broader political situation in Libya and the international economic sanctions imposed on Libya threatens the funding available to many of these students;

(b) recognises that a solution was established to assist Libyan students in Canada and the United States of America to access Libyan Government funds to enable students to continue their studies; and

(c) calls on the Australian Government to pursue similar action to enable Libyan students to continue their studies in Australia.

Question agreed to.
COMMITTEES
Cyber-Safety Committee
Report
Senator BILYK (Tasmania) (12:34): I present the report of the Joint Select Committee on Cyber-Safety on the Cybercrime Legislation Amendment Bill 2011 and move:

That the Senate take note of the report.

Today I table the report of the Joint Select Committee on Cyber-Safety on the provisions of the Cybercrime Legislation Amendment Bill 2011. All members of the committee were in agreement, including the Greens, who have complimented the quality of the report. There are some additional comments by the Greens, who would obviously have liked us to go further, but I will leave those matters to Senator Ludlam.

The bill deals with the subject of cybercrime, a subject that has increasingly occupied the attention of all Australian governments and this parliament. The globalisation of communication technology has brought many benefits but it has also enabled transnational crime to flourish. Hacking, the spread of malware, denial of service attacks on private corporations and the institutions of government is the modern face of cybercrime. Large-scale online fraud can net organised crime vast profits. We are no longer dealing the nuisance hacker who gets his kicks from showing off his hacking prowess.

The bill amends the Telecommunications (Interception and Access) Act, and the Mutual Assistance in Criminal Matters Act, to enable Australia to accede to the Council of Europe Convention on Cybercrime. The convention and the bill are intended to enable law enforcement agencies to keep up with criminal networks that attack computers and computer systems or use the internet to facilitate their criminal enterprise. Before speaking about the report, I would like to outline what the bill does and correct some of the misinformation that is circulating.

What the bill does
There are four main aspects to the bill. First, it introduces a new mechanism for the preservation of communications to prevent the destruction of potential evidence until a warrant for access is obtained. This new preservation mechanism will be available to law enforcement agencies and to ASIO.

Second, the bill also allows the AFP to apply on behalf of a foreign country for a stored communications warrant. So, while the AFP must issue a preservation notice at the request of a foreign country, there is no access to this material without a warrant. The AFP can only apply for the warrant once the Attorney-General has agreed to a formal request for mutual assistance from the foreign country.

Thirdly, the bill allows the AFP to share telecommunications data—that is, non-content data—with a foreign country without the need for a formal mutual assistance request. This may occur only where that data has already been obtained for a domestic investigation. This is intended to speed up international cooperation.

Fourthly, the Ombudsman will have oversight of the preservation regime and stored communications warrants obtained for a foreign country. The Inspector General of Security and Intelligence will have oversight of ASIO's use of the preservation regime for intelligence purposes.

What the bill does not do
It is important to be clear that neither the convention nor the bill seeks to implement a general data retention scheme. It does not, as has been claimed by Crikey this week, 'open the door to mass surveillance of internet
usage’. No country can demand the transfer of any data—the content of communication or the ‘traffic data’. It simply is not true, as Crikey has claimed, that a country like China will be able to obtain volumes of communications data about dissidents in Australia.

The powers available under the bill, and indeed the powers that already exist under the Telecommunications (Interception and Access) Act, can only be activated where there are legitimate law enforcement requirements or, in the case of ASIO, legitimate security purposes. Access to the content of communications is provided under warrant and only after a mutual assistance request has been agreed to by the Attorney-General.

The bill makes no change to the range of countries to which police can provide police-to-police assistance. The bill does not allow ASIO to share communications with foreign counterparts.

The committee received 23 submissions and heard from several witnesses on Monday, 1 August. We also carried out an inspection of the Australian Federal Police high-tech crime operations facilities in Barton. We were conscious of the sensitivity that goes with any expansion of covert police powers, especially powers that involve access to private communications. We are mindful of the importance of subjecting these powers to proper standards and safeguards.

It is with this in mind that we have proposed a range of realistic, modest and practical changes. If adopted, we believe these changes will go a long way toward allaying any fears of unwarranted intrusions into privacy or unjustified sharing of data with foreign countries.

The time for presentation of this report is short. I will forgo a detailed explanation of each recommendation. The general approach of the committee was to ensure that thresholds that apply to domestic investigation are equally applied to foreign countries seeking access to communications material.

We have proposed that the AFP guidelines on police-to-police cooperation in possible death penalty scenarios be tightened and should only occur in exceptional circumstances and with the consent of the relevant ministers. This means that telecommunication data cannot be shared even at an early investigative stage in such matters without the minister’s consent.

We also proposed that the general privacy safeguard in proposed clause 180F be elaborated in more detail to provide greater guidance to the AFP. That guidance is already in the explanatory memorandum, but putting it in the statute will provide better visibility to the police and the public.

Finally, the committee proposed that the government consider in more detail what privacy obligations might apply to carriers and carriage service providers. Of course, the Privacy Act already applies. But better visibility and clarity can be achieved if there are clear obligations to destroy material held by a carrier.

Law enforcement agencies already have an obligation to destroy this material when it is no longer relevant to an investigation. The recommendation is that this obligation be replicated for the industry, unless there are other legitimate business purposes for keeping the information such as billing.

The intention of the committee is to improve public confidence in the scheme and we are sure that public confidence is equally important to the industry.

In conclusion, I wish to thank the committee members and the secretariat for their work in this inquiry. I commend the report to the Senate.

Senator LUDLAM (Western Australia) (12:40): I am very pleased to follow the
remarks of Senator Bilyk, the chair of the Joint Select Committee on Cyber-Safety. I will be fairly brief. First of all, I would like to thank the chair, the deputy chair and the rest of the committee for putting together what I think is a very important and very focused report in a very, very short time frame. As usual when bills such as these come through from the Attorney-General's Department, they are always in an inordinate hurry and they are always on fire for the parliament to urgently dispose of the bills. I thank the efforts of the chair, the deputy chair and the secretariat for getting a coherent report into this bill.

I think the chair, Senator Bilyk, has perhaps undersold the efforts of the committee to the extent that the committee majority report made some very strong recommendations for changes to the Cybercrime Legislation Amendment Bill 2011. I hope that the Attorney-General does not simply give the report of the cyber-safety committee a once-over and present the bill unamended to the chamber next week. I strongly advise the government against pursuing that course of action and advise it to read the report and to read the unanimous recommendations that the committee put forward because they actually recommend major surgery to this bill both in terms of amendments and in terms of clarifications.

The Senate is used to dealing with instances of expansions of surveillance powers and expansions of law enforcement agencies in Australia. In my experience, it seems we get amendments to the Telecommunications (Interception and Access) Act every couple of weeks. This is something a little different because this bill does not just relate to Australian security and law enforcement agencies; this bill relates to how data is shared with overseas law enforcement agencies, principally of course because the convention relates to Europe. But obviously if Australia is signing on, other countries around the world are signing on as well. This will allow data to be stored not just about serious crimes but about any offence at all.

If a foreign law enforcement agency wishes to prosecute or pursue an investigation, it will now be able to access data stored on Australian servers or in the hands of Australian service providers and that will be able to be used for law enforcement purposes overseas.

Senators may remember the polarised debate on the net filter that occurred over the last couple of years. Everybody who participated in that debate advocated better coordination between Australian law enforcement agencies and international agencies, for the obvious reasons—for example, if you are chasing child pornography offences on servers in Eastern Europe or in South-East Asia, or places where it is very difficult for the AFP to execute warrants and so on, you need tighter cooperation to prosecute those offences. I think everybody was unanimous on that.

The underlying intent of the bill to enable that kind of collaboration in a globally networked media is entirely sound. The problem, as often happens with bills from the Attorney-General's Department, is that there is a colossal overreach; there are all sorts of agendas being advanced behind the cover of the ostensibly sensible objectives of allowing law enforcement agencies to collaborate and to cooperate better. This does not just pertain to acts of terrorism, child pornography or child abuse material being stored on overseas servers, or indeed on Australian servers; this relates to everything—any offence and any form of data that is being stored. Keep in mind of course that there are various kinds of data now that did not even exist 10 years ago. Now, as our lives move online, we leave digital footprints everywhere we go, as do
other citizens in highly industrialised countries. All this material is now up for grabs. For example, the Attorney-General's Department floated a bit of a thought bubble, and perhaps the public got onto it a bit sooner than they were intending, about data retention. This is about forcing internet service providers to hold not only material from people suspected of major crimes but also all digital material: records of emails; phone calls; GPS records of your telephone—in other words, everywhere you have been; anybody you have communicated with; everything you have done online and every eBay purchase. Why don't we retain all of that in case one of us turns out to be a criminal? That agenda was very strongly rebuffed and we did not hear a great deal about it, but then here it comes again, sneaking in under the cover of an otherwise sensible bill about signing onto this European convention.

Do not forget that these police powers in many European countries occur against the backdrop of very strong human rights protections that do not exist in Australia. The Australian Constitution is silent on human rights. Things like free speech, the protection of privacy and so on are implied rights. In Europe and in North America that is not so; those rights are very firmly stated. In Australia we do not have that safety net.

Having to fast-track this bill, the committee was forced onto a very tight timetable and it forced witnesses, who are largely volunteer organisations, to pull together submissions at very short notice. To the committee's credit, many of those concerns have been picked up. In this instance, I have chosen to draft and submit additional comments. It is not a dissenting report, but material in addition to the work of the committee. For example, regarding recommendation six that deals with the death penalty, we had a very interesting discussion in the committee over a couple of days. How do we feel about the potential for Australian law enforcement agencies sharing information to aid an overseas law enforcement agency that would then lead to a prosecution and then an execution? I think there is unanimous opposition in this chamber to the death penalty here in Australia, but if you look at the international instruments that we have signed up to they are also about not enabling judicial murder to occur in other jurisdictions either. We have left the door open for that. Read recommendation six—we have enabled that. We have allowed the door to remain open for that information to be transferred and then for people to be executed by their states. I think that is completely unacceptable.

The Ombudsman asked that his powers to inspect and audit compliance with the preservation and data retention regime be clarified to ensure that he can check compliance with the act and not mere record keeping. That is another very important point. Try to imagine the grey areas that we stumble into when a foreign law enforcement agency comes after a warrant or data retention order for something that is not even a crime in Australia or something of which there is no easy equivalent. Some of the language in the bill regarding those ambiguities is gobbledygook and will be extraordinarily difficult to interpret.

'Traffic data' is not the words that you spoke on the phone or the content of your email but the metadata about who it was sent to, when it was sent, where you might have been at the time that it was sent and so on. Traffic data is quite well defined in the European convention but it is not defined in this bill. It does not use the same terminology as the convention and there are going to be really serious mismatches in the interpretation of that. A number of witnesses brought that up. It means that we can accede to the convention, but I think we are going to stumble into a swamp of interpretation when
citizens or law enforcement officials wish to know what their obligations are under the law. The Privacy Foundation argued along similar lines. Keep in mind that the actual status of the traffic data or metadata that surrounds communications is not about serious and organised crime, terrorism, child prostitution or anything like that; this is about all of the records of all of the moves that we make, and their imprints in cyberspace, now being accessible to foreign law enforcement agencies.

There are very serious grey areas in this bill. My real plea is that the government read not only the minority report put up by the Greens, which talks about the overreach and goes into some of the specifics that we think should be improved in the bill, but also the majority report that was signed off by all members of the committee this morning. Do not simply serve up the bill unamended just because you imagine that you are always right and that the bill is perfect. This one needs a second thought. Some of these things are probably a bit unusual at the moment—there is not a great deal of this sort of activity occurring—but as we move into the online age, as we move our lives online and as the National Broadband Network rolls out, these things will become routine and we need to get the settings right at the outset. I thank the chamber and I thank the chair, and I look forward to a debate on an amended bill. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**BILLS**

**Child Support (Registration and Collection) Amendment Bill 2011**

Returned from the House of Representatives

Message received from the House of Representatives agreeing to the amendment made by the Senate to the bill.

**MOTIONS**

**Parliament House: Energy Use**

**Consideration of House of Representatives Message**

Message received from the House of Representatives informing the Senate that the House has concurred with the resolution relating to the reduction of energy use in Parliament House.

**COMMITTEES**

**Membership**

Messages received from the House of Representatives informing the Senate of the appointment of members to joint committees.

**BILLS**

**Australian Energy Market Amendment (National Energy Retail Law) Bill 2011**

**Competition and Consumer Amendment Bill (No. 1) 2011**

**Competition and Consumer Legislation Amendment Bill 2011**

**Social Security and Other Legislation Amendment Bill 2011**

**Tax Laws Amendment (2011 Measures No. 6) Bill 2011**

**First Reading**

Bills received from the House of Representatives.

**Senator JACINTA COLLINS:** 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 JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (12:52): I present a revised explanatory memorandum relating to the Competition and Consumer Amendment Bill (No. 1) 2011 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—

AUSTRALIAN ENERGY MARKET AMENDMENT (NATIONAL ENERGY RETAIL LAW) BILL 2011

Under the oversight of the Council of Australian Governments, Australia has made significant progress over the last decade towards an efficient and effective national energy market, in particular in the development of uniform national energy laws for electricity and gas.

This Bill I am introducing today is part of the current Council of Australian Governments’ reform program under which non-economic regulation of the distribution and retail of gas and electricity will also be subject to the national energy institutions and regulatory arrangements.

The Australian Energy Market Amendment (National Energy Retail Law) Bill 2011 sees the Commonwealth take an important role in implementing the cooperative legislative regime for regulating retailers and distributors who sell and supply electricity and gas to retail customers. It is the final major component of the national energy market reform program agreed by the Council of Australian Governments in response to their 2002 Energy Market Review, ‘Towards a Truly National and Efficient Energy Market’ and set out in the Australian Energy Market Agreement.

The South Australian Parliament passed the National Energy Retail Law (South Australia) Bill 2010 (SA) on 9 March 2011. That Bill received Royal Assent on 17 March 2011. The National Energy Retail Law (South Australia) Act 2011 (SA) includes as its Schedule the National Energy Retail Law, which provides for rules and regulations to be made under that Law, called the National Energy Retail Rules and the National Energy Retail Regulations.

The National Energy Retail Law set out in the Schedule to the National Energy Retail Law (South Australia) Act 2011 (SA), and the Rules and Regulations to be made under it, are supported by amendments to the National Electricity Law and the National Gas Law included in the Statutes Amendment (National Energy Retail Law) Act 2011 (SA).

The South Australian Minister will also make rules which amend the National Electricity Rules and the National Gas Rules on two related matters. The first set of amendments are national rules which enable retail customers and property developers to seek new (or significant modifications to existing) connections to electricity and gas distribution networks. The second set of amendments are new rules to set out the rights and obligations between distributors and retailers which are necessary to support the retail supply of energy to customers and include a credit support regime.

Together the National Energy Retail Law set out in the Schedule to the National Energy Retail Law (South Australia) Act 2011 (SA), the Rules and Regulations made under it and the consequential amendments to the national electricity and national gas regimes are known as the National Energy Customer Framework (the Customer Framework).

The Customer Framework will be applied in all jurisdictions which are part of the National Electricity Market, namely South Australia, Victoria, New South Wales, the Australian Capital Territory, Tasmania and Queensland as well as the Commonwealth, by application Acts. The Ministerial Council on Energy has agreed that jurisdictions will aim for a target uniform commencement date for the Customer Framework of 1 July 2012, noting that transitional legislative arrangements will be required to appropriately manage the transition process.

This Bill will amend the Australian Energy Market Act 2004 (Cth) to apply the National Energy Retail Law set out in the Schedule to the
National Energy Retail Law (South Australia) Act 2011 (SA), and the Rules and Regulations made under it, as a law of the Commonwealth in Australia's offshore area (essentially, the area from three nautical miles offshore to the edge of the continental shelf). This Bill will therefore make the Australian Energy Market Act 2004 (Cth) the Commonwealth's 'application Act' for the new national energy retail regime.

The National Energy Retail Law will be under the jurisdiction of the Australian Energy Regulator as regulator and enforcement body and the Australian Energy Market Commission as rule maker. Its primary aims are to streamline regulatory requirements, increase efficiency through regulatory harmonisation and maintain best practice consumer protection. As a result, the National Energy Retail Law is expected to facilitate an increase in retail competition by reducing regulatory complexity and lowering barriers to entry, as well as by encouraging consumers to participate in this competitive market by providing strong and equitable consumer protections across participating jurisdictions. Other key benefits of the National Energy Retail Law include an increase in efficiency and competition obtained through having national regulatory arrangements, a comprehensive suite of robust energy-specific consumer protections, and the establishment of a national Retailer of Last Resort framework.

The National Energy Retail Law incorporates an objective which mirrors the objectives in the National Electricity Law and the National Gas Law. The national energy retail objective is "to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to price, quality, safety, reliability and security of supply of energy." The alignment between the objectives of the laws governing the various sectors of the energy markets is an important foundation for the regime.

Currently each jurisdictional regime has a different regulator that makes decisions and determinations for that jurisdiction. Under the new National Energy Retail Law, the regulation of all energy retail businesses will be undertaken by a single national regulator, the Australian Energy Regulator - a Commonwealth body. This Bill provides for the extension of the Australian Energy Regulator's powers to regulate the retail energy market. The National Energy Retail Law therefore brings the whole energy supply chain – wholesale markets, transmission networks, distribution networks and now retail markets – under national regulation with the Australian Energy Regulator overseeing a robust compliance and enforcement regime across all participating jurisdictions. This crucial reform will lead to a more efficient and consistent regulatory decision-making process.

Under the National Energy Retail Law, the Australian Energy Regulator will exercise a range of regulatory functions and powers. These functions include administering a targeted compliance monitoring and enforcement regime. The enforcement regime in the National Energy Retail Law reflects and enhances the current enforcement regimes in the National Electricity Law and the National Gas Law to create a harmonised enforcement regime across the national legislative frameworks.

The National Energy Retail Law will give the Australian Energy Regulator a range of new functions and powers, suitable for the regulation of the energy retail regime. These include the power to accept enforceable undertakings from energy market participants for the first time. The national regulator will also have certain new approval functions and undertake performance monitoring and reporting functions specifically targeted to the retail energy market.

The proposed amendments to Commonwealth legislation provided for in this Bill will ensure that the Commonwealth bodies that are conferred with functions, powers and duties under the National Energy Retail Law (the Australian Energy Regulator and the Australian Competition Tribunal) are able to perform those functions and duties and exercise those powers from the commencement date. Our role in this Parliament is to facilitate this.

To this end, this Bill amends the Competition and Consumer Act 2010 (Cth) to explicitly allow the National Energy Retail Law, when applied as a law of a State or Territory, to confer functions and powers, and impose duties on these two
Commonwealth bodies. This includes, in relation to the Australian Energy Regulator, functions, powers or duties conferred or imposed under 'local energy instruments'. These are subordinate instruments made under a State or Territory law that applies the National Energy Retail Law, the National Electricity Law or the National Gas Law in its own jurisdiction.

The Bill will also provide that decisions and instruments made by the Australian Energy Regulator for the purposes of the National Energy Retail Law before it commences, such as guidelines made in accordance with the retail consultation procedure set out in the National Energy Retail Rules, will be valid and effective from the commencement of the National Energy Retail Law in this jurisdiction. The amendment Acts of other jurisdictions will contain similar provisions. It is important to provide the Australian Energy Regulator with this legislative support, so that it can undertake essential activities necessary for the commencement of the new regulatory regime.

The involvement of the Australian Energy Regulator and the Australian Competition Tribunal is therefore an essential part of this cooperative scheme, and the Commonwealth must take the lead by legislating to provide for these functions and powers to be exercised. The South Australian parliament, and indeed parliaments in all participating jurisdictions, must see that the Commonwealth is committed to this cooperative scheme.

The amendments to the Administrative Decisions (Judicial Review) Act 1977 (Cth) contained in this Bill will ensure that decisions made by Commonwealth bodies, such as the Australian Energy Regulator and the Australian Competition Tribunal, under the National Energy Retail Law, when applied as State or Territory law are subject to judicial review by the Federal Court and Federal Magistrates Court.

In summary, the amendments I am introducing today represent a significant legislative step towards a truly national energy retail regime under a national energy regulator. This cooperative scheme will ensure that Australia enjoys strong energy customer protections and the benefits of competitive and efficient energy retail markets – both electricity and gas – whilst minimising the regulatory burden on industry. This Bill has the full support of my State and Territory colleagues on the Ministerial Council on Energy.

COMPETITION AND CONSUMER AMENDMENT BILL (NO. 1) 2011

The Gillard Government has been working since day one to build up competition in the banking system and get a better deal for consumers.

In December, the Government announced a comprehensive package of new reforms to empower families, support smaller lenders and secure the flow of credit to our economy.

These build on the decisive actions we took during the global financial crisis to preserve the competitive foundations of the banking system.

Our bank guarantees supported deposit funding for smaller lenders and enabled non-major banks to raise some $65 billion in wholesale funding.

Our $20 billion investment in Triple-A rated RMBS (Residential Mortgage-Backed Securities) continues to support this critical funding market which many smaller lenders rely heavily on.

All of this means loans are there when families need to buy a home, and credit is available when a small business wants to grow.

Competition means getting these loans at a fair price – that’s our objective.

Today I introduce amendments to the Competition and Consumer Act 2010 to crack down on anti-competitive price signalling and get a better deal for consumers in the banking system.

These laws will be initially targeted at the banking sector, because the ACCC has told us there is strong evidence of banks signalling their pricing intentions to each other in a bid to undermine competition.

We’ve been very clear all along that we would only extend these laws to other sectors of the economy after further detailed consideration, with a process to be followed, outlined in the regulations.

The ACCC advised me last year that it was concerned about the behaviour of ‘some of the...
banks in signalling in advance what their response will be to a change in interest rates by the Reserve Bank’.

In the Senate Economics References Committee’s banking competition inquiry, which reported in May 2011, the ACCC gave testimony that:

‘The problem with that sort of comment – the evil of it, if you like – is that it says to the competitors, ‘If you increase your interest rates I will follow’, which means you are signalling to the competitor that if they increase their interest rates they would not need to worry about being stuck out there on their own and losing market share’.

This type of anti-competitive price signalling can be just as harmful to Australian consumers as an explicit price fixing cartel.

However, there’s a gap in our competition law which has allowed the banks to escape the full force and discipline of competition.

The ACCC provided strong advice that banks were giving each other a ‘nod and a wink’ that they would raise their rates together.

However, because they weren’t actually writing it all down and signing in blood, or even agreeing verbally how they’d act – they’d get away with it.

This kind of conduct by the big end of town should never be allowed to continue when designed to dud Australian families.

That’s why we’re closing this gap in our competition law which is already dealt with in other major jurisdictions like the US, the UK and the EU.

That’s why we’re building on our 2009 reforms to strengthen Australia’s cartel laws, by banning signalling designed to keep interest rates higher.

Our tough new laws will give the ACCC the power to take action against banks who signal their prices to competitors to undermine competition.

Policy development process

The Government has been carefully developing competition policy in this area for some time, and monitoring global comparisons.

The OECD’s Roundtables on Facilitating Practices and Information Exchanges, in 2007 and 2010, have clearly highlighted the harm to consumers that can arise from anti-competitive price signalling.

Many stakeholders in Australia strongly agree that anti-competitive price signalling is not prevented by our existing competition law.

They’ve told us that this conduct is best targeted by providing new, specific prohibitions which prevent price signalling occurring.

This is precisely the approach we have taken to provide certainty to the business community whilst ensuring robust protection for consumers.

Amendments to Competition and Consumer Act 2010

This Bill is fundamentally about stamping out conspiratorial behaviour by the big banks which isn’t caught by our competition laws.

These tough new laws have two limbs.

First, the Bill gives the ACCC the power to take action against any bank which signals its pricing intentions to a competitor for the purpose of substantially lessening competition.

We’re cracking down on banks who purposefully signal to their competitors that they should all raise their mortgage rates together.

It’s inherently damaging to consumers for any bank to essentially say to its competitors “don’t worry – if you raise your mortgage rates then I won’t undercut you and take your customers”.

It allows banks to move their interest rates higher without the full discipline of competition – and at the expense of the consumer.

This anti-competitive behaviour is an unambiguously bad result for Australian families and small businesses.

The Bill allows a court to infer the real purpose a bank has in making such a statement — so there is no need for a ‘smoking gun’.

Of course, we are not talking here about ordinary commercial communications.

Every Australian bank will be able to communicate with its customers, shareholders, market analysts, employees and other
stakeholders in the ordinary course of business – just like they have always been able to.

What we are doing here is cracking down on the insidious practice of signalling between banks which is designed to undermine competition and which inevitably hurts consumers.

The second limb of the law will prevent banks from discussing their prices with each other behind closed doors, where doing so is not in the ordinary course of business.

I note that ‘ordinary course of business’ is a wide term, found elsewhere in the Competition and Consumer Act 2010 and in other laws. For the information of Parliament, it is not necessary that the person or company has engaged in the relevant conduct in the past, or for the conduct to have been regularly or routinely undertaken by that business, or other participants in the industry.

This prohibition is targeted at those disclosures which are the most clearly anti-competitive and which are most damaging to consumers.

For example, the ACCC could take action if one bank phones another bank privately to tell them about a planned mortgage interest rate rise.

Of course, the Bill recognises there will be situations where banks need to discuss pricing with their competitors in a private context.

Exceptions and defences

We recognise that businesses need certainty and appropriate guidance so that they can conduct legitimate activities on commercial timeframes – and keep providing services to customers.

That’s why we have worked closely with the ACCC since mid-2010 to carefully design these amendments, and have consulted extensively on draft legislation with the industry, legal experts and other stakeholders.

The Bill introduced in the House in March had a number of specific exceptions, for example in relation to, continuous disclosure obligations, joint ventures, and disclosures to acquirers or suppliers of goods or services.

In the House, the Government moved amendments so that further exceptions are provided that give clear guidance to business about what conduct is, and is not, subject to the prohibitions.

More specifically, an additional exception will provide banks with certainty that certain disclosures made in the context of corporate workout arrangements will not be subject to the private disclosure of pricing information prohibition.

The Government recognises that it is important that banks assist financially distressed businesses in avoiding insolvency. A new, explicit exception will be provided for banks that make certain private disclosures of price related information to a competitor if the purpose of the disclosure is for considering whether or not to take measures to return a borrower to solvency, or to avoid or reduce the risk of the borrower becoming insolvent.

Also, an exception from the outright prohibition has been provided for in relation to syndicated lending arrangements, which may not otherwise have been exempt from this prohibition through the application of the joint venture exception. This exception provides lenders surety that they can continue to engage in discussions for the purposes of syndicated loan arrangements.

In addition, the Government has provided an exception for distribution arrangements related to consumer credit arrangements. To provide businesses with certainty, this exception draws upon existing, defined terms in the National Consumer Credit Protection Act 2009.

This means that banks will be able to go ahead and get on with the business of lending provided they aren’t being anti-competitive.

The Bill contains arrangements for banks to seek immunity where their conduct provides a net public benefit to the community.

This allows legitimate conduct to occur where it’s not covered by one of the other explicit exemptions - some of which I’ve just mentioned.

Following consultation with the business community, the Bill now includes a ‘notification’ regime to meet shorter commercial timeframes.

Where a bank can demonstrate a net public benefit, they can obtain immunity by describing the conduct to the ACCC in a notice.

The ACCC then has a limited period of 14 days to respond if it has any concerns about the proposed behaviour.
This is significantly faster and more cost effective than the ‘authorisation’ process that we had originally discussed with the business community.

**Conclusion**

The Bill I introduce today strikes an appropriate balance between allowing legitimate or pro-competitive conduct, and cracking down on anti-competitive price signalling which harms consumers.

This important reform will help to ensure that banks can no longer avoid the full forces of competition in the marketplace.

The Gillard Government is absolutely committed to getting a better deal for Australian families and small businesses in the banking system.

The laws I introduce today are an important part of that.

**COMPETITION AND CONSUMER LEGISLATION AMENDMENT BILL 2011**

**Introduction**

The Competition and Consumer Legislation Amendment Bill 2011 will give effect to two important reforms to strengthen and clarify our competition and consumer laws.

First, the Bill will enact laws to deal with creeping acquisitions by amending section 50 of the Competition and Consumer Act 2010 (CCA).

The amendments will give greater clarity to the provisions regulating mergers and acquisitions. They will ensure the Australian Competition and Consumer Commission (ACCC) and the courts have the power to reject mergers and acquisitions that would substantially lessen competition in any local, regional or national market.

The Bill also enhances and simplifies the unconscionable conduct provisions of the Australian Consumer Law and the Australian Securities and Investments Commission Act 2001.

The unconscionable conduct amendments are central to the implementation of uniform consumer laws throughout Australia. They were agreed by the Ministerial Council on Consumer Affairs (now the COAG Legislative and Governance Forum on Consumer Affairs) at its meeting in Perth on 30 April 2010.

These amendments clarify the Parliament’s intention as to how the unconscionable conduct law should apply. They will place the ACCC and the Australian Securities and Investments Commission (ASIC) in a better position to take more effective enforcement action.

I would like to recognise the valuable work of my predecessor, the former Minister for Competition and Consumer Affairs, the Hon Dr Craig Emerson MP, in developing this Bill prior to its previous introduction.

The Government previously introduced this Bill into the Parliament on 27 May 2010. The Bill was referred to the Senate Economics Committee, which recommended that the Bill be passed.

The Bill passed the House of Representatives on 24 June 2010 and was awaiting introduction into the Senate when the 2010 Election was called, causing the Bill to lapse.

**Creeping Acquisitions**

Creeping acquisitions are a series of small-scale acquisitions that, individually, do not substantially lessen competition in a market, but collectively may do so over time.

Concerns about creeping acquisitions were raised in the context of the ACCC’s report of the inquiry into the competitiveness of retail prices for standard groceries. In its report, while noting that such acquisitions do not appear to be a significant current concern in the supermarket retail sector, the ACCC expressed its support for the introduction of a general creeping acquisitions law.

Subsequently the Government undertook extensive public consultations in 2008 and 2009 to seek the community’s views on possible reform options. Through its consultations, the government identified two amendments which would clarify the operation of section 50 as applying in the way it is currently interpreted by the ACCC, as set out in its November 2008 publication, Merger Guidelines.

The first amendment in the Bill will amend subsections 50(1) and (2) of the Competition and Consumer Act to replace references to ‘a market’
with references to ‘any market’. This amendment will clarify the ability of the ACCC or a court to consider multiple markets when assessing mergers and acquisitions.

The amendment will clarify that businesses cannot challenge a decision to block a proposed acquisition on the grounds that the substantial lessening of competition identified was in one or more markets other than the primary market relevant to the merger or acquisition.

The ACCC and the courts will be able to consider the totality of the competitive effects resulting from an acquisition, including impacts in upstream and downstream markets, not just impacts in ‘a market’.

The Bill also amends subsection 50(6) of the Competition and Consumer Act. That subsection has the effect of limiting the scope of section 50 to acquisitions in markets that are ‘substantial’ in a state or territory or region of Australia.

The amendment to this subsection will provide greater certainty regarding the current practice of the ACCC of considering acquisitions in local markets. The Merger Guidelines state that the ‘substantiality criterion’ can be satisfied in many ways, including by the number of customers, total sales or the geographical size of the market.

The Merger Guidelines do not have the force of law. While the interpretation of the ACCC of subsection 50(6) has not been tested by the courts, it was considered by Justice French in his 2003 decision in the Federal Court in the case of Australian Gas Lighting Company v ACCC.

While expressing no conclusive view, his Honour left open the possibility that whether a market is considered ‘substantial’ under subsection 50(6) may be determined with reference to Australia as a whole. If this view were to become established in law through the accumulated weight of legal precedent over time, then it could well preclude acquisitions in geographically confined markets from being considered under section 50. This would prevent the application of section 50 to local markets where creeping acquisitions have been identified as a concern.

The Bill deletes the word ‘substantial’ from subsection 50(6). This removes the risk highlighted by Justice French that a court could in the future adopt the view that acquisitions in geographically confined markets may not be considered substantial and therefore not fall within the scope of section 50.

The government’s amendment to section 50 will remove that possibility, allowing the ACCC or a court to continue to examine acquisitions in all markets, including in relatively small, local markets.

Together, these amendments will strengthen the acquisitions provisions of the Competition and Consumer Act under section 50 by clarifying the scope of the law and increasing certainty around its application to markets where creeping acquisitions have been a concern.

In addition to these amendments, when announcing the way it would respond to concerns about creeping acquisitions, the government also confirmed the power of the ACCC to act in relation to the acquisition of greenfield sites.

The ACCC already considers it has the power to review acquisitions of greenfield sites whether through purchase or lease. However, if the ACCC is challenged on this in the future, the government has stated it will not hesitate to confirm this power.

These amendments were agreed with the States and Territories under the intergovernmental Conduct Code Agreement 1995.

Unconscionable conduct
The amendments the Bill will make to the unconscionable conduct provisions of the Australian Consumer Law are the product of a recommendation of the Senate Economics Legislation Committee, which inquired into the statutory definition of unconscionable conduct in 2009.

The Senate Economics Committee recommended that the government set up an inquiry process to determine whether examples or a statement of principles would enhance the unconscionable conduct provisions of the Australian Consumer Law.

On 5 November 2009, Minister Emerson convened an expert panel to consider the issues raised in the Senate Economics Committee inquiry. Professor Bryan Horrigan, Mr Ray Steinwall and Mr David Lieberman—all of them
experts in competition and consumer law and distinguished in their professional fields—agreed to serve on the panel.

The government is grateful for the work of the panel—which included many hours on top of their already busy schedules. In its work, the panel was assisted by officials from the Treasury and the Department of Innovation, Industry, Science and Research.

The government is also grateful to those who made submissions to both the Senate committee and to the expert panel. This helped to ensure the range of perspectives that exist in relation to this issue were understood.

The expert panel found that the unconscionable conduct provisions have been regularly enforced since their inception, and that the case law is still developing.

Having said that, the panel also noted that the provisions are not easily understood and could be clearer for businesses, consumers, enforcement agencies and the courts. However, the panel found that a list of examples of unconscionable conduct would not be helpful. Indeed, the panel said such a list might give rise to misguided expectations about the scope and application of the law to specific factual scenarios.

Instead, it recommended the inclusion of some interpretative principles in the unconscionable conduct provisions. The government has adopted all of the panel’s recommendations concerning unconscionable conduct, including the introduction of interpretative principles.

The first principle will deal with concerns that the practical application of the equitable concept of unconscionable conduct is too narrow when applied to business and consumer relationships. Courts have tended to stick closely to the traditional equitable concept when applying the statutory prohibitions that were sections 51AB and 51AC of the former Trade Practices Act (now sections 21 and 22 of the Australian Consumer Law) and sections 12CB and 12CC of the ASIC Act.

For example, the common law required victims of unconscionable conduct to establish that they were at a ‘special disadvantage’ through factors like infirmity, age or a difficulty understanding English, before a court would recognise that unconscionable conduct had occurred. The present statutory prohibitions on unconscionable conduct sought to remove limitations such as these on the ability of people to seek redress when subjected to unconscionable conduct.

The Bill amends the law to make it clear that the prohibition is not limited to the equitable or common law doctrines of unconscionable conduct. The courts should not limit the application of the provisions by reference to ancient common-law doctrines that are not part of the statute.

The second interpretative principle will clarify that courts can examine the terms and the manner and extent to which the contract is carried out. This principle makes it clear that unconscionable conduct is not limited to the bargaining practices leading to the formation of a contract.

Unconscionable conduct can also be apparent in the way in which a party exercises its rights under a contract or in the way in which a party behaves once a contract is made. It can also apply to the way in which contracts are renewed, renegotiated or terminated.

This interpretative principle will ensure that any unconscionable conduct—not just that occurring before contracts are made—is subject to the full force of the law.

The final interpretative principle to be introduced by the Bill is that the prohibition on unconscionable conduct applies to systemic conduct or patterns of behaviour and that there is no need to identify a person at a disadvantage in order to attract the prohibition.

Unconscionable conduct is not limited to individual transactions or events. A pattern of systematic conduct or patterns of behaviour occurring over a period of time—which might include an accumulation of minor incidents—can also amount to unconscionable conduct.

This interpretative principle ensures that conduct, rather than individual transactions or events, is the focus of the provisions.

Further, as the focus is on the conduct rather than the victim, this principle reinforces the point being made in the first interpretative principle.
that there is no need to identify a person who is at a disadvantage in order to enforce the prohibition.

Other amendments

The Bill will also remove the distinction in the existing provisions between unconscionable conduct that affects businesses and that which affects consumers.

It combines the existing sections 21 and 22 of the Australian Consumer Law and sections 12CB and 12CC of the ASIC Act, respectively, into one section and rationalises their drafting to apply a single set of specific factors which the court may consider.

This amendment will eliminate the potential that the concept of unconscionable conduct in the two existing provisions could diverge, through a false assumption that the existence of two provisions signals a distinction in policy. Any divergence has the potential to lead to confusion, and the distinction should be removed before any such notion develops.

The amendments will also ensure that a single, cogent body of legal precedent can develop around the statutory concept of unconscionable conduct as it applies to both consumers and businesses.

The application of the Australian Consumer Law as a law of the Commonwealth and of the states and the territories has many advantages, one of which is that it can be enforced by courts at all levels in a consistent fashion.

In some states and territories the courts, including lower courts and tribunals, will be applying the prohibition on unconscionable conduct for the first time. Providing clarity in the interpretation of these provisions will do much to ensure the consistent application of our new, national consumer law across Australia.

I can also inform the chamber that the Ministerial Council for Corporations was consulted in relation to the amendments to the laws in the national corporate regulation scheme, namely the amendments to the ASIC Act, and they have been approved as required under the Corporations Agreement.

I should also note that the Bill corrects a small number of drafting errors in the Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010.

Conclusion

Together the amendments contained in this Bill will bring greater clarity and certainty to the application of key provisions of our competition and consumer laws.

The amendments to section 50 will ensure that the ACCC and the courts can assess the totality of the competitive effects associated with acquisitions which occur in geographically confined, local markets.

The amendments to the unconscionable conduct provisions will ensure there is a much clearer understanding of the conduct that these provisions have always been intended to address. The amendments will protect Australian small businesses, but without creating market distortions which would only reduce their competitiveness and their resilience.

The amendments will protect consumers by ensuring that competition is protected and fostered. They will strengthen the prohibition against conduct that is designed to stifle competition through the imperceptible development of market dominance or through unconscionable business conduct.

SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT BILL 2011

This Bill contains a range of measures relating to income support and veterans' affairs payments, and disability advocacy services, including two Budget 2011-2012 measures, and one Budget 2009-2010 measure.

Disability Support Pension – Impairment Tables

The Disability Support Pension is an essential element of Australia's safety net but it is vital that it supports the people who need it—those Australians who, through disability, are unable to work to fully support themselves.

It is essential that the level of someone's impairment is assessed using the most up to date medical information.

The current Impairment Tables used in Disability Support Pension assessments were last comprehensively reviewed in 1993 and are no
longer consistent with contemporary medical and rehabilitation practices.

Over the years this has led to anomalies and inconsistencies which have distorted the assessment process.

For example, when hearing impairment is assessed, a person with a hearing aid is not required to wear it but someone who is having their sight impairment assessed must wear their glasses.

In the 2009-10 Budget the Government committed to updating the Impairment Tables. This is an important element of the Government's reforms to the Disability Support Pension to make it simpler, fairer and sustainable for those who need it.

An Advisory Committee of medical, allied health and rehabilitation experts, disability advocates, mental health advocates and relevant Government agencies was established in 2010 to provide advice on updating the Impairment Tables. Following a rigorous process, the Advisory Committee has provided a final report and draft revised tables to the Government.

The Bill removes the current outdated Impairment Tables from 1 January 2012, and enables new Impairment Tables to be introduced through a legislative instrument.

The draft legislative instrument that contains the revised tables, based on the advisory committee's report, will be released shortly for public comment.

Putting the Impairment Tables in a legislative instrument allows them to be updated regularly in response to developments in medical or rehabilitation practice.

These revised tables have been developed following extensive consultation, and ongoing consultation will occur as they are implemented.

Disability advocacy services

The Bill also introduces a stronger quality assurance system for disability advocacy services to ensure people with disabilities receive the best possible advocacy support.

The current quality assurance system has not changed since 1997, and the need for improved quality assurance for disability advocacy services has been highlighted in a number of reviews.

The Bill introduces mechanisms independent from government to assess the compliance of disability advocacy services against Disability Advocacy Standards.

Development of a robust, quality assured disability advocacy sector will help meet the objectives of the National Disability Strategy, and will also help meet Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities.

The third-party certification quality assurance system this Bill introduces has been successfully in place for disability employment services since 2002. It involves people with disability at all levels in the system, including as members of audit teams.

The new quality assurance system has been successfully trialled and independently evaluated in consultation with the disability advocacy services sector. The evaluation recommended formal implementation.

Changes to income support payments

This Bill also makes a number of changes to the social security law, and veterans' affairs legislation, in relation to Bereavement Allowance and Special Benefit, and the income and assets tests.

The Bill gives effect to a Budget 2011-2012 measure to enable Parenting Payment recipients to access Bereavement Allowance following the death of a partner. Historically, there was no financial advantage in transferring between these payment types. However, the introduction of the Government's Secure and Sustainable Pension Reform package in September 2009 saw a substantial increase to the rate of some pensions, including Bereavement Allowance. Allowing a Parenting Payment recipient to transfer to Bereavement Allowance for a 14-week period, on the death of their partner, will provide additional financial assistance during a difficult time.

The Bill also gives effect to another Budget 2011-2012 measure, to more closely align the rules for accessing Special Benefit for Provisional Partner Visa holders with the rules for other newly arrived migrants.
From 1 January 2012, a class of visa holders determined by legislative instrument will be required to wait two years to be eligible for Special Benefit. This rule will not apply if the visa holder is able to demonstrate that there has been a substantial change in their circumstances after their arrival in Australia and they are in hardship.

Under current policy, Provisional Partner Visa holders are able to access Special Benefit from when they are granted the visa and are in Australia if they can demonstrate they are suffering from 'financial hardship'.

This is not consistent with other newly arrived migrants subject to the Newly Arrived Residence Waiting Period, who need to demonstrate both 'financial hardship' and 'change in circumstance outside of their control' in order to access Special Benefit.

Under these changes from 1 January 2012, Provisional Partner Visa Holders will need to demonstrate they have experienced a 'substantial change of circumstances beyond their control' in order to access Special Benefit.

These changes reflect the community's expectation that new migrants to Australia should be able to support themselves, or be supported by their families and partners unless they are impacted by circumstances outside of their control.

The new arrangements continue however, to ensure adequate protection for vulnerable migrants on Provisional Partner Visas, for example where there is domestic violence, death of a partner or an injury or accident after their arrival in Australia.

The Bill also makes changes to the social security law and veterans' entitlements legislation to enhance the integrity of certain asset-test exempt income streams. These amendments strengthen the existing rules that require lifetime and life expectancy income streams to provide an annual actuarial certificate, in order to gain the benefit of concessional treatment under the social security assets test and the Veterans' Entitlements Act, it is required that an actuary certifies that there is a high probability that the provider of the income stream will be able to pay the income stream for its full term.

Currently, some social security customers, after submitting an actuarial certificate that fails to meet the high probability test, later seek to replace this initial certificate with a more favourable certificate that meets the high probability test, a number of times within a financial year.

This Bill clarifies that customers can only give the Secretary (or the Repatriation Commission) one actuarial certificate for each financial year to show that the fund has sufficient resources to pay an income stream for its term.

In the event that a person submits more than one certificate for a particular financial year, only the first certificate given will have effect, not any of the subsequent certificates.

The amendments in this Bill also address inconsistencies in the treatment of these income streams that have arisen over time.

Finally, the Bill also makes amendments to the social security law to clarify that payments made by an employer to an employee in lieu of notice of the termination of his or her employment are 'redundancy payments' for the purposes of social security law. This ensures that, in calculating income maintenance periods under the Act, people who receive these payments are treated the same as people who receive other types of redundancy payments.

**TAX LAWS AMENDMENT (2011 MEASURES NO. 6) BILL 2011**

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

Schedule 1 exempts the outer regional and remote payments made under the Better Start for Children with Disability initiative from income tax.

This amendment is important for families with disabled children in regional Australia. The Better Start for Children with Disability initiative...
provides funding for early treatment of disabled children. This is important because treating disabled children early in their lives is shown to be more effective than later treatment. Children with disabilities such as sight and hearing impairments, cerebral palsy, Down syndrome or Fragile X syndrome will now have a better start to life under this initiative.

The outer regional and remote payments, made under the Better Start for Children with Disability initiative, are payments of $2,000 available to families in rural Australia. This will support these families who often have to travel long distances and spend extra money to access services for their disabled children.

One-off payments, like the outer regional and remote payments, are often considered income for taxation purposes. The outer regional and remote payments provide important help to regional families. These payments should not be taxed. This amendment ensures that the payments will not be taxable income.

Schedule 2 provides an exemption from fringe benefits tax for transport, from an employee’s usual place of residence to their usual place of employment, where the employee is an Australian resident employed in a remote area overseas. This arrangement is commonly known as a fly-in fly-out arrangement.

This exemption will ensure that Australian residents working for Australian employers in remote areas on fly-in fly-out arrangements are taxed consistently, regardless of whether they are working in Australia or overseas, as well as eliminating any possibility of double taxation on such benefits.

The measure will apply to fringe benefits provided after 1 July 2009, when Australian residents working in remote areas overseas potentially became assessable on their foreign employment income.

Schedule 3 amends the list of deductible gift recipients (DGRs) in the Income Tax Assessment Act 1997. Taxpayers can claim income tax deductions for certain gifts to organisations with DGR status. DGR status will assist the listed organisations to attract public support for their activities.

Schedule 3 primarily adds two new organisations to the 1997 Income Tax Assessment Act, namely, the New Zealand Government’s Christchurch Earthquake Appeal and the Cancer Australia Gift Fund. The New Zealand Government established the Christchurch Earthquake Appeal to help the communities, families and people of Christchurch and the Canterbury region in the wake of the devastating earthquake which hit Christchurch on 22 February 2011. Listing the fund allows Australians to donate directly to the fund and claim a tax deduction.

The Government announced the amalgamation of the National Breast and Ovarian Cancer Centre with Cancer Australia on 15 June 2010. The listing of the Cancer Australia Gift Fund is to allow funds to be used to work directly with stakeholders to improve breast cancer outcomes for women, reduce mortalities from breast cancer, and improve the wellbeing of women diagnosed with the disease.

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.

Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011
Offshore Petroleum (Royalty) Amendment Bill 2011

First Reading

Bills received from the House of Representatives.

Senator JACINTA COLLINS: 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 JACINTA COLLINS
(Victoria—Parliamentary Secretary for School Education and Workplace Relations)
(12:53): I present two revised explanatory memoranda 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—

OFFSHORE PETROLEUM AND GREENHOUSE GAS STORAGE AMENDMENT (NATIONAL REGULATOR) BILL 2011

This Bill amends the Offshore Petroleum and Greenhouse Gas Storage Act 2006 (the OPGGS Act) to establish a national offshore regulator of safety, integrity and environmental management of petroleum and greenhouse gas storage activities in Commonwealth waters. A national offshore titles administrator will also be established through amendments in this Bill to administer titles in Commonwealth waters.

This is the principal Bill in a package of complementary amendment bills, which I will be introducing in this session. This Bill will largely implement the Government’s response to the 2009 Productivity Commission’s Review of Regulatory Burden on Upstream Petroleum (Oil and Gas) Sector. The Productivity Commission’s principal recommendation to reduce unnecessary burden on the industry was the establishment of a national offshore petroleum regulator.

The Report of the Montara Commission of Inquiry of June 2010 recommended, amongst other things, that the proposal to establish a national offshore petroleum regulator should be pursued at a minimum.

The Montara Commission specifically recommended the establishment of a single, independent regulatory body looking after safety as a primary objective in addition to well integrity and environmental management.

The 2008 Varanus Island pipeline explosion and the 2009 Montara oil and gas blowout highlighted the need for improvement in the regulatory regime to be robust and seamless. The existing regulatory arrangements are complex, disjointed, and involve inconsistent administration, including regulatory duplication across governments. These inadequacies largely stem from the risk of regulatory gaps arising from the regulation of safety and integrity being separate from the regulation of environment and day-to-day operations. Maintaining the current arrangements is not a credible option in light of the Productivity Commission Review and the Report of the Montara Commission of Inquiry.

In 2009, the Productivity Commission identified a significant unnecessary regulatory burden on the industry. The system is burdensome, slow and lacks consistency across jurisdictions. Currently, the Commonwealth Government has responsibility for petroleum operations in Australia’s offshore areas beyond three nautical miles; however the day-to-day regulation is undertaken by the Designated Authority (DA) in each state and the Northern Territory. This system requires seven separate Designated Authority regulators for Commonwealth waters around Australia, resulting in an inefficient approach to regulation. With the reforms contained in this package of legislative amendments the Government is replacing the seven Designated Authorities with an integrated regulatory system, promoting consistency and efficiency across Commonwealth waters.

The administration of titles will be centralised in the new National Offshore Petroleum Titles Administrator (NOPTA), which will replace the Designated Authority system currently in place for Commonwealth waters. However, the Joint Authority, which comprises the Commonwealth Minister and the relevant state or Northern Territory (NT) Minister, will be retained as the decision maker for key petroleum title decisions.

Retaining the Joint Authorities for petroleum titles ensures that each state and the Northern Territory continues to have a role in decision making on key petroleum projects in Commonwealth waters that could impact the individual state or territory. NOPTA will make recommendations to the Joint Authorities on key title decisions as well as administer titles and
collect data relating to petroleum and greenhouse gas storage activities in Commonwealth waters.

As is currently the case, the responsible Commonwealth Minister’s view would prevail in the event of a disagreement. The Commonwealth Minister will also remain the decision maker for greenhouse gas storage titles. States and the Northern Territory will have an option to confer their administrative powers in their coastal waters on NOPTA.

The existing National Offshore Petroleum Safety Authority’s (NOPSA) functions are to be increased to complement their expanded responsibility for well-integrity regulation which this Parliament passed last year. A single national offshore petroleum regulator will ensure only one agency regulates the safety of Australia’s offshore petroleum workers and the environment, from exploration through to decommissioning. Safety, environment protection and day to day operational consents are all concerned with integrity and it is essential that they be regulated in an integrated manner. The expanded authority will be known as the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA).

In developing these reforms, the Australian Government has undertaken significant stakeholder consultation over the last 15 months, with states and the Northern Territory, as well as with NOPSA and the industry. As with NOPSA currently, both NOPTA and NOPSEMA will be based in Perth, convenient for the oil and gas industry, and will operate on a full cost recovery basis. This approach is consistent with the Australian Government’s policy on cost recovery and will help ensure minimal cost regulatory and burden to industry.

These cost recovery arrangements will be reviewed regularly, in consultation with the industry. The establishment costs of NOPTA and NOPSEMA will also be cost recovered, through the existing registration fees, paid by the industry on transfers and dealings of offshore titles. Once the establishment costs of NOPSEMA and NOPTA are fully recovered, currently expected in 2013, these fees will be scrapped – representing a significant cost saving for the industry.

Additionally, these reforms also deliver on the Government’s commitment to the Council of Australian Governments (COAG) reform priorities. COAG’s National Partnership Agreement to Deliver a Seamless National Economy includes milestones to implement the agreed Productivity Commission recommendations and remove unnecessary burdens on industry.

The offshore oil and gas industry is vital to sustaining our country’s economic prosperity and security. By passing this bill, together with the other complementary bills, will help deliver on the Government’s commitment to ensuring the Australian community’s confidence in the regulation of the offshore petroleum industry by ensuring operating standards are the best and safest in the world.

The reforms put forward through these Bills will help streamline Australia’s regulatory system, ensuring Australia’s continuing competitive advantage for the necessary investment in Australia’s offshore oil and gas industry to develop our resources for all Australians.

**OFFSHORE PETROLEUM (ROYALTY) AMENDMENT BILL 2011**

This Bill is to make consequential amendments to the Offshore Petroleum (Royalty) Act 2006 (the Royalty Act).

The amendments are a result of the Offshore Petroleum and Greenhouse Gas Storage Amendment (National Regulator) Bill 2011, which establishes a National Offshore Petroleum Titles Administrator (NOPTA) and the National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA). NOPTA will advise the Joint Authorities on key petroleum title decisions and administer titles and collect and release data. NOPTA will replace the seven Designated Authorities as the administrator of day-to-day petroleum activities in Commonwealth waters.

To reflect this reform, this bill amends the Royalty Act to replace references to the Designated Authority with the Titles Administrator. The Bill has no impact on the
level of royalties paid by industry or on the sharing of those royalties with Western Australia.

Senator JACINTA COLLINS: by leave—I move:

That these bills and the Offshore Petroleum and Greenhouse Gas Storage (Registration Fees) Amendment Bill 2011 and related bills be taken together for their remaining stages.

Question agreed to.

Debate adjourned.

COMMITTEES
Legal and Constitutional Affairs Legislation Committee
Foreign Affairs, Defence and Trade Legislation Committee
Finance and Public Administration Legislation Committee

Report

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (12:54): Pursuant to order and at the request of the chairs of the respective committees, I present reports on legislation from the Legal and Constitutional Affairs Legislation Committee, the Foreign Affairs, Defence and Trade Legislation Committee and the Finance and Public Administration Legislation Committee as listed at item 9 on today's Order of Business, together with the Hansard records of proceedings and documents presented to the committees.

Ordered that the reports be printed.

BUSINESS
Consideration of Legislation

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (12:55): I move:

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

No. 4—Indigenous Education (Targeted Assistance) Amendment Bill 2011
No. 5—Statute Stocktake Bill (No. 1) 2011
No. 1—Carbon Credits (Carbon Farming Initiative) Bill 2011, Carbon Credits (Consequential Amendments) Bill 2011, Australian National Registry of Emissions Units Bill 2011.

Question agreed to.

BILLS
Indigenous Education (Targeted Assistance) Amendment Bill 2011

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator SCULLION (Northern Territory—Deputy Leader of The Nationals) (12:56): I rise today to make a contribution to the debate on the Indigenous Education (Targeted Assistance) Amendment Bill 2011. This is non-controversial legislation in the sense that we support the bill. The bill fundamentally deals with two programs: one is the Sporting Chance Program and the other is the Indigenous Youth Mobility Program. These programs have done a very good job in reconnecting Aboriginal people with their schools and their sport. They have certainly increased not only their participation but their success rates in their chosen endeavours. Like many issues in this area, the sad thing is that the bill provides only a further 12 months of funding.

The reason we support these two programs is that fundamentally they are legacy programs from the previous government, and I commend the government for recognising and maintaining those. But the budget is only for an extra 12 months, which beggars belief when this is such good work. Of course, work comes from people. Policy does not just roll out of a machine and these programs end up getting run. You have to...
make an investment in staff to run these programs. And of course those staff, again, are not machines. They have mortgages; they have to have some security of tenure. We have now been issued another 12 months—well, jolly good. Times are pretty tough out there and it is very important that the individuals who are part of these programs, particularly the staff of the Sporting Chance and the Indigenous Youth Mobility programs, have a much longer tenure than the 12 months that have been indicated here.

This appears to be symptomatic. Just last week I was speaking to some individuals who run a dialysis service in the Western Desert. They have eight dialysis machines without which those in the Western Desert with renal failure simply could not cope. They have a funding extension of six months.

I am not quite sure why the government is taking this course, but it is taking away people's security in thinking: 'I can stay in this job. It is a career. It's not just a casual job where I have six months tenure.' In areas like dialysis and working with young people we need the people who are delivering these very important programs to know that they have a sustainable future in those programs. Sadly, whilst we support the bill, this is just another example of the lack of recognition of that issue.

Senator JACINTA COLLINS
(Victoria—Parliamentary Secretary for School Education and Workplace Relations)
(12:59): I thank Senator Scullion for his contribution to this debate on the Indigenous Education (Targeted Assistance) Amendment Bill 2011. We believe that the passage of this bill will provide important support for Aboriginal and Torres Strait Islander students. I would ask Senator Scullion to refer to the explanatory memorandum, which explains quite clearly that the government's intention is to align these programs with the review of school funding that is occurring. There is no deliberate attempt to provide difficulty with the tenure of these programs and I am sure Senator Scullion is aware that we are conducting a comprehensive review of school funding initiatives. I also cannot help but note that he comes from the coalition that supported Work Choices, which had perhaps the most profound impacts on employment tenure.

Senator SCULLION
(Northern Territory—Deputy Leader of The Nationals)
(13:00): Mr Acting Deputy President, I seek leave to make a short statement.

The ACTING DEPUTY PRESIDENT (Senator Mark Bishop): Leave is granted for two minutes.

Senator SCULLION: For the record, the minister has indicated that this is all part of a review. We know that the government is very focused on significant outcomes like declaring reviews, but by the government's own admission it would know that this review is focused on all of the mainstream programs. By its own admission, it has said there may be some implications. So, to stand in this place and say, 'This is a review; it's all part of the process,' and to bang on hopelessly about Work Choices reminds me of those people who desperately reach for the Work Choices lever. This is the panic button of politics. 'Some implications' is no excuse not to provide longer term funding and future planning for successful programs. That is what we need and that is not what the government has provided.

Question agreed to.

Bill read a second time.

Third Reading

The ACTING DEPUTY PRESIDENT: As no amendments to the bill have been circulated I shall call the minister to move
the third reading unless any senator requires that the bill be considered in the committee as a whole. There being none, I call the parliamentary secretary.

**Senator JACINTA COLLINS:** I move: That this bill be now read a third time.
Question agreed to.
Bill read a third time.

**Statute Stocktake Bill (No. 1) 2011**

**Second Reading**

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

**Senator CORMANN** (Western Australia) (13:02): The purpose of the Statute Stocktake Bill (No.1) 2011 is to repeal 39 redundant special appropriations relating to the Commonwealth's financial framework. This includes the repeal of one statutory special account and 25 redundant acts in their entirety. This is a housekeeping bill and has no material consequence in relation to the provision of government programs, funding or new policy. It is part of an ongoing bipartisan commitment to clean up the statute book and it has occurred through five previous financial framework legislation amendment acts between 2005 and 2010, as well as the Statute Stocktake (Regulatory and Other Laws) Act 2009.

Examples of the types of redundant legislation that this bill seeks to repeal include the Papua New Guinea Loan (International Bank) Act 1974, which related to the Commonwealth's guarantee of a loan that PNG took out with the International Bank for Reconstruction and Development and which has since been repaid. It also includes the State Grants (Special Assistance to South Australia) Act 1960, which granted financial assistance to South Australia during the 1959-60 financial year, with the appropriation having long since been spent.

This is a noncontroversial bill. It is a bill the coalition supports. It raises the question though: how many other redundant bills are still on our statute books as we speak today? Hopefully, not only will this work be continued, it also will be accelerated. It is good housekeeping by the parliament.

**Senator JACINTA COLLINS** (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (13:04): I thank Senator Cormann for his contribution to the debate on the Statute Stocktake Bill (No.1) 2011. The bill, if passed, will abolish 39 special appropriations, including a statutory special account, by repealing redundant provisions in 11 acts and repealing 25 acts in their entirety. This reflects the government's commitment to enhancing transparency and accountability in the Commonwealth's financial framework, as consistent with the government's response to Operation Sunlight.

Question agreed to.
Bill read a second time.

**Third Reading**

**The ACTING DEPUTY PRESIDENT:** As no amendments to the bill have been circulated I shall call the minister to move the third reading unless any senator requires that the bill be considered in the committee as a whole. There being none, I call the parliamentary secretary.

**Senator JACINTA COLLINS:** I move: That this bill be now read a third time.
Question agreed to.
Bill read a third time.
Thursday, 18 August 2011 SENATE 4837

Carbon Credits (Carbon Farming Initiative) Bill 2011
Carbon Credits (Consequential Amendments) Bill 2011
Australian National Registry of Emissions Units Bill 2011

In Committee
Debate resumed.

CARBON CREDITS (CARBON FARMING INITIATIVE) BILL 2011

The TEMPORARY CHAIRMAN (Senator Mark Bishop): The committee is considering the Carbon Credits (Carbon Farming Initiative) Bill 2011 and government amendment (1) on sheet BR247.

Senator BIRMINGHAM (South Australia) (13:05): It is good to be back here again on the Carbon Credits (Carbon Farming Initiative) Bill 2011 and back on this amendment. The debate on this amendment was hopefully drawing to a close before we concluded our time for government business yesterday. I indicated at that time that the coalition think that this is a very important amendment and we are extremely concerned that the comments of the government senators suggest that they do not take this amendment as seriously as they should. While it is an amendment being moved by the government, it was an issue championed by the coalition. It was an amendment initially put on the list of amendments by the coalition and we welcome the fact that the government chose to embrace it, that it accepted there are genuine stakeholders interested in this amendment. The farming community and the National Farmers Federation in particular have been advocating for it. But what concerns us is that the government appears to treat the substance of this amendment with disregard. The minister came in here on Tuesday and tabled draft regulations that flow from clause 56 of the bill that this amendment is seeking to add an extra paragraph to. He tabled those regulations, which create what is known in the carbon farming bill, colloquially at least, as the 'negative list'—the list of the kinds of projects that are not allowed. And those projects are not allowed for fear of there being adverse consequences as a result of those projects going ahead. There are four different criteria in the existing bill for those adverse consequences as a result of those projects going ahead. Those criteria deal with matters such as access to water, biodiversity considerations, employment considerations and the impact on the local community. And those four criteria are very valid considerations indeed.

We sought, because stakeholders had a concern, to add a fifth criterion— that fifth criterion being this amendment to add the consideration of any adverse impacts on land access for agricultural production. We sought to do that to ensure that there was some certainty of the matter with regard to how this bill would operate and to make sure that it would not see a loss of prime agricultural land in Australia from agricultural production. We think that, as a major food producing nation, that is absolutely critical. We think that, as a country that has both an opportunity and a responsibility to grow our food production in the future, that is absolutely critical. And we think that, in terms of the original four criteria for potential adverse consequences, this fifth criterion is equal to if not more important than the other four. So I was concerned when the minister indicated that he could not point to anything in the draft regulations—

Senator Ludwig: I've heard this before!

Senator BIRMINGHAM: Minister, I was graciously giving you time to get to the chamber!
Senator Ludwig: This is the third time you have made this speech!

Senator BIRMINGHAM: And I did note that I was hoping this was concluding the debate on this amendment.

Senator Ludwig: I will be quiet then.

Senator BIRMINGHAM: Thank you very much, Minister. We do note that the minister has indicated that he believes the regulations do not require changing to reflect this amendment, do not need anything extra. We do not think that is good enough. We think that there is good cause to make sure that the regulations creating the negative list in this carbon farming bill reflect this paragraph (e) just as much as they reflect the other paragraphs, (a), (b), (c) and (d).

I did only want to make some remarks today on this, Minister, to ensure that in the continuity of debate our position on this was clear: we enthusiastically support this particular amendment. We hope that, as the process of finalising the regulations occurs, the government will ensure that it heeds any calls of stakeholders to make changes based on this new paragraph (e) and ensure that those changes reflect both the spirit and the intent of this new paragraph (e).

In closing, I thank the government for their support and for their moving of this amendment which we all agree with. At this rate I would hate to meet an amendment that we do not agree on and see how that affects the time it takes to pass this legislation. The amount of time-wasting by the opposition in relation to the carbon farming initiative bill is now going from the sublime to the ridiculous. We are spending an inordinate amount of time on matters other than the CFI legislation. It is disappointing to see the opposition dragging their heels in relation to a bill such as this. I am not trying to be provocative to those opposite. I am simply pointing out that this bill does need to pass. It is preventing farmers and the community from enjoying the benefits of this bill and being able to access the significant advantages under it.

I understand legislation does take some time to progress in the parliament, and I think I am known as a patient man when it comes to the passage of legislation and the ability to ensure that everyone can have an opportunity to have their particular matters heard. Having sat through yesterday, I am sure most who were in the chamber or watched the chamber would agree that much of it was not about this bill; much of it was not about the amendment that was before us. On that basis, if the opposition are going to continue to take that approach, it will be disappointing to the government that the opposition have gone this far. But I would like a flag as to whether or not the opposition will continue to take this approach for the regulations are out for comment. If there are comments which go to these provisions, and people do want to provide additional material on the basis of those regulations, then comments are always well received and will be considered in due course. But we are talking about amendments at this point, and not the regulations.

Secondly, I want to highlight that we have now been spending three hours or thereabouts in furious agreement on an amendment that we all agree with. At this rate I would hate to meet an amendment that we do not agree on and see how that affects the time it takes to pass this legislation. The amount of time-wasting by the opposition in relation to the carbon farming initiative bill is now going from the sublime to the ridiculous. We are spending an inordinate amount of time on matters other than the CFI legislation. It is disappointing to see the opposition dragging their heels in relation to a bill such as this. I am not trying to be provocative to those opposite. I am simply pointing out that this bill does need to pass. It is preventing farmers and the community from enjoying the benefits of this bill and being able to access the significant advantages under it.

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remaining amendments. I do think the opposition does need the required time to be able to consider each individual amendment in a thoughtful and considered way—I do not quibble with that. However, I do want to flag that at some point we will need to finalise this bill. If the opposition can point to additional time or hours we might be able to consider, that would be helpful, because we do not want to be sitting here at Christmas time still on the carbon farming initiative bill—and at the rate we are going we could very well be.

Senator BIRMINGHAM (South Australia) (13:14): I was not intending to speak again on government amendment (1), but Minister Ludwig did invite my contribution, so I will make one. Let me be very clear. Some days this place proceeds through things faster than other days, some days the focus is very specific to the detail of the question before the chair and some days—due to issues and events of the day—debate is a bit more wide ranging. That occurs on all sides, from all parties and at all times, and it is well accepted and tolerated right around the chamber. We have no particular desire to delay the debate on this measure. Each time it has come up, we have come in here and made constructive contributions. The opposition seeks to work through each of these amendments systematically as best as we possibly can.

We will happily work with you. I will leave it to Senator Ludwig, who is not only the minister at the table but also the Manager of Government Business in the Senate, to negotiate with his equivalents from the other parties in this place as to hours and how this legislation is treated—that is, when we debate it. However, how we debate it and how long we debate it will of course be determined, ultimately, by the chamber. We will seek to move through as systematically and cooperatively as we can whilst giving everything appropriate airing.

I say to the government that when we went through the Senate committee process on this bill there was a lot of criticism about the way the drafting occurred and about the way consultation and engagement with stakeholders occurred. There was a lot of criticism of the time line. As we then finalised that, there was a lot of criticism that the substantial draft regulations underpinning how this bill works—in particular, the negative list to which this amendment pertains—had not been finalised and were not publicly available to be considered in tandem with this legislation. If anything has slowed down the debate this week, it is the reality that it was only on Tuesday that the government came into this place and presented those draft regulations, for which the opposition and many others had been calling for some time. That is what slowed down debate this week.

Yes, some questions and some contributions have gone more to the draft regulations than to the specific amendments we are considering. That is because we have been consistent from day one that those regulations are critically important to the way this bill works and that they should have been considered in tandem with this bill. That point has been made by many coalition speakers and was made in the dissenting report of the committee inquiry into this bill and, in fact, when this bill was first released.

So we have been crystal clear. We are pleased to finally see those draft regulations. They do of course aid us in the debate. But if those draft regulations had been released back when they should have been released—so that the full measure of the complexity and the impact of this legislation could have been considered as one—then the debate to date might well have proceeded far more
smoothly. But, as I said, I think we have given extensive consideration to this amendment. I note that my colleague Senator Nash, who has a strong interest in this bill, is with us but was not with us yesterday, so I do not know whether or not she is intending to say anything on this amendment. I have said enough on it—I agree with the minister on that—and I trust that we will be able to proceed on the matter shortly.

The TEMPORARY CHAIRMAN (Senator Mark Bishop): The question is that government amendment (1) on sheet BR247 be agreed to.

Question agreed to.

Senator BIRMINGHAM (South Australia) (13:18): I propose to withdraw opposition amendment (1) on sheet 7117, noting in doing so—as we did in the previous debate—that this amendment was moved by the opposition on the encouragement of stakeholders, in particular the National Farmers Federation and other farming groups. We are pleased that the government chose to adopt the amendment in a slightly modified form. Having just passed that amendment through the chamber, we now withdraw our very, very similar amendment.

The TEMPORARY CHAIRMAN: Opposition amendment (1) on sheet 7117 is withdrawn. Senator Colbeck, do you wish to address opposition amendment (3) on sheet 7120?

Senator COLBECK (Tasmania) (13:21): I did, but I do not intend to proceed with that amendment.

The TEMPORARY CHAIRMAN: The opposition is not proceeding with opposition amendment (3) on sheet 7120 and, accordingly, consequential amendments (4) to (6) on sheet 7120. Since Senator Xenophon is not here, we might now proceed down to opposition amendment (2) on sheet 7117.

Senator BIRMINGHAM (South Australia) (13:21): I move opposition amendment (2) on sheet 7117:

(2) Clause 122, page 154 (after line 30), after subclause (3), insert:
(3A) In the case of a project which was accredited under the Greenhouse Friendly program at the time that program was terminated—if a methodology determination is made on or before 30 June 2012, the determination may be expressed to have come into force at the start of 1 January 2008.

This is an example of how the clerks always do such a good job in presenting an order for these amendments. It will probably have been useful to have examined some of the other amendments that are proposed by Senator Xenophon and the opposition as we work through some of the factors as to how this scheme interacts with previous schemes in existence, either the Commonwealth’s Greenhouse Friendly scheme and the way that it operated or the New South Wales government’s GGAS. There have been a number of concerns about the interaction between those programs and ensuring that we have a smooth transition that avoids, as the committee report highlighted, any perverse outcomes or consequences, especially perverse outcomes or consequences where we may see a pre-existing program that operated as a carbon abatement measure come to an end because it will not be covered or adequately captured by this new Carbon Farming Initiative.

Certainly some of the issues which we will explore in amendments that we will be moving with Senator Xenophon pertain to issues of, in particular, landfill gas. Those issues will look very closely at how we preserve in place such schemes that were developed under Greenhouse Friendly or under the GGAS in New South Wales that
capture the off-put from landfill gas and in capturing that off-put—methane, in particular—burn it, generate their own electricity and stop emissions escaping from those landfill sites. There are concerns that, due to the way that this has been structured as legislation, some of those projects will not be able to proceed. They are certainly some of the issues that we plan to address in the joint amendments that have been developed with Senator Xenophon.

This amendment to clause 122 seeks to insert a new clause 3(A) that:

In the case of a project which was accredited under the Greenhouse Friendly program at the time that program was terminated—if a methodology determination is made on or before 30 June 2012, the determination may be expressed to have come into force at the start of 1 January 2008.

My understanding is that this seeks to provide a more certain period of continuity for those Greenhouse Friendly programs or activities. Greenhouse Friendly was a program initiated by the Howard government. It was one of many different programs in the climate change space initiated by the Howard government that we are proud to have started, that we are proud to have seen commence and that provide a very sound footing for Australia in meeting our international obligations when it comes to dealing with matters of climate change.

The Howard government set up the first infrastructure in the government to deal with climate change matters, to deal with reducing greenhouse gas emissions and to set Australia on a trajectory where we will proudly be one of the few countries in the world to meet the obligations we agreed to under the Kyoto framework. Greenhouse Friendly has played and will play a key part in making sure that Australia meets those Kyoto framework obligations.

It is worth noting that Australia will be one of the few countries to do that and has done so without the imposition of a carbon tax. Whilst that debate is one that I know Minister Ludwig does not wish to have at length here, I think it is important when we are highlighting some of these previous programs to note that we have achieved or are well on track to achieving the 2012 commitments set down under that Kyoto framework without such an imposition but through other clever policy measures, including Greenhouse Friendly, which sparked a lot of voluntary action by many parts of the Australian industry who wanted to do their bit, who saw a good opportunity available and who have made great contributions towards that target.

Instead, we are now going to enter an era where the government proposes to penalise everybody to try to achieve a target without any international agreement in place beyond 2012. There is a strange contrast between the styles of the two governments. Under the Howard government, we incentivised voluntary action to meet an agreed global target. Under the Labor government, through penalties, they are going to force action to meet a global target that does not exist. That is a very interesting and stark contrast between the approaches of the two governments.

However, to return to this amendment, we think that in providing continuity, certainty and hopefully making sure that projects that operate under Greenhouse Friendly can continue to operate under this new scheme it is appropriate to give consideration to the amendment that is before the chair.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (13:29): I understand the amend-
ment. The government does not support it. This amendment would effectively allow Greenhouse Friendly companies to receive CFI credits for abatement right back to 2008. The CFI does allow some backdating which goes back to 1 July 2010. This is a new piece of legislation designed to assist the farming community. Further backdating to 2008 could literally undermine the environmental integrity and value of the CFI credits. This legislation is designed to ensure that we do have integrity within this system. In looking at this issue though, the government will consider options for including some or all Greenhouse Friendly credits under the National Carbon Offset Standard for a transitional period. So it is not all bad news. This would increase the value of Greenhouse Friendly credits.

In this area, the government's view is that you are in the wrong place. I understand what you are trying to do, but it is about the Carbon Farming Initiative and it is about ensuring that we have a system that allows backdating to 1 July 2010 and that we use the methodologies under this to assist the co-benefits, which I described earlier, in the agricultural areas. But in dealing with Greenhouse Friendly companies, who have those types of things out there, the place to deal with the Greenhouse Friendly credits is under the National Carbon Offset Standard. That legislation is coming before this parliament, so it is not something that we are putting off. A much better opportunity to use that type of action again—in other words, this type of amendment—would be in the guidelines or in the next piece of legislation. That is by way of suggestion. I am trying to gabble with your amendment. We oppose it.

Senator BIRMINGHAM (South Australia) (13:32): I thank the minister for his response. He highlighted that there is scope for a backdating, as such, of credits to the start of 1 July 2010, and I note him doing that. The EM states that that is to allow backdating of existing projects such as projects under the Australian government's Greenhouse Friendly program. My understanding is that for the alternative waste treatment sector the bulk of the Greenhouse Friendly scheme credits they possess were generated during the period between 1 January 2008 and 1 July 2010; thereby meaning that they will, in the main, miss out on that backdating start date of 1 July 2010. Could the minister explain on what basis 1 July 2010 was set as the date and is it the government's understanding that the alternative waste treatment sector will largely miss out as a result of that date having been set?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (13:33): I thought you might have recalled that it is the original start date of the CPRS; but it may have slipped your mind. We think that was an appropriate place to backdate it to given we have been saying that for some time. It seemed a logical place given it was the original start date and people may have made decisions around that start date.

Question put:
That the amendment (Senator Birmingham’s) be agreed to.

The committee divided. [13:38]

(The Chairman—Senator Parry)

Ayes ......................32
Noes ......................36
Majority.................4

AYES

Abetz, E
Back, CJ
Birmingham, SJ
Boyce, SK

Adams, J
Bernardi, C
Boswell, RLD
Bushby, DC (teller)
AYES
Cash, MC
Cormann, M
Eggleston, A
Ferravanti-Wells, C
Fisher, M
Humphries, G
Joyce, B
Madigan, JJ
McKenzie, B
Nash, F
Parry, S
Ryan, SM
Williams, JR
Colbeck, R
Edwards, S
Fawcett, DJ
Heffernan, W
Johnston, D
Kroger, H
Madigan, JJ
Mason, B
Nash, F
Ronaldson, M
Ryan, SM
Scullion, NG
Xenophon, N

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

PAIRS
Brandis, GH
Coonan, H
Macdonald, ID
Payne, MA
Feeney, D
Arbib, MV
Evans, C
Wong, P

Question negatived.

Senator XENOPHON (South Australia) (13:42): by leave—I, and also on behalf of Senator Birmingham, move amendments (1) to (4) on sheet 7129 revised together:

(1) Clause 5, page 12 (after line 9), after the definition of general law land, insert:

Greenhouse Friendly Initiative means the Greenhouse Friendly Initiative for the reduction of greenhouse gases established by the

Commonwealth and administered by the Department administered by the Minister administering this Act.

(2) Clause 5, page 17 (after line 9), after the definition of net total number, insert:


(3) Clause 5, page 18 (lines 23 and 24), omit the definition of prescribed non-CFI offsets scheme, substitute:

prescribed non-CFI offsets scheme means:
(a) the New South Wales Greenhouse Gas Scheme; or
(b) the Greenhouse Friendly Initiative; or
(c) a scheme prescribed by the regulations for the purposes of this paragraph.

(4) Clause 95, page 124 (lines 11 to 19), omit subclause (2), substitute:

(2) As soon as practicable after making the declaration, the Administrator must consider the request and may, by written notice given to the person who made the request, determine that this Act has effect, in relation to the project, as if:

(a) if the project is a sequestration project:
(i) paragraphs 89(1)(b), 90(1)(b) and 91(1)(b) had not been enacted; and
(ii) the net total number of Australian carbon credit units mentioned in subsections 89(3), 90(3) and 91(3) were increased by the number specified in the determination; and
(b) if the project is a landfill legacy emissions avoidance offsets project that was accredited under the New South Wales Greenhouse Gas Scheme—the baseline for the purpose of making a methodology determination under section 106 is 20%; and
(c) if the project is a landfill legacy emissions avoidance offsets project that was accredited under the Greenhouse Friendly Initiative—the baseline for the purpose of making a methodology determination under section 106 is 0%.

This set of amendments ensures that early adopters of carbon sequestration projects will not be disadvantaged under the Carbon Farming Initiative. The collection and use of
landfill gas for electricity generation is one of the most effective means of reducing greenhouse gas emissions. Australia's landfill gas power generation sector currently reduces carbon emissions by over four million tonnes of carbon dioxide equivalent each year. However, under the bill currently before the Senate, there is no certainty for these businesses—which currently operate under the New South Wales GGAS scheme or the Greenhouse Friendly scheme—that they will be considered under the prescribed non-CFI offsets scheme, nor what baseline would be applied. These amendments insert a provision that, for existing projects wanting to transition into the CFI scheme, a baseline of 20 per cent be applied to projects currently under the New South Wales GGAS scheme and a baseline of zero per cent be applied to projects currently under the Greenhouse Friendly scheme. These amendments also insert the New South Wales GGAS scheme and Greenhouse Friendly scheme into the definition of the prescribed non-CFI offsets scheme.

Currently it will be up to a determination to specify what baseline will be applied to existing projects, and this simply does not provide early movers with any certainty about the viability of existing projects. It should be noted that 20 per cent is a conservative figure that has been determined based on the national greenhouse gas inventory data. Inserting a 20 per cent baseline into the legislation for existing projects under the GGAS scheme and zero per cent for existing projects under the Greenhouse Friendly scheme will give this industry certainty for its projects.

LMS is a renewable electricity generator that was established in 1982. It is a South Australian based company employing some 100 people across the country. It was an early adopter—in fact, one of the first adopters of carbon abatement projects. The Prime Minister visited LMS's Rochedale plant, in Brisbane, on 13 July 2011. This is what the Prime Minister said at that time:

And I’m here today at LMS, and I thank them for having me here, looking at how they are generating electricity from landfill. Landfill, as it decomposes, creates the kind of carbon pollution we’re worried about, it particularly creates methane gas. Here at this facility today, instead of that gas simply going into the atmosphere as pollution, it is being captured and it’s being used to generate electricity …

And that electricity is powering more than 4500 homes. This kind of clean energy future is probably a bit unexpected, people have heard about solar and they’ve heard about wind, they may have heard about geothermal, but here is another innovative way that we will see a clean energy future using the gas from the landfill to generate electricity.

It’s this kind of clean energy future that will be turbo-charged by putting a price on carbon, as we create the circumstances where new clean energy ventures can prosper. I’ve been very pleased to learn about this clean energy venture today and it’s why I’m so determined, because I know these things are possible, that we as a nation seize a clean energy future by putting a price on carbon. Interestingly, unless we significantly amend the legislation, then the legislation in its current form could well lead to a closure of the very plant that the Prime Minister visited, because there will be no investment certainty. But, more than that, this plant will not be viable. That is a very serious concern. If a standardised baseline of 20 per cent is not provided and does not give certainty to LMS, projects such as the Rochedale project that the Prime Minister visited will, most likely, close down. Indeed, LMS's 15 separate projects under the GGAS scheme could all be threatened if this amendment is not passed. In Queensland, projects include Rochedale, Swanbank, Whitwood Road and Birkdale. New South Wales projects include Tweed Shire; Summer Hill, Newcastle; Awaba, Newcastle; Eastern Creek; and
Wyong. In Victoria, LMS has projects in Hallam Road, Wollert, Bendigo, Ballarat and Shepparton. In Tasmania, it has a project in Remount, in Launceston. These projects combined create an estimated 1.33 million tonnes of CO\textsubscript{2} abatements annually. LMS also has four Greenhouse Friendly projects which could be put at risk. LMS is but one example.

Altogether, the landfill gas industry delivers around four million tonnes of CO\textsubscript{2} abatement each year. Failure to provide certainty that existing projects will be able to transition into the CFI, with a fixed 20 per cent baseline for GGAS existing projects and zero per cent baseline for existing Greenhouse Friendly projects, could see the closure of these projects.

These amendments will provide that certainty and will ensure that the Carbon Farming Initiative supports all carbon abatement schemes, including existing projects which have been initiated by early movers.

As I understand it, there have been many negotiations in the last 24 hours in relation to this matter. I hope Senator Milne does not mind my saying this, but I am particularly grateful for her longstanding interest—longer standing I think, than that of most of us in this chamber—and her particular awareness of this issue. I know we can debate issues of additionality, but it would not make sense to me unless there is a proper transitional mechanism for these sorts of projects.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (13:48): The capture of gas from landfill is certainly a critically important component of dealing with greenhouse gas emissions. Turning it into energy generation is very good for society and greenhouse gas emissions. Whilst we will always aim to reduce landfill, it will be a while before we get to the point where we have zero waste, so we need to support companies that are actually out there doing this. A number of them actually got in and started to do it early before there was any compulsion to do so. However, in recent years, particularly in metro management of waste there have, increasingly, been local and state government regulations requiring the capture of gas from landfill. In terms of this bill, the question then becomes: how can you measure that which is additional, recognising that there is already regulation in metro Australia and that, in most of rural and regional Australia, there is no regulation?

However, I am very concerned that the companies concerned had not engaged in this debate in terms of the parliament working out how we might deal with this under the Carbon Farming Initiative. In talking to LMS they said, in particular, that they had been engaged in discussions with the government over a long period and had hoped it would resolve the matter and that is why they had not brought it into a political context. As it has been brought into a political context, I want to thank the minister and the department for facilitating a meeting for me yesterday with both the company and the technical experts from the department so that we could sit down and work out how we can move this forward. I am sure that no-one in this parliament would want to see companies that are actively engaged in reducing carbon emissions, employing people and doing the right thing actually go broke as a result of this program. No-one in this parliament would think that was a sensible thing.

Yesterday we had a meeting. It came down to a discussion about the technicalities of what the baseline should be for measuring this as the entitlements would occur under the legislation. I have been told that those discussions were fruitful and that there has been some resolution. So, before I make a decision about what we are doing on this matter, I want to hear what actually happen-
ed overnight in those technical discussions. It would be good to see this matter resolved in a positive way with regard to the environmental impacts, the jobs in those industries and to actually get advancement for this whole issue of management of the land waste sector in Australia.

Senator BIRMINGHAM (South Australia) (13:51): I thank Senator Xenophon for co-sponsoring this amendment with the opposition and for his work on this topic with us and with the industry affected. I also thank Senator Milne for her comments just then and for her indication that this is an area of genuine need for consideration when looking at the bill and, in particular, for reserving her position on these amendments, depending upon where discussions have gone between the government, the affected industry sector and companies and upon what solution the government has for this matter. I will not make a lengthy contribution now, noting that the debate will conclude at two o'clock, and I am eager to hear from the minister as to whether there has been some progress. I would just highlight that in the committee report of the inquiry into this the No. 1 recommendation was:

... the government consider options to ensure there are no perverse incentives to cease existing abatement projects, and encourage first movers to undertake further abatement or sequestration activities under the Carbon Farming Initiative.

In the response to that Senate committee inquiry tabled the other day by the government, they did indicate support for that recommendation. They did indicate that they thought there should not be perverse incentives to cease existing abatement projects.

As Senator Xenophon has highlighted, there are a number of projects that could be at risk were the bill to pass without amendment and without addressing this issue. We think that would be totally unacceptable. These are companies that have invested in good faith. These are companies that have done the right thing by the environment by capturing the gases from landfill projects and ensuring that they are used to generate electricity, and it would be an utter waste if those systems were not encouraged into the future. There are many localities—regional centres such as Bendigo, Ballarat, Tweed Shire, Launceston and Newcastle—that would potentially be most vulnerable in this regard. Some of those regional centres would be the ones most likely to see the perverse outcome where, if we pass this, in fact we will end up with less rather than more abatement, and that obviously is not an outcome that would be at all acceptable under this scheme.

There are some other points that I would like to and probably will highlight when we return to this debate but, to make sure that the minister can at least update Senator Milne and the chamber on discussions with proponents to now, I will leave enough time for him.

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Flooding Recovery) (13:54): Than you for that, Senator Birmingham. The government understands the issue faced by LMS Generation, issues which are added to by the coalition—but I will leave that aside. However, these amendments seek to bypass the independent process that the government has established for assessing methodologies, which is the Domestic Offsets Integrity Committee. The rules for setting baselines are set out in the methodologies. These need to be supported by credible evidence and assessed by the Domestic Offsets Integrity Committee; that is the gateway in.
The government is working with the landfill industry on approaches for setting baselines for existing landfill projects under GGAS and Greenhouse Friendly in the government’s landfill methodology. The gateway is through DOIC—establish the methodology, set the baselines for existing projects under GGAS and Greenhouse Friendly. The government recognises the value of a standardised approach to baseline setting for existing landfill projects that have been operating under GGAS and Greenhouse Friendly. It is something we recognise. The government will consult on appropriate baselines, with a view to having the matters resolved within the next month. Standardised baselines would be included in the landfill methodologies and assessed by the Domestic Offsets Integrity Committee before being approved by the minister and laid before parliament as disallowable instruments.

In saying all of that, we do not support the amendments. We do not see the need for the amendments. We can deal with it within the existing framework. Ostensibly we will all land at the same place. I think we are all in screaming agreement that we need to do something in this area. I cannot make any stronger commitment than the words that I have used. They are as strong as we can give. I will say them again: the government will consult on appropriate baselines, with a view to having the matters resolved within the next month. It is clearly within our intention. I cannot put any stronger words than those, and I am sure that you will be able to draw your conclusions from that. On that basis, we do not support the amendments. We do understand where the amendments are going. It is also pleasing that those opposite understand that it is imperative to pass the bill.

Senator XENOPHON (South Australia) (13:56): I appreciate the minister’s answer. I appreciate the minister says that it is not the intention of the government to disadvantage plants such as these, which have made a tremendous contribution in CO₂ abatement by being early adopters. We know what the Prime Minister has previously said about early adopters generally on the whole issue of greenhouse gases, and I agree with the Prime Minister: if you are an early adopter, you ought to be rewarded. But what we have with this legislation is a situation where early adopters are in fact being punished, to the extent that their businesses might not be viable. To say that this is going to be resolved by regulation is, I believe, completely unsatisfactory. There needs to be a solution to this. It needs to be a solution that is enshrined in legislation rather than left to regulation. If it is left to regulation, it will just compound the uncertainty. We have the whole issue of disallowable instruments, which is quite a proper process, but dealing with this in the absence of a specific legislative framework, a specific legislative baseline, is completely unsatisfactory.

It is important to acknowledge the work of LMS and others who have done this. LMS has previously acknowledged in its material that five per cent is not a realistic baseline. Some of the abatement stems from GGAS projects which could have occurred to control odour and for occupational health and safety reasons. A 10 per cent standardised baseline for GGAS landfill gas projects would be realistic, as it would account for common practice legislatively required abatement activities. However, there is a need to be conservative when estimating standardised baselines; therefore, a 20 per cent national baseline for all GGAS landfill gas projects to transition into the CFI is fair and justifiable. It is a conservative approach. It is an appropriate approach. There is no windfall at all. In fact, they are ‘taking a haircut’, to use a colloquialism, in relation to this. This 20 per cent baseline would only apply to existing GGAS landfill projects. As
mentioned previously, GHF projects already have a proven baseline of zero. Any new CFI landfill gas projects should need to satisfy a new standardised baseline. This will ensure the integrity of both the GGAS baseline and the new projects baseline. That is why it is important that the negotiations continue.

I would like to acknowledge again the work of Senator Milne in facilitating that very crucial meeting between the department and LMS, where I think there was some real progress made. Let that progress continue, let it continue quickly and let us ensure that there is a satisfactory outcome, where the outcome can be dealt with in the context of this bill. Do not leave it to chance and uncertainty with regulations. It is simply too important for this early adopter of these measures.

Progress reported.

QUESTIONS WITHOUT NOTICE

Carbon Pricing

Senator RYAN (Victoria) (14:00): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. I refer to today’s Deloitte’s modelling commissioned by the Victorian state government which reveals that in 2015 the carbon tax will cost 23,000 jobs in Victoria. As the Treasury has not modelled the impact of carbon tax on employment in individual states and, in fact, assumes the carbon tax will have no impact on jobs in the long run, how can you dispute these figures?

 Honourable senators interjecting—

The PRESIDENT: Order! When we have silence on both sides we will proceed.

Senator WONG: The extent to which this was a politically motivated exercise is really demonstrated by the fact that the report does not actually include the assistance packages within the government’s Clean Energy Future package. It does not actually include the crucial assistance measures that the government has put in place. What an extraordinary proposition: you throw together some modelling, a month after the release of the carbon package, the Clean Energy Future package, to enable you to jump aboard Mr Abbott’s scare campaign in order to be able to make false claims ahead of the COAG meeting—all this from a Premier who once supported a price on carbon! It is the case also that not only did the Victorian government fail to include the totality of the assistance measures to support industry and to support jobs in the context of pricing carbon; there is also quite a deliberate attempt to mislead in terms of the outcomes, which was repeated in the senator’s question. I look forward to responding to that. (Time expired)

Senator RYAN (Victoria) (14:03): Mr president, I ask a supplementary question. I
look forward to your answer, Senator Wong. Given that you could not explain how you dispute the figure of 23,000 job losses, Minister, can you please inform the Senate of what compensation will be paid to the tens of thousands of Australians whose jobs will be lost and destroyed in coming years if this carbon tax goes ahead, particularly those in my state of Victoria, which is going to be hit first and hardest by your carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:04): In relation to the assertion about jobs to be lost, I would make the point that, in fact, the modelling shows employment in Victoria actually growing over the period. The reference to 23,000 jobs is a change from the reference case figure, not an actual change in employment, which is clearly not what the senator put in his question. Mr President, if the senator wants to get into an argument about modelling, I tell you what: I would back the Australian Treasury, who used to advise Mr Costello, who is one of the good senator's great heroes, in relation to the budget, in relation to the budget forecasts and in relation to the Intergenerational report, all of which show employment continues to grow under a carbon price—

Honourable senators interjecting—

The PRESIDENT: Order! Senator Wong, I know there is limited time but I will give you time to finish. I draw to the attention of senators that constant interjection is completely disorderly. The minister is entitled to be heard in silence. Minister, you have four seconds remaining. Is there anything further?

Senator WONG: No, Mr President.

Senator RYAN (Victoria) (14:05): Mr President, I ask a further supplementary question. I am sure that the workers at Latrobe Valley will love their new jobs as carbon cops. Minister, in the face of continuing uncertainty in the international economy and the Australian one, how can the government proceed with this job-destroying carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:05): We will proceed with this policy because it is about the long-term strength of the Australian economy and because you cannot be a first-rate economy in years to come unless you move to cleaner energy, unless you are a clean-energy economy. That is why so many nations of the world are putting so much investment into clean energy, into generating energy more efficiently and more cleanly and into industrial and other processes becoming more energy efficient. The reality is the world is increasingly paying a higher premium for low-carbon goods and services, for clean-energy goods and services, and we on this side want to make sure Australians are positioned to take advantage of those opportunities. The difference is those on this side are prepared to look to the future and those on that side simply want to run a scare campaign today.

Education and Health Funding

Senator GALLACHER (South Australia) (14:06): My question is to Senator Evans, the Minister representing the Prime Minister, and the Minister for Tertiary Education, Skills, Jobs and Workplace Relations. Can the minister outline to the Senate the government's investment in education and health, and the benefits that are flowing to Australians as a result?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:07): I thank the senator for his question. Over the last four years, the Gillard Labor government have made massive additional
investments in Australia's education and health systems.

**Senator Cormann:** What about Australian truckies?

**Senator CHRIS EVANS:** In education, we have almost doubled our investment in schools, we have built or upgraded facilities across every single—

**Senator Cormann:** What are you doing for Australian truckies?

**Senator CHRIS EVANS:** Australian truckies, Senator Cormann, have kids, and they appreciate that we invest in their schools, that we do not seek to destroy their educational opportunities. Why don't you be quiet for a minute and listen so you might learn something about that investment, because this government supports investing in schools, in VET and in universities—in opportunities for our kids. We want our people to be able to get high-skilled, high-paid jobs. That is why this government is investing heavily in improving the educational opportunities available for young Australians, including a record investment in schools, a record investment in vocational education and training, a record investment in universities—all of those things that allow Australians to take advantage of the opportunities of the growing economy and those high-skilled, high-paid jobs that are available.

This government has also made a record investment in health reforms. Not only are we rolling out extra hospital beds and services but also, under the new COAG agreement, an additional $19.8 billion will be invested in public hospitals as extra funding for emergency departments and for procedures that would otherwise not be funded. So this government makes record investments. This government makes a priority of the education and health of Australians. We continue to drive increased investment because we believe the best investment we can make is in education and health, to support our economy, upskill our people and make sure our people are healthy. *(Time expired)*

**Senator GALLACHER** (South Australia) (14:09): Mr President, I ask a supplementary question. Can the minister outline to the Senate the biggest risk to the government's investment in education and health?

**Senator CHRIS EVANS** (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:09): I think the biggest risk is the opposition. We saw, by their performance when I was speaking earlier, that they have no interest in education, they have no interest in health. They only have interest in negative political point-scoring. They only have interest in opposing. What we do know is that they have plans to slash the investment we are making in schools and in education more broadly and in health. We know they went to the last election promising to cut hundreds of millions of dollars out of funding that would have supported low-income students going to university. They targeted those people's opportunities. We now know that they want to cut $70 billion—$70 billion—from our budget. That would mean, for instance, stopping paying pensioners for two years. That is the size of the cut they are going to impose on Australians. We believe in investing in Australia's future, not slashing opportunities. *(Time expired)*

**Senator GALLACHER** (South Australia) (14:10): Mr President, I ask a further supplementary question. Is the minister aware of the comments of the opposition leader at the AMA conference yesterday, and what are the implications for
the government's investment in our education and health services?

Senator Fifield: Which comments?

Senator Abetz: It was a very good speech.

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:11): It was not the one at the butcher's shop; apparently that one got cancelled. If you take the opposition leader at his word, what he said at the AMA dinner was that you can judge him by his actions, by his record as health minister. 'That's what I would be like as Prime Minister,' he said. Remember what his record was as minister for health? He cut $1 billion out of funding for public hospitals. He cut $1 billion. So he reinforces the message: you can expect the same sort of negative, budget-slashing approach that he had as health minister. 'That's what I would be like as Prime Minister,' he said. Remember what his record was as minister for health?

Senator Abetz: Because you can't.

Senator WONG: Wow, that was brilliant!

Senator Abetz: Thank you. It put you off!

Senator Carr: Yes, a towering genius!

Senator WONG: A towering genius!

The PRESIDENT: Order! Return to the question and stop the—

Opposition senators interjecting—

The PRESIDENT: Senator Wong, please resume your seat.

Honourable senators interjecting—

The PRESIDENT: When we have silence on both sides, we will proceed. Senator Wong, please continue.

Senator WONG: As I was saying, that gives you the average government school's recurrent costs. This means that cost impacts resulting from the introduction of the carbon price will be captured in this indexation and schools will automatically receive increased funding over time.

In relation to health services, the Treasury modelling estimates the average price impact on health services to be around 0.3 per cent. This group in the modelling would include

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:13): There are a number of areas that the senator has mentioned. First, in relation to schools, as the senator would know, the Commonwealth government's contribution to schools funding is indexed, so as costs rise funding to schools is increased. This indexation is changed annually, after consideration of movements in data that underpin what is known as the AGSRC. I am sure Senator Evans could explain that to you: it is the average government school—

Senator Abetz: Because you can't.

Senator WONG: Thank you. It put you off!

Senator Abetz: You really have an intellect of the highest order, Senator Abetz!

Senator Carr: Yes, a towering genius!

Senator WONG: A towering genius!

The PRESIDENT: Order! Return to the question and stop the—

Opposition senators interjecting—

The PRESIDENT: Senator Wong, please resume your seat.

Honourable senators interjecting—

The PRESIDENT: When we have silence on both sides, we will proceed. Senator Wong, please continue.

Senator WONG: As I was saying, that gives you the average government school's recurrent costs. This means that cost impacts resulting from the introduction of the carbon price will be captured in this indexation and schools will automatically receive increased funding over time.

In relation to health services, the Treasury modelling estimates the average price impact on health services to be around 0.3 per cent. This group in the modelling would include
hospital and medical services, optical and dental services and pharmaceuticals. To the extent there is any increase in costs due to the carbon price, current and future funding arrangements will automatically ensure that public hospitals continue to be properly funded. Public hospital funding in the National Healthcare Agreement is indexed at over 7 per cent in each year of the forward estimates. In addition, when we move to the new healthcare agreements the government has struck with the states and territories, the Commonwealth has committed to pay 50 per cent of the growth in hospital costs. I trust this assists the senator.

Senator EGGLESTON (Western Australia) (14:15): Mr President, I ask a supplementary question. Can the minister advise the Senate whether the government has factored full compensation into its carbon tax package for state and local governments to meet the increased costs associated with the carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:16): As you would know, COAG agreed in November 2008 to a funding package which, amongst other things, provided for new SPPs—that is, specific purpose payments—in the areas of health care, schools, skills and workforce development, disability services and housing. Under that agreement each national specific purpose payment—

Honourable senators interjecting—

The PRESIDENT: Senator Wong, resume your seat. Senator Conroy and Senator Abetz, you cut directly across my capacity to listen to Senator Wong.

Senator WONG: I was referencing the national specific purpose payments agreed by the Council of Australian Governments in relation to a range of areas where Commonwealth funding is provided. Under that agreement on national SPPs, which includes health care, schools, skills, workforce development, disability services and housing, funding is ongoing and indexed each year. Any increased costs that flow from the introduction of the carbon price will result in increased funding through these indexation factors under the SPPs.

Senator EGGLESTON (Western Australia) (14:17): Mr President, I ask a further supplementary question. Given that the minister clearly cannot guarantee compensation and in the light of the fact there will be a 10 per cent increase in electricity prices in just the first year of the carbon tax, can the minister explain how hospitals, schools, courts, police, libraries and road maintenance will be able to deal with the multimillion dollar impact on their costs? Will the minister advise us whether there will simply have to be—

The PRESIDENT: The time for asking the question has expired. It would have helped if you had not had a preface to your supplementary question.

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:18): I have to say I thought I provided a very detailed answer in response to the questions about the way in which indexation works. I would have hoped that the senator would understand how indexation works. That really deals with the issue he has raised.

The senator asked about public hospitals. I can say that we will not do what the Leader of the Opposition did when he was health minister, which was to cut $1 billion from Australia's public hospitals. They come in here professing concern on issues such as health and education, but what they really think is demonstrated by what they did when they were in government. The character of the Leader of the Opposition is demonstrated by what he did as health minister, which was to cut $1 billion out of Australia's public
hospitals. That is the legacy of the Leader of the Opposition and it took a Labor government to fix it. Those are the facts, Senator. (Time expired)

Asylum Seekers

Senator HANSON-YOUNG (South Australia) (14:19): Mr President, my question is to the Minister representing the Minister for Immigration and Citizenship, Senator Carr. Last night the President of the Australian Medical Association stated that the system of mandatory detention is inherently harmful to the physical and mental health of detainees, particularly of children. When will the government recognise that the policy of mandatory detention severely damages those seeking our protection, not just now but for years to come?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:19): I thank the senator for her question. I indicate very clearly that the government's position on mandatory detention is that it is an essential aspect of our measures in regard to border control. I would also indicate to the Senate that this is a matter that has enjoyed bipartisan support for some considerable time. The minister has made perfectly clear repeatedly that the government makes no apologies for making sure that unauthorised arrivals do not pose a health risk and that appropriate measures are taken to ensure that identity and security checks can be undertaken so that persons who do arrive in such a manner are not a risk to the community. The government is committed to ensuring that asylum seekers within the immigration detention facilities are housed in humane and appropriate conditions and are provided with appropriate services and care. We ensure that people in detention get health care and support that meets the same standards as in the wider community, care which includes support for mental health measures provided by qualified health professionals.

The government are very open about this matter. We are very accountable for the operations of the immigration detention system. However, we also acknowledge the enormous pressures that are on the network at this time. We have worked very diligently to ensure that there is a change in the culture of detention. We have delivered on it by moving the majority of children in detention into community accommodation. We have undertaken reforms to improve the processing of asylum seekers' claims. We have ensured the number of irregular maritime arrivals in detention facilities dropped by almost 2,000 since April. The government remain committed, however, to the policy of mandatory detention. (Time expired)

Senator HANSON-YOUNG (South Australia) (14:22): With all due respect, I will take the advice of medical professionals of the AMA over Senator Carr's any day. Mr President, I ask a supplementary question. The minister for immigration makes decisions as to who is detained and who is deported including those decisions around children. The minister is also the legal guardian of any unaccompanied children that arrive in Australia. How is it that the minister can justify the conflict of interest of these two roles; deciding who will be jailed and who will be protected?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:22): I can indicate to the senator that the decisions about who is a refugee and the status of persons arriving here are made on the basis of proper assessment by professional officers within the department of immigration. This has been the practice for some time. It has not been departed from in any way by the actions of the minister for immigration within this government. The
processes are absolutely in accordance with international legal obligations and domestic law. I do not believe there to be any evidence whatsoever that the minister has departed from those well-established arrangements, which, I might say, have served governments for many a long year within this country.

Senator HANSON-YOUNG (South Australia) (14:23): Mr President, I ask a further supplementary question. The minister is the legal guardian of a number of children as young as six who are currently detained in the Darwin detention facilities. These children are set for deportation. There is a child as young as six whose legal guardian is the immigration minister, the person deciding they will be deported. How is the minister acting in this six-year-old’s best interest?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:23): In regard to the position, I presume the senator is referring here to the Malaysian solution—

Senator Hanson-Young: No, I'm not. Mr President, I rise on a point of order. In my question I referred to children detained in Darwin. None of those children are under the Malaysia solution.

The PRESIDENT: It is not a point of order.

Senator CARR: I can indicate to the Senate and repeat what the minister has made very clear, publicly, on many, many occasions. The minister takes his responsibilities very seriously in regard to his legal obligation as a guardian of unaccompanied minors, of children in detention centres, who are here without relatives. That remains the case. Senator, I cannot see any evidence that has been presented in any quarter which suggests it would be contrary to the position that the minister has made perfectly clear—repeatedly.

Carbon Pricing

Senator FIERRAVANTI-WELLS (New South Wales) (14:25): My question is to the Minister representing the Minister for Climate Change and Energy Efficiency, Senator Wong. According to modelling conducted by the government, can the minister advise the Senate how many Australian households will be worse off under its carbon tax?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:25): The government has released a great deal of detail about the Household Assistance Package, which includes a very substantial tax reform package that will increase the tax-free threshold and involve a tax reduction for all Australians earning under $80,000 a year. That is a very substantial and important tax reform package which obviously has good participation consequences as well. The Prime Minister has also indicated that nine out of 10 households will receive some assistance through tax cuts or payment increases and almost six million households will get tax cuts or increased payments that cover their entire average price impact. Over four million Australian households will get an extra buffer with assistance that is at least 20 per cent more than the expected average price impact.

We have been clear that there are some people who will not be assisted. We have been clear and upfront about that. The question that is never answered by the other side is just how much tax they will impose on Australian families to pay for their direct action policy which is a complete black hole.

Opposition senators interjecting—

The PRESIDENT: Senator Wong, please wait a minute. Order!

Senator Brandis: Mr President, I rise on a point of order. The question was very
narrow and specific. We just want to know a number—how many. The minister has not come close to addressing that.

Senator Ludwig: Mr President, again we hear from the opposition, who take a point of order and want a specific question answered in a particular way. Of course, it is not within—

Opposition senators interjecting—

Senator Ludwig: If you could allow me to finish. I know it is Thursday and you all want to go home.

The PRESIDENT: Senator Ludwig, please resume your seat. It might be easier, Senator Ludwig, if we have a bit of silence.

Opposition senators interjecting—

The PRESIDENT: You plead guilty. I have a plea of guilty on my left.

Senator Ludwig: Their question tries to suggest what that specific answer is. It is not an argument to take a point of order to say the answer is not being directly relevant. The minister in answering the question, while being directly relevant to the question, is entitled to answer the question in the way that is appropriate to provide the information in a directly relevant way, but not to necessarily give an answer that you have suggested you want. That is completely out of order and there is no point of order.

The PRESIDENT: I have repeatedly said from the chair that I cannot tell a minister how to answer the question. The minister has 26 seconds remaining to answer the question and I draw the minister's attention to the question. I cannot tell or instruct the minister how to answer the question.

Senator Wong: I think I answered in the first part of the answer that nine out of 10 households will receive some assistance. That obviously leaves one out of 10 households who will not be receiving assistance. I would like to point out to the opposition and to the chamber this: the opposition is going to have to go the election with a promise to claw back a pension increase and to impose higher income taxes because they opposed this package. (Time expired)

Senator Fierravanti-Wells: As the finance minister, I would have thought it would have been a pretty simple question to give a figure to.

Senator Chris Evans: Mr President, I rise on a point of order: it is becoming increasingly the practice of opposition senators to respond to the first answer they receive by running a commentary, often derogatory, before asking the next question. I draw your attention to the increasing practice that has been employed. If they want to have a debate, we are happy to have a debate, but question time is for the asking of questions and the answering of them. The practice is not in accordance with the standing orders, not a good development for the operation of question time. I would ask you to have a look at whether it is in order for senators to continually run commentary rather than just ask the supplementary question.

Senator Abetz: Mr President, on the point of order: the difficulty the chair has is simply this, if the chair cannot direct the minister how to answer the question, it will be also difficult for the chair to direct how a question ought to be asked.

The PRESIDENT: I have already drawn to the attention of the Senate on numerous occasions the fact that it should be a question that is asked. There should be no commentary at the start.

Senator Abetz: Without the commentary. That is your difficulty, Mr President.

The PRESIDENT: I have no difficulty in this whatsoever.
Senator FIERRAVANTI-WELLS (New South Wales) (14:31): Mr President, I ask a supplementary question. Is the finance minister aware of how many self-funded retirees will be worse off under the government's carbon tax?

Senator Feeney: None, that is easy.

Honourable senators interjecting—

The PRESIDENT: When the Senate is ready we will proceed with question time.

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:32): The way in which the government has structured assistance for self-funded retirees is to link it to eligibility for the Commonwealth Seniors Health Card. Self-funded retirees will receive the same dollar amount as those on the aged pension, which would be $338 per annum for singles earning up to $50,000 and $510 per annum for couples combined earning up to $80,000. I would again make the point the assistance I am outlining is the assistance the opposition is going to be clawing back.

Senator Abetz: How many will be worse off?

Senator WONG: Senator Abetz, you ask how many will be worse off. They will all be worse off under your policy because you are taking it all back! Increases in pensions, increases in the assistance to self-funded retirees, increases to family tax benefit and lifting the tax free threshold—you are clawing it all back. (Time expired)

Senator FIERRAVANTI-WELLS (New South Wales) (14:33): Mr President, I have answered the question about the eligibility for assistance for self-funded retirees.

Honourable senators interjecting—

The PRESIDENT: Order! I draw the attention of senators on both sides to the fact that question time will not proceed until there is silence.

 Senator WONG: There are a lot of things said in this chamber and I obviously have not heard everything that every senator has said in this debate. What I can say is that I have outlined in my previous answer the assistance the government is providing to self-funded retirees who receive the Commonwealth Seniors Health Card.

Senator Brandis: Mr President, I rise on a point of order on relevance: everyone in the Senate heard Senator Feeney interject, in response to the question, that the answer was none. The supplementary question merely asks the minister whether she agrees with what Senator Feeney said. Nothing she has said in her answer to the supplementary question is relevant to the issue of whether she agrees with Senator Feeney's assertion that the answer is none.

The PRESIDENT: There is no point of order. Not everyone in the Senate heard Senator Feeney's comment. Let me assure you, Senator, I did not hear the comment because of the noise that was coming from my left, so you cannot make the accusation that everyone heard the comment that was made. If silence were maintained in this chamber, then there may well be an opportunity for me to hear everything that goes on. But it is very difficult sometimes, and I can assure you I did not hear any comment. If others did, I certainly did not, and whether it was because of the noise that came from either side of this place, I cannot tell you.
Senator Ronaldson: On the point of order, Mr President: perhaps Senator Feeney could clarify the situation so we are not in this difficult situation.

The PRESIDENT: That is not a point of order. Senator Marshall, resume your seat; we are still taking points of order. Senator Abetz.

Senator Abetz: Thank you, Mr President.

Honourable senators interjecting—

The PRESIDENT: Senator Abetz, this highlights the difficulty—on both sides. You were on your feet, and there were people on your side who were making it very difficult for me to hear you, then there were people who came in from my right who made it equally difficult. You, like any other senator when they are on their feet in this place, are entitled to be heard, and I am going to see that that happens. Senator Abetz, you are entitled to be heard in silence, as is the minister when they are on their feet as well.

Senator Abetz: Thank you, Mr President. Sessional orders require that a minister be directly relevant to the question that was asked. With great respect, whether or not you or any other senator heard what Senator Feeney clearly interjected—whether it was heard or not—is irrelevant to the question that was asked; namely, whether or not the minister agrees with Senator Feeney, who said that no self-funded retiree would be worse off, and she needs to answer that question.

Honourable senators interjecting—

The PRESIDENT: Order!

Senator Chris Evans: Mr President, on the point of order—

Honourable senators interjecting—

The PRESIDENT: Wait a minute, Senator Evans. I know it is Thursday. I know people are a little bit excited on both sides. But it makes it very difficult when people on both sides are interjecting.

Senator Chris Evans: Mr President, the question from Senator Fierravanti-Wells went to the compensation arrangements for self-funded retirees under the government's climate change plans. The minister, Senator Wong, has been directly on the topic in trying to provide the Senate with information about the nature of that compensation package and how the implementation of a carbon price would impact on that group of Australians, so there is no point of order.

The PRESIDENT: Senator Wong, you have 22 seconds remaining to answer the question.

Senator WONG: I am asked if I agree. I certainly agree with Senator Faulkner's assessment of Senator Abetz, but I am sure the senator will not want me to repeat that! I would again say—

Honourable senators interjecting—

Senator WONG: Right. Absolutely on point he was, Senator Abetz.

The PRESIDENT: Senator Wong, address your comments to the chair.

Senator WONG: Thank you, Mr President. I have referred to the government's linking of the assistance for self-funded retirees to the eligibility for the Commonwealth seniors healthcare card. (Time expired)

Carbon Pricing

Senator MARSHALL (Victoria) (14:40): I actually have a sensible question for—

The PRESIDENT: No need to preface the question!

Senator MARSHALL: the Minister for Innovation, Industry, Science and Research, Senator Carr. Given the unprecedented rise of the Australian dollar and the fears that it has created for manufacturing, can the
minister outline to the Senate what the government is doing to give workers confidence in the future?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:40): I thank Senator Marshall for his question and his concern, a concern which is matched by the gravity of the situation that we confront today. The Australian economy is experiencing the biggest structural change in a generation, driven largely by the high dollar. The resources boom is creating a net benefit for our economy; however, it is posing serious challenges for other trade exposed sections of the economy, and firms in those sectors are responding through innovation.

Through the wailing that we have heard from the other side, their crocodile tears about manufacturing—a recently discovered concern, I might add—you would have thought by now we would have heard some policy statement from them on how they believe we should be able to help manufacturers, tourism or education providers deal with a 45 per cent increase in the movement of the exchange rate.

We are seeing considerable challenges facing our manufacturers, and we know that this is a reality that is being faced in a very difficult and sometimes painful and unavoidable transition period that is ahead of us. However, there are reasons for optimism about our ability to navigate this difficult period. As a country, we have the opportunity to choose the future we want, and we have to be prepared, as a country, to fight for it. We know there are many, many things in this country that are going well for us. In fact, we have a world-class university system. We have a world-class research system. We have well-educated people. We have advanced technical skills. We have advanced infrastructure. We have a long history of great inventions. (Time expired)

Senator MARSHALL (Victoria) (14:42): Mr President, I ask a supplementary question. Does the minister have a view of the claims made by the Liberals in Victoria and repeated by Senator Ryan today that the carbon price will rip 23,000 jobs from the state's economy?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:43): Mr Baillieu's claims, which are based on some highly dubious modelling, take no account whatsoever of the support measures that are included in the Clean Energy Future package. His latest claims are in fact in very, very sharp contrast to the Premier's statements to the Victorian parliament, where he actually supported an emissions trading scheme. It is further evidence of the extraordinary hypocrisy within the Liberal Party on the question of blue-collar jobs, and we all know that that hypocrisy is revealed for anyone who cares to see. That party has only one contribution when it comes to manufacturing workers' jobs—that is, making it easier to sack them. That is what the policy of the Liberal Party is about. We know that the Treasury modelling has predicted that the Victorian economy will grow by 30 per cent by 2020 and by 160 per cent by 2050. We are on the— (Time expired)

Senator MARSHALL (Victoria) (14:44): Mr President, I ask a further supplementary question. What is the role of science and research in the transformation of the Australian economy?

Senator CARR (Victoria—Minister for Innovation, Industry, Science and Research) (14:44): Research institutions are very much at the forefront, the front line, of the transformation that is occurring. That is something that innovative companies have
known for a long time. Companies like global aeronautics giant Boeing have come to parliament today to showcase what Australian research can offer. Boeing has worked with the CSIRO in Australia for more than 22 years on a vast array of projects, ranging from sustainable aviation fuels to fire retardants to aircraft maintenance and management to the development of new materials. In May this year the company recognised CSIRO as the supplier of the year in its global awards ceremony. That is an award based on an assessment of 17,500 suppliers to Boeing from around the globe. This is a partnership which is vital for Boeing’s ongoing development and investment in this country. Boeing is actually putting people on the payroll as a result of the capacity to cash in on these relationships. (Time expired)

Carbon Pricing

Senator McKENZIE (Victoria) (14:45): My question is to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Given the government’s rhetoric on the carbon tax does not mention its impact on the international competitiveness of our primary producers, who have long been productivity leaders and whose businesses will be hit hard by the flow-on effects of the tax, especially in electricity prices, can the minister indicate what modelling if any the government has commissioned to estimate the impact of the carbon tax on farm profitability and the export of our primary products?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:46): Treasury have done modelling and that has been released. I am sure those opposite are aware of that. Agricultural industries are beneficiaries under the carbon price. They will be excluded from the carbon price. They will also be able, when the legislation is allowed to pass, to participate in many opportunities to abate carbon. This is an agricultural industry which will be able to partake in co-benefits. Those co-benefits are in reducing salinity and improving the environment while also looking for ways to sequester carbon, to reduce their carbon footprint and also to manage and develop the environment, as they have been doing for many years, and to find an income stream from it.

The benefits, of course, do not stop there. The benefits do not stay within the agricultural portfolio but go to fisheries and forestry. Within the agricultural portfolio the on-farm use of fuels will have a tax credit, and that applies in both fisheries and forestry. This will allow these industries to develop to ensure that they remain competitive in a global sense. In terms of their input prices, which is an issue which always gets raised, if you look at the price setting of fertilisers it is an internationally set price. The farming community understand that—

Senator Nash: How did their fertiliser get to the farm? On a truck!

Senator LUDWIG: It is very hard when you get screeching from the opposition.

The PRESIDENT: Senator Ludwig, just ignore the interjection. It is disorderly.

An opposition senator: It’s sexist!

Senator LUDWIG: ‘Screeching’ is not sexist. (Time expired)

Senator McKENZIE (Victoria) (14:48): Mr President, I ask a supplementary question. Given the Australian farmers are price takers in fiercely competitive global food and fibre markets where none of our competitors face the carbon tax that our farmers face, is it not the reality that the
government's carbon tax will cut deeply into farm incomes, as has been detailed by the Australian Farm Institute?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:49): No. This government does not agree with the underlying assumption of that question. The opportunities for the agricultural industry, for the forestry industry and for the fisheries industry are there under a carbon price. The agricultural industry will be able to contribute to a clean energy future. They will be able to continue by participating in sequestering carbon, by participating in the benefits that flow from the Clean Energy Future program. There is also $1.7 billion available to assist the industry. In addition, NRMs, natural resource managers, are working right across Australia as we speak today in workshops, going out into agricultural areas to explain the benefits that will come with a price on carbon. (Time expired)

Senator McKenzie (Victoria) (14:50): Mr President, I ask a further supplementary question. Given that from 2014 the government intends to impose a carbon tax on heavy road transport starting at 6c a litre, exacerbating the huge cost increases that will hit Australian farmers as a result of the carbon tax, can the minister confirm whether the government will abandon the changes to the fuel tax credit scheme, which is just another example of an underhanded attempt to bring agriculture into the carbon tax net?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:50): What we have done is allow a lead time for the transport industry. Like many other industries, there is a lead time for them to develop alternative and more efficient ways of dealing with this. But this government is determined to ensure that we have a clean energy future, that we put a price on carbon, that we do reduce our carbon emissions. The agricultural industry and a range of industries will benefit significantly from this package, because what we intend to do when the Senate passes this legislation is create opportunities in both reducing and sequestering carbon. But more importantly—

Senator Williams: On a point of order, Mr President: the question clearly asks whether they are going to abandon the fuel tax proposed for 1 July 2014 on the transport industry, which has been called a death tax by the Transport Workers Union. That is the question. Could the minister answer it directly, please.

Senator Conroy: Mr President, on the point of order: far be it from me to disagree with my good friend, the senator down there, but he did not come close to articulating the question!

Government senators: Wacka.

Senator Conroy: I did not want to say Wacka.

Senator Joyce: Mr President, my point of order goes to the proper way of referring to my colleague. Minister Conroy, it is Senator Williams, not 'senator down there'. 'Senator down there' could be any of us or the whole lot of us. Senator out there—that is you, Senator Conroy!

The President: There is no point of order, Senator Conroy, have you finished?

Senator Conroy: Yes, I have finished. There was no point of order, effectively.
The PRESIDENT: Senator Ludwig now has 15 seconds remaining to answer the question.

Senator LUDWIG: I was answering the second supplementary question and did go to the benefits and how the industries were dealing with this—I was not going to take that point of order. More important, what we are looking for—(Time expired)

Apple Imports

Senator XENOPHON (South Australia) (14:53): My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Overnight, the government has alleged that preventing New Zealand apple imports could result in retaliatory action from New Zealand under the WTO rules. However, could the minister outline which tariffs New Zealand could apply against Australia which are consistent with the Australia New Zealand Closer Economic Agreement, ANZCERTA? Is it not correct that New Zealand could not impose retaliatory tariffs because to do so would be in breach of ANZCERTA because it is not a 'covered agreement' for the purposes of the WTO disputes settlement understanding?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:54): I am advised that this is a trade related matter. Not agreeing to the WTO rules—the very same rules under which we trade our goods and services overseas—would expose Australian exporters and Australian trade to retaliatory action from New Zealand. Australia exported something in the order of $8 billion in goods and services to New Zealand in 2010. New Zealand could retaliate against any Australian product and they can raise their tariffs on Australian goods up to 100 per cent. We have an issue which could encompass not only Australian farms but also businesses. New Zealand could choose to target agricultural goods—the $110 million of sugar we send to New Zealand, the $10 million of citrus fruit we send to New Zealand, the $90 million of pig-meat we send to New Zealand and the $18 million of beef we send to New Zealand.

First and foremost it is important to acknowledge this: the department's biosecurity staff have developed a set of import conditions to manage the risks associated with this trade. Whether people believe that the WTO got it right or wrong, the department has conducted a science based review which is broadly supported by at least three state government biosecurity agencies. Whatever people think of the World Trade Organisation or the merits of the case, there is a bipartisan commitment in this place between the government and the opposition to abide by the international terms—(Time expired)

Senator XENOPHON (South Australia) (14:56): Mr President, I do not think the question was answered. Nevertheless I ask a supplementary question. Minister, what compensation will the government pay to apple and pear growers once fire blight comes to Australia as a result of this decision to allow apples to be imported from New Zealand?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:57): I thank Senator Xenophon for his question. First and foremost, as I said, it is important to acknowledge that the department's biosecurity staff have developed a set of import conditions.
So there are import conditions to manage the risk associated with this trade. There has already been an incursion of—this is a very early point of order—

Senator Joyce: It is very early because it is very important. Mr President, my point of order goes to relevance—a very important point of relevance. The question asked 'what compensation', Minister. That is what everybody wants to know.

Senator Conroy: Mr President, I rise on the point of order. Senator Ludwig's answer was absolutely to the point of the question. It is utterly time wasting of Senator Joyce to just stand up and try to make a simple political point because he cannot get the answer that he wants from Senator Ludwig. Senator Ludwig could not have been more relevant to the question in his answer so far and he still has 37 seconds left. It is a ridiculous point of order designed to waste time.

The President: Senator Conroy, I am aware of the fact that the minister has 37 seconds left. I am listening closely to the minister's answer and the minister is aware of what the question is.

Senator Ludwig: In 1999, when Australia lost its case in the WTO on the importation of salmon products, guess who said that the government would not indemnify the industry against an incursion? It was Mr John Howard. We have pest and disease incursion arrangements in place to address these very circumstances. These arrangements place an obligation on governments, state and federal, when these things occur. But, most importantly, it is about preventing its importation, and that is why we have four conditions on this importation of New Zealand apples to manage the risk of a range of diseases, as we do with every other commodity that comes across our border.

In relation to the issue surrounding streptomycin, can I just add that streptomycin is registered for use in Australian food production but it is not at this stage—(Time expired)

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Coal Seam Gas

Senator Wong (South Australia—Minister for Finance and Deregulation) (15:00): On 16 August Senator Milne asked me some questions in the context of my role representing the Minister for Climate Change and Energy Efficiency. I have some additional information in relation to that
question which I seek leave to incorporate into Hansard.

Leave granted.

The answer read as follows—

The Department of Climate Change and Energy Efficiency commissioned George Wilkenfeld and Associates to conduct an independent analysis of data obtained under the National Greenhouse and Energy Reporting System to produce upstream (scope 3) emission factors for natural gas by state and territory. The natural gas scope 3 emission factor includes both coal seam methane and other natural gas.

These factors incorporate the indirect emissions attributable to fuel combustion and fugitive emissions associated with the extraction, production, processing and transport of natural gas and coal seam methane.

These factors are published in the National Greenhouse Accounts Factors workbook on the Department of Climate Change and Energy Efficiency website.

In relation to Senator Milne's second question, the Department of Climate Change and Energy Efficiency has not commissioned any research into the life-cycle emissions from coal seam gas (CSG) projects from external sources.

In the context of assessing the potential impacts of the Jobs and Competitiveness Program on liquefied natural gas (LNG) projects, the Department has undertaken research internally based on a range of data sources to assess the magnitude of emissions associated with CSG versus other LNG projects as well as the material sources of these emissions.

These sources of information included the forecasted total project emissions estimated by LNG proponents in their Environment Impact Statements and in their estimates submitted to the Department.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Answers to Questions

Senator CASH (Western Australia) (14:51): I move:

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

The non-answers given by those on the other side today to what were very, very basic questions from this side in relation to the impact of the carbon tax on the Australian people shows just how scared those on the other side are of the impact of the carbon tax. In fact Minister Wong, when asked directly by Senator Fierravanti-Wells exactly what the impact would be on self-funded retirees and whether or not any self-funded retiree would be worse off, was unable to confirm the comment from her own colleague, Senator Feeney, who said, 'None.'

It was put directly to the Minister for Finance and Deregulation whether or not the comment made by Senator Feeney was actually true and the Minister for Finance and Deregulation would not confirm that no self-funded retiree would be worse off under the Labor Party's carbon tax. So every self-funded retiree out there needs to ask themselves: 'Is it me? Am I the self-funded retiree that is going to be left worse off under the Labor Party's carbon tax?'

I think Minister Wong was actually very brave to disagree with Senator Feeney, because we all know what happens to those senior members of the Labor Party who disagree with Senator Feeney: they soon find themselves on the political execution hit list. So let us just watch this space very carefully.

I see Senator Farrell sitting there with a wide grin on his face. Senator Farrell, I think your little paws are just as dirty as Senator Feeney's when it comes to the political execution hit list. Remember, the political execution hit list was in relation to Mr Rudd. Mr Rudd was taken out—why? Because the Labor Party's ETS was going to have a devastating impact on the Australian people. It was the wrong policy at the wrong time. Mr Rudd was politically executed by the
Labor Party because his policy was the wrong policy at the wrong time.

It is one thing for the coalition senators to stand here and to properly criticise and scrutinise the government's carbon tax policy but, with headlines like 'Gillard Government's carbon tax to cost 23,000 jobs in Victoria' in the *Herald Sun*, no wonder the Prime Minister will not take this policy to an election. She knows that if she did those opposite would be on their side and we would be in government. Then, of course, you have New South Wales modelling that shows in New South Wales electricity prices will rise overnight by 15 per cent. Why? Because of the Gillard Labor government's carbon tax policy.

Paul Howes should be very pleased with this statement by BlueScope Steel. They, one of the fiercest critics of the carbon tax, have formally announced a $900 million write-down of their asset values and signalled a review of their domestic steelmaking capacity. This is the Paul Howes who publicly said if one job was lost because of the Gillard government's carbon tax policy he would withdraw all support for the carbon tax. Well, Mr Howes, where are you now?

Again, it is not just the coalition who are actively criticising the impact of this tax on the Australian people. Let us have a look at what New South Wales leader John Robinson told his party and the shadow cabinet. He said that he would never, ever publicly support a carbon tax. Then what happened? He crumbled under the pressure. There was also state Labor MP Bob Harrison. Mr Harrison is someone who would know the impact that this tax would have on jobs, because he was a former steelworker. He has publicly stated:

How can we believe our prime minister, unfortunately, who promised us there would be no carbon tax before the election and who just managed to scrape in?

But it does not end there. What about Mr John Della Bosca? He said:

... I think the carbon tax is a mistake. It's the craziest thing she [Gillard] could have done ...

Tony Sheldon from the Transport Workers Union describes the carbon tax as 'a death tax'. In the seat of Brand, I think that is exactly what Mr Gary Gray thinks of the tax, because the people in the electorate of Brand do not want the carbon tax. I see Senator Bishop smiling, because, Senator Bishop, you know that is true. The current Prime Minister has failed in the task of national leadership. This week is a shameful week in this place, because it is the one-year anniversary of the greatest lie ever perpetrated on the Australian people. *(Time expired)*
goes to changing the behaviour of energy producers and users in this country.

In the case of the GST, any compensation that was offered by the government of the day had to be dragged out bit by bit. Households and families were significantly worse off, as the then government acknowledged, but it had to be done for the good of the country. Of course with the Work Choices legislation it was just about removing protections and benefits. Untold people were harmed, and their retribution was visited in the election of 2007. With the clean air package we acknowledged at the outset that there is going to be some impact on prices. It is going to affect those who are employed, it is going to affect families and it is going to affect those most in need. So what have we done from the outset? We have acknowledged—we have been saying it for 12 months—and we have designed and will implement a comprehensive package of household assistance measures—

Senator Bernardi: Twelve months ago you said you didn't want a carbon tax.

Senator Cash: How will that change their behaviour?

Senator MARK BISHOP: That go to helping those most in need, as Senator Cash and Senator Bernardi well know. They have been out there for the last month or six weeks speaking to pensioner groups, speaking to community groups, speaking to those affected, and they have received the same message that every Labor senator across this chamber has, which is that the package of compensation offered by the government to households in need—those earning under $80,000—to self-funded retirees and to pensioners and others in receipt of welfare assistance is much sought after, much appreciated and, when explained in a calm, rational fashion, not only appreciated but desired.

What does it do? It gives more than adequate compensation to those household units that are going to be affected. As Senator Wong and others said in response to questions during question time, nine out of 10 households in Australia will receive some form of assistance. Almost every household in Australia is going to receive assistance in terms of the implementation of the carbon price package.

Senator Nash: You're admitting they're going to get slugged with costs.

Senator MARK BISHOP: Of those households, almost six million—and a lot of them in rural areas with well below average incomes, Senator Nash—will get assistance that meets or exceeds the expected average price impact.

Senator Nash: How are you going to do it when we get to an ETS?

Senator MARK BISHOP: So all those lower house seats that the National Party holds up there in New South Wales and people like you, Senator Nash, who are elected by people in those electorates, low-income electorates almost without exception, will be protected. The economic interests of the people in those electorates are going to be advanced because this government is going to give some of those six million households—some of those that elect you—assistance that meets or exceeds the expected average price impact.

But it gets better than that. Over four million households, almost half of all households across Australia, will get assistance that provides a 20 per cent buffer over and above their expected average price impact. In terms of change and the impact it is going to have, you could not ask for a more beneficial approach by a government, across Australia. It is a package of benefits designed to assist and advance the interests of those most in need.
Senator BERNARDI (South Australia) (15:11): Thank goodness Senator Bishop has run out of time, because the reinvention of history that we heard from him was simply extraordinary. May I take this opportunity to remind Senator Bishop that 12 months ago the Labor Party were not out there talking about the 'clean air' policy—and that is in inverted commas, I say for Hansard's benefit. Twelve months ago the Prime Minister was out there promising there would be no tax on carbon under a government that she leads. Clearly, the plausible excuse is that she is not leading this government and it is Senator Bob Brown who is actually leading it. But to all intents and purposes the Prime Minister of Australia is meant to be Julia Gillard, and she made a catastrophic deception of the Australian people a key element of her re-election.

Senator Bishop also, through his historical revisionism, went through key economic reforms and was unable to name one single key economic reform that this Labor government have actually introduced. They have been in power for nearly four years. In those four years we have seen the Australian economy incur enormous levels of debt. We are now starting to see inflation rise. We are starting to see unemployment rise. We are starting to see a rudderless and directionless government imperil the Australian people. That is why the Australian people are up in arms.

Contrary to Senator Bishop's assertions that the Australian people are saying, 'Yes, we want this economic reform, this clean air tax, this carbon dioxide tax that you are trying to impose upon us,' we know that is not the case. That is why thousands of Australians, the regular mums and dads, the mainstream of Australia—not the extremists captured by the kooky Greens, not the extreme left who want to see the dismantling of industrialisation in this country—pick themselves up and come to Canberra to say, 'We're not happy with the deception of Julia Gillard and the Labor Party.' We know that is the case, and whatever Senator Bishop tries to assert to the contrary in this chamber beggars belief. We know that there are convoys of hundreds, if not thousands, of Australians making their way to Canberra as we speak in a convoy of no-confidence in this government.

One thing is very clear: partisan politics in this country has taken a break for a while. It is no longer the Liberal Party versus the Labor Party, it is no longer Liberal supporters versus Labor supporters; it is us as Australians against the government. All Australians feel betrayed by this government. They feel that this government is not serving the national interest. It has taken a dose of that New South Wales disease and it is all about serving Labor's political interests. It is government clinging to government and power at all or any cost.

We have established very clearly that this policy, this erroneously named and misleading carbon tax, is a tax on an odourless and colourless gas called carbon dioxide, which is an essential element for plant food. We know that. It is not a great moral issue of our time, as that deposed former prime minister professed. It is not a key plank of this government's policy because they ditched it under Senator Wong when she was the Minister for Climate Change and Water in the last government and they promised not to introduce it here.

It is a monumental deception and they are trying to get it through by masquerading it as an environmental measure. I challenge Senator Farrell, who is speaking next, to describe very succinctly exactly what difference this carbon tax is going to make to global temperature or to the environment. They are words that you will never hear
uttered. The answer to that—I am not sure Senator Farrell will have the courage to say it—is zero; it is zilch; it is absolutely nothing. It will make no cracker of difference to the temperature or the environment.

The only thing it will affect will be the economy. It will put all Australian industry at a disadvantage. It will put Australian mums, dads, families and pensioners at a disadvantage because the sweetener will come but once. It will come but once and the tax will go on and on and on and it will get bigger and bigger and bigger until a coalition government is elected and this tax is removed. This is the great hoax that this government is putting forward. They say they are going to have a clean air policy, according to Senator Mark Bishop. We have a clean energy revolution going on. It is going to be every bit as fraudulent and every bit as misleading as all their other revolutions. (Time expired)

Senator FARRELL (South Australia—Parliamentary Secretary for Sustainability and Urban Water) (15:16): We know all about Senator Bernardi and his approach to clean energy and carbon pricing. We know it because he is a well-known denier and sceptic on this issue. We know the role that he played in the Liberal Party with his mentor, former Senator Minchin who has now left the parliament, in the removal of Malcolm Turnbull, the former leader of the Liberal Party. We know why Senator Bernardi got involved in that. We know that it was the policy of the former leader Malcolm Turnbull—

Senator Bernardi: Kevin Rudd!

Senator FARRELL: No, we are talking about the Liberal Party now, Senator Bernardi. Don't get it confused; we are talking about the Liberal Party. We are talking about the policies of the former leader of the Liberal Party Malcolm Turnbull who was very clear on this issue. He was not a sceptic, like yourself. He was not a denier, like yourself. He understood the importance of clean energy and a clean environment.

Senator Cash: What about your role with Kevin Rudd?

Senator FARRELL: He understood why Australians needed to take some leadership on this issue, and it cost him his leadership because he was prepared to stick his neck out and say, 'We have to do something about this important issue.' When he did, Senator Bernardi had the knives out. And we have Senator Cash over there—I am not entirely sure how she voted in that ballot, but I think I can guess.

Senator Wong interjecting—

Senator FARRELL: Yes, Senator Wong is correct.

Senator McEwen interjecting—

Senator Farrell: I have not read it that closely. I do not take that much notice of Liberal Party ballots—

Senator Cash: Why have you been talking about this for 2½ minutes?

Senator FARRELL: and who votes for what in the Liberal Party.

Senator Cash: What about you?

Senator FARRELL: I know the outcomes though, Senator Cash, and I know what the outcome was when Malcolm Turnbull, to his great credit, understood why Australia needs a clean carbon future. I have children and I hope one of these days to have grandchildren, and I want to give those children and those grandchildren the opportunity of a clean energy future.

Senator Cash: I would like to give them a job!

Senator FARRELL: Well, let us talk about jobs. Senator Cash said, 'What economic achievements have we had in the
last three years? I will give you one, Senator Cash. What about when the rest of the world fell into recession? What did the Australian government do under the Labor Party? We kept Australians in jobs and our clean energy future is going to provide lots of young Australians with jobs. I can see Senator McEwen agreeing with me. I know she knows what I know about what is going on in South Australia. Let us look at just one area—geothermal.

Senator Bernardi: It exploded!

Senator FARRELL: Mr Deputy President, I seek the protection of the chair here. I sat quietly and listened to that atrocious diatribe by Senator Bernardi, the man behind the end of Malcolm Turnbull.

Senator Cash interjecting—

Senator FARRELL: And the same with you, Senator Cash. I sat quietly and listened to that shrill diatribe—

Senator Cash: Now that is sexist and that is nasty.

The DEPUTY PRESIDENT: Order! Senator Farrell and senators on my left. Senator Farrell, you have the call. I suggest you direct your remarks to the chair, not across the chamber, and you will find you will not need my protection.

Senator FARRELL: Thank you for that protection, Mr Deputy President.

Senator Bernardi interjecting—

Senator FARRELL: You may call it exploding but I have great faith in our clean energy policies of the future, particularly in what geothermal is going to do in my home state of South Australia. We have a series of proposals up there, all about applying new technologies, new ideas for the problems of the— (Time expired)

Question agreed to.

Apple Imports

Senator COLBECK (Tasmania) (15:22): I move:

That the Senate take note of the answer given by the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) to a question without notice asked by Senator Xenophon today relating to the importation of apples from New Zealand.

This is quite a serious matter, particularly given some of the information provided to members and senators this morning in a briefing from Biosecurity Australia. The disturbing element of that is that Australia's apple growers found out yesterday what the final protocols were for the importation of apples from New Zealand. It was only yesterday afternoon, when the minister tabled his statement in this place, that Australia's apple growers found out what the final protocol was for the importation of apples from New Zealand. But it now transpires that there had already been seven permits issued by Biosecurity Australia for the importation of apples from New Zealand into Australia. So, before Australia's apple growers even knew what was going on, this government had issued seven permits to New Zealand growers to import apples into Australia. What I would really like to know is how far ahead of the game the New Zealand growers were. And is it reasonable that New Zealand farmers found out before Australian farmers that there were going to be apples imported into this country? I think it is an absolute disgrace that the minister would tell New Zealand farmers before Australian farmers, and even issue permits for the importation of apples into Australia before Australian farmers knew.

We then find out that those apples will arrive here within days. They will be airfreighted from New Zealand to Australia within days. So Australian apple growers have no opportunity to respond to this. They are left with a fait accompli as the apples will
be arriving within days. We then find that the apples were grown and harvested in April this year. That was before even the draft regulations were made public. So what we now have is a situation where apples grown before the draft protocols were made public on 4 May are now being accepted through the process for importation into Australia. So, before we even knew what the initial protocols were, before orchards could be registered, before the final protocols and farm management practices could be verified, this importation was put in place. Apples grown before any of those processes were made public to Australian growers even in a draft form are being qualified for importation into Australia.

I do not know how the industry can have any faith in what the Australian government is doing as part of this process. It is no wonder that there is huge suspicion and huge levels of concern about the efficacy of this process when, before the process was even started, New Zealand farmers were obviously gearing up. We had a hearing into this on 21 July and we were told that officials from the Australian government were going to New Zealand to set up the processes and set up the practices. My view is that they were going there to start the certification process and to begin facilitating the importation of apples from the day that the minister made his final release. How could it be that the New Zealand growers were so prepared before he had even made his final pronouncement to the Australian growers that this was going to be the final protocol? That happened yesterday afternoon, and we find this morning that there have been seven permits already issued—there will be apples here within days and they were grown before even the draft protocols were announced to the Australian apple growers. It leads me to believe the fix was in.

The Prime Minister went and addressed the New Zealand parliament in February this year and said, to huge applause in the New Zealand parliament, 'Don't worry, we will abide by the WTO rulings.' Of course, we knew that that would be what the Prime Minister would say. But there was obviously a nudge-nudge, wink-wink and the deal was done. The fix was in in February and New Zealand farmers have been preparing since February to bring apples into this country. And yet our farmers find out yesterday afternoon what the final protocol was. We found out this morning: seven permits issued, the planes are loaded, apples will be here within days—no opportunity for Australian apple growers to deal with this. It is an absolute disgrace.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Budget

The DEPUTY PRESIDENT: The President has received a letter from Senator Fifield proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The Gillard Government's continuing inability to balance the budget and wavering commitment to achieving a budget surplus in 2012-13.

Is that motion supported?

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

Senator CORMANN (Western Australia) (15:28): The Australian Labor Party does not know how to manage money. Even when the budget was bleeding with red ink back in May the Prime Minister, the Treasurer and the Minister for Finance and Deregulation were walking into television studio after television studio to talk about this surplus that we are going to have in 2012-13. The
budget position has deteriorated dramatically since the mid-year economic and fiscal overview in November last year. The deficit, already one of the highest deficits on record, had deteriorated by another $8.5 billion in the couple of months between the mid-year economic and fiscal overview and the budget being delivered in May. The deficit had gone further down by $8½ billion. The deficit worsened by another $10 billion for the 2011-2012 financial year, to take us all the way up to $22.6 billion. So here was this government that wanted everyone to believe that 2012-13 was going to be the year that the Labor Party would finally achieve what they had not achieved since 1989-90, a surplus budget. But we have always been sceptical because this Australian Labor Party spends too much and borrows too much, and, of course, that is why they have to tax too much. This is a government which, in four out of four budgets, has delivered deficits. The last Labor Party surplus in government, here at the federal level, was, as I have mentioned, back in 1989-90.

The reason that this government ends up in this much of a mess is that they just do not know how to live within their means. When the minister for finance was under pressure because of this disastrous fiscal record under the Labor administration, she piped up and said, and this was in the lead-up to the last election, 'Hang on, we have made $83 billion worth of savings.'

Senator Wong interjecting—

Senator CORMANN: Minister, I am happy to show you the transcript. You said it after the election and the Treasurer, Wayne Swan, said it just before the election and, of course, the Prime Minister has said it at various times as well. So '83 billion worth of savings'—they were trying to make it look as if they had made some tough decisions. Given that '83 billion worth of savings', everybody across Australia would think that the government had made some difficult decisions to cut spending. Guess what? Half of the money that was supposed to be in spending cuts was in fact new multibillion-dollar taxes or tax increases. This is a government that thinks that when they rack up a new tax they are actually saving money.

Let us take a step back. In the lead-up to the 2007 election the then Leader of the Opposition, Mr Rudd, said that he was going to be an economic and fiscal conservative; he was going to be a mini John Howard. He was saying to the people of Australia, 'Don't you worry. I am going to look after the public finances. I am going to look after the economy in the same way that John Howard and Peter Costello did.' Then, in the first budget, taxes went up by $20 billion and spending went up by $15 billion. In that first budget, the 2008-09 budget, they still delivered a $27 billion deficit, followed by a $55 billion deficit, followed by a $50 billion deficit—and now we are on track for a $22.6 billion deficit this year. That is if we believe the budget papers, but the budget had a very significant omission.

When the government knew that they were going to introduce a carbon tax, they delivered a budget without including any information in relation to the carbon tax, a carbon tax which we were promised would not happen, a carbon tax which the government now says will start on 1 July 2012, a carbon tax which will raise about $25 billion over the forward estimates, a carbon tax which starts on the same day as the mining tax, a carbon tax which Minister Wong said, in media interviews at the time of the budget, would be broadly budget neutral. When we said, 'This budget isn't worth the paper it is written on as the revenue figures are wrong, the expenditure figures are wrong, the growth figures are wrong, the CPI figures are wrong and the jobs figures are wrong,' the
minister said, 'Well, the carbon tax is going to be broadly budget neutral, so don't you worry.' Now we know what 'broadly budget neutral' means. We now know that, even after they introduce a multibillion-dollar new tax, even after they introduce a tax which will take $25 billion out of the Australian economy, the government's budget is going to be at least $4.3 billion worse off. But there is more, because Treasury officials admitted during the Senate carbon tax inquiry that the money to buy back the so-called dirty, coal-fired power stations was hidden in the contingency reserve—not over the forward estimates, but beyond the current forward estimates. So here we have a multibillion-dollar new tax which is going to leave our budget worse off over the forward estimates to the tune of $4.3 billion and beyond. And there is more.

The mining tax, according to Treasury modelling, will raise about $38½ billion over the next decade but, true to the form of this wasteful, high-spending, high-taxing, high-debt government, before they have even passed the tax laws through the parliament, before they have even started to collect the tax, they have already spent it. Not only have they already spent it; they have spent more. So here they are wanting to collect $38.5 billion in mining tax revenue and they have made commitments which are conservatively estimated to cost about $57½ billion over the next decade. On its own the proposal by the government to increase compulsory superannuation to 12 per cent will cost $3.6 billion when it reaches that 12 per cent in 2019-20. That is a figure that was included in the government's own budget papers last year: $3.6 billion it will cost in 2019-20 and, of course, it is increasing from there. According to Treasury, in that same year the mining tax is expected to raise about $3 billion. Incidentally, 65 per cent of that mining tax revenue is to be collected in one single state, Western Australia. So here you have a government that comes in with one new ad hoc multibillion-dollar tax after the other and each one of them is leaving the budget in a worse position. You would think that, when you come in with a tax measure that increases the amount of revenue you collect, the purpose would be to get yourself out of the financial mess that you got yourself into by spending too much. But, no, instead of spending less and instead of taking advantage of all these taxes that they want to bring in to get themselves back into a surplus position, they actually end up in a worse position. In a paper they published in November last year, Treasury said that the budget was going to be in structural deficit until 2019-20. Since then, we have had the carbon tax, which is going to put the budget in a worse position, and we have had the mining tax, which is going to put the budget in a worse position. We also have this dodgy mining tax deal that the government negotiated exclusively and in secret with the three big mining companies, where, under pressure in the lead-up to the election, they promised them, without even having a conversation with state and territory governments about it, that they would credit all state and territory royalties. So now, every time state governments do what they are completely entitled to do under the Constitution—that is, make decisions about their royalty revenues, removing royalty concessions or increasing royalties as they see fit—it will be a hit on the federal budget, courtesy of a dodgy deal negotiated by this government.

The point of the argument here today is that this is a government that, very clearly, is already laying the foundations for preparing the Australian people for the fact that it will not be delivering a surplus budget in 2012-13. The government know that they have a bad track record when it comes to managing
money. They know that the Australian people know that they have a bad track record when it comes to managing money. Labor keep talking about surpluses, but it is coalition governments that deliver surplus budgets. Ten out of 11 budgets under the last coalition government were surplus budgets. People across Australia know that after a couple of years of Labor in government it is time to get the coalition back into government to sort out the mess that Labor have created with their complete fiscal recklessness.

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (15:38): I rise to also contribute to the matter of public importance before the Senate today. Contrary to what Senator Cormann would have Australians believe from his contribution—a contribution, I might add, that was full of factually incorrect statements—the Labor government has a strong track record of proven economic management.

We have delivered strong economic management by shielding Australia from the worst impacts of the global financial crisis. We have been prudent in implementing a cap on new expenditure in our budgets. Our policies are fully costed, with appropriate savings delivered to offset any new expenditure and, despite the difficult economic circumstances we have faced as a nation, we remain on track to bring the budget back into surplus in 2012-13. It is clear we remain committed to fiscal responsibility, which I must say is in stark contrast to what we get from those opposite. Those opposite, led by Mr Abbott and Mr Hockey, have made blunder after blunder in opposition costings, from the black hole in their election commitments to their latest economic debacle, which centres on their $70 billion budget black hole. Mr Abbott and Mr Hockey have been running around announcing policies without maintaining fiscal responsibility, and now they find themselves in a situation where they need to find $70 billion of savings. What will Mr Abbott and Mr Hockey cut? Well might you ask. Where will they deliver their savings? Will they cut age, disability and veteran pensions? Will they cut Medicare? Will they cut education funding? Will they claw back tax cuts? I challenge the Liberals to tell us where these savings are going to come from. It is time for Mr Abbott and Mr Hockey to come clean with the Australian people about what services they plan on cutting.

While both Mr Abbott and Mr Hockey are looking at cutting services and perhaps pensions, they are split on the size of the black hole, even though Mr Robb seems to be able to count and has indicated on ABC AM that the figure is $70 billion. Mr Hockey says that the coalition need to identify $50 billion, $60 billion, $70 billion of savings that they will make. He is happily going from $50 billion to $70 billion as if we were talking about hundreds of dollars. Then we have Mr Abbott, who refutes that the figure is $70 billion, but we know that it is. We know that Mr Abbott is not interested in economics; he is not interested in balancing the budget. We know that because of the comments that he has made publicly. He continues to have thought bubbles as he roams the country on a massive scare campaign against the government's carbon tax. He is not interested in backing up what he says with any facts or substance.

So, while those opposite continue to make countless economic blunders, we on this side have had to deal with continuous conjecture and negativity surrounding the Australian economy, which is neither helpful nor accurate, to say the least. Senators in this place are aware of the wild swings in international finance markets. This has no doubt made people anxious about the state of
the global economy. As the Treasurer, Mr Swan, rightly pointed out, cautioning against reading too much into short-term movements in the share market:

Just as a big gain in trading over a day or a couple of days doesn't mean the challenges faced by Europe and the United States have been solved, a big fall doesn't mean they're insurmountable either.

As the government have highlighted, it will take time for the European and United States economies to get their houses in order. They will have to make tough decisions to reduce their debt and ensure their budgets are sustainable. This will have an impact on the global economic outlook for some time. However, we should remember that in Australia the fundamentals of our economy remain strong in comparison to the rest of the world. Recently, the International Monetary Fund highlighted the fact that in Australia we have very low public debt, low unemployment and a massive pipeline of investment, and we expect to bring the budget back to surplus—although, as the Treasurer has highlighted, this task has been made much tougher by current global events. This government has a strong track record of economic management of the Australian economy. We can also look to our record during the global financial crisis. In a period when advanced economies around the world have been suffering from the largest global recession in over 70 years, the Australian economy has performed remarkably well. This is no coincidence. The strong performance of the Australian economy can be put down to the early decisive action taken by the Labor government. We injected short-term cash stimulus as well as medium- and long-term infrastructure spending to keep the Australian economy in strong shape. What did those opposite want us to do in those times of global financial crisis? They advocated the sit-on-your-hands and the wait-and-see approaches. They wanted to send the Australian economy down the gurgler, essentially abrogating their responsibility to protect and support the Australian economy. But the Labor government's decisive action, stimulus measures and sound fiscal management helped to cushion the Australian economy from the worst impacts of the global recession.

Whilst our economy has remained relatively strong during the GFC, this summer's natural disasters have also impacted on our economy. Recently the full effects of the natural disasters were felt with the release of the national accounts for the March quarter. GDP fell 1.2 per cent in the quarter to be one per cent higher throughout the year. As the Treasurer outlined after the release of the negative GDP result, a period of weak growth was broadly expected after the devastating natural disasters. He said:

This weakness is likely to be followed by a strong rebound in the June quarter as the economic impacts of the disasters ease and reconstruction picks up.

However, the Treasurer has outlined that we remain on track to restoring the budget to surplus in 2012-13. Treasury has estimated the floods and cyclones will cost the economy about $12 billion, with lost commodity production likely to be around $9 billion and crop damage more than $2 billion.

The Treasurer has also said that we expect to create another 500,000 jobs in the next couple of years. This is on top of 750,000 jobs we have already created since coming to office in 2007, including 189,000 in the last year alone. Whilst there was a slight increase in July to 5.1 per cent, fundamentally the strength of our labour force participation rate remains strong, especially in comparison to the rest of the world. The unemployment rate is 9.1 per cent in the United States, 7.2 per cent in Canada, 7.7 per cent in the United
Kingdom, 9.7 per cent in France and 20.9 per cent in Spain. When we entered the global financial crisis, Australia's unemployment rate was the same as that of the United States. If that were still the case and we had the same unemployment levels as the US, around 9 per cent, then an extra 486,000 Australians would be out of work. Our swift action during the GFC has ensured that Australians have remained in work and that our economy is the envy of the rest of the developed world.

Let us look at some figures. Official interest rates are two full percentage points lower than when the Liberals lost office, currently 4.75 per cent compared to 6.75 per cent in November 2007. Our national government debt is low, currently 7.2 per cent of GDP or 10 times less than the United Kingdom at 75 per cent of GDP and the United states at 72 per cent of GDP. Wages are rising faster—(Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (15:48): Where do you start when you are talking about the Labor Party's track record on economic management? I think there is no better place than with Dr Kenneth Rogoff from Harvard University, who did an analysis of the increase in public sector debt since these luminaries attained government. The country that had the greatest increase in public sector debt was unsurprisingly Iceland. They have basically sunk into the North Atlantic. Ireland was No.2 and No.3 on the list of countries with the greatest proportional increases in public sector debt was Australia. Below us were other countries that we do not like to mention—Greece, Portugal, Spain and the United States. They were all below us on their proportional increase in public sector debt.

They tell us that they saved us from the recession. I will tell you why we did not go into recession. There are five main reasons. Let us go through them seriatim. There is a red rock called iron ore. We were getting an awful lot of money for it and selling a lot of it. Iron ore was the No.1 reason we did not go into recession. Then there is this black rock from our east coast called coal. We sold a lot that—record amount at a record price. That was the second reason we did not go into recession. Then there were the 31 March shipping figures for wheat. We do not like to talk about agriculture anymore, but the drought ended and record sales of wheat went through. There were two other reasons: a proportionally lower interest rate and a proportionally lower dollar. That is what saved Australia from recession.

Unless Mr Swan can convince the Australian people that buying a flat screen television somehow managed to dig up a tonne of iron ore and put it on a boat, or plant an acre of wheat, or export a tonne of coal, then their argument does not stand. What they did instead was burn down 194 houses with ceiling insulation. Maybe that was a slight stimulus to the building industry. They went on a manic spree of building school halls. I thought that after these school halls were built my daughters would come home speaking French or Latin—Je ne sais pas; pardon monsieur; je ne comprends pas—but they are still speaking the same language I sent them to school with. It did not really stimulate their thinking much; it just gave a whole range of people, such as Reed Constructions, a great ability to rip the Australian people off.

The Labor Party believe in catastrophic climate change, but they do not seem to take into account catastrophic economic change, which is far more predictable. In fact, we were talking about this before the first financial crisis. We had clarion calls from William White of the Bank for International Settlements saying, 'Watch out guys; we are
starting to have a few problems with interbank liquidity.' He was saying that prior to the first so-called GFC. We had Dr Paul Woolley talking about financial market dysfunctionality because of the overextension in derivatives. The luminaries of the time, the Tanners and the Swans, were just completely ignoring it. Then it is always a surprise and a wonder when something happens. If you want to understand Mr Swan, it is very simple: half of Wayne Maxwell Swan's life is a promise and the other half of Wayne Maxwell Swan's life is an excuse. You just have to work out which day it is: is it a promise or is it an excuse. It is always one of them.

Let us go through some of his promises. I remember back in the election campaign of 2010 when Mr Speers from Sky was talking to the Prime Minister about what happens if a surplus does not happen. This was what the Prime Minister said: 'Well, failure is not an option here and we won't fail.' The host said: 'But in the event it is not achieved, perhaps it is not achieved, what will you do?' The Prime Minister replied: 'Failure is not an option here. The budget will be in surplus in 2013.' Lately it has been turned into an objective. I wonder how I would say that to my children: 'I was going to feed you tonight—that was a promise, now it's an objective,' or 'I was going to go to work tomorrow—that was a promise, now it's a target as I'm thinking about going to work.' This is the sort of position we have. The Prime Minister, post the 2010 election, said: 'I thank the shadow Treasurer for his question. I agree with him that Australians do deserve a Treasurer with a steady hand, and they have one. They have a Treasurer who has delivered a budget that will return the budget to surplus in 2012-13 exactly as promised.'

Promises, promises, promises—don't you love it. And now we have excuses, excuses, excuses.

Now to give the backdown. Last Friday, Julia Gillard, the Prime Minister of Australia said:

'It makes the challenge of bringing the budget back to surplus in 2012-13 more difficult. But it is certainly our objective to return the budget to surplus in 2012-13 and we expect to achieve that.

Mr Swan said:

'Well, it's far too early to make any conclusions, but we will be affected—markets are affected, budgets are affected. But we're committed to bringing our budget back to surplus ...'

Now it is a 'commitment'. Even Minister Wong said:

'There's really only one set of numbers I'm worried about, and that's making sure we get back into surplus by 2012-13 and that's what this budget will do.'

She is here today, so it will be interesting to hear from her whether that was a categorical guarantee.

I live in wonder about some guarantees. Remember the war against obesity? What happened to that? Did we win that war? Have we now smote the fat people? Have they gone? No, we lost. We did not seem to win that war. Then the war on Fuelwatch. What happened to that voyeuristic episode? Did we deal with that problem? No, fuel still went up. Then there was the toolbox for the 21st century—remember Kevin Rudd saying, 'This is the toolbox for the 21st century. Every kiddie's got to have one.' What happened to that? Well, they did not get it. They are still waiting. We got half the toolboxes for twice the price. It just goes on and on. The Building the Education Revolution was just incredible. The takeover of the hospital system—did we take over the hospital system or is the hospital still winning? Who is winning that fight? Who has taken over the hospital system? And the latest one is: 'She has full confidence in Craig Thomson.' It is incredible. It is quite a
mess and it relates exactly to your economic plan.

They had a temporary extension of their debt. We had a $75 billion gross debt. They always like to talk to you about net debt; they will never talk to you about the actual debt. They have this mystical number which they can never actually tell you how they get to. They can never actually give you the numbers. It is out there like the Yowie or the Abominable Snowman. It is one of those things that is out there but which you can never get a photo of. You can never quite get to it. It is not as definitive as Craig Thoms-on's signature. It is out there but it is going to come back some day.

What exactly do we have here? They had a temporary increase in their limit from $75 billion to $200 billion because China was going to go into recession. That is what they said. China did not go into recession, but our debt went from a temporary increase of $200 billion to a permanent increase in our overdraft of a quarter of a trillion dollars, because Australia does not want to feel left out. We want to start talking about our debt in portions of a trillion too. It is only fair and reasonable. That is the sort of thing that the Labor Party wants to do to you. They want to catch up with them on climate change and catch up with them on debt. They want to make sure that we achieve that objective.

Even in the last speech from Senator Carol Brown she said that it was an issue of no confidence. She had to be corrected by Senator Polley, who walked over and said, 'Don't say the words "no confidence"; I don't think that's quite appropriate at this point in time.' Of course it should not be 'no confidence', it should be 'no competence'.

**Senator Polley:** Mr Deputy President, I rise on a point of order. I would like to take exception to being verballed by the senator when in fact I did not have a conversation with Senator Brown.

**The DEPUTY PRESIDENT:** Senator Polley, that is not a point of order. You will have the opportunity to correct that when you give your speech. There is no point of order.

**Senator Joyce:** It should have been an issue of no competence. Australia has absolutely no confidence in your competence. That is the issue we are at at the moment. Every time I want to have a bit of a giggle I just go back to projections that you put forward in 2008-09. That was before the North Atlantic global financial crisis. China kept buying our stuff and so did India, so they kept it going on. They predicted that we would have a $21 billion surplus in 2008-09, but we actually ended up with a $27 billion deficit. Then the year after that they predicted a $19.7 billion surplus and we got $57.8 billion—the biggest deficit Australia has ever had in its history. Hooray, we got there, and it only took you a couple of years to do it. Then the year after that there was a $49.4 billion deficit, the second biggest, then a $22.6 billion deficit. They are incredible no matter what they do. They talk about 'return to surplus within the cycle', but the cycle for the Labor Party goes for centuries. It just never stops. The cycle starts getting bad and then it gets worse. Then there is always the promise out there in the sunny plateaus, the sunny outlands, where it will all get better. But now we are left with a resounding success that our finance minister, formerly the minister for climate change—and remember the greatest moral challenge of our time—(Time expired)

**Senator Polley** (Tasmania—Deputy Government Whip in the Senate) (15:59): What an embarrassment! No wonder they got rid of you as the shadow spokesperson. It
is very easy to come into the chamber and try
and verbal people and make things up as you
go. You are getting to be quite experienced
at that. Let us look at this matter of public
importance:

The Gillard Government’s continuing inability
to balance the budget and wavering commitment
to achieving a budget surplus in 2012/2013.
Let us look at the people who have put up
this matter of public importance. On 19
August 2010, in the Australian:

National Centre for Social and Economic
Modelling identifying a $377 million hole in the
Coalition’s Education Tax Refund policy.
The rot had started. Once again, in the
Australian, the newspaper that the coalition
used to decide their MPIs about the carbon
price:

Abbott’s plan would use taxpayer dollars to pay
for government to fund industry to lower its
emissions. The Gillard scheme taxes industry to
give it a price incentive to change its ways and, to
the extent it can’t or won’t, funnels much of the
revenue from the carbon tax back to the public
(lower- and middle-income earners) through tax
cuts to compensate for expected price rises.
The significance of achieving this target
should not be underestimated for the clarity
it brings to why the scheme of Labor is better
than that of the coalition. I quote:

It is a two-horse race, and when it comes to doing
something about climate change—
the coalition horse is lame. The Australian
continued:

Abbott’s response to Labor’s package is a bundle
of contradictions. He’ll have significant tax cuts
of his own we are told, just without the carbon tax
which pays for them. He scoffs at the value of a 5
per cent emissions reduction target by 2020, even
though the target is bipartisan and underpins
Coalition climate change policy.

And yet we have this MPI. Then we had Joe
Hockey at the Press Club with an extra-
ordinary performance. The Sydney Morning
Herald noted:

Mr Hockey repeatedly stumbled over claims he
miscalculated spending savings simply respond-
ing that ‘they were right at some point in time’.
These are the people that bring this MPI into
this place. The Sydney Morning Herald went on:

... the Opposition has said it would be able to
return the Budget to a surplus early by imposing
tougher cuts on spending, and has accused the
Government of not being vigorous enough in the
economic statement released last Tuesday.

There is more:

… part of the $52 billion the Coalition had said it
would cut from spending included $1.7 billion
from Labor’s proposed company tax cuts, which
were to be funded by a higher mining tax.
What was the problem with that? The
coalition would not proceed with the mining
tax. Give me a break. Then we have the
Victorian Premier helping you out. He is
someone who in 2008 said:

We support an emission capping and trading
scheme as the least costly way of responding to
global warming.
The modelling commissioned by Mr Baillieu
deliberately phrases results in a negative way
such as the 23,000 jobs being ‘lost’. It is a
pity the modelling did not include key assist-
ance measures under the plan of the Gillard
government for a clean energy future with
assistance to nine out of 10 families and
industries across Australia. Talk about
political expediency being more important
than economic honesty. The list of economic
incompetence is endless, but there is a
limit to my time so I will not mention the $70
billion black hole that needs to be corrected
before the coalition can even get back to
zero.

Mr Deputy President, when can you recall
the Treasurer, Wayne Swan, saying the
surplus was in doubt? I do not and I cannot
recall any comment from Senator Penny
Wong suggesting that there was anything
other than a solid commitment to returning
the economy to surplus. So where does the concern about wavering come from? Maybe it comes from the attitude of the coalition to coal seam gas exploration, mental health funding, the complete lack of counting skills that we have seen since the last election and which butcher to visit.

Numerous media outlets have reported on the favourable IMF outlook on the Australian economy. Even the Wall Street Journal helped out, noting:

During last year's election campaign, Labor promised to return the budget to surplus in 2012-13 in a push to underline its claim to conservative economic management. It has continued to insist the promise is iron-clad.

Yesterday, the Treasurer said the IMF had offered a "resounding endorsement" of Labor's economic policy, confirming that the nation's outlook remained strong, despite renewed fragility in the global economy.

The IMF commends the government's fiscal strategy to return the budget to surplus in 2012-13 despite the impact of natural disasters, highlighting that Australia's fiscal consolidation is 'faster than in many other advanced economies and is more ambitious than earlier envisaged' …

Other IMF comments include:

Australian economy forecasts

- Following natural disasters at the beginning of the year activity is expected to bounce back in the second quarter.
- Forecast for real GDP growth of 2% for calendar year 2011
- 3.5% for calendar year of 2012 stemming from commodities and private investment in mining and liquefied natural gas
- Unemployment forecast to remain below 5% in 2011 and 2012

I note already around 750,000 jobs have been created since we have come to office, and nearly 190,000 jobs in the last year alone, with more than nine out of the 10 jobs created in the last 12 months being full-time jobs. The IMF suggests a strong position to adjust:

There is ample scope to cut the interest rates and provide liquidity support for banks in the event that global financial markets become severely disrupted.

The important thing is to recognise how much stronger our economy is. We have avoided recession, giving us very strong public finances and very low debt; low unemployment at around half the level of the US; a massive pipeline of investment, particularly in resources; strong financial institutions and world-class regulators; and a well-functioning government. Just taking the last comment of 'a well functioning government', who do we believe: the IMF or Malcolm Turnbull telling SBS that Australia is run by a 'dysfunctional and chaotic government'? I suspect Malcolm is getting confused with the party with whom he sometimes associates himself. Australia's net debt will peak at 7.2 per cent of GDP in 2011-12. If you look around the world, you see the USA with 86 per cent in 2016; Japan, 164 per cent in 2018; the UK, 80 per cent in 2013; Canada, 36 per cent in 2013; France, 82 per cent in 2013; Italy, 101 per cent in 2011; and Germany, 55 per cent in 2012.

You only have to look at the powerhouse of Europe, Germany and France, to realise how well Australia is performing compared with the last Howard government, the highest taxing government in Australia's history. And what did they do for Australian families? They did nothing.

Labor has provided numerous new jobs, childcare assistance and paid maternity leave. We reformed health funding. We have provided education support. We have developed plans for aged care, disability support, mental health assistance—and the list goes on and on.

Senator Sherry: Increased the age pension.
Senator POLLEY: And we increased the pension; that is right. And who is the biggest threat to the Australian pensioners? Those people on the other side, because they have a track record. When we talk about reform of the aged-care sector, who is the biggest threat to the aged-care sector in this country? Those opposite. When you were last in government you had 11½ very long years, as far as older Australians were concerned, to do something about the aged-care sector, and you did nothing. No, sorry; I correct the record. You did do something. You had six ministers, and each one of them failed the Australian people. Each one of those six ministers failed older Australians, and the people will not forget that. Your track record in terms of reforming the aged-care sector and disabilities is on your head. When you were in government you had 11½ years and did nothing.

But this government has been creative. We are a forward-thinking, progressive government. You just have to compare that with those on the other side, who are only about negatives: no, no, no. That is the mantra of Tony Abbott: no, no, no; oppose, oppose, oppose. I refute this MPI because it is a disgrace for those opposite to even come into this chamber and suggest it.

Senator RYAN (Victoria) (16:09): Earlier this week, when I represented the Leader of the Opposition at the state funeral of the former member for Melbourne Ports, Clyde Holding, I had the opportunity to meet two former Labor prime ministers, Paul Keating and Bob Hawke. It is pretty appropriate to remember that today. We on this side have always been quite generous about some of the things that the Hawke government did in the late 1980s, particularly around fiscal consolidation. We have been generous about that—a generosity of spirit that I note the Labor Party have never shown. But—their intellectual dishonesty put to one side—meeting those two former Labor prime ministers reminded me just how much of a pale shadow of the Labor Party these people are.

As opposed to the government that undertook fiscal consolidation after the banana republic comments of the then Treasurer, this is now the party of the inflation genie. After it came to office, we somehow had to tackle a screaming inflation genie that had got out of the bottle. It was the party that before the election said, 'This reckless spending must stop.' If only this government had lived up to those words. It has not. This government has demonstrated in four years that it is utterly incapable of managing this nation's finances.

I will not recount all the figures that have been outlined so effectively by my colleagues Senator Cormann and Senator Joyce. But there is the simple one, the $20 billion surplus that has turned into tens of billions of dollars of endless deficits. There is the myth that the government somehow saved or created some jobs. It is the Keynesian delusion that you can actually create jobs through simply pumping money into the economy, a delusion rooted in how you put the country into recession 20 years ago. You came out of that with the view that, when faced with a downturn, you should, as the Secretary to the Treasury famously said, 'Go early, go hard and go households.' But we know from evidence all around the world, particularly in the United States, as we are seeing now—Senator Polley, you quoted it at such length—that when the government pumps money into an economy it does not create jobs; it simply increases future taxation by driving the budget into deficit. It builds inflationary pressures in the economy because serious structural reform is not achieved by just pumping money into people's hands.
Even more importantly, there has never been an analysis of those alleged 200,000 jobs you saved or created—I get my terminology wrong because the numbers keep changing. There is some analysis around at the moment that shows it works out at nearly half a million dollars a job. How is it worth the taxpayers of Australia paying interest now and having higher taxation than they should in the future in order to save jobs at that cost—it is an assertion that we reject, but just using those numbers shows how ridiculous that claim is—rather than benefiting from what should have been done in order to address the global financial challenges, which was to cut taxes? Because we know now, from evidence all around the world, that when you give people a one-off payment, particularly when it drives a budget into deficit, you do not actually change their behaviour. We know that a lot of that money was used to save or to pay down debt. Some of it was even put into the pokies. But it was not actually used to do what the government claims it was.

Most importantly, this government did that because it wanted to direct the handouts and the projects, and that is the core of the problem: it wants to direct where the money goes. It wants to direct what people do with their money. It does not actually want to give people the choice to invest, to spend their own money as they see fit, absent of government control, because the desire for patronage is at the core of this government. We saw it in other programs it proposed. Does anyone hear of the Ruddbank anymore, a bank that was going to expose Australians to tens of billions of dollars of risk in order to prop up a commercial construction industry? Some might say that the government was blinkered by being held captive by the CFMEU and the various building unions. Do we hear of the billions of dollars that were poured into the car industry, another highly unionised industry?

This is the core of the problem. Labor has always been about patronage. People know, when the government drives the budget into deficit to send them a little cheque, that after it wastes all the other money, that bill is going to come due. That is what drives people's behaviour, particularly when we had the rhetoric saying that the sky was going to fall in on the Australian economy—because this current Treasurer is incapable of taking responsibility, and over there you know it as well as I do, senators on the government side. This Treasurer is incapable of taking responsibility for the government's decisions, because there is always an excuse. At the start it was the inflation genie. You threatened an incredible budget that was going to pull back all the reckless spending. Then, when you did not do that, you had to run around the country scaring the wits out of every household and small business in order to justify your tens of billions of dollars of wasteful spending.

Senator Polley interjecting—

Senator RYAN: Senator Polley calls me outrageous. The truth is outrageous here, Senator Polley, because that is what your government has done—it has forced up taxes for every future Australian taxpayer.

I want to turn to this myth, this issue they keep talking about, with respect to net debt. When this government counts the net debt, as it appropriately does in the budget, it does so in a table that talks about net financial worth. The $74 billion Future Fund was created and dedicated to fund the liabilities for Commonwealth public sector super-annuation. What the government wants to do is to take that and count it twice. It says, 'Let's look at the gross debt and subtract the Future Fund and a few other things to come up with the net debt figure.' But you are
counting it twice because we still have the liability. It is not debt but it is a government liability and a taxpayer liability. You still have the $120-odd billion of superannuation liabilities and you are effectively trying to count the Future Fund twice. The other assets of the Commonwealth are not necessarily able to be liquidated, unless someone is proposing we liquidate the Commonwealth of Australia. You are trying to count the Future Fund twice in order to reduce the figure of the debt you have imposed on future Australians.

The cost of the debt this financial year is $12 billion in annual interest payments. Let us just put that in context. That $12 billion would remove their excuse for trying to strip private health insurance rebates from millions of Australians. Secondly, it would pay for a national disability insurance scheme. Those two measures alone would be funded if this government had not racked up such extraordinary levels of debt—and not only that but it also means higher taxes in the future.

This government falsely compares Australia to our neighbours and economic competitors, as if having a neighbour who owes more money than you is somehow a defence to the bank manager. The truth is, as we saw during the global financial crisis, we need a strong public sector to support the capital needs of this country. We have always been a serious and large importer of capital and our banks, which are substantial borrowers in wholesale funds markets overseas, need the strong public debt position of the Commonwealth in order to support those funding needs.

This government talks about savings. The problem is that two-thirds of its savings actually come from increased tax imposts. We have a mining tax based on taxing iron ore, of which a former Labor minister for finance himself wrote that ‘there is rarely if ever any economic rent in iron ore.’ That was Peter Walsh, another ghost of Labor’s past who would hang his head in shame when he looks at this government. Real tax reform does not increase the size of the state. This government may claim it is a lower taxing government, but it does not count if you are not collecting the taxes. What counts is what you spend. Every dollar this government does not collect in tax to fund its voracious spending is money that has to be paid by future Australian taxpayers.

We also have the flawed analysis that it is okay because debt is only seven per cent of GDP, as if GDP, every domestic dollar earned by the private and public sectors in this country, is somehow available for the government. The idea that we should measure ourselves on the basis of what the government could theoretically tax—every single dollar in the economy—is flawed. We are seeing that now in the countries of Europe and North America, and particularly western Europe and the United States, who for so long have rested easy in the delusion that they can keep increasing their public sector debt and measure it against a growing GDP. For some of those countries it is mathematically impossible for them to pay back their debt. I have seen an analysis of Ireland that shows Ireland can almost never pay back its debt because it can barely service the interest upon the debt that it recently took on. This government does not understand what it means to balance the budget over the economic cycle, other than the political cycle. The political cycle is that the ALP runs deficits and the coalition runs surpluses.

We had a promise to run a surplus of one per cent of the Commonwealth budget, which has grown from $260 billion to $350 billion in four years. They promised, years out, a one per cent surplus. It suddenly
became an aspiration, and very soon it will simply be another excuse. This party cannot manage our finances. Its contrived and confected empathy will be like a mythical surplus. *(Time expired)*

Senator FAULKNER (New South Wales) (16:19): I would like to begin my contribution by acknowledging the courage of Senator Cormann in proposing a matter of public importance on budget surpluses. There he is, from the insecurity of a huge jerry-built glasshouse, daring to hurl some very small pebbles at the government. But, fortunately for Senator Cormann, he has a hide that really makes that of the average rhinoceros look wafer thin. Fortunately for him, he does not mind being accused of exaggeration, distortion and humbug. He likes being the fall guy for the opposition. He does not mind being a patsy for boldly going where no Liberal senator has been before and, I suspect, none are likely to go in the future.

Why did he do it? Why did he propose this matter of public importance? I do not know, but I would sincerely like to thank him for giving me the opportunity this afternoon to compare the economic credibility of the government with that of the opposition. After they have been exposed for their 2010 election costings black hole, which of course is a well-known debacle, this week we have a $70 billion black hole which threatens to swallow up an entire government department—the department of climate change—and 20,000 Commonwealth public servants along with it. The mantra of the opposition is that it will save more, spend less and deliver bigger budget surpluses. I think we know now that the opposition suffers from congenital innumeracy, so I think it is worth while having a closer look at this $70 billion black hole. Thirty seven billion dollars of it is in spending commitments the opposition announced in the 2010 election campaign, including $11 billion from the unwinding of the minerals resource rent tax. Then there is another $27 billion from the unwinding of the carbon tax. Finally, there is just a mere $7 billion or $8 billion to fund the income tax cuts that they promised. These are Mr Hockey and Mr Robb's figures; they are not mine. This is what Mr Hockey and Mr Robb have been telling their own colleagues they need to find in savings.

What will this $70 billion in savings actually mean? The Prime Minister and ministers in the government have been very clear: it will mean stopping Medicare payments for four years; it will mean stopping the age pension for two years; it will mean stopping assistance to people with disabilities for three years; and it will mean stopping the family tax benefit payments for three years.

With the recent events in the global economy, it is obvious that Australia needs a steady hand on the tiller. The last thing we need are gigantic blank cheques and gigantic black holes from the opposition. The government's economic management has positioned Australia as one of the strongest, if not the strongest, economy in the developed world. Action taken by this government during the global financial crisis meant that we emerged from the global recession with strong growth, low unemployment and solid public finances. Our economic stimulus package provided much-needed confidence at the time. It supported growth and protected jobs and it protected businesses as well. Because of this government's stimulus, Australia has emerged as virtually the only advanced economy to avoid recession and with a fiscal position that is the envy of the developed world. We have lower debt than other major developed economies, with the public net debt expected to peak at around one-tenth of that of other major developed economies.
The government has a clear path to bring the budget back to surplus well ahead of many comparable countries. Australia is one of only 14 major countries to have a AAA credit rating from the international rating agency Standard and Poor's. The government has been consistent and effective in implementing its fiscal strategy, constraining spending growth and putting in place responsible savings. That strategy has been endorsed by international rating agencies and the international community. In their article IV concluding statement released earlier this month, the IMF said this about the government's budget:

On fiscal policy, we commend the authorities for remaining committed to returning the Commonwealth budget to surplus by 2012/13 ... This consolidation is faster than in many other advanced economies and is more ambitious than earlier envisaged ...

The international credit rating agency Moody's on 11 May this year said:

Moody's notes that Australia's government debt remains among the lowest of all AAA-rated governments.

Rating agency Standard and Poor's said that Australia has exceptionally strong public sector finances, underpinned by low public debt and strong fiscal discipline. But I always think in these matters of public importance the final word should go to the Liberal Party. A coalition MP was reported as saying after this year's budget reply:

We can’t keep agreeing with government spending measures opposing savings and revenue measures and keep our financial credibility intact.

Unfortunately, that was an anonymous Liberal Party MP, but Senator Cormann and the others who have spoken in the debate know who it is, as I know who it is—just check the *Adelaide Advertiser* of 28 May this year. Then Senator Minchin, whom I know you respect very much, Mr Deputy President, and who was quite a hero to so many opposition senators, in his own newsletter of July this year said, 'If you err on the side of populism that is ultimately self-defeating because you end up standing for nothing.' Both the anonymous Liberal MP and Senator Minchin of course were right. I think Senator Cormann, the other Liberal senators and Senator Joyce from the National Party should take note of what their colleagues have said. I think that, really, Senator Fifield, who submitted this matter of public interest, and Senator Cormann, who proposed it to the Senate, should stop wasting the Senate's time on these matters. I stand by the economic credibility of the government and I believe that the facts on this speak for themselves.

**MINISTERIAL STATEMENTS**

**Disability Services**

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (16:29): On behalf of the Minister for Families, Housing, Community Services and Indigenous Affairs, Ms Macklin, I table a ministerial statement on the reform of support services for people with disability.

**DOCUMENTS**

**Register of Senate Senior Executive Officers' Interests**

The DEPUTY PRESIDENT: I present the register of Senate senior executive officers’ interests, incorporating statements of registrable interests of Senate senior executive officers lodged by 15 August 2011.

**Work of Committees**

The DEPUTY PRESIDENT: I present *Work of Committees* for the period 1 July 2010 to 30 June 2011.

Ordered that the document be printed.
BILLs
Remuneration and Other Legislation Amendment Bill 2011
Product Stewardship Bill 2011
Therapeutic Goods Amendment (2011 Measures No. 1) Bill 2011
Customs Amendment (Serious Drugs Detection) Bill 2011
Family Assistance and Other Legislation Amendment (Child Care and Other Measures) Bill 2011
Intelligence Services Legislation Amendment Bill 2011
Migration Amendment (Strengthening the Character Test and Other Provisions) Bill 2011
Military Justice (Interim Measures) Amendment Bill 2011
Mutual Assistance in Criminal Matters Amendment (Registration of Foreign Proceeds of Crime Orders) Bill 2011
National Consumer Credit Protection Amendment (Home Loans and Credit Cards) Bill 2011
Customs Tariff Amendment (2012 Harmonized System Changes) Bill 2011
Aged Care Amendment Bill 2011
Military Rehabilitation and Compensation Amendment (MRCA Supplement) Bill 2011
Child Support (Registration and Collection) Amendment Bill 2011
Financial Framework Legislation Amendment Bill (No. 1) 2011
Protection of the Sea (Prevention of Pollution from Ships) Amendment (Oil Transfers) Bill 2011
Social Security and Other Legislation Amendment (Miscellaneous Measures) Bill 2011
Assent
Messages from the Governor-General reported informing the Senate of assent to the bills.

DOCUMENTS
Tabling
The Clerk: Documents are tabled in accordance with the list circulated to senators. Details of the documents appear at the end of today's Hansard.

COMMITTEES
Membership
The DEPUTY PRESIDENT: The President has received letters from party leaders and an independent senator requesting changes in the membership of committees.

Senator SHERRY: by leave—I move:
That senators be discharged from and appointed to committees as follows:

Legal and Constitutional Affairs Legislation Committee—
Appointed—
Substitute member: Senator Di Natale to replace Senator Wright for the committee’s inquiry into the provisions of the Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011
Participating member: Senator Wright

Legal and Constitutional Affairs References Committee—
Discharged—Senator Parry
Appointed—Senator Cash
Participating member: Senator Parry
Parliamentary Library—Standing Committee—
Appointed—Senator Madigan
Procedure—Standing Committee—
Appointed—Senator McEwen
Rural Affairs and Transport Legislation Committee—
Appointed—
Substitute member: Senator Ludlam to replace Senator Siewert for the committee’s inquiry into the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011
Participating member: Senator Siewert.
Question agreed to.

BUSINESS
Rearrangement

Senator SHERRY (Tasmania—Minister Assisting on Deregulation and Public Sector Superannuation, Minister for Small Business and Minister Assisting the Minister for Tourism) (16:31): by leave—I move:
That government business order of the day No. 1 (Carbon Credits (Carbon Farming Initiative) Bill 2011 and related bills) be called on immediately.
Question agreed to.

BILLS
Carbon Credits (Carbon Farming Initiative) Bill 2011
Carbon Credits (Consequential Amendments) Bill 2011
Australian National Registry of Emissions Units Bill 2011

In Committee
Debate resumed.
CARBON CREDITS (CARBON FARMING INITIATIVE) BILL 2011

The CHAIRMAN: The committee is considering amendments (1) to (4) on sheet 7129 revised, moved by Senator Xenophon and the opposition.

Senator BIRMINGHAM (South Australia) (16:32): Obviously these were amendments under debate immediately prior to question time and we heard from the minister immediately prior to question time. Unfortunately what we heard from Minister Ludwig was one of those wonderful contributions that goes something along the lines of, 'Trust us, we will work it out a little bit later.' This was basically his contribution in a nutshell: 'Yes, we are having discussions. We acknowledge there is a problem that needs to be addressed. We are working to find a way to address it’—the minister suggested it might take about a month to come up with that solution—but we would be most appreciative if you would pass the bill in the meantime.' Unfortunately the 'Trust us, we'll fix it later' approach to government is something that we have come to be extraordinarily wary of when it comes to this government. We do not think that they can be trusted to sort things out later. Senator Xenophon and the coalition have worked together to put forward amendments to deal with issues particularly faced by the landfill gas sector because we want to know that there is going to be a solution. We also want to know that that solution will be in cast iron terms and acceptable, to make sure that we do not have the type of perverse outcomes that we have talked about previously.

As I highlighted with a prior amendment, this amendment is one that particularly relates to the flow-on effects of the cessation of operation of the New South Wales Greenhouse Gas Abatement Scheme and how the Carbon Farming Initiative provides a capacity to pick up from there when that scheme ceases operation. The GGAS has driven landfill gas collection and CO₂ abatement from the waste sector quite effectively. The electricity generation projects built under that scheme, as well as under the Commonwealth's Greenhouse Friendly
scheme, have been reliant upon income from offset credits. GGAS will cease at the point of a carbon price coming in and we are advised that without that type of credit support a number of these projects have the potential to become quite unviable. That is why we think that it is so important that we make sure that the viability of these projects is guaranteed and that they are secured for the future, wherever they are.

The Carbon Farming Initiative, as proposed by the government, could be a possible solution to this but unfortunately it is currently not. It does not do enough to ensure that those who went in early and did their best to capture emissions and do something constructive with them by generating electricity are not disadvantaged. We do not want to end up with the perverse outcome of having a government implementing a scheme that is designed and intended to ensure that we get a growth in emission abatement activities, but instead we risk seeing the possibility that the early mover advantage is lost and they cease those abatement activities. The Carbon Farming Initiative offset credits could and should be used in lieu of the credits that these schemes have previously relied upon. That is what we would hope to achieve out of the amendments that Senator Xenophon and the coalition have pursued.

GGAS landfill projects are not, of course, specifically identified on the positive list, and a number of them are required to collect some gas, under their EPA licences, for odour control and safety. Under the bill as it is proposed, projects must be on the positive list, or not be required by law, and may have a baseline applied. Industry is concerned that this creates uncertainty, given questions as to how much gas must be collected by law, about whether they may in fact be excluded from the CFI and, if not, what the accepted baseline is that will be applied. We have attempted to address those issues in the amendments that have been put forward. To resolve this, it has been suggested that these landfill gas projects be added, with a standardised baseline to cover off these issues, so that they can continue with some certainty and continue to operate commercially and effectively.

The landfill gas industry is important and it is significant. In 2009, waste in landfills generated total emissions of 15½ million-plus tonnes of CO₂ equivalent, of which around 4½ million were recovered. That is a good, positive effect and it shows a baseline around 29 per cent. However, industry is concerned about whether that is a fair or effective indication of common practice, especially because a large proportion of the abatement was due to GGAS and GHF landfill gas projects. Those GGAS landfill gas projects, I am advised, accounted for abatement of around 3.3 million tonnes of CO₂ equivalent, or more than 20 per cent of landfill emissions in 2009. It has been estimated that GHF, Greenhouse Friendly, landfill gas projects accounted for abatement of around 700,000 tonnes of CO₂ equivalent. So when you take out the GGAS and GHF, Greenhouse Friendly, projects the raw baseline number of existing activity is reduced to below five per cent, on these sums.

The industry concede they do not see that as a realistic baseline and acknowledge that some abatement that would have occurred from these other incentive schemes would have occurred in any event for other reasons. They argue that a 10 per cent national baseline for GGAS landfill projects would be realistic. We have set out some figures in these amendments that set dual standards dealing with the different schemes that have been in operation to date. Given the proven nature of the technology involved here and the activities that are underway, and given of
course the reliability of the existing schemes and the manner in which they have been built up—they have been voluntarily entered into and have had significant investments made in them; not unreasonably, as a result of the incentives that were there—it is important to make sure that they are accommodated under the Carbon Farming Initiative. I know the minister gave some assurances that they would be but, as I said before, assurances, promises and ‘she’ll be right, mate’ type commitments do not quite cut it anymore. We want to know that there is an agreement in place that provides certainty for these facilities, whether they are the facilities in Bendigo or Ballarat, the facilities in Tweed shire or Newcastle, or the facility in Launceston—facilities, I am told, that could be jeopardised if we get this wrong. From those landfill sites we would then see increased emissions escaping and have the perverse outcome that in passing this and getting it wrong we have actually increased emissions in parts of the economy. That would make absolutely no sense to anybody. I think everybody in the chamber who has spoken on this to date has agreed that that type of outcome would make no sense. Senator Xenophon and the coalition are attempting to prescribe a solution to ensure that that would not be the case. We think that getting a solution in the legislation in the here and now is the best way to take this forward.

We are pleased that Senator Milne and the Greens have acknowledged that there needs to be a solution and we are pleased that the government have acknowledged that there needs to be a solution. The concern, though, is that the government have to date failed to provide any reassurance to the parliament on what that solution will be and how it will be applied and, importantly, failed to provide reassurance to industry to make sure they are confident in and comfortable about the manner in which this will move ahead.

So I would leave the challenge there for the minister. We would hope to get something far more certain than the words he uttered before question time on this matter. If we do not, we will certainly be persevering with this amendment. Obviously, unless we proceed very quickly through this, he will have at least an extra couple of days to come up with something that provides all parties—and I would trust that Senator Xenophon and the Greens feel likewise—with a lot more confidence that a solution is there than what he has said to date.

Senator MILNE (Tasmania—Deputy Leader of the Australian Greens) (16:44): Earlier today, in making my contribution on this amendment and acknowledging the problem that we had, I indicated that I would be taking a watching brief according to what has been negotiated in discussions between all parties, with the Greens talking to the LNC, Senator Xenophon and the government. I have had further meetings in relation to this and I am now satisfied that there will be an outcome within a month that will set an appropriate baseline that is fair and takes into account what would have occurred otherwise and what can genuinely be regarded as additional. I am satisfied that we will get to that outcome within a month to the satisfaction of all parties concerned. I thank the industry across Australia for having drawn the attention of the Senate to what could have been a perverse or bad outcome. That is one of the good things about having a community engaged with legislation as it goes through—you can actually get to address some of these issues.

One of the main concerns I have about the amendment is the impact on the integrity of the DOIC as it has been established. The
whole point here was to have an independent and rigorous assessment of methodologies and have a body that can come up with baselines and methodologies for the kinds of numbers that we come up with that are rigorous and can be defended in any fora, both domestic and global. I want to make sure that we do not have political direction of the DOIC which would undermine at the start the very idea of having an independent integrity commission.

At the same time I want to make sure that there would not be job losses or the closing down of facilities that are assisting us in reducing our emissions across Australia. I indicate to the Senate that the Greens will be opposing this amendment for that reason. I am satisfied that we have now reached a conclusion that will be satisfactory to all parties. I also put on the record that if a resolution of this issue does not occur in the next four weeks to the satisfaction of all parties, we will be discussing it again.

Senator XENOPHON (South Australia) (16:47): I am grateful for Senator Milne's contribution and also for her intervention. She has taken a keen interest in trying to get a resolution to this carbon emissions matter. I agree with the sentiments of what she is saying. If this amendment is lost—it is not a criticism of the government in any way—I worry about what remedy there is if there is an unsatisfactory solution. That is a genuine question. If the amendment is lost, what recourse can LMS, and other entities that have been doing good work on greenhouse gas abatement over many years, have? What are they left with? I accept from the minister that the negotiations are proceeding with goodwill but I am concerned that, in the absence of a legislative framework, these entities are vulnerable. They have done the right thing.

It is worth reflecting on recommendation No.1 of the Senate Environment and Communications Legislation Committee into this Carbon Farming Initiative legislation. Paragraph 2.36 states very clearly:
The committee recommends the government consider options to ensure there are no perverse incentives to cease existing abatement projects, and encourage first movers to undertake further abatement or sequestration activities under the Carbon Farming Initiative.
The devil is in the detail. If a formula is not set by legislation, which is my preferred outcome and that of my co-sponsor, my colleague Senator Birmingham—we moved this jointly, with Senator Birmingham doing so on behalf of the opposition—then we will have some difficulty. It is regrettable that it has had to come to this, that an amendment had to be introduced, but Senator Milne took a very active and laudable role in trying to deal with this matter and that was most welcome. I know this sector is very grateful for Senator Milne's interest and intervention but it is still not quite resolved, and that makes me very nervous. That is why it is important to proceed with this amendment.

If this amendment is defeated—it appears the numbers are not here to pass it—what recourse will there be if there is a stumbling block in negotiations? Secondly, as I understand it, there are some figures that are toing and froing on baselines. I know that negotiations have been taking place with goodwill on the part of the department and the minister's office and the industry sector, but what safeguards are there if there is a breakdown in negotiations? Are we back to square one and back to the uncertainty? These are businesses that need to look at their financing or refinancing, and the uncertainty would be a significant factor in their long-term commercial survival. Despite the fact that I accept everyone's goodwill on
this issue, I wonder how we deal with that conundrum?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (16:50): I will go back to what I said originally about this matter. It is important to maintain the integrity of the system. Senator Milne said it in a perhaps shorter way than I am about to, but this amendment seeks to take things outside the available procedures that have been established to make sure that in an international setting those people who look at the integrity of the system see that it is not compromised.

This amendment avoids the methodology; it avoids having an independent assessment. It puts in a specific clause that would open up the ability for others to come along and say, 'We have our own specific circumstances and we therefore want a legislative solution. We want the same as the landfill industry.' You open up the integrity and put it in jeopardy. Secondly, dealing with what I think Senator Xenophon talked about, this is not a negotiation. It is very important to keep that in mind—it is not a negotiation.

Senator Xenophon: It is.

Senator LUDWIG: It is not a negotiation; it is an evidence based way of gaining what the baseline would be. So you do not sit in a room, as with industrial relations, and bargain about what the baseline should or should not be. It is about an evidence based outcome. Why? Because internationally we want to maintain the integrity of the system. To do that there has to be an independent assessment. It has to be evidence based and the methodology has to be followed. That is why we do not support a separate individual amendment dealing with one industry which then bypasses that. You would want them to go through and develop the methodologies—evidence based methodologies—and have the independent assessment to ensure the integrity of the system so that where it lands it is supported by the evidence.

Ultimately it is a legislative instrument and if people disagree with it, it will come back here as a legislative instrument. We all know that, if the legislative instruments get it right, they generally go through this place. If they do not then there is an opportunity for those people to disallow the instruments in the Senate if they do not think they got it right. That does mean, however, that if it is disallowed it will have to go back through the process again. But that is what people can decide to choose in the Senate—it is always an option available to us. So it is much better to deal with it in that way than to simply mandate through what is ultimately an amendment to the bill, which would then be an amendment to the act, which is specific and about only one industry. It then goes around the actual integrity of the system. So what you are doing in one fell swoop is making sure that the bill itself, if it were to be passed with this amendment, would already have a hole in it; it would have a landfill—it would make sure that it would be criticised for not being able to stand up to scrutiny and not having an independent process to assess each of the methodologies. So to deal with Senator Xenophon's issue around negotiation, it is consultation, sure; but it is evidence based to arrive at appropriate, researched figures which are backed up by the evidence. So it is not a bargain.

Lastly, to deal with the issue of ensuring that everybody got it right—it is a legislative instrument; people can decide in here that they did not get it right and make their own judgments about that. But first and foremost it is, with the best of government intention,
designed to solve this in a very short space in time—because we do recognise there is an issue that needs to be resolved, but the way to resolve it is to use the framework.

Senator XENOPHON (South Australia) (16:56): I am fired up now. I appreciate the minister's answer, but it is a negotiation. The minister says it is not a negotiation, it is not collective bargaining, it is not a plea bargain—but it is a negotiation about a structure to ensure that there is some fairness and equity in this. This is not a surprise to the government or to the department. This has been going on for month after month after month. LMS have been knocking on doors, trying to get an equitable outcome here, warning of the perverse outcomes. You had the Senate committee making very clear in their first recommendation that the government should consider options to ensure there are no perverse incentives. They have been saying that the incentives are perverse under the current bill. We have had this eleventh-hour approach—and thank goodness for Senator Milne's intervention in this to try and get a just outcome, an equitable outcome, an environmentally sound outcome—and yet we are still talking about something that should have been resolved months ago. How many months have to pass, how many doors do they have to knock on, to get this outcome? This is not acceptable.

This is something that the government was aware of and was warned about; the minister's office was aware of it. And yet we still have a situation where there is a lack of certainty; there is continued uncertainty in what is being proposed. So why will it take a month? My question to the minister is: why on earth will it take a month, when you have been on notice about this for many, many months? Why can't we get a formula in place that gives certainty to this sector, which has been an early adopter—in fact, the first adopters, I would dare to say—of greenhouse gas abatement?

Senator BIRMINGHAM (South Australia) (16:58): If I can just add to Senator Xenophon's question of why will it take a month, and put a slightly different perspective on that question: Minister, if you are going to follow all of the processes laid out in the act, if it is going to be a fully independent determination of the DOIC, how are you going to do it in a month? By the time this legislation goes back to the other place, is dealt with, is proclaimed, and then you have gone through the appointments processes of the membership of the committee who do all of their determinations and come up with a methodology as prescribed in the legislation, how on earth are you going to provide that certainty within such a short space of time? It strikes me that your arguments conflict with one another. It strikes me that on the one hand you are saying, 'We want to deal with this quickly; and trust us, we can and will deal with this quickly and provide certainty to this sector', but on the other hand you are saying we have to go through all of the processes laid out in this bill to maintain the integrity of it. It strikes me that it is utterly impossible for you to be able to go through all of the processes laid out in this bill to maintain the integrity of it and at the same time achieve an outcome in a very short period of time. So which is it, Minister? Is it a negotiation—which you claim it is not—that will give us an outcome in a short space of time, or is it rather a proper process of the bill which will leave this industry hanging in limbo and uncertainty until such time as all those of processes have gone through; and of course it will be quite some time before we actually see those regulations relating to these methodologies come back to this place.

Progress reported.
FIRST SPEECH

The PRESIDENT: Pursuant to order, I now call Senator Thistlethwaite to make his first speech and ask honourable senators that the usual courtesies be extended to him.

Senator THISTLETHWAITE (New South Wales) (17:00): Thank you, Mr President. I acknowledge the traditional owners of this land and pay my respects to their elders. In 1972, a wharfie working at Sydney's Hungry Mile docks was seriously injured when he fell from a container on a ship that he was unloading. He suffered numerous injuries. He fractured his pelvis and his arm, injured his back and suffered internal injuries. As a result of these injuries he would never work again as a wharfie, he would never earn the same level of income and he and his wife would never own their own home. He was hospitalised for five weeks. His rehabilitation took six months.

During this time he received no support or assistance from his employer, whom he had served for 30 years. Not once did a representative of the company that he was proud to work for contact him to check on his wellbeing or his family. In times when workers compensation did not adequately cover a worker's lost income, this hard-working family man worried about how he would get by. How would they keep their house and pay their bills with little income? But the family did get by. And they did manage to survive financially for one simple reason—he was a member of his union, the Waterside Workers Federation. That wharfie, Cliff Spradbrow, was my grandfather.

Each week the union organiser, Tas Bull, would visit Cliff in hospital and he also gave assistance to my grandmother, Mary. Cliff's mates at work passed the hat around and with the union ensured that there was money to keep paying the rent and bills. The union secretary regularly called to check on Cliff's welfare and ensured that the family never went without. My grandmother regularly tells me of her gratitude to the union during that testing time.

An appreciation for the role that trade unions play in our workplaces and our society was instilled in me from an early age. My other grandfather, Ralph Thistlethwaite, worked in the Postmaster-General's Department for 48 years. He was a morse code specialist. He was also a life member and NSW branch secretary of his union, the Australian Postmasters Association. My father, Bruce, was the vice-president of his union, the Flight Attendants Association.

My parents embody those great working class values of their generation: hard work, fairness and community activism. Because of the sacrifices my parents made, I was the first in my family to gain a university education. I thank and pay tribute to my parents, Bruce and Lorraine, for their sacrifice, their support and their belief and also for planting and nurturing in me the values of fairness, participation and hard work.

Involvement in the community was a value that was upheld in my family. My grandfather Ralph was a life member of the South Sydney Rugby League Football Club. For 25 years he was involved in the administration of the club and he volunteered at every Souths game for most of his life. 'Always support the Rabbitohs and always vote Labor,' he would say. Despite the fact that the Rabbitohs regularly test my faith, I am pleased to inform the Senate that I have never deviated from this advice. For many years, during my time as a university student, I worked at the South Sydney Junior Rugby League Club.

My father was an active member of Maroubra Surf Lifesaving Club and the day after my 13th birthday he took me to join the...
surf club. I remain an active member to this day. Maroubra is one of Australia's first surf clubs and a foundation member of Surf Life Saving Australia, with arguably the greatest competitive history of any club in Australia when it comes to national champions and Olympic representatives.

Local legend is that Maroubra is an Aboriginal word for 'windy place' and with an easterly aspect Maroubra catches all winds and swells. This regularly produces powerful, unforgiving surf conditions, which means that Maroubra lifesavers are often tested and need to be superbly trained to protect the safety of the public each summer. I have always said that the best management course I ever did was being in charge of 15 lifesavers on patrol at Maroubra when that surf was menacing. By becoming involved in the management of this community organisation, I was inspired to greater heights of community activism that led me to this place and the great honour of representing the Australian Labor Party, and the people of New South Wales, in the Australian Senate.

Along the way I have had the pleasure of working with some of the unsung heroes of my local community and our state. I have seen people risk their lives in treacherous seas to save another. I have worked with people who give every spare second of their time to ensuring our kids can handle themselves in the surf, or training others in how to resuscitate a life. These are the people who personify community and make Australia a proud but safe nation of coastal dwellers.

In 2006 I had the honour of being President of Maroubra Surf Lifesaving Club in its centenary year, a milestone for our club, our community, and something that I will cherish forever. I have also been active in the Police and Community Youth Clubs movement and worked with many volunteers who try to prevent kids who have come from broken homes or tough financial circumstances from going off the rails, and to help them get back on track if they do. The PCYC and surf lifesaving movements gave me the discipline and passion to work hard for my community, and I am pleased to be able to acknowledge today the great work of their many members in the community.

During my days as an economics student at the University of New South Wales, I often questioned the neoclassical view of economics and efficiency of markets producing optimal social outcomes without accounting for the realities of life, factors such as intergenerational poverty, mental illness or discrimination—the human factors which quite often cannot be modelled or predicted yet are the bread and butter of the work of governments. In the union movement I found a vocation that allowed my beliefs to be put into practice.

For 10 years I had the great honour of serving the members of Australia's oldest and proudest trade union, the Australian Workers Union. John Curtin once described the AWU as 'the greatest organisation of labour that our country has known'. I believe he was right. Over 125 years, the AWU has advanced the incomes, conditions and lifestyles of working Australians and their families, and it continues to do so today. As an organiser I represented workers in a diverse range of industries. This role gave me a thorough appreciation of the issues and challenges facing business, workers and their families. I travelled extensively throughout New South Wales, meeting rural workers and viewing the importance of industry to regional economies and communities.

When I began as an official, I was part of a rare breed of university educated recruits to union officialdom. This period marked a change in union culture and practice, driven by the Australian Council of Trade Unions.
and put into practice at the AWU by the state secretary, Russ Collison. Russ is a person who has devoted his entire working life to advancing the interests of his fellow members and workers. He has led the AWU through tough times and ensured the union remained united and a strong voice for its members in New South Wales. I thank Russ for his trust and confidence in me.

As an official of Unions NSW I was fortunate to work with a group of people who changed the face of progressive workplace and political campaigning in this country. When the Howard government Work Choices legislation became law, it allowed the most vulnerable workers in all industries to be forced to negotiate as individuals, exploiting that natural power imbalance that exists when employer and employee try to strike an economic bargain—or, as the father of capitalism, Adam Smith, once described it: ‘Upon all ordinary occasions, the master shall have the advantage in the dispute with the individual worker and force the latter into compliance with their terms.’ Unfortunately, Work Choices allowed many employers to force young workers, the unskilled, part-timers and women into compliance with terms below those traditionally established as fair and reasonable by independent umpires. I remember, during this time, the phone calls from the parents of those young retail workers, asking how it could be possible, in a modern economy like Australia, that their son or daughter could be forced to negotiate, as an individual, an individual contract on a ‘take it or leave it’ basis that had no overtime for working on weekends, no shift penalties for working at night and no minimum engagement.

Work Choices allowed these deals to be made. When the reality set in, we were challenged by the visionary leader of the New South Wales union movement, John Robertson, to develop a campaign that would change the views of union members, the wider community and this law. The result was the Your Rights at Work campaign. Never before had our nation seen a workplace and political campaign so carefully planned, skilfully targeted and delivered with such discipline. The Your Rights at Work campaign changed the face of campaigning, it changed community sentiment and it changed a government. But, most importantly, it also changed the lives of the marginalised and the vulnerable in our workplaces and restored their rights. I am proud to have been part of this historic movement for social change.

At Unions NSW I had the privilege of being an advocate for the thousands of low-paid workers in New South Wales in the annual minimum wage review cases in the Industrial Relations Commission. Through these cases, we sought to lift the minimum wage to ensure the incomes of the low paid kept pace with the cost of living. Each year, these large employer associations opposed our application and claimed that granting an extra $18 a week to cleaners, hotel workers, childcare workers and the like would result in job losses. But they could never present any credible economic evidence to back their claims, and such wage increases never did destroy jobs. In fact, in all of the years that I was involved in minimum wage cases, the economy grew, jobs were created and profits in these industries grew—probably because a few extra dollars in the pockets of the low paid ended up being spent in the local economy.

Minimum wage cases require detailed evidence of the plight of low-paid workers. Very brave workers assisted by telling the stories of their week-to-week battle to earn enough money to feed and clothe their family. For these people, a meal at a restaurant, a night at the movies or a family
holiday are considered a luxury and a rare occurrence. These are the hardworking Australians who rely on us to make workplace laws that ensure their vulnerability cannot be exploited, so they can earn an income that allows them to live. These are the people who rely on us to establish a taxation system that is fair and ensures that the incentive to work is not crowded out by welfare.

It was my great privilege to work with the many members and officials of the union movement. I pay tribute to the leaders, officials and members of these great organisations for their commitment to a better life for workers and their families.

Labor is Australia's party of progress. We are the party of the Snowy Mountains scheme, the party of Medicare, the party of superannuation and the party of native title. The Labor platform, and its embodiment in policy, represents progress—progress for workers and their families, progress for communities and progress for our nation. Labor is the party of economic growth with a fair society. We are the party that ensures that the plight of my grandfather no longer occurs in our workplaces.

Progress involves an understanding of the great economic and social challenges our nation faces and the resolve to deal with them. This approach is evident in the Labor government's policy to deal with the biggest economic and social challenge of our generation—the challenge of mitigating the effects of human induced global warming on our economy and our society whilst protecting the livelihoods of Australian workers and businesses.

As a person who regularly enjoys our beautiful coastline and beaches, I am concerned about the scientific evidence of ocean warming and its effects. Over the last 25 years I have competed at many Australian Surf Life Saving Championships, the 'Aussies', as they are affectionately known. This annual event is the largest sporting event in our nation. It attracts thousands of competitors from each state and ploughs millions of dollars into the local hosting economy. In 1992 the Aussies were held at Collaroy Beach north of Sydney. It is no longer possible to hold this event at Collaroy or many of Sydney's other beautiful beaches. Quite simply there is no longer enough sand on the beach to run the events.

In March this year the New South Wales Surf Life Saving Championships were held in Kingscliff in the far north of New South Wales. Participants and supporters would not have been aware that in November last year Tweed Shire Council received about $600,000 from the New South Wales government's Natural Disaster Relief Arrangements to restore Kingscliff Beach due to beach erosion. Only four weeks ago the sand that had been deposited was wiped out. The council has again had to spend almost $400,000 sandbagging the local surf club and caravan park and now faces a $3 million plus bill to pump sand from the Tweed River onto the beach to save them from inundation.

Scientists tell us that the warming of our oceans is raising sea levels and even with urgent mitigation this trend looks set to continue long term. We cannot solely attribute these specific events to climate change. Indeed, inappropriate coastal development over the last 100 years in many coastal communities has resulted in an ongoing history of erosion and property damage. But scientists tell us that sea level rise and more extreme weather events as a result of climate change will have further negative impacts. With an increasing frequency of high sea level events expected into the future, this scientific evidence should sound the alarm. At the very least, it should justify mitigation action by our national government. The longer we wait to tackle climate change, the
greater the cost. As a father of two young children, I do not want to risk their opportunity to enjoy the beauty of our magnificent coastline. I do not want to saddle them with the burden of unbearable costs to mitigate the damage of climate change. Most importantly, I do not want to have to tell them that I, as a legislator and custodian of the welfare of the people of New South Wales, did not have the courage, skill and foresight to deal with an issue that will, more likely than not, reduce the quality of their life and the natural environment that they inherit. I am committed to working with my fellow senators and MPs to deal with this great challenge for our nation and our world.

I live in a seaside community that values healthy lifestyles. While I have enjoyed the benefits of good health, I realise there are a large number of Australians who every day suffer the consequences of unhealthy living. My wife Rachel is a nurse at a major public hospital. She regularly lets me know of the burden preventable disease has on our hospital system. I am told that the increasing prevalence of obesity, heart disease and diabetes impacts on the workload of all health professionals and also on the wallets of Australian taxpayers. The preventable nature of major illness in Australia should be cause for concern for any government. With an ageing population and greater prevalence of unhealthy living amongst Australians, we face the prospect of an ever-increasing health budget related to preventable disease. There is more to be done in this area and I look forward to doing all I can to ensure more Australians, particularly those from low-income households, enjoy the benefits of a healthy life and reduce the burdens on our health system.

My election to the Senate was achieved with the support and hard work of others. I thank the officers and staff of the Senate for their dedication to good government and their assistance since my election. I acknowledge and thank my predecessor, Mike Forshaw, a diligent and honourable Labor man who served in this place with distinction. I thank him for his friendship and wise advice. I owe a deep gratitude to the members of the New South Wales Labor Party, whose hard work and commitment to equality and justice is an inspiration and a privilege to represent. I particularly recognise those in rural and regional New South Wales who, against the odds, never waver in their commitment to uphold the fine ideals of our party. To my former colleagues in the New South Wales Labor Party office, whose hard work and ability is unending and admirable, I say: thank you for your support and friendship. I thank Andrew Gray and all of those whom I had the pleasure of working with at Mallesons Stephen Jaques for new insights and for sharpening my legal skills and knowledge.

I wish to recognise my wife's very large family, the Casamentos, in particular Joe and Lis, and thank them for their support, their warmth and their dedication to their family; I am honoured to be part of it. To my beautiful daughters, Amelie and Scarlett, who remind me every day that there is no greater joy than being their father and receiving their unconditional love, I hope to make you both proud of my work as a senator. I thank and pay tribute to my beautiful wife, Rachel, for her eternal support, patience, wise advice and love. My election to this place is a testament to your faith and to our partnership.

We are a nation with a great tradition of democracy, peace, equality and good government. I look forward to working hard in this tradition, on behalf of the people of New South Wales, to ensure progress for them, their families and their communities.
by leave—Firstly, I want to congratulate Senator Thistlethwaite on his first speech and I wish him well in his career. I thank the Senate very much for allowing me this opportunity to make some remarks in anticipation of my imminent retirement from this chamber, where I have had the privilege of serving for the past 15 years, including seven years in the ministry and, collectively, nine years on the front bench. My departure will mark the end of an era of sorts as I am the last Howard government cabinet minister still serving in the Senate.

My term does not expire until 2014, so it is with a good deal of soul searching that I have come to my decision, knowing that the constitutional and conventional arrangements for filling a casual vacancy will not cause inconvenience to my party or to the people of New South Wales who re-elected me for a third term in 2007. That said, it is not a decision that I have come to lightly. However politics, as I am sure everybody here will know, is a journey and not a destination and each of us has to make the journey as we see fit. The day will come for all of us when, no matter how long one serves and no matter at what level, it is time to move on and for me that time is fast approaching.

Having entered the Senate in the great ascension of the Howard government in 1996, I have been extraordinarily privileged to have served at some of the highest levels of government available to a senator, first as the Minister for Revenue and Assistant Treasurer, then as a cabinet minister as the Minister for Communications, Information Technology and the Arts, and Deputy Leader of the Government in the Senate. These appointments gave me my fair share of firsts being, so far as I am aware, the only woman thus far to have held a Treasury portfolio and the first woman to join a federal coalition government's leadership team. It was certainly some team, comprising the Prime Minister John Howard, Peter Costello, Nick Minchin and, from the Nationals, Warren Truss and Mark Vaile. Having served only on the government benches until the Howard government lost office in November 2007, it is fair to say that the dark days of opposition are indeed an apt description. Despite being in the shadow ministry until I stepped back in late 2009, I have not relished the battle as fervently as I did as a minister. It is now time for me to take up new challenges.

Whilst I do not intend to be partisan in my comments today, I do believe that Tony Abbott and the coalition have done an admirable job of pointing out, if I can borrow the term, 'the wilful blindness' of the Gillard government which seems incapable of avoiding successive policy and political blunders and missteps that should be obvious to those who look. Of course I am immensely proud to have been a minister in the Howard government, a government that was capable not only of announcing but of implementing big economic reform, competently managing the economy and delivering good government for the Australian people. We left the nation free of debt and with a healthy surplus for a rainy day that played a key role in insulating Australia from the worst of the global financial crisis in 2008.

I am grateful to former Prime Minister John Howard for the opportunities he gave me and for his leadership and support throughout my ministerial career. I was fortunate to have been promoted straight into the ministry as the Minister for Revenue and Assistant Treasurer after the 2001 election victory. One of my tasks was to smooth the rough edges in the implementation of the
GST and to implement the major business tax reforms identified in the Ralph review. It involved complex but important reforms for the business community, such as consolidation of group accounts and demergers, and also involved administrative oversight of the Australian Taxation Office.

I also had carriage of some very major reforms to superannuation, including choice of funds and portability of accounts, and the introduction by the government of the co-contribution for low-income earners wishing to save for their own retirement. Another superannuation reform of which I am particularly proud was the capacity to split superannuation on divorce, a much needed reform which primarily benefited women.

In any portfolio, crises can come out of the clear blue sky and, having just climbed into the saddle, I was tasked with the enormous challenge of dealing with and resolving the crisis that had swept through Australia's insurance market, partly as a fallout from the collapse of the general insurer HIH. The exorbitant cost of claims, skyrocketing premiums and the inability to get insurance at any price had almost shut down public activity. This crisis affected everything from pony clubs to medical practitioners, who had threatened to withdraw their services because of the risk of being sued many years after the event and the cost of long tail claims.

With my state counterparts—all of whom were Labor Treasurers or ministers and to whom I pay tribute for their policy courage—we were able to agree upon sweeping reforms to tort law that reshaped the delivery of insurance and public liability in medical indemnity and for professional services across Australia. Cooperation and agreement of all the states with the federal government is increasingly rare and difficult to achieve. This was an example of cooperation at its best.

The Australian Prudential Regulatory Authority also came under my bailiwick and the aftermath of the HIH collapse paved the way for major reform of Australia's prudential regulation of financial institutions. These reforms, and the soundness of the regulatory settings then introduced, have been acknowledged as a key factor, contributing to Australia's resilience to external shocks and capacity to withstand the worst effects of global financial volatility.

I acknowledge the key role played by the then Treasurer, Peter Costello, that underpinned the stellar performance of the Treasury portfolios during the Howard years. Serving on the Expenditure Review Committee with Peter Costello and Nick Minchin was a memorable experience. Not many 'dishing it out' ministers, if I can use the colloquial expression, got past the corporate memory of Peter Costello, who delivered the budget year on year, had seen it all before and knew better than most how to reel it in.

In the vast Communications portfolio, I inherited many policy challenges, including some major unfinished business; to get legislation passed to enable completion of the sale of Telstra and to reform media regulation that had been in place, virtually untouched, for over 20 years. This was when rapid advances in technology were—and they still are—transforming the media landscape, making existing regulatory settings of converged platforms, with global reach, increasingly redundant. Technological innovation has simply transformed the way we live, work, learn and do business not only in Australia but across the globe.

Such is the nature of fast paced technological change that we cannot today even imagine devices and applications that will
likely be commonplace just a few years from now. So I have a degree of empathy with any minister or policymaker charged with developing communications policy in an environment where the target is always moving. Recent reports of new experimental wireless technology, for example, if proven may well allow access to the internet up to a thousand times faster than is possible now on conventional wireless networks, without the drawback of degraded speeds with multiple users of the network.

I hasten to add this is experimental technology and, yes, wireless applications do need access to fibre backhaul to connect to the network, but I believe the lessons to be learned from rapid technological change are these. Firstly, there are enormous hazards inherent in picking one dominant technology—fibre to the home—for a new ubiquitous network when all the risk is being borne by taxpayers who will likely be left with a suboptimal network when something more efficient comes along, as it surely will over a 10-year rollout. Secondly, taxpayers are right to wonder whether an investment of some $50 to $80 billion is worth the money when there is no guarantee that a spend even of that magnitude will future-proof Australia's telecommunication infrastructure needs for the future.

It is indefensible, in my view, that Australians in rural and remote areas have been denied the benefits of fast, affordable broadband that would have been available to them for the past three years under the OPEL network. OPEL was just a part of my vision in 2006 to meet the needs of rural and regional Australia and I believe it remains relevant today. Sacrificing OPEL on the altar of the costly NBN experiment has meant only a handful of people in mainland Australia have taken up the service thus far.

This is an unfinished story, a work in progress. At least we all agree on the objective that every Australian should be able to access fast, affordable broadband regardless of where they live. I, for one, consider that this basic guarantee should be provided in the universal service obligation. The days when it is sufficient to guarantee Australians a phone on the wall have well and truly been superseded by the need for access to a fast and affordable broadband service, regardless of where you live.

I now want to make some brief remarks about two issues of enormous importance to Australia's future prosperity and of particular relevance to those in the chamber and no doubt in the other place. Irrespective of the fate of the carbon tax under this or successive governments, the politics of clean energy in Australia still has some distance to run. There is a surreal quality surrounding this debate on the introduction of the carbon tax, which the Prime Minister has effectively said is 'done—it's going through', at a time when the developed world is facing once again enormous volatility in financial markets. The Eurozone is hovering on the brink of default, the United States has only just averted a crisis on its massive debt burden, and Australia is grappling with how to close the gap in our two-speed economy.

As business and consumer confidence plummets, I do worry that insufficient weight is being given in this debate to the impact of introducing a carbon tax in such uncertain economic times and whether Australia can afford to forfeit its comparative advantage in access to cheap energy that has thus far underpinned a commodity boom that has reshaped Australia's economy in the 21st century.

Australia has other pressing challenges, including developing a more transparent and coherent approach to foreign investment,
most particularly from China. We must not lose sight of the importance of foreign investment as a key ingredient underpinning Australia's long-term growth. But many Australians have become uneasy about whether such investment for mining purposes, most particularly coal seam gas exploration licences, will affect prime agricultural land and question the impact this might have on Australia's land use and future food security. These concerns are not without foundation.

Although issues related to land use are primarily state responsibilities, surely it should not be beyond our collective wit as a nation to devise a framework which maps and designates prime agricultural land that should be conserved in the national interest, but not so as to discourage forms of foreign investment that will allow the responsible management of multiple land use. I have no illusions that there will be hard decisions to be made in striking the right balance and possible recompense required for owners of such land, whose use could be impacted. But in my view there cannot be too many more compelling national priorities than balancing protection of prime agricultural land as a key part of ensuring Australia's food security with managing the mining boom.

And now for some acknowledgements and long overdue thank yous. Firstly, to the members of the Liberal Party, to Bill Heffernan, who was State President of the Liberal Party when I started my political journey, and to the Senate selectors who placed their confidence in me to represent them and the people of the Premier State of NSW for three terms: thank you.

Next I would like to thank particular mentors and supporters to whom I owe a great debt of gratitude for their support and encouragement over time, including Sir John Carrick, the Hon. Nick Greiner, Rosemary Foot, Charles Curran, John Azarius, John Wells, Peter Collins, Max Moore-Wilton, Tony Nutt and Arthur Sinodinos.

It will no doubt come as a surprise to many to learn of my affection for the former Prime Minister the Hon. Gough Whitlam, who was an accidental witness at my wedding in Paris some 30 years ago and who is still kind enough to refer to me as 'the Bride'. My parents, being staunch Liberals, doubted the validity of that marriage certificate, and we had another commitment ceremony back in Sydney to put the matter beyond doubt! I had the great privilege of visiting him recently and at 95 I can say that he is still a formidable comrade.

On matters of the heart it is difficult to convey the depth of my love and appreciation for my husband, the Hon. Andrew Rogers, my son Adam Coonan, and his wife, Candice, and baby, Camille Juliette, who is the light of our lives. Thank you for the involuntary sacrifices you made to let me follow my passion so completely for such a long time. To all the members of my large extended family, my stepdaughters and their children, my sisters and friends: thank you for bearing with me, tolerating my absences and still being there for me. My loving parents, Bill and Mary Lloyd, gave me my values and taught me resilience. They were not here to see most of my ministerial career, but I hope I have done them proud.

To my wonderful staff, each and every one of you, who have been the public face of my office: thank you. I cannot name everyone—in 15 years, you have a few!—but particularly mention Nicole Masters, Peta Credlin and my current chief of staff, Ainsley Gotto, who has a long history of working for senators, as exemplary chiefs of staff. I particularly thank Jane McMillan, Shaun Anthony, Matt Stafford, Rachel da Costa, Sarah Cullins, Sarah McNamara,
Richard Shields, Jeff Egan, Edora David and Mary-Lou Jarvis for their friendships and for giving their all when it mattered.

And of course I must thank Rosemary Laing, the Clerk, the Clerk's committee secretaries, chamber attendants, Hansard and Black Rod, past and present, who have always given such professional and unstinting service to senators. This is much appreciated. I miss Cleaver Elliott in retirement and my dear friend former Deputy Clerk Anne Lynch, who has departed not only the Senate but unfortunately this mortal coil.

Finally I thank my Senate colleagues, too numerous to mention individually—I am happy to say on both sides of the chamber—for their friendship, courtesy and support, especially over these last difficult weeks. I believe Eric Abetz and George Brandis are doing a fine job. I look forward to when I can address Stephen Parry as Mr President—even if I do not sing Happy Birthday, Mr President—and I regret that I will not be here to enjoy the discipline of our new Chief Whip, Helen Kroger.

Very finally, I want to say that, even though it is fashionable to revile politicians and politics, the Senate provides an important institutional safeguard in the workings of our democratic system. I have come to appreciate that more and more the longer I have been here. The opportunity to shape and participate in public debate on matters of major national significance is not only a privilege; it comes with heavy obligations. Criticism from time to time is inevitable, but it should not deter any senator from standing up where there is unfairness or injustice and advocating for the best interests of all Australians. This is important work and I shall miss it.

In Winston Churchill's 1906 biography of Lord Randolph Churchill, he describes how his father, although initially reluctant to assume public office, came to keenly appreciate the importance of participation in public life. He said this:

It is easy for those who take no part in the public duties of citizenship under a democratic dispensation to sniff disdainfully at the methods of modern politics and to console themselves for a lack of influence upon the course of events by the indulgence of a fastidious refinement and a meticulous consistency. But it is a poor part to play.

I cannot but agree and I wish all senators well for the future.

Senator ABETZ. (Tasmania—Leader of the Opposition in the Senate) (17:45): I seek leave to make a statement of no longer than two minutes.

Leave granted.

Senator ABETZ: We have just witnessed the last contribution by Senator the Hon. Helen Coonan in this place. Senator Coonan has indicated the wish to depart this place without too much fanfare or valedictories. The coalition respects that wish but cannot allow a former distinguished cabinet minister and a former Deputy Leader of the Government in the Senate to leave without a sincere expression of our appreciation and thanks for her commitment and service. We understand her reasons for leaving and respect them. We wish our valued colleague all the best for the future, good health and happiness. We also especially extend that wish to her husband. On behalf of all coalition colleagues, I thank the senator for her 15 years of service to the people of New South Wales, the nation and the Liberal Party. We salute you.

Honourable senators: Hear! Hear!
Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (17:46): I seek leave to make a very short statement.

Leave granted.

Senator CHRIS EVANS: I respect Senator Coonan's wish not to have formal valedictories. I respect that—and I think I probably encourage it, having done 12 in a row a short time ago! On behalf of all Labor senators, I acknowledge her considerable contribution in the Senate and her very successful career in this place. I wish her well for the future and indicate that she leaves with our respect and best wishes.

Honourable senators: Hear! Hear!

DOCUMENTS

Order for the Production of Documents

Documents were tabled pursuant to the order of the Senate of 17 August 2011 for the production of documents relating to the Tasmanian Forests Intergovernmental Agreement

Consideration

The following orders of the day relating to government documents were considered:

  Department of Broadband, Communications and the Digital Economy—Report for 2009-10. Motion of Senator Macdonald to take note of document agreed to.
  Commonwealth Scientific and Industrial Research Organisation (CSIRO)—Report for 2009-10, including report of the Science and Industry Endowment Fund. Motion of Senator Macdonald to take note of document agreed to.
  Australian Postal Corporation (Australia Post)—Report for 2009-10. Motion of Senator Macdonald to take note of document agreed to.

  Cancer Australia—Report for 2009-10. Motion of Senator Macdonald to take note of document agreed to.
  Members of Parliament (Staff) Act 1984—Report for 2009-10. Motion of Senator Williams to take note of document agreed to.
  Australian Crime Commission (ACC)—Report for 2009-10. Motion of Senator Williams to take note of document agreed to.
  Pharmaceutical Benefits Pricing Authority—Report for 2009-10. Motion of Senator Boyce to take note of document agreed to.
  Fisheries Research and Development Corporation (FRDC)—Report for 2009-10. Motion of Senator Adams to take note of document agreed to.
  Sugar Research and Development Corporation—Report for 2009-10. Motion of Senator Adams to take note of document agreed to.
  Gene Technology Regulator—Quarterly reports for the periods—1 April to 30 June 2010 and 1 July to 30 September 2010. Motion of Senator Adams to take note of documents agreed to.
  Private Health Insurance Administration Council—Report for 2009-10 on the operations of the registered health benefits organisations. Motion of Senator Adams to take note of document agreed to.
  Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 January to 31 March 2011. Motion of Senator Boyce to take note of document agreed to.
  Department of Immigration and Citizenship—Access and equity in government services—Report for 2008-10. Motion of Senator Boyce to take note of document agreed to.
  Migration Act 1958—Section 440A—Conduct of Refugee Review Tribunal reviews not completed within 90 days—Report for the period
1 November 2010 to 28 February 2011. Motion of Senator Boyce to take note of document agreed to.


Australian Customs and Border Protection Service—Report for 2009-10—Correction. Motion of Senator Macdonald to take note of document agreed to.

Estimates of proposed expenditure for 2011-12—Portfolio budget statements—Portfolio and executive departments—Defence portfolio—Correction. Motion of Senator Macdonald to take note of document agreed to.


General business orders of the day nos 18 to 23 relating to government documents were called on but no motion was moved.

COMMITTEES

Consideration

The following orders of the day relating to committee reports and government responses were considered:


Community Affairs References Committee—Final report—Disability and ageing: lifelong planning for a better future. Motion of the chair of the committee (Senator Siewert) to take note of report agreed to.

Ministerial Discretion in Migration Matters—Select Committee—Report—Government response. Motion of Senator Boyce to take note of document agreed to.

Reform of the Australian Federation—Select Committee—Report—Australia’s Federation: an agenda for reform. Motion of Senator Furner to take note of report agreed to.


Community Affairs References Committee—Final report—Social and economic impact of rural wind farms. Motion of Senator Polley to take note of report agreed to.

Corporations and Financial Services—Joint Statutory Committee—Reports—Access for small and medium business to finance—Statutory oversight of the Australian Securities and Investments Commission. Motion of Senator Boyce to take note of reports agreed to.

Community Affairs References Committee—Report—Hear us: Inquiry into hearing health in Australia—Government response. Motion of Senator Boyce to take note of document agreed to.


Finance and Public Administration References Committee—Report—The administration of health practitioner registration by the Australian Health Practitioner Regulation Agency (AHPRA). Motion of Senator Boyce to take note of report agreed to.

Legal and Constitutional Affairs References Committee—Interim and final reports—Australian Law Reform Commission. Motion of Senator Boyce to take note of reports agreed to.

Orders of the day nos 1 to 6 relating to committee reports and government responses were called on but no motion was moved.
AUDITOR-GENERAL'S REPORTS

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 34 of 2010-11—Performance audit—General practice education and training—General Practice Education and Training Limited. Motion of Senator Boyce to take note of document agreed to.

Auditor-General—Audit report no. 41 of 2010-11—Performance audit—Maintenance of the Defence estate—Department of Defence. Motion of Senator Boyce to take note of document agreed to.

Auditor-General—Audit report no. 42 of 2010-11—Performance audit—The establishment, implementation and administration of the council allocation component of the Regional and Local Community Infrastructure Program—Department of Regional Australia, Regional Development and Local Government. Motion of Senator Boyce to take note of document agreed to.

Auditor-General—Audit report no. 47 of 2010-11—Performance audit—The development and administration of National Research Flagships—Commonwealth Scientific and Industrial Research Organisation. Motion of Senator Boyce to take note of document agreed to.

Auditor-General—Audit report no. 51 of 2010-11—Performance audit—Administration of the Access to Allied Psychological Services Program—Department of Health and Ageing. Motion of Senator Boyce to take note of document agreed to.

Auditor-General—Audit report no. 52 of 2010-11—Performance audit—Administration of deductible gift recipients (non-profit sector)—Australian Taxation Office. Motion of Senator Boyce to take note of document agreed to.

Auditor-General—Audit report no. 57 of 2010-11—Performance audit—Acceptance into service of Navy capability—Department of Defence; Defence Materiel Organisation. Motion of Senator Boyce to take note of document agreed to.

Order of the day no. 8 relating to reports of the Auditor-General was called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Marshall): Order! I propose the question:

That the Senate do now adjourn.

United Nations Convention Relating to the Status of Refugees

Senator FAULKNER (New South Wales) (17:52): I spoke yesterday in the chamber about the United Nations Convention relating to the Status of Refugees, an international treaty born out of the tragedy and bloodshed of the Second World War, and about the importance of the convention in providing protections and safeguards to so many who have been forced to flee from their homes and homelands. I said that as Australians we should be proud of our nation's role in the formulation of the convention, as we should be proud of our connection with the Universal Declaration of Human Rights, a treaty that celebrated its 60th anniversary three years ago and out of which the refugee convention grew. We should never forget that and we should never forget that article 14 of the Universal Declaration of Human Rights states:

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

The Menzies government ratified and acceded to the refugee convention and enshrined into Australian law our commitment to some of the world's most vulnerable people.

Sixty years after the implementation of the convention, the international community continues to face enormous challenges in meeting the social, economic and human-
itarian plight of refugees. Here in Australia we have largely been shielded from the global movement of refugees because of simple geography and the relative difficulty of arriving on our shores coupled with the very real danger of embarking on such a journey.

In 2010 there were 358,800 applications for asylum in industrialised countries. Of those 358,800 applications for asylum, Australia received 8,250. As a matter of comparison, Sweden, a country with less than half Australia's population, received 31,800 applications. Canada received 23,200 applications and the United States received a staggering 55,530 applications. The UNHCR puts the total number of asylum seekers worldwide at 837,500. I think that these comparisons tell a story in themselves.

Australia has had its own history of refugee movements. Our first real experience with mass arrival by boat—and I use the word 'mass' advisedly given international comparisons—was with those fleeing the newly unified Vietnam after the Vietnam War. The first boat to reach our shores arrived in Darwin in April 1976. Over the next five years 2,059 Vietnamese people arrived on our shores. It is now often forgotten that by the mid-1980s Australia offered a home to another 90,000 people languishing in refugee camps across South-East Asia. When the Fraser government negotiated for the settlement of the Vietnamese people affected by the decade-long war, few would have predicted what a positive and profound effect these people would have on our national identity and what a valuable contribution they would make to Australian society.

The same is true of the Chinese citizens allowed to stay by the Hawke government following the Tiananmen Square massacre of 1989. Not only was this a recognition by the Australian government that Australia must play its part in the international community; it was a signal that we as a nation would not sit by as innocent people suffered for their beliefs and ideals, the very same beliefs and ideals that Australians enjoy and should never take for granted.

Sixty years is a long time. Many instruments and institutions of international law have come and gone over those decades. Few, however, have had the lasting effect of the refugee convention. Australia's role as an original signatory and ratifier is something I believe Australians should be very proud of. I hope that in this, the 60th year of the Geneva convention relating to the status of refugees, we can keep some of this history in mind, that we can keep in mind why the need for the refugee convention arose. An open mind should assist us to appreciate that, while circumstances now may be different to those faced by refugees after World War II, today's refugees are just as vulnerable as those Australia sought to help in previous decades.

The application of the United Nations Convention relating to the Status of Refugees to those who come to Australia is paramount. I for one will always stand up to argue Australian government policies must remain consistent with it. UNHCR Australia suggests that the refugee convention has helped over 50 million people restart their lives. This is an extraordinary achievement and one that I believe all nations involved should be proud of as we celebrate 60 years of the refugee convention.

Same-Sex Relationships

Senator HUMPHRIES (Australian Capital Territory) (18:00): I rise tonight to return to an issue that was before the Senate earlier today, not so much to reprise arguments that were well ventilated at that time but to throw some important light on issues
which may have been unclear or even confusing to senators involved in that debate. I am referring to the debate on Senator Brown's disallowance legislation with regard to the Northern Territory and the ACT. Senator Brown's bill was purportedly about preventing a Commonwealth minister from disallowing legislation of either the Northern Territory or the ACT by virtue of having signed an instrument of the Commonwealth. The effect of that legislation, as Senator Brown himself described, is quite straightforward: to allow the territories to enjoy the same rights with respect to the passing of their laws which the states already enjoy. My party, the Liberal Party—the coalition—made it clear we objected to that because we believe that it was legislation which was undertaken in the absence of a comprehensive assessment of what the needs were of the self-governing regimes of the two territories and was blind to many questions about the state of those regimes and how they need to be reformed systematically and not on a piecemeal basis.

I am particularly concerned about the fate of the amendment that was moved by Senator Brandis in the course of that debate during the committee stage. Senator Brandis moved an amendment which would have had the effect of saying that the power of the territories to enact laws was not provided for on the basis that the enactment was inconsistent with the law of the Commonwealth. That was further illustrated by the sentence: Without limiting the application of this subsection, the Assembly may not enact any law that is inconsistent with the Marriage Act 1961.

Senators will be aware that there has been heated debate about whether Senator Brown's legislation was some kind of stalking horse for enacting same-sex marriage legislation. Without canvassing whether that was or was not the purpose of Senator Brown's bill, the fact that the Senate chose to reject Senator Brandis's amendment to clarify that question is disturbing and leaves this question in some considerable doubt.

Aware that the comments of senators may be taken into account when interpreting legislation passed by the Senate, it is instructive to look at what Senator Brown himself had to say when this amendment was rejected. He said that Senator Brandis's amendments 'run totally contrary to the spirit of the legislation that is before the chamber'. He went on to say—in my view somewhat ominously:

I have explained that euthanasia is prohibited by legislation through this parliament, but the matter of marriage is not.

It seems to me that Senator Brown was foreshadowing that it is not possible for a territory parliament to enact laws in respect of euthanasia because the federal parliament has expressly enacted that a territory parliament may not do that, but when it came to the question of marriage he drew a distinction and said that it is possible for a matter of marriage to be legislated for by a territory parliament. There is at least quite a respectable argument that the Commonwealth Marriage Act, particularly the amendments that were moved by the Howard government in 2004, leaves open the question of whether it is possible for a territory parliament to legislate with respect to the marriage of people of the same sex.

That is an issue that has been canvassed by Professor George Williams. His argument is that the amendments moved in 2004 effectively characterise what may be done with respect to marriage between people of opposite genders but leaves open the question of what may be done with respect to the marriage of people of the same sex. As I understand it, he argues that it is possible for a territory law to be passed which provides for the marriage of people of the same sex.
because that is not covered by the legislation that was amended by the Commonwealth in 2004.

Senator Brown gave comfort to that interpretation by what he had to say about the situation of marriage and euthanasia being different. I would have thought that what Senator Brown said by those remarks in today's debate made it perfectly clear that he envisages the possibility of the question of marriage between people of the same sex being canvassed in legislation by the two territory parliaments. He acknowledges that that cannot happen with respect to euthanasia because that is expressly prohibited by legislation of this parliament, but he leaves open the question of whether marriage can be treated differently. With the greatest respect, I think the failure of the Senate to carry Senator Brandis's amendment does indeed leave that question wide open, and that concerns me enormously.

We do not know precisely and in much detail what the government's arguments were with respect to Senator Brandis's amendments, because, before the minister at the table—I think Senator Sherry—had an opportunity to put the government's position in the course of the debate about those amendments, Senator Brown moved that the debate be gagged, that the question be put immediately. So at that point in the debate there was no opportunity to put the argument. I understand that Senator Sherry subsequently indicated that there had been an opinion from the Attorney-General on this question. It was obviously a very rushed opinion because it only arrived a few minutes after the actual amendment had been tabled by Senator Brandis. But if that opinion was dependent on the view that the Commonwealth covered the field with respect to marriage with its 2004 amendments, then it ought to be understood by honourable senators that that view is one that is probably not shared by eminent constitutional scholars such as Professor George Williams, who I think has argued that the Commonwealth did not effectively cover the field with its amendments in 2004.

So I think it is more than fair to describe this question as being an open question. If it were to be the case that a territory parliament wished to return to this question and legislate in that respect, in an area where there was some considerable amount of grey—that is, where a civil union becomes a marriage—then, by virtue of the passage of the legislation which went through the Senate today, it would be easier for that to occur and harder for the Commonwealth to intervene to prevent that from being carried forward. If a territory parliament were to legislate for some kind of marriage, to use Senator Brown's words, it would not be possible for a federal minister to disallow that legislation by virtue of the stroke of a pen, as was the case before this legislation, before this amendment of Senator Brown. It would be necessary for the parliament as a whole to come together to overturn such legislation if it felt it was inconsistent with its own powers with respect to marriage.

I do not want to sound like a Cassandra, but I think it is important that this issue be addressed and I think, with great respect, we have not properly considered this matter in the course of today's debate and we need to come back and consider it properly.

**Anglesea Barracks Peacekeeping Memorial**

**Australian Peacekeeper and Peacemaker Veterans Association**

**Senator BILYK (Tasmania) (18:10):** Tonight I wish to start by acknowledging that today, 18 August, is Vietnam Veterans Day. This day pays tribute to all servicemen who fought and fell in the Vietnam War, and I call upon all here to remember them.
Recently I had the honour of attending the unveiling of the Anglesea Barracks peacekeeping memorial in Hobart, Tasmania. This much deserved memorial was unveiled on 29 May, International Day of United Nations Peacekeepers and the 63rd anniversary of the first peacekeeping operation authorised by the United Nations Security Council: the supervision of the truce after the 1948 Arab-Israeli war. Since 1947, the brave personnel of the Australian Defence Force have been involved in around 50 peacekeeping operations, serving with distinction and honour. They have fought to build a better world for millions of men, women and children that have suffered oppression and vilification, violence and injustice. Most of these peacekeeping operations were conducted under the United Nations banner, while others still were under the British Commonwealth banner and others under regional bodies. Indeed, Australia's first peacekeeping operation, in Yogyakarta in Indonesia in September 1947, predated the first United Nations peacekeeping operation.

Australia's peacekeeping missions have been to such nations and regions as Indonesia, Cyprus, Iran, Afghanistan, Western Sahara, Kuwait, Iraq, Cambodia, former Yugoslavia, Somalia, Mozambique, Rwanda, Haiti, Sierra Leone, Bougainville, the Solomon Islands and Zimbabwe, then named Rhodesia. At least 30,000 Australians have taken part in peacekeeping and humanitarian operations. These have included overseas emergency relief operations to Papua New Guinea, Sumatra, Pakistan, Iran and various Pacific nations.

In addition to peacekeeping operations, Australians have also served in numerous warlike operations. The Australian Peacekeeper and Peacemaker Veterans Association describes these as 'peacemaking' operations. When both peacekeeping and peacemaking operations are taken into account, the number of ADF personnel who have served in the post-Vietnam era rises to almost 90,000. All of them selflessly risked their lives to help others and, tragically, some made the ultimate sacrifice.

Located in the grounds of Anglesea Barracks, the oldest Australian barracks still in use, the memorial is surrounded by other memorials to Tasmania's involvement in past conflicts: the sandstone monument to the 99th Regiment that left Tasmania to fight in the Maori wars, a pine tree planted by the last ANZAC, Alec Campbell, and the Korean war memorial, constructed from rocks transported back from Korea. While titled the 'Anglesea Barracks peacekeeping memorial', this memorial not only honours those that have served in peacekeeping operations but also recognises those that have served in peacemaking operations: the first Gulf War, Namibia, Somalia, Cambodia, Rwanda, East Timor, Afghanistan and Iraq.

This memorial seeks to link all veterans of peacekeeping and peacemaking operations since 1975, whether they be defence, police, UN personnel or civilians who have served on defence operations. In this place, with these surroundings, it also links them to those that have served before them. It is a memorial in loose terms, in that while it commemorates those who have given their lives on UN or post-Vietnam operations it also serves to recognise the contributions and commitment of those serving on current and future operations. Tasmanians have a proud tradition of serving their nation through their involvement in the defence forces. Despite the small population base and the lower numbers of defence units, Tasmania still provides more recruits to the ADF per head of population than any other state. Mr President, I ask you to remember those, including Tasmanians Corporal Richard Atkinson, who was killed in Afghanistan.
earlier this year, and Captain Mark Bingley, who died in the Black Hawk crash off Fiji in 2006, who have given their lives in service of this country. Recently 16 Tasmanian reservists from three units returned from peacekeeping operations in the Solomon Islands. Other Tasmanian based members are currently deployed to Afghanistan, the Solomon Islands, Timor Leste and England.

The memorial itself was expertly designed and crafted by Geeveston sculptor Mr Bernie Tarr. He is a gifted Tasmanian artist, and Vietnam veteran, whose work utilises the beautiful timbers of Tasmania. Bernie's sculptures are now featuring in towns across Tasmania, but in particular in his home town, Geeveston, where they line Main Road. The memorial depicts a fearless Australian soldier rescuing a small child. While the soldier is armed, with a rifle slung over one shoulder, his arms enwrap the child, shielding it from harm. The statue was modelled on a 6th Battalion soldier on leave in Tasmania on compassionate grounds, following the loss of two of his counterparts in Afghanistan. Painstakingly chiselled from a slab of King Billy Pine by Bernie over a number of years, it reminds us of Australia's obligations to protect the vulnerable. It embodies Australians' sense of fairness and justice, of our natural tendency to defend the weak from injustice and oppression. The design was chosen by a committee which was headed by Major Tony Richings. This committee included representatives from the Returned and Services League, the Department of Veterans' Affairs, the Department of Defence and the Australian Peacekeeper and Peacemaker Veterans' Association, who looked over three submissions before choosing the design that is now in place. The Department of Defence provided outstanding assistance for this project.

The memorial unveiling was attended by the Governor of Tasmania, and my parliamentary colleagues Julie Collins MP, member for Franklin and Parliamentary Secretary for Community Services, and Andrew Wilkie MP, member for Denison, as well as the Tasmanian Minister for Veterans' Affairs, Scott Bacon MP. Perhaps more importantly, though, the memorial unveiling was attended by members of the 12th/40th Battalion, the Royal Tasmania Regiment, including its commanding officer Lieutenant Colonel Colin Riley, members of the Second Force Support Battalion, represented by Lieutenant Colonel Paul Grey, and members of the No. 29 Squadron, Navy Headquarters Tasmania, represented by Commander Steve Bliss.

A number of organisations, departments and companies generously contributed, in various ways, to the construction of this memorial, and their generous contributions should be acknowledged. These include: the Naval Military and Air Force Club; Defence Health; Department of Defence; Returned and Services League Hobart sub-branch; Blackmore's Australia; Foxhole Medals; Anglesea Barracks Sergeants Mess; Anglesea Barracks Officers Mess; 12th/40th Battalion Regimental Trust Fund; Returned and Services League state branch; the Tasmanian state government; Delta FM; and the Department of Veterans' Affairs.

Tonight I would also like to recognise the work of the Australian Peacekeeper and Peacemaker Veterans Association. The APPVA is a non-profit veterans organisation that encompasses all peacekeeper and peacemaker operations that have involved Australian and New Zealand defence forces service men and women, federal and state police, philanthropic organisations such as Everyman's Welfare Service, Red Cross and the Salvation Army, and Defence civilians. It represents its members' interests, provides advice, promotes fellowship and raises the profile of its members' contribution to world
peace and security. Its Tasmanian president, Lieutenant Colonel Phil Pyke; Tasmanian vice-president, Major Tony Richings; his wife, Sandy; and Colonel Mike Romalis need to be congratulated for the drive and dedication they showed over many years to get this memorial constructed. Thanks to their hard work and dedication, there is now a place for the younger veterans to commemorate International Peacekeepers Day and the Australian Peacekeepers Day, held in September. It is a place for us all to remember those Australians who have served, and are serving, with defence, police and the United Nations on peacekeeping and peacemaking operations around the world. It is also a place for us to give thanks for all that we owe them.

Vietnam Veterans Day

Senator RONALDSON (Victoria) (18:19): I would like to associate myself with the comments of Senator Bilyk and congratulate her on her speech. Earlier today I joined with Vietnam veterans and their families to participate in a national memorial service for Vietnam Veterans Day. The Leader of the Opposition and I jointly laid a wreath at the Australian Vietnam Forces National Memorial on Anzac Parade in honour of those who served, suffered and died as a result of the Vietnam War. The eighteenth of August each year is reserved as the day when Australians pay tribute to the service and sacrifice of 60,000 fellow Australians who served in the Vietnam War. Particularly we pay our respects to the memory of the 521 Australians who were killed in action during that conflict. Despite the rain and cold wind, the ceremony was well attended by dignitaries, including the Governor-General, the former Governor-General, the Prime Minister and minister, the Leader of the Opposition, who I have already mentioned, the Chief of the Defence Force, representatives of the service chiefs, ex-service leaders and representatives of the local ACT community. I was also honoured to be asked to attend the service in Melbourne at the Shrine of Remembrance, and I hope to do so next year.

Today is also significant because it marks 45 years since the Battle of Long Tan took place in a rubber plantation at Phuoc Tuy province in South Vietnam. On this day 45 years ago, 18 Australians were killed in action and 24 were wounded in action fighting an enemy which outnumbered the Australians 10 to one. The actions of D Company 6RAR will live on in history as one of Australia's greatest military victories. Today was not about glorifying that battle nor was it about glorifying the actions of the brave men of D6, as they are known. Rather it was an opportunity for this nation to reflect upon their service, remember their sacrifice and commemorate their deeds of extreme bravery and gallantry in the face of extraordinary danger. Today was all the more significant as it marked the day when the men of D6 were finally awarded their due honour by the Australian Army: a Unit Citation for Gallantry. I pay tribute tonight to the men of D6, their families and those who did not return home. Your service and sacrifice will not be forgotten. On behalf of the coalition—and I am sure I can speak on behalf of all senators—I extend to you our sincere thanks for a job well done. I also want to place on record my thanks and appreciation for the mothers and fathers, brothers and sisters, wives, girlfriends, husbands and boyfriends who support our currently serving defence personnel and our veterans.

Last Sunday I was honoured to be the guest speaker at the memorial service held by the Geelong and District Sub-Branch of the Vietnam Veterans Association of Australia. The service was attended by almost 100 local veterans, their families and members of
the local Geelong community. The weather in Geelong was superb for this ceremony and the camaraderie was tremendous. I once again thank the GDVVAA for extending me the great honour of being their guest speaker this year.

I seek leave to have incorporated into Hansard a copy of my remarks to the memorial service.

Leave granted.

The document read as follows—

Speech to the Geelong and District Vietnam Veterans Association Memorial Service

Vietnam Veterans Memorial
Corner Melbourne Road and Swinburne Street, North Geelong

Sunday, 14 August 2011

Thank you very much, Mick. Ladies and gentlemen, a warm welcome, to Ken Baker, to parliamentary colleagues, to the Lieutenant Colonel, to the shire councillors and mayors. Can I just say at the outset thank you for the great honour that you have accorded me today to be asked to address this ceremony. Indeed, I hope to be in the Canberra or Melbourne ceremony next Thursday.

I was going to mention a number of things which Ken mentioned this morning, and I will slightly change my speech.

I look at this fantastic crowd today and I say to you that the ceremonies which will be occurring all over Australia, as they are, these ceremonies will be occurring with the knowledge, with the full knowledge, that the sacrifice that you veterans made must never, ever be forgotten.

I say to you that to the eternal shame of this country, in those 15 years post the Vietnam War where there was no recognition, is a dark stain. It was unforgivable. I will talk about that stain and what we owe the young men and women returning from Afghanistan later on in my speech.

It's probably not well known that close to the same number, the 60,000 men and women who served in Vietnam, have almost now served in Afghanistan. We as a community must never, ever, ever forget the mistakes of the past. I know that you've been asked, on behalf of this nation, to serve before and to sacrifice before. But I ask you again, to ensure that we make sure these young men and women returning from Afghanistan, some of who are on their fifth, sixth, seventh, eighth, ninth and tenth rotations, that we look after them and we look after their families.

I want to acknowledge another group of people who are here today, and that's the mothers and the fathers and the wives and the sisters and the brothers and the girlfriends and the boyfriends of those who served in Vietnam. Because sometimes it's all too easy to forget the contribution that they have made to this nation. They were the ones who we asked to pick up the lives of those who returned, many of whom were shattered. And we asked the wives and the girl friends and the brothers and mothers and sisters to do what this nation should have done. We should only have asked you to be partner on that, not bearing the sole responsibility for that. For that I am deeply, deeply sorry.

When these young men and women return, we must commit to making sure that the past mistakes are not repeated. They may not need the help on day one and day two - they probably will, but I suspect they won't acknowledge that. But when they are ready, then we must stand ready to provide them with the support that they deserve. I ask you, as I said before, to join that task because you, more than anyone else, understand what the commitment is required. You, more than anyone else, know what we need to do to ensure those mistakes are not repeated.

I just want to say today that despite what happened and despite that stain on this nation's history, that we do thank you for your contribution. The nation demanded your attendance—apart from the Regular Army men and women—the nation demanded your attendance in Vietnam, and you went. And you served. We saw the extraordinary bravery which is epitomised at Long Tan. It was epitomised all over Vietnam. We look at the service of those in 6 RAR and say: why did it take so long for them to be recognised?. And we ask the question: on Thursday, despite the request of Harry Smith and the veteran community and people all over Australia, why, why, why is that Unit Citation for
Gallantry not being given by the Governor-General in Canberra?

It should be in Canberra. Harry Smith, who I spoke to a couple of weeks ago, has been fighting the fight for that citation to be awarded by the Governor-General in Canberra where it should have been. It's not good enough, in my view, for those in Canberra to say that cost will determine where that award is made. This is far too important to be driven by cost and Harry Smith and those who wanted to attend from 6 RAR should have been flown to Canberra at the community's and the nation's expense, rather than it happening at Enoggera in Brisbane. That's all I will say about that, but I am pleased that the Governor-General will be awarding Harry and the rest of his colleagues at least at Enoggera next Thursday.

Can I just leave now with the following? I look at those in front and I look at those who are serving this community, as members, as councillors and as mayors in local government, and I know those who are here today, including my parliamentary colleagues, will not forget your service to this country. We are extraordinarily grateful for what you have given us.

It's because of you, and those who came before you, that we are the free and stable country that we are today. We will not forget your contributions and I thank you for allowing me the great honour to join you today. Ken, thank you most sincerely.

**Senate adjourned at 18:23**

**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.]


Aboriginal Land Rights (Northern Territory) Act—Select Legislative Instrument 2011 No. 145—Aboriginal Land Rights (Northern Territory) Amendment Regulations 2011 (No. 1) [F2011L01614].

Aged Care Act—Aged Care (Amount of Flexible Care Subsidy – Innovative Care Service – Congress Community Development and Education Unit Ltd) Amendment Determination 2011 [F2011L01532].


Appropriation Act (No. 1) 2007-2008 and Appropriation Act (No. 1) 2009-2010—Determination to Reduce Appropriations Upon Request (No. 1 of 2011-2012) [F2011L01531].

Appropriation Act (No. 1) 2009-2010, Appropriation Act (No. 3) 2009-2010 and Appropriation Act (No. 4) 2009-2010—Determination to Reduce Appropriations Upon Request (No. 2 of 2011-2012) [F2011L01663].

Australian Bureau of Statistics Act—Proposals Nos—


14 of 2011—Retail Trade Margins Price Index Survey.
Australian Communications and Media Authority Act—Australian Communications and Media Authority (Annual Carrier Licence Charge) Direction 2011 [F2011L01437].


Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 14 of 2011—Information provided by locally-incorporated banks and foreign ADIs under Reporting Standard ARS 320.0 [F2011L01539].

Australian Research Council Act—Approval of Proposals—Determinations Nos—

91—ARC Future Fellowships for funding commencing in 2010.

92—Linkage Projects Round 2 for funding commencing in 2011.

93—Australian Laureate Fellowships for funding commencing in 2011.

Banking Act—

Banking Exemption No. 2 of 2011 [F2011L01596].

Banking (Foreign Exchange) Regulations—

Direction relating to foreign currency transactions and to Libya; variation of exemptions – amendment to the annexes, dated 28 July 2011 [F2011L01588].

Direction relating to foreign currency transactions and to Syria; variation of exemptions – amendment to the annexes, dated 28 July 2011 [F2011L01591].

Direction relating to foreign currency transactions and to Zimbabwe; variation of exemptions – amendment to the annexes, dated 28 July 2011 [F2011L01587].

Broadcasting Services Act—

Broadcasting Services (Events) Notice (No. 1) 2010 (Amendment No. 10 of 2011) [F2011L01609].


Building Energy Efficiency Disclosure Act—


Civil Aviation Act—

Civil Aviation Regulations—

Civil Aviation Order 20.9 Amendment Instrument 2011 (No. 1) [F2011L01503].

Instruments Nos CASA—


327/11—Determination – lowest safe altitude [F2011L01582].

330/11—Instructions – for approved use of P-RNAV procedures [F2011L01554].

334/11—Direction – number of cabin attendants in Boeing 737-800 series aircraft [F2011L01581].

336/11—Instructions – GLS approach procedures [F2011L01574].

345/11—Instructions – for approved use of P-RNAV procedures [F2011L01610].

351/11—Directions – for determining maximum weight [F2011L01640].

Civil Aviation Regulations and Civil Aviation Safety Regulations—Instrument No. CASA 314/11—Instructions, exemption, approval and specification — RNP-AR approaches and departures [F2011L01602].

Civil Aviation Safety Regulations—

Airworthiness Directives—

AD/ATR 42/26 Amdt 1—Windows – Cockpit Forward Side Windows [F2011L01662].

AD/B737/164 Amdt 2—Elevator Tab Repair [F2011L01600].

AD/B737/201 Amdt 3—Rudder Control System [F2011L01530].

AD/B737/201 Amdt 4—Rudder Control System [F2011L01639].

AD/CESSNA 206/47 Amdt 3—Rear Door Emergency Exit [F2011L01598].

AD/DHC-1/40—Canopy Lock – Modification [F2011L01635].

AD/DHC-1/41—Fuselage Rear Bulkhead – Inspection and Modification [F2011L01641].

AD/DHC-1/42—Tailplane to Fuselage Pickup Modification [F2011L01638].


AD/DHC-1/44—Mandatory Modifications, Inspections and Replacements [F2011L01636].


AD/EMB-110/13 Amdt 7—Rudder Upper Hinge Support [F2011L01599].

Civil Aviation Order 95.54 Amendment Instrument 2011 (No. 1) [F2011L01607].

Instruments Nos CASA—

331/11—Instructions – GLS approach procedures [F2011L01555].

EX64/11—Exemption – recency requirements for night flying (Skywest Airlines Pty Ltd) [F2011L01508].


EX67/11—Revocation of exemptions for fuelling [F2011L01514].

EX68/11—Exemption – Instrument rating flight tests in a synthetic flight training device [F2011L01605].

EX71/11—Exemption – operations without an approved digital flight data recorder [F2011L01534].

EX73/11—Exemption – from requirement to register an emergency locator transmitter (ELT) with the Australian Maritime Safety Authority [F2011L01556].

EX74/11—Exemption – recent experience requirements [F2011L01579].

EX76/11—Exemption – recency requirements for night flying (Qantas Airways Limited) [F2011L01580].

EX77/11—Exemption – display of markings [F2011L01618].

EX81/11—Exemption – firefighting vehicle colour [F2011L01606].


EX84/11—Exemption – design of modification or repair [F2011L01604].


Revocation of Airworthiness Directives—Instruments Nos CASA ADCX—

014/11 [F2011L01513].

015/11 [F2011L01527].

016/11 [F2011L01550].

Select Legislative Instrument 2011 No. 139—Civil Aviation (Fees) Amendment Regulations 2011 (No. 1) [F2011L01572].
Commissioner of Taxation—Public Rulings—
Class Rulings—
Addendum—CR 2011/59.
Goods and Services Tax Advice—Notice of
Withdrawal—GSTA TPP 096.
Goods and Services Tax Rulings—
GSTR 2011/2.
Notices of Withdrawal—GSTR 2006/11 and
GSTR 2006/11DA.
Product Rulings—
Addenda—PR 2006/165, PR 2007/15 and PR
2010/3.
PR 2011/15.
Taxation Determinations—
Addenda—TD 92/155, TD 2006/59 and TD
2007/12.
Notices of Withdrawal—TD 2002/19 and TD
2005/27.
TD 2011/19 and TD 2011/20.
Taxation Rulings—Addenda—TR 96/20, TR
98/5, TR 2002/8, TR 2005/10, TR 2006/10 and
TR 2006/11.
Wine Equalisation Tax Rulings—Addenda—
WETR 2006/1, WETR 2009/1 and WETR
2009/2.
Competition and Consumer Act—Consumer
Protection Notices Nos—
21 of 2011—Safety Standard: Child restraint
systems for use in motor vehicles [F2011L00721]—Explanatory Statement [in
substitution for explanatory statement tabled with
instrument on 11 May 2011].
26 of 2011—Interim Ban Notice: Babies’
dummies to which there are crystals, beads or
other similar ornaments attached to the ring or
handle or plug or shield [F2011L01502].
28 of 2011—Interim Ban Notice: Pins, ribbons,
strings, cords, chains, twines, leathers,
yarns, or any other similar article to which there
are crystals, beads or other similar ornaments
attached, which are designed to be attached to
babies’ dummies [F2011L01501].
Corporations Act—
Accounting Standards—
AASB 2011-4—Amendments to Australian
Accounting Standards to Remove Individual Key
Management Personnel Disclosure Requirements
[F2011L01510].
AASB 2011-5—Amendments to Australian
Accounting Standards—Extending Relief from
Consolidation, the Equity Method and
Proportionate Consolidation [F2011L01621].
AASB 2011-6—Amendments to Australian
Accounting Standards—Extending Relief from
Consolidation, the Equity Method and
Proportionate Consolidation—Reduced
Disclosure Requirements [F2011L01619].
ASIC Class Order [CO 11/554] [F2011L01507].
ASIC Market Integrity Rules (ASX Market) Amendment 2011 (No. 1)
[F2011L01553].
ASIC Market Integrity Rules (ASX Market) Amendment 2011 (No. 2) [F2011L01573].
Select Legislative Instrument 2011 No. 142—
Corporations Amendment Regulations 2011 (No.
3) [F2011L01577].
Currency Act—
Currency Legislation (Royal Australian Mint)
Amendment Determination 2011 (No. 1)
[F2011L01458].
Currency (Royal Australian Mint)
Determination 2011 (No. 2) [F2011L01457].
Currency (Royal Australian Mint)
Determination 2011 (No. 3) [F2011L01642].
Customs Act—
Select Legislative Instrument 2011 No. 136—
Customs (New Zealand Rules of Origin)
Amendment Regulations 2011 (No. 1)
[F2011L01593].
Tariff Concession Orders—
1036528 [F2011L01484].
1047743 [F2011L01560].
1056338 [F2011L01486].
1056460 [F2011L01482].
1056464 [F2011L01483].
Tariff Concession Revocation Instruments—
  38/2011 [F2011L01497].
  74/2011 [F2011L01499].
  76/2011 [F2011L01500].


Defence Act—Determinations under section 58B—Defence Determinations—
  2011/29—Benchmark and approved summer schools – amendment.
  2011/30—Post indexes – price review.
  2011/31—Travelling allowance – amendment.
  2011/32—Payment for Reserve members on duty in special circumstances.
  2011/33—Maternity leave – amendment.
  2011/34—Financial support for legal or financial advice on death of a member.
  2011/35—Post indexes – amendment.
  2011/36—Bonuses, removals and travel – amendment.

Environment Protection and Biodiversity Conservation Act—Amendments of lists of—
  Exempt native specimens—
    EPBC303DC/SFS/2011/19 [F2011L01584].
    EPBC303DC/SFS/2011/20 [F2011L01637].
  Threatened species, dated 1 August 2011—
    [F2011L01660].
    [F2011L01661].


Fair Work (Transitional Provisions and Consequential Amendments) Act—Select


Federal Financial Relations Act—
Determination of the GST Revenue Sharing Relativity for 2011-12 [F2011L01426].

Federal Financial Relations (General purpose financial assistance) Determination No. 28 (July 2011) [F2011L01659].

Federal Financial Relations Act (National Partnership payments) Determinations—
No. 35 (June 2011) [F2011L01425].
No. 36 (June 2011) [F2011L01474].
No. 37 (July 2011) [F2011L01473].

Federal Magistrates Act—Select Legislative Instrument 2011 No. 133—Federal Magistrates Court Amendment Rules 2011 (No. 1) [F2011L01456].

Financial Management and Accountability Act—Financial Management and Accountability Determinations—
2011/10—Section 32 (Transfer of Functions from the former DEWHA to DPMC) [F2011L01449].
2011/11—Section 32 (Transfer of Functions from Health to DPMC) [F2011L01481].
2011/12—Section 32 (Transfer of Functions from DEWHA to DPMC) [F2011L01519].
2011/13—Section 32 (Transfer of Functions from DPMC to DBCDE) [F2011L01668].

Fisheries Management Act—
Bass Strait Central Zone Scallop Fishery (Closures) Directions Nos—
2 2011 [F2011L01535].
3 2011 [F2011L01650].


Logbook Determination (Bass Strait Central Zone Scallop Fishery) 2011 [F2011L01460].
Food Standards Australia New Zealand Application Handbook – Amendment No. 5 – 2011 [F2011L01439].


Higher Education Support Act—
Explanatory statements and Funding Agreements under section 30-25, in respect of grant years—2009, 2010 and 2011, dated—
15 June 2011—University of South Australia.
29 June 2011—The University of Sydney.
26 July 2011—The University of Notre Dame Australia.

VET Provider Approvals Nos—
15 of 2011—Hope of the Gold Coast Ltd [F2011L01472].
17 of 2011—Australian Institute of Family Counselling Ltd [F2011L01512].


Migration Act—

Migration Agents Regulations—Instrument No. OMARA 11/001—Notice of approved activities (continuing professional development) [F2011L01494].


Select Legislative Instrument 2011 No. 147—Migration Amendment Regulations 2011 (No. 5) [F2011L01620].

Statement under section 91D—Prescription of the People’s Republic of China as a safe third country.

Statements for period 1 January to 30 June 2011 under sections—
46A(2) [45].

48B [13].
91Q [3].
195A [12].
197AB [325].
197AD.
351 [93].
417 [78].


National Consumer Credit Protection Act—
ASIC Class Order [CO 11/760] [F2011L01590].

Select Legislative Instrument 2011 No. 143—
National Consumer Credit Protection Amendment Regulations 2011 (No. 4) [F2011L01585].

National Health Act—
Continence Aids Payment Scheme Variation 2011 (No. 4) [F2011L01529].

Instruments Nos PB—
49 of 2011—National Health (Listing of Pharmaceutical Benefits) Amendment Instrument 2011 (No. 8) [F2011L01549].
50 of 2011—National Health (Price and Special Patient Contribution) Amendment Determination 2011 (No. 5) [F2011L01546].
51 of 2011—National Health (Listed drugs on F1 or F2) Amendment Determination 2011 (No. 8) [F2011L01557].
52 of 2011—Amendment determination—conditions [F2011L01544].
53 of 2011—National Health (Highly specialised drugs programs for hospitals) Special Arrangement Amendment Instrument 2011 (No. 7) [F2011L01543].
54 of 2011—National Health (Chemotherapy Pharmaceuticals Access Program) Special Arrangement Amendment Instrument 2011 (No. 7) [F2011L01545].
Amendment determination—pharmaceutical benefits—early supply [F2011L01548].

National Health (Immunisation Program—Designated Vaccines) Determination 2011 (No. 2) [F2011L01616].

Privacy Act—Credit Provider Determinations Nos—
2011–1—(Assignees) [F2011L01647].
2011–2—(Classes of credit providers) [F2011L01648].
2011–3—(Indigenous Business Australia) [F2011L01649].

Private Health Insurance Act—
Private Health Insurance (Benefit Requirements) Amendment Rules 2011 (No. 5) [F2011L01475].
Private Health Insurance (Health Insurance Business) Amendment Rules 2011 (No. 2) [F2011L01516].
Private Health Insurance (Prostheses) Rules 2011 (No. 2) [F2011L01617].

Public Service Act—Select Legislative Instrument 2011 No. 141—Public Service Amendment Regulations 2011 (No. 1) [F2011L01594].

Radiocommunications Act—
Australian Radiofrequency Spectrum Plan Variation 2011 (No. 1) [F2011L01523].
Radiocommunications (Citizen Band Radio Stations) Class Licence Variation 2011 (No. 2) [F2011L01524].
Radiocommunications (Communication with Space Object) Class Licence Variation 2011 (No. 1) [F2011L01522].
Radiocommunications (Low Interference Potential Devices) Class Licence Variation 2011 (No. 1) [F2011L01525].
Radiocommunications (Mid-West Radio Quiet Zone) Frequency Band Plan 2011 [F2011L01520].

Remuneration Tribunal Act—
Determinations—
2011/14: Remuneration and Allowances for Holders of Public Office [F2011L01644].
2011/15: Official Travel by Office Holders [F2011L01646].


Social Security Act—
Social Security (Australian Government Disaster Recovery Payment) Amendment Determination 2011 (No. 2) [F2011L01509].
Social Security (Special Disability Trust—Trust Deed, Reporting and Audit Requirements) (DEEWR) Determination 2011 [F2011L001477].

Superannuation Act 1990—Thirty-sixth Amending Deed to the Public Sector Superannuation Scheme Trust Deed [F2011L01488].

Superannuation Industry (Supervision) Act—
Select Legislative Instrument 2011 No. 146—Superannuation Industry (Supervision) Amendment Regulations 2011 (No. 3) [F2011L01613].
Telecommunications Act—Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 2011) [F2011L01436].


Telecommunications Act—Carrier Licence Conditions (Telstra Corporation Limited) Declaration 1997 (Amendment No. 1 of 2011) [F2011L01436].


Therapeutic Goods Act—


Poisons Standard Amendment No. 2 of 2011 [F2011L01435].

Therapeutic Goods (Listing) Notice 2011 (No. 1) [F2011L01622].

Therapeutic Goods Orders Nos—

83—Standards for Human Musculoskeletal Tissue [F2011L01489].

84—Standards for Human Cardiovascular Tissue [F2011L01490].

85—Standards for Human Ocular Tissue [F2011L01491].

86—Standards for Human Skin [F2011L01492].

87—General Requirements for the Labelling of Biologics [F2011L01493].

Veterans’ Entitlements Act—

Amendment Statements of Principles concerning—

Malignant Neoplasm of the Endometrium No. 91 of 2011 [F2011L01452].

Malignant Neoplasm of the Urethra No. 92 of 2011 [F2011L01453].

Schizophrenia No. 93 of 2011 [F2011L01454].


Statements of Principles concerning—

Acute Pancreatitis No. 85 of 2011 [F2011L01442].

Acute Pancreatitis No. 86 of 2011 [F2011L01444].

Diabetes Mellitus No. 89 of 2011 [F2011L01448].

Diabetes Mellitus No. 90 of 2011 [F2011L01451].

Extrinsic Allergic Alveolitis No. 87 of 2011 [F2011L01445].

Extrinsic Allergic Alveolitis No. 88 of 2011 [F2011L01447].

Retinal Vascular Occlusive Disease No. 83 of 2011 [F2011L01440].

Retinal Vascular Occlusive Disease No. 84 of 2011 [F2011L01441].

Wine Australia Corporation Act—Select Legislative Instruments 2011 Nos—

85—Australian Wine and Brandy Corporation Amendment Regulations 2011 (No. 1) [F2011L01078]—Explanatory Statement [in substitution for explanatory statement tabled with instrument on 21 June 2011].


Governor-General’s Proclamations—

Commencement of provisions of Acts


Order for the Production of Documents

A document was tabled pursuant to the order of the Senate of 17 August 2011 for the production of documents relating to the Tasmanian Forests Intergovernmental Agreement.
QUESTIONS ON NOTICE

Defence: Naval Vessels
(Question No. 483)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 21 March 2011:

For the period 1 July to 31 December 2010:
(1) Which naval vessels were fully operational with a full crew complement?
(2) Which naval vessels were not fully operational ready for immediate tasking?
(3) For each naval vessel that was non-operational ready, what was the reason for its non-operational status?
(4) What were the operational strengths on all naval vessels of the:
   (a) engineering officers and sailors? and
   (b) non-engineering officers and sailors?

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator’s question:

During the period 1 July to 31 December 2010 Navy met its obligations to designated operations and other short term directed tasking. Navy is not required to and does not prepare all fleet units to the same operational level of readiness. To do so would be unnecessary, inefficient and costly. The preparedness of fleet units is maintained at an appropriate level to meet strategic guidance and ensure effective training throughput.

Those fleet units held at higher readiness for short notice operational roles are appropriately manned, equipped and trained for the tasks that they might have to perform. Fleet units at other stages of the continuum will also be crewed in a manner that is best suited to their assigned tasking. This might mean the reduction in certain trained/skilled positions filled in order to make way for additional trainees. Fleet units invariably go to sea with all available accommodation filled.

To meet and sustain operational, exercise, preparedness and training requirements, fleet units are operated in a cycle of scheduled maintenance, training and operational availability. Planned major maintenance activity periods are a routine element of the operational cycle.

Major Surface Combatants and Amphibious Ships:
(1) to (3) During the period 1 July to 31 December 2010 the operational availability status of Surface Force naval vessels is summarised in Table 1 below.

<table>
<thead>
<tr>
<th>HMA Ship</th>
<th>Operational</th>
<th>Planned Major Maintenance</th>
<th>Non Operational</th>
</tr>
</thead>
<tbody>
<tr>
<td>Darwin</td>
<td>1 Jul – 31 Dec</td>
<td></td>
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<tr>
<td>Newcastle</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td>Sydney</td>
<td>1 Jul – 17 Dec</td>
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<tr>
<td>Anzac</td>
<td>1 Jul – 31 Dec</td>
<td></td>
<td>18 – 31 Dec Extended Readiness</td>
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<tr>
<td>Arunta</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td>Ballarat</td>
<td>24 Oct – 31 Dec</td>
<td>1 Jul – 23 Oct</td>
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<tr>
<td>Parramatta</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td>Perth</td>
<td>1 Jul – 31 Dec Anti Ship Missile Defence Upgrade</td>
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</table>

QUESTIONS ON NOTICE
The operational manning strengths in the Navy's Surface Force vessels (with the exception of Perth undergoing major upgrade) during the period were as follows:

(a) Ninety-five per cent crewed with engineering officers and 96 per cent crewed with engineer sailors; and

(b) Ninety-seven per cent crewed with non-engineering officers and 96 per cent crewed with non-engineer sailors.

Submarines:

(1) to (3) During the period 1 July to 31 December 2010 the operational availability status of Submarine Force vessels is summarised in Table 2 below.

Table 2

<table>
<thead>
<tr>
<th>HMA Ship</th>
<th>Operational</th>
<th>Planned Major Maintenance</th>
<th>Non Operational</th>
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<tbody>
<tr>
<td><strong>Afloat Support Ships</strong></td>
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<tr>
<td>Stuart</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td>Toowoomba</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td>Warramunga</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td><strong>Amphibious Ships</strong></td>
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<td></td>
<td></td>
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<tr>
<td>Success</td>
<td>1 Jul – 1 Dec</td>
<td>1 Dec – 31 Dec</td>
<td></td>
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<tr>
<td>Sirius</td>
<td>1 Jul – 21 Nov</td>
<td></td>
<td>22 Nov – 31 Dec Unplanned Engine Defect Rectification</td>
</tr>
<tr>
<td><strong>HMA Ship</strong></td>
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<tr>
<td>Kanimbla</td>
<td>1 Jul – 26 Sep</td>
<td></td>
<td>27 Sep – 31 Dec Operational Pause</td>
</tr>
<tr>
<td>Manoora</td>
<td>1 Jul – 26 Sep</td>
<td></td>
<td>27 Sep – 31 Dec Operational Pause</td>
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<tr>
<td>Tobruk</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td>Balikpapan</td>
<td>1 Jul – 31 Dec</td>
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<td>Betano</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td>Brunei</td>
<td>1 Jul – 4 Oct</td>
<td>5 Oct – 31 Dec</td>
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<tr>
<td>Labuan</td>
<td>1 Jul – 31 Dec</td>
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<td>Tarakan</td>
<td>1 Jul – 31 Dec</td>
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<tr>
<td>Wewak</td>
<td>1 Jul – 31 Dec</td>
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</tbody>
</table>

The operational manning strengths in the Navy's Submarine Force (crewed submarines Collins, Waller and Dechaineux) during the period were as follows:

(a) One hundred per cent crewed with engineer officers and 99.4 per cent crewed with engineer sailors; and

(b) Ninety-eight per cent crewed with non-engineer officers and 93 per cent crewed with non-engineer sailors.

Mine Hunting and Clearance Diving Forces:

(1) to (3) During the period 1 July to 31 December 2010 the operational availability status of Mine Hunting Force vessels and Clearance Diving Force are summarised in Table 3 below.
Table 3

<table>
<thead>
<tr>
<th>HMA Ship</th>
<th>Operational</th>
<th>Planned Major Maintenance</th>
<th>Non Operational</th>
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</thead>
<tbody>
<tr>
<td>Mine Hunter Coastal</td>
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<tr>
<td>Diamantine</td>
<td>1 Jul–31 Dec</td>
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<tr>
<td>Gascoyne</td>
<td>1 Jul–31 Dec</td>
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<td>Huon</td>
<td>1 Jul–31 Dec</td>
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<td>Yarra</td>
<td>1 Jul–31 Dec</td>
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<tr>
<td>Hawkesbury</td>
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<td></td>
<td>1 Jul–31 Dec</td>
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<tr>
<td></td>
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<td></td>
<td>Extended Readiness Availability (de-crewed.)</td>
</tr>
<tr>
<td>Norman</td>
<td></td>
<td></td>
<td>1 Jul–31 Dec</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Extended Readiness Availability (de-crewed.)</td>
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<tr>
<td>Australian Clearance Diving Teams</td>
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<tr>
<td>AUSCDT One</td>
<td>1 Jul–31 Dec</td>
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<tr>
<td>AUSCDT Four</td>
<td>1 Jul–31 Dec</td>
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</table>

Mine Hunting:

(4) The operational manning strengths in the Navy’s Mine Hunting Force vessels (with the exception of Hawkesbury and Norman in Extended Readiness Availability) during the period were as follows:

(a) One hundred per cent crewed with engineer officers and 88 per cent crewed with engineer sailors; and

(b) Seventy-five per cent crewed with non-engineer officers and 100 per cent crewed with non-engineer sailors.

Clearance Diving:

(4) The operational manning strengths in the Navy’s Clearance Diving Force during the period were as follows:

(a) One hundred per cent crewed with engineer officers and 100 per cent crewed with engineer sailors; and

(b) Ninety-eight per cent crewed with non-engineer officers (Clearance Diving supervisors) and 100 per cent crewed with non-engineer sailors (Clearance Divers and support staff.)

Hydrographic Forces:

(1) to (3) During the period 1 July to 31 December 2010 the operational availability status of Hydrographic Force vessels is summarised in Table 4 below. Exceptions are noted in the Non Operational column.

Table 4

<table>
<thead>
<tr>
<th>HMA Ship</th>
<th>Operational</th>
<th>Planned Major Maintenance</th>
<th>Non Operational</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leeuwin</td>
<td>1 Jul – 31 Dec</td>
<td></td>
<td>Five days (October): Gearbox Defect</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Five days (November): Shaft Vibration</td>
</tr>
<tr>
<td>Melville</td>
<td>1 Jul – 1 Aug</td>
<td></td>
<td>Nine days (July): Fire fighting defect</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2 Aug–31 Dec: Shaft Vibration</td>
</tr>
<tr>
<td>Paluma</td>
<td>1 Jul – 31 Dec</td>
<td></td>
<td>Three days (September): Crane Defect</td>
</tr>
<tr>
<td>Benalla</td>
<td>1 Jul – 31 Dec</td>
<td></td>
<td>Two days (October): Forward Looking Sonar</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>One day (November): Fire Detection Panel Defect.</td>
</tr>
<tr>
<td>Shepparton</td>
<td>1 Jul – 31 Dec</td>
<td></td>
<td>14 days (October): Fire Detection Panel Defect.</td>
</tr>
<tr>
<td>Mermaid</td>
<td>1 Jul – 31 Dec</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(4) The operational manning strengths in the Navy's Hydrographic Force vessels during the period were as follows:

(a) One hundred per cent crewed with engineer officers and 100 per cent crewed with engineer sailors; and

(b) One hundred per cent crewed with non-engineer officers and 99 per cent crewed with non-engineer sailors.

**Patrol Boat Force:**

(1) to (3) During the period 1 July to 31 December 2010 the operational availability status of Patrol Boat Force vessels is summarised in Table 5 below. Exceptions are noted in the Non Operational column.

<table>
<thead>
<tr>
<th>HMA Ship</th>
<th>Operational</th>
<th>Planned Major Maintenance</th>
<th>Non Operational</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armidale</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Albany</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wollongong</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Broome</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Larrakia</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bathurst</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pirie</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maitland</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ararat</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bundaberg</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Childers</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Launceston</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryborough</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Glenelg</td>
<td>1 Jul-31 Dec</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(4) The operational manning strengths in the Navy's Patrol Boat Force during the period were as follows:

(a) One hundred per cent crewed with engineer officers and 100 per cent crewed with engineer sailors; and

(b) One hundred per cent crewed with non-engineer officers and 100 per cent crewed with non-engineer sailors.
**Defence: Reserves and Contractors**  
*(Question No. 509)*

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 21 March 2011:

For the period 1 July to 31 December 2010:

(a) What savings have been made in reducing the cost of combat capability through the use of Reserves and deployable contractors; and

(b) Have any one-off savings been made; if so, where are these savings to be found.

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator's question:

(a) In general terms, when considering the contribution of Reserves or contractors to "combat capability" Defence will seek to maximise the strengths and capabilities of each particular element in order to meet the demands of operational force generation, sustainment and rotation requirements. Reserves and contractors will be utilised where most appropriate to ensure our combat capability meets national security requirements. Therefore, the immediate cost of combat capability is not necessarily reduced through the use of Reserves or Contractors.

(b) There have been no ‘one off’ savings in relation to the use of reserves on operations for the period 1 July to 31 Dec 2010. In general terms a Reservist will cost more than a full-time soldier for the period of the deployment because a proportion of Reservists will have employers who are eligible for Employer Support Payments.

For contracted service support, an assessment of a one-off saving can be made based on the following example of contracted aircraft support to Operation ASTUTE.

A C130 is significantly more expensive to operate than a commercial aircraft, and consequently the ADF is using contracted service support to reduce costs for airlift in support of Operation ASTUTE (East Timor). A C130 costs approximately $14,000—$20,000 per hour (direct cost) to operate (depending on the C130 variant) and at any given time, the C130 fleet is heavily utilised within the ADF, with its air hour allocation apportioned across operations, exercises, training and contingency tasking. It takes approximately 17 hours flying time for a return task to Darwin, which includes positioning of the aircraft from RAAF Richmond to Darwin and return. The total cost of this exercise would be approximately $238,000—$340,000 per movement. Conversely, the cost of the current De Havilland Dash 8 contracted aircraft to conduct this task is approximately $29,000 per movement (Darwin to Dili and return). In this circumstance, and while the security situation in Dili allows, it is more cost effective to contract commercial airlift for this aspect of support for Operation ASTUTE.

**Defence: Child Minding Expenses**  
*(Question No. 519)*

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 21 March 2011:

With reference to the answer provided to question on notice nos 117-119:

(1) What guidelines are provided to departmental personnel in terms of claiming child minding expenses for representational purposes.

(2) Can an itemised breakdown be provided of the $5 021 incurred in the period 1 July to 31 December 2010.
**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator's question:

With reference to the answer provided to Question on Notice Nos 117-119:

(1) The Department of Defence has a Departmental Instruction (General) providing guidelines relating to admissible expenditure and the accountability requirements of representational funds, including child minding. This instruction is currently being updated to reflect the latest DFAT guidance on the Management of Representational Funds.

(2) The $5,021 was incurred during the period 1 July 2010 to 31 December 2010. The $5,021 relates to the total child minding fees across five Overseas Posts for a six month period. **An itemised breakdown is unable to be provided due to privacy issues.**

**Defence**

(Question No. 520)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 21 March 2011:

With reference to the answer provided to question on notice nos 117-119:

(1) What guidelines are provided to departmental personnel in terms of claiming for memberships for representational purposes.

(2) Can an itemised breakdown be provided of the $2,141 incurred in the period 1 July to 31 December 2010.

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator's question:

With reference to the answer provided to Question on Notice Nos 117-119:

(1) The Department of Defence has a Departmental Instruction (General) providing guidelines relating to admissible expenditure and the accountability requirements of representational funds, including claiming for memberships.

(2) The $2,141 incurred during the period 1 July 2010 to 31 December 2010 includes membership and subscription fees to organisations such as diplomatic, consular and military associations.

**Defence: Hospitality**

(Question No. 521)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 21 March 2011:

With reference to the answer provided to question on notice nos 117-119:

(1) Who attended the official dinner at the Halo Restaurant on 30 November 2010.

(2) What was the cost per head for this function.

(3) Who approved the expenditure.

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator's question:

With reference to the answer provided to Question on Notice Nos 117-119:

(1) The reception was attended by eight members of a Swedish delegation which included the Swedish Chief of Defence Force. There were also two attendees from the Department of Defence. The official dinner was held on 31 October 2010. 30 November 2010 is the date the transaction was processed through the official ROMAN system.

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**QUESTIONS ON NOTICE**
(2) The cost per head for this function was $120.46.
(3) The expenditure was approved by acting Assistant Secretary Americas, North and South Asia and Europe (ANSAE).

**Defence: Hospitality**

*(Question No. 531)*

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 21 March 2011:

With reference to the answer provided to question on notice nos 117-119:

(1) Why did the department contribute $428 to the Embassy reception for the World Cup on 7 July 2010.
(2) Who attended this function.
(3) What was the official purpose of this function.
(4) Who approved the expenditure.

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator's question:

With reference to the answer provided to Question on Notice Nos 117-119:

(1) The Australian Embassy located in Berlin, Germany hosted a 'Whole of Embassy' reception for the Australia vs. Germany World Cup Game on 7 July 2010. The AUD$428 contribution made by the Department equated to the Defence portion of the reception.
(2) The reception was attended by 452 personnel, including Australian Defence Department, foreign Government and foreign Military personnel.
(3) The official purpose of this reception was to engage and further relationships with Defence interlocutors.
(4) The expenditure was approved by the Director of Attaché and Overseas Management, International Policy Division.

**Defence: Gifts Policy**

*(Question No. 574)*

**Senator Ludlam** asked the Minister representing the Minister for Defence, upon notice, on 4 April 2011:

(1) Does the department have a policy which prohibits the acceptance of gifts from suppliers or potential suppliers at any time or only during a tendering process or contract negotiation.
(2) If the policy only applies during a tendering process or contract negotiation, could this lead to the inappropriate strengthening of relationships and improper influence over decision-making processes, even if a contract is not being sought or negotiated at that specific time.
(3) Does the department's policy specifically prohibit the acceptance of gifts at any time, or only the soliciting of gifts

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator's question:

(1) Defence's policy on acceptance of gifts is of general application and is not restricted to tender processes or contract negotiations. However, the policy does state that acceptance of gifts or benefits will not be appropriate from a person or company if they are involved in a tender process with the agency, either for the procurement of goods and services or sale of assets.
(2) See the answer to question 1
(3) Defence's policy deals with the acceptance of gifts and solicitation of gifts. There is no tolerance for the solicitation of gifts. By contrast, gifts may be accepted by officials in certain limited circumstances, but only where it is appropriate and justifiable to do so.

**Afghanistan: Depleted Uranium Munitions**

(Question No. 577)

**Senator Ludlam** asked the Minister representing the Minister for Defence, upon notice, on 4 April 2011:

With reference to the use of depleted uranium (DU) in Afghanistan by coalition partners and the answer to a question taken on notice during the 2009-10 Supplementary Budget Estimates of the Foreign Affairs, Defence and Trade Legislation Committee on DU use in Afghanistan by our coalition partners, which states that 'Coalition partners have not provided any information on their use of depleted uranium munitions': Has the Australian Government asked our coalition partners whether they have used DU in Afghanistan.

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator's question:

As a general proposition, Australia does not make its diplomatic conversations with our Alliance and other partners public.

However in this case the following information can be provided:

Results of tests carried out by the Australian Nuclear Science and Technology Organisation (ANSTO) on soil and dust samples taken from a variety of locations in Afghanistan, including Uruzgan, concluded that soil uranium levels were all within normal range.

To date, testing of ADF personnel returning from operations in Afghanistan has all been within the normal range, and not above the unexposed Australian population limits (less than 70 parts per trillion).

On the basis of these results it has not been proposed, and nor is it now proposed, to raise this issue with our International Security Assistance Force partners.

More generally, Australia started to phase out depleted uranium munitions in the mid-1980s.

The ADF does not currently use any weapon that contains depleted uranium nor does Australia allow depleted uranium to be used by foreign forces exercising in Australia.

The use of depleted uranium is not in any event prohibited under international law.

**Attorney-General: Staffing**

(Question No. 625)

**Senator Siewert** asked the Minister representing the Attorney-General, upon notice, on 27 April 2011:

With reference to the department and the agencies within the Minister’s portfolio:

(1) What is the total number of staff currently employed.
(2) What is the total number of staff with a disability currently employed.
(3) What policies or programs are in place to encourage the recruitment of people with a disability.
(4) What retention strategies are in place for people with a disability.
(5) What career pathways or plans are on offer for people with a disability; if none, why.
(6) Are there any specific targets for recruitment and retention; if not, why not.
(7) What policies, programs or services are there to support staff with a disability.
(8) Can details be provided of any policies, programs, services or plans currently under development within the department and its agencies, concerning the employment of people with a disability.

**Senator Ludwig:** The Attorney-General has provided the following answer to the honourable senator’s question:

(1) and (2) Responses from the Attorney-General’s Department and portfolio agencies are detailed in the table below.

<table>
<thead>
<tr>
<th>Department/Agency</th>
<th>No. of staff employed</th>
<th>No. of staff employed with a disability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorney-General’s Department</td>
<td>1480</td>
<td>20</td>
</tr>
<tr>
<td>Administrative Appeals Tribunal</td>
<td>159</td>
<td>5</td>
</tr>
<tr>
<td>Australian Commission for Law Enforcement Integrity</td>
<td>30</td>
<td>1</td>
</tr>
<tr>
<td>Australian Crime Commission</td>
<td>650</td>
<td>6</td>
</tr>
<tr>
<td>Australian Customs and Border Protection Service</td>
<td>5670</td>
<td>62</td>
</tr>
<tr>
<td>Australian Federal Police &amp; the Australian Institute of Police Management</td>
<td>6935</td>
<td>64</td>
</tr>
<tr>
<td>Australian Government Solicitor</td>
<td>643</td>
<td>AGS does not regularly capture information on employees with disabilities. However, based on past data, it is anticipated that between 2% and 4% of AGS employees currently have a disability.</td>
</tr>
<tr>
<td>Australian Human Rights Commission</td>
<td>130</td>
<td>9</td>
</tr>
<tr>
<td>Australian Institute of Criminology &amp; the Criminology Research Council</td>
<td>51</td>
<td>0</td>
</tr>
<tr>
<td>Australian Law Reform Commission</td>
<td>18</td>
<td>0</td>
</tr>
<tr>
<td>Australian Security Intelligence Organisation</td>
<td>1730</td>
<td>19</td>
</tr>
<tr>
<td>Australian Transaction Reports and Analysis Centre</td>
<td>318</td>
<td>9</td>
</tr>
<tr>
<td>Commonwealth Director of Public Prosecutions</td>
<td>594</td>
<td>13</td>
</tr>
<tr>
<td>CrimTrac</td>
<td>183</td>
<td>11</td>
</tr>
<tr>
<td>Family Court of Australia</td>
<td>676</td>
<td>30</td>
</tr>
<tr>
<td>Federal Court of Australia, Australian Competition Tribunal, Copyright Tribunal of Australia &amp; Defence Force Discipline Appeal Tribunal</td>
<td>369</td>
<td>1</td>
</tr>
<tr>
<td>Federal Magistrates Court of Australia</td>
<td>197</td>
<td>0</td>
</tr>
<tr>
<td>High Court of Australia</td>
<td>109</td>
<td>2</td>
</tr>
<tr>
<td>Insolvency and Trustee Service Australia</td>
<td>329</td>
<td>11</td>
</tr>
<tr>
<td>National Native Title Tribunal</td>
<td>186</td>
<td>5</td>
</tr>
<tr>
<td>Office of Parliamentary Counsel</td>
<td>55</td>
<td>0</td>
</tr>
</tbody>
</table>

Responses to questions (3) to (8) from the Attorney-General’s Department and portfolio agencies are detailed below.
(3) Attorney-General’s Department

The Recruitment policies and practices of the Department are committed to providing an equal opportunity to all candidates on the basis of merit and transparency. Any recruitment process can be adapted to meet the needs of candidates with disability.

Administrative Appeals Tribunal

The Tribunal’s recruitment processes, conditions of employment and commitment to reasonable workplace adjustments facilitate the employment of persons with disabilities.

Australian Commission for Law Enforcement Integrity

ACLEI does not have specific policies to encourage the recruitment of staff with a disability. However, the recruitment policies and practices of ACLEI are committed to providing an equal opportunity to all candidates on the basis of merit and transparency. Any recruitment process can be adapted to meet the needs of candidates with disability.

Australian Crime Commission

The ACC currently provides opportunity to all eligible members of the community to apply for positions at the ACC. Information for potential applicants is widely available on the website.

Australian Customs and Border Protection Service

Customs and Border Protection is refining its Employment Model throughout 2011-12 which includes a suite of policy guidance to address recruitment, attraction, branding and retention. This refined Employment Model will address recruitment of people with a disability.

Australian Federal Police & the Australian Institute of Police Management

Disability Program and Strategy 2007-2011; The AFP People Plan 2010-2012; and the AFP Diversity Plan (revised 2011). The Diversity plan specifically aims to embed disability friendly statements in information and to identify specific additional positions that may be suitable for people with a disability.

Australian Government Solicitor

AGS does not have specific programs in place for the recruitment of people with disability. However, AGS complies with the Disability Discrimination Act 1992 and has a comprehensive diversity policy that is applied to recruitment. The recruitment process can be adapted to meet the needs of candidates with a disability, for example, the format of the application to specific seating arrangements at interviews. Reasonable adjustments (see part 7) are discussed with candidates during the interview.

Australian Human Rights Commission

The Commission has a workplace diversity plan in place encouraging the employment of persons with disabilities. Principles of reasonable adjustment are included in the Commission’s selection processes. The website is designed to be accessible to persons with visual impairments; TTY facilities are also available for the provision of selection criteria. The Commission provides corporate services, specialist employment advice and are active participants in the Australian Network on Disability.

Australian Institute of Criminology

Strategies and actions are in place which include:

- Equal Employment Opportunity Policy
- Staff Selection Guidelines and recruitment processes are merit based
- Occupational Health & Safety Policy
- Prevention of Harassment, bullying and discrimination Policy
- Trained Workplace Harassment Contact Officers

QUESTIONS ON NOTICE
• Workstation adjustment monitored for staff with disabilities
• Provision for staff with disabilities in emergency, evacuation and safety procedures
• Workplace Diversity information included in Annual Report

Health and Wellbeing Training

**Australian Law Reform Commission**

The ALRC currently has three policies in place to encourage the recruitment of people with disability.

- The ALRC Reasonable Adjustment Policy: The ALRC is committed to the goal of equal opportunity in employment. These guidelines are consistent with the ALRC’s Equal Employment Opportunity Policy. They are designed to assist in fulfilling the ALRC’s legal and organisational responsibilities for providing a workplace which allows employees, contractors and interns with a disability to compete for vacancies and pursue careers as effectively as people who do not have a disability. Reasonable adjustment is the modification of some feature of the workplace or work situation to fit the individual needs of a person with a disability;
- Equal Employment Opportunity Policy;
- Communications with people with a disability policy; 

**Australian Security Intelligence Organisation**

ASIO’s recruitment policies and activities are based on selecting staff through merit processes, irrespective of whether applicants have a disability. ASIO’s Disability Action Plan 2010–2014 ensures that ASIO promotes an inclusive work environment for all staff and that staff with a disability are treated in accordance with the principles of the National Disability Strategy 2010–2020.

**Australian Transaction Reports and Analysis Centre**

- AUSTRAC is currently developing a Disability Action Plan.
- AUSTRAC promotes itself as an EEO employer in all job advertisements.
- AUSTRAC requests potential applicants to identify whether they have a disability so that appropriate steps can be taken to assist in progressing their application.
- Recruitment is managed internally and not outsourced. Selection committees are provided with selection information and training regarding the principles of reasonable adjustment and understanding the needs of a person with disability.

**Commonwealth Director of Public Prosecutions**

The CDPP Recruitment and Selection policies and practices include guidelines and advice to managers and selection panels on approaches and processes to assist candidates with a disability.

**CrimTrac**

CrimTrac is committed to workplace diversity principles, and employs strategies and actions to further the Commonwealth Disability Strategy within the Agency. In July 2010, CrimTrac successfully piloted an employment program for engaging people with disability. The Agency partnered with a Commonwealth Disability Employment Service Provider to design and offer an appropriate position to specifically engage a person with disability. This position was initially offered as a non-ongoing opportunity. However, as this arrangement has seen the effective integration of this employee into CrimTrac’s workforce as a valued and productive team member, this appointment has been converted to an ongoing employment arrangement. CrimTrac anticipates a long and mutually beneficial employment relationship. As part of engaging this employee, CrimTrac undertook a number of activities including:
A structured communications plan to the agency on working with people with a disability;
Staff presentations by CRS on the opportunities and challenges faced by persons with a disability in the work force;
A workplace occupational health and safety assessment of the workplace and work area to support persons with a disability in the workplace;
A mentoring and support activity to support the placement of a person with a disability into the work force for the individual; and
Ongoing formal engagement between Commonwealth Rehabilitation Service (CRS) Australia and CrimTrac for a period of 12 months with regular reviews, assessments and feedback on the employees needs, performance and support requirements within the agency.

CrimTrac’s website complies with accessibility standards for the disabled and collects staff workplace diversity information including information on disabilities. The Agency ensures that employment policies and procedures comply with workplace diversity principles and the requirements of the Disability Discrimination Act 1992. The principle of reasonable adjustment is applied across all recruitment and staffing processes, and CrimTrac encourages applicants to request any required alternate arrangements. In addition, procedures are in place to ensure managers receive appropriate support and advice in meeting their obligations to applicants with disabilities.

**Family Court of Australia**

The FCoA has a Disability Strategy in place which builds on the Court’s commitment to the principles of workplace diversity and equality of access to employment and other opportunities. The Court also has an Equal Employment Opportunity Form and Employment Health Declaration form included in induction packs. Information from these forms enables the Court to provide assistance to staff with a disability if required.

**Federal Court of Australia, Australian Competition Tribunal, Copyright Tribunal of Australia & Defence Force Discipline Appeal Tribunal**

The Court is a member of the Australian Network on Disability. The Network arranges for the placement of law graduates or final year law students who have identified as having a disability, under its “Stepping into Law” program. This normally involves an internship in non ongoing employment of up to 12 weeks for participants, with the aim of fostering their legal careers and providing them with valuable experience in a legal environment. The Court has one current intern and three previous interns, who reported very favourably on their experience.

**Federal Magistrates Court of Australia**

The Federal Magistrates Court of Australia has a Disability Strategy in place which builds on the Court’s commitment to the principles of workplace diversity and equality of access to employment and other opportunities. The Court also has an Equal Employment Opportunity Form and Employment Health Declaration form included in induction packs. Information from these forms enables the Court to provide assistance to staff with a disability if required.

**High Court of Australia**

The High Court does not have a stated policy to encourage the recruitment of staff with a disability.

**Insolvency and Trustee Service Australia**

ITSA has a Disability Employment Strategy. Under the Strategy, ITSA regularly reports the percentage of employees with a disability. In addition general awareness of disability issues is included in management training.

To assist in recruitment, ITSA has a Disability Contact Officer and their details are provided on all selection documents.
ITSA has not been in a position to proactively recruit people with disability in recent years. However, as part of the establishment of the National Service Centre (NSC) in Adelaide to support the Personal Properties Securities Register (a new government initiative) four positions have been specifically set aside for people with disability using special measures recruitment arrangements. In addition ITSA is working with a specialist recruitment agency to recruit additional people with disability as part of the general NSC recruitment campaign.

ITSA has recently established a panel of recruitment providers and one of these providers is a specialist recruitment agency predominantly working with people with disability and employers to find employment options for them.

National Native Title Tribunal
The National Native Title Tribunal (Tribunal), in its 2009-10 Annual Report, reported on its performance under the Commonwealth Disability Strategy in the roles of employer and provider. The Tribunal’s response regarding its employer role has been reported in the APSC Australian Public State of the Service Report; and in its agency survey response to the APSC Australian Public State of the Service Report the National Native Title Tribunal reported that mainstream policies and procedures are in place to encourage the recruitment of people with disability.

Office of Parliamentary Counsel
The following policies and programs are in place to encourage the recruitment of people with disability:

- an Office Procedural Circular on disability awareness to ensure all staff are aware of our agencies and their responsibilities under the Disability Discrimination Act 1992 and our agencies role as an employer under the Commonwealth Disability Strategy;
- an Office Procedural Circular that sets out workplace diversity related requirements that are to be complied with in relation to recruitment matters, including recruitment of people with disability; and
- a Workplace Diversity Program that includes actions to ensure workplace diversity principles are being considered and applied during recruitment and selection processes and applicants are not impeded from fair and equitable consideration.

(4) Attorney-General's Department
The department is committed to the retention of staff and make any appropriate or reasonable adjustments to accommodate employees that have identified themselves as having a disability.

Administrative Appeals Tribunal
The Tribunal works with employees who have a disability to identify areas, including reasonable workplace adjustments, where the Tribunal can assist with their employment. These arrangements are reviewed on an ongoing basis so that issues that might lead to an employee leaving the Tribunal are addressed quickly and effectively.

Australian Commission for Law Enforcement Integrity
ACLEI does not have specific strategies to retain staff with a disability. However, ACLEI is committed to the retention of staff and makes any appropriate or reasonable adjustments to accommodate employees that have identified themselves as having a disability.

Australian Crime Commission
If an employee identifies as possessing a disability, support is available to suit the needs of the individual.

Australian Customs and Border Protection Service
There are no retention strategies for people with a disability in place at the present time, however these will be developed as the Employment Model is fully implemented.
Australian Federal Police & the Australian Institute of Police Management
Disability Program and Strategy 2007-2011; The AFP People Plan 2010-2012; and the AFP Diversity Plan (revised 2011). The Diversity Plan specifically aims to embed disability friendly statements retention information. The Plan also looks to create the right environments to provide all AFP members with practical information on disability and supporting people with disability. It looks to educate managers on their responsibilities and ensures AFP facilities support people with a disability.

Australian Government Solicitor
AGS does not identify specific groups of employees for the purposes of targeting their retention. Employees who require additional support or consideration to carry out their duties are assessed on an individual basis with appropriate resources and support put in place.

Australian Human Rights Commission
The Commission has fully accessible premises and has flexible working arrangements and reasonable adjustment arrangements embedded in the Certified Agreement and other Commission policies.

Australian Institute of Criminology
The AIC is committed to the retention of staff and makes any appropriate or reasonable adjustments to accommodate employees that have identified themselves as having a disability.

Australian Law Reform Commission
The ALRC Reasonable Adjustment Policy is the retention policy that is in place for people with disability.

Australian Security Intelligence Organisation
ASIO’s retention strategies for people with disability include policies for flexible leave options, part-time employment, safety initiatives such as workplace risk assessments, wellbeing and psychological support services, ergonomic workstations and furniture that can be readily modified to accommodate requirements, etc. These strategies can be tailored to meet the specific and individual needs of all staff.

Australian Transaction Reports and Analysis Centre
AUSTRAC is developing a Disability Action Plan. In the interim, some strategies that are currently in place under the AUSTRAC Workplace Diversity Plan include:
- recognising and utilising the diverse skills of all employees when allocating higher duties, special projects and creating project teams
- ensuring career development opportunities relevant to the work of AUSTRAC
- reinforcing the importance of fostering a supportive and inclusive workplace environment for all staff in discussions about workplace issues
- encouraging participation on training and development activities by all staff, including EEO Groups; and
- ongoing review of training and development strategies.

The development and implementation of the AUSTRAC Disability Action Plan will mean that additional strategies will be put in place for the recruitment and retention of employees with a disability.

Commonwealth Director of Public Prosecutions
Broad retention strategies apply to all employees. Specific strategies and practical support are designed and implemented for individuals.
CrimTrac
Opportunities for learning and development, career planning and management, flexible working arrangements.

Family Court of Australia
The FCoA ensures that all staff have access to training and development opportunities and study leave provisions. The Court also provides access to the Employee Assistance Programme whereby professional and confidential counselling and support for a range of issues are provided.

Federal Court of Australia, Australian Competition Tribunal, Copyright Tribunal of Australia & Defence Force Discipline Appeal Tribunal
As stated in response (3), the Court is an active member of the Australian Network on Disability and supports its “Stepping into Law” program. In addition, the Court’s Workplace Diversity Plan and its Enterprise Agreement support the retention of people with disability through flexible work practices and reasonable adjustments to duties, equipment and facilities where required.

Federal Magistrates Court of Australia
The Federal Magistrates Court of Australia ensures that all staff have access to training and development opportunities and study leave provisions. The Court also provides access to the Employee Assistance Programme whereby professional and confidential counselling and support for a range of issues are provided.

High Court of Australia
The High Court does not have a stated retention policy for staff with a disability.

Insolvency and Trustee Service Australia
ITSA does not have a stated retention policy for staff with a disability.

National Native Title Tribunal
For similar reasons stated to response (3) above the Tribunal’s mainstream policies and procedures are in place to encourage the retention of people with disability.

Office of Parliamentary Counsel
The following retention strategies are in place for people with disability;

- employment policies and procedures that comply with the requirements of the Disability Discrimination Act 1992 and the Commonwealth Disability Strategy as outlined in (3) above;
- support for employees to access reasonable adjustment and flexible working arrangements;
- training and development programs that consider and respond to the needs of people with disability;
- training and development programs that include information on disability issues where they relate to the content of the program; and
- various consultative mechanisms and dispute settlement mechanisms (both internal and external) which could be used by staff to raise concerns relating to disability issues.

(5) Attorney-General’s Department
The department supports in the development and training of all staff to enhance and further their careers, and makes any appropriate or reasonable adjustments to accommodate employees that have identified themselves as having a disability.

Administrative Appeals Tribunal
The Tribunal is a small agency with limited opportunities for internal career paths. Through its performance management and professional development programmes, the Tribunal provides employees...
with training and other learning and development activities (including placements in other APS agencies) that will assist them to further their careers.

**Australian Commission for Law Enforcement Integrity**

ACLEI supports the development and training of all staff to enhance and further their careers, and makes any appropriate or reasonable adjustments to accommodate employees that have identified themselves as having a disability.

**Australian Crime Commission**

All employees have an individual development plan including goals, on-going feedback of performance and the mechanism to plan professional development.

**Australian Customs and Border Protection Service**

There are no specific career pathways or plans on offer for people with a disability at this time. However a Career Streams project is underway to identify job roles matched to capabilities within Customs and Border Protection. This will enable the agency to effectively match individuals to positions and career pathways.

**Australian Federal Police & the Australian Institute of Police Management**

Disability Program and Strategy 2007-2011; The AFP People Plan 2010-2012; and the AFP Diversity Plan (revised 2011). An outcome of the Diversity Plan is to investigate and provide appropriate targeted development, leadership training and career management opportunities for people with a disability during 2011.

**Australian Government Solicitor**

See response (3). Career development for AGS employees with disabilities is conducted as part of the annual performance management program that applies to all AGS employees, recognising the principles set out in AGS's diversity policy. There are no restrictions on career opportunities for employees with a disability: AGS has had employees with disabilities across job classifications in both professional and support roles.

**Australian Human Rights Commission**

The Commission accommodates career options through its performance management scheme and learning and development plan.

**Australian Institute of Criminology**

The AIC supports the development and training of all staff to enhance and further their careers, and makes any appropriate or reasonable adjustments to accommodate staff that has identified themselves as having a disability.

**Australian Law Reform Commission**

The ALRC is a small single function agency and it is difficult to provide career pathways within the organisation as there are very limited vacancies, and most positions require specific expertise and experience. There are no specific career pathways or plans on offer for people with disability, beyond our Equal Employment Opportunity Policy and ALRC Reasonable Adjustment Policy. However, the ALRC is in the process of becoming an agency subject to the Public Service Act (from July 2011) and this should offer more options to develop career pathways through the Public Service for all ALRC employees, including people with disability, than are currently available.

**Australian Security Intelligence Organisation**

ASIO is developing a career management/pathways framework for all staff and, similarly to other Government employment frameworks, it will consider the needs of staff with disabilities.
Australian Transaction Reports and Analysis Centre

AUSTRAC does not offer separate career pathways or plans for staff with a disability. As with all APS agencies, AUSTRAC’s recruitment and promotion procedures are based on merit and involve a fair and transparent competitive selection process which assesses the relative suitability of applicants for the duties of a position. In relation to other employment decisions, such as transfers and higher duties, whilst these do not require a competitive, merit-based selection process, an assessment on the ability of the person to meet the genuine requirements of the duties is still required. This includes a consideration of whether, if reasonable adjustments are made, employees with disability can meet the inherent requirements of the position.

Commonwealth Director of Public Prosecutions

The CDPP offers career and other development opportunities to all employees through formal learning and development programs and performance management arrangements. Arrangements for people with disability are tailored to their circumstances.

CrimTrac

CrimTrac created an entry level position for a person with a disability. Career planning and pathways for all staff in CrimTrac are accommodated within the performance management framework and take into account individual needs and circumstances.

Family Court of Australia

Career support is provided by team leaders within the Court through the Performance Development system. Staff are also encouraged to participate in training and development opportunities.

Federal Court of Australia, Australian Competition Tribunal, Copyright Tribunal of Australia & Defence Force Discipline Appeal Tribunal

The Court actively encourages skills development and mobility initiatives such as its National Training Program and Studies Assistance Scheme. Also, the Court anticipates that its involvement in the “Stepping into Law” program may lead in the medium term to more disabled people securing ongoing roles in the Court.

Federal Magistrates Court of Australia

Career support is provided by team leaders within the Court through the Performance Development system. Staff are also encouraged to participate in training and development opportunities.

High Court of Australia

The High Court does not have specific pathways or plans for staff with a disability. Given the small number of positions at the High Court, it is not feasible to have specific pathways or plans for staff with a disability.

Insolvency and Trustee Service Australia

As a small agency ITSA does not have any specific career pathways for people with a disability, however, individual personal development plans are developed for all staff. Six monthly formal reviews take place, as well as one on one meetings on a regular basis to discuss individual needs and progress against goals and aspirations. Any specific needs of an individual would be considered as part of this process. All staff are actively encouraged to attend learning and development activities and each employee is required to undertake 40 hours of learning and development per annum as a productivity initiative under ITSA’s Enterprise Agreement.

National Native Title Tribunal

As of 1 July 2010 the Tribunal implemented a Work Development and Review Plan for all employees. The Plan provides a platform from which individual performance objectives, assessments and development needs can be documented and monitored in a structured format.

QUESTIONS ON NOTICE
Office of Parliamentary Counsel

Individual development plans are developed for all staff. For staff with a disability, the individual development plan would consider and respond to the needs of that staff member.

(6) Attorney-General’s Department

The department does not have a specific target for recruitment and retention of people with disability however will take the guidance of the Australian Public Service Commission in regard to any APS wide workforce diversity initiatives.

Administrative Appeals Tribunal

The AAT does not have a specific target for recruitment and retention of people with disability, but will take the guidance of the Australian Public Service Commission to any APS wide workforce diversity initiatives.

Australian Commission for Law Enforcement Integrity

The ACLEI does not have a specific target for recruitment and retention of people with disability, but will take the guidance of the Australian Public Service Commission to any APS wide workforce diversity initiatives.

Australian Crime Commission

No. Targets are being developed as part of the Disability Action Plan in consultation with the Australian Public Service Commission.

Australian Customs and Border Protection Service

There are currently no specific targets for recruitment and retention of people with a disability. Targets will be defined following implementation of the Employment Model and the Career Streams Project.

Australian Federal Police & the Australian Institute of Police Management

The AFP People Plan 2010-2012; and the AFP Diversity Plan (revised 2011) both state that it is the objective of the AFP to support a diverse workforce that better reflects the Australian community that we serve. The long term goal for the AFP is to improve our overall diversity representation of women, Indigenous Australians and people with a disability at levels closer to the representation within the community.

Australian Government Solicitor

No. However, through its diversity policy, AGS bases employment decisions on applicants' suitability for the job, irrespective of any disability.

Australian Human Rights Commission

There are no specific targets. Staff employed with a disability is currently around 7% of our workforce which is above the APS average. The Commission’s recruitment and employment policies encourage and support the employment of people with disability.

Australian Institute of Criminology

The AIC does not have a specific target for recruitment and retention of people with disability, but will take the guidance of the Australian Public Service Commission to any APS wide workforce diversity initiatives.

Australian Law Reform Commission

The ALRC does not have any specific targets for recruitment and retention of people with disability. However, our recruitment policies specifically refer to our Reasonable Adjustment policy, and our Equal Employment Opportunity Policy. The ALRC also monitors its progress against its compliance with the Commonwealth Disability Strategy and reports annually against this Strategy in its Annual
Report. This provides the ALRC with impetus to improve its procedures and approach to working and communicating with people with disability.

**Australian Security Intelligence Organisation**

All ASIO policies comply with the Disability Discrimination Act 1992 and no specific targets have been set.

**Australian Transaction Reports and Analysis**

AUSTRAC does not currently have specific targets for recruiting people with a disability. AUSTRAC currently has 9 employees (3% of employees) who have self identified as having a disability. The AUSTRAC Disability Action Plan will examine strategies to improve recruitment and retention, together with an education program to promote the self identification of people with disabilities. The Plan will also examine setting specific targets.

**Commonwealth Director of Public Prosecutions**

The CDPP does not have specific targets for recruitment and retention of people with disability.

**CrimTrac**

While the agency does not have specific targets for recruitment and retention in our workforce planning strategy, our policies, programs and services have resulted in a consistently high level of employment and retention of people with a disability within the agency. The current rate of employment is 6% of CrimTrac’s workforce.

**Family Court of Australia**

The FCoA does not have specific targets for recruitment and retention of people with disability.

**Federal Court of Australia, Australian Competition Tribunal, Copyright Tribunal of Australia & Defence Force Discipline Appeal Tribunal**

As noted earlier the Court is a small agency and not in a position to establish meaningful targets of this kind for ongoing positions. However the Court aims to recruit 2 – 3 interns under the “Stepping into Law” program each year in non ongoing roles. In addition, position documentation is reviewed to ensure people with disability are not discouraged in applying for vacancies.

**Federal Magistrates Court of Australia**

The Federal Magistrates Court of Australia does not have specific targets for recruitment and retention of people with disability.

**High Court of Australia**

No. Given the small number of positions advertised each year it is not practicable to set specific targets for recruitment and retention.

**Insolvency and Trustee Service Australia**

No. As a small/medium agency ITSA does not generally conduct large scale recruitment and therefore is not able to put in place targets. However, where opportunity arises, specific targets have been set (as per 3 above).

**National Native Title Tribunal**

For resource-related reasons the Tribunal has set no specific targets.

In terms of its commitment to diversity, the Tribunal is prioritising the development and implementation of strategies for the recruitment, retention and development of its Indigenous employees. The Tribunal’s comprehensive Indigenous Employment Strategy (IES) was launched in December 2010. The IES is the product of extensive research, discussion, drafting and consultation by the project team. It sets out a range of initiatives designed to enhance the recruitment and retention of Indigenous employees and to improve the workplace culture, for the benefit of Indigenous employees,
non-Indigenous employees and for the Tribunal as a whole. More recently the IES has been complemented by the development of a Reconciliation Action Plan. The IES is being implemented by its Human Resources section in collaboration with its Indigenous Advisory Group.

**Office of Parliamentary Counsel**

There are no specific targets for recruitment and retention of people with disability. However, Office of Parliamentary Counsel’s policies and procedures and Workplace Diversity Program support the recruitment and retention of people with disability and information is kept up-to-date on the diversity status of our employees.

(7) **Attorney-General’s Department**

The Department is committed to assisting employees with a disability through a number of workplace initiatives including flexible working arrangements, workstation assessments, technological support software and access to a confidential 24 hour counselling service. The Department has well established links with external rehabilitation providers to assist in the provision of a range of services to support people who have identified with a disability.

**Administrative Appeals Tribunal**

The Tribunal has several policies and plans to support staff with a disability including its Workplace Diversity Plan 2008-2011, Disability Action Plan 2008-2011, Agency Agreement and various Personnel Directions. The Tribunal makes reasonable workplace adjustments, has accessible workspaces, provides diversity and anti-discrimination training, supports an Employee Assistance Program and has processes for resolving complaints and grievances.

**Australian Commission for Law Enforcement Integrity**

ACLEI is committed to assisting employees with a disability through a number of workplace initiatives including flexible working arrangements, workstation assessments, technological support software and access to a confidential 24 hour counselling service. ACLEI engages external rehabilitation providers to assist in the provision of a range of services to support people who have identified with a disability.

**Australian Crime Commission**

A dedicated resource, the Specialist – Safety & Wellbeing, provides support to all employees including those with a disability. Individual assessments are conducted, needs identified and reasonable adjustments made.

**Australian Customs and Border Protection Service**

The Customs and Border Protection Workplace Diversity Policy outlines the obligations, diversity principles, and roles and responsibilities of employees in relation to diversity. Reasonable adjustments are made for disabled employees (either temporary or permanent), including specialised equipment, software, work allocation and placements.

**Australian Federal Police & the Australian Institute of Police Management**

Disability Program and Strategy 2007-2011; The AFP People Plan 2010-2012; and the AFP Diversity Plan (revised 2011). The Diversity Plan looks to create the right environments to provide all AFP members with practical information on disability and supporting people with disability. It looks to educate managers on their responsibilities and ensures AFP facilities support people with a disability.

**Australian Government Solicitor**

Part of AGS’s diversity policy is the promotion of reasonable adjustment: the removal of unnecessary barriers to equal opportunity, participation or performance to accommodate current employees and to support external applicants with disabilities. AGS regularly applies the reasonable adjustment principle to respond to the temporary or ongoing needs of current and future employees,
Including for example the modification of technology and workspaces and the availability of flexible working hours.

**Australian Human Rights Commission**
Principles of reasonable adjustment apply as do flexible working arrangements. The Employee Assistance Program provides an employer funded counselling service to staff. We have in-house experts on accessibility standards.

**Australian Institute of Criminology**
A range of assistance is provided to staff with a disability, including reasonable adjustment identified through work station assessments and purchase of specialised equipment. The AIC’s Agency Agreement provides a broad range of flexible working arrangements and which staff with a disability are able to access where appropriate.

**Australian Law Reform Commission**
ALRC Reasonable Adjustment Policy, Equal Opportunity Policy, Work from Home Policy.

**Australian Security Intelligence Organisation**
ASIO provides holistic physical, wellbeing and psychological assistance to support staff with a disability including the following policies, programs or services:
- A Workplace Diversity Program, Disability Action Plan and Reconciliation Action Plan 2009–12 to ensure ASIO promotes an inclusive work environment for all staff;
- Psychological and wellbeing assistance and support services are available to all staff;
- Modern office environment with contemporary facilities, state of the art technology and ergonomic office furniture that facilitate access or can be readily modified;
- Safety initiatives such as workplace risk assessments to identify and improve conditions and accessibility;
- Staff development programs where staff can develop their skills and capabilities through eLearning programs.

**Australian Transaction Reports and Analysis Centre**
AUSTRAC has the following policies in place to support staff with a disability:
- Workplace Diversity Plan
- Promoting a Workplace Free from Harassment and Bullying policy
- Recruitment policy
- Return to Work policy,
- Employee Assistance Program.

There is also wheelchair access to each of the buildings where the AUSTRAC offices are located.

The AUSTRAC Occupational Health & Safety Coordinator is made aware of any issues which may arise where adjustments are needed to accommodate the needs of any staff member with a disability. In addition to the support provided to the 9 employees who have self-identified as having a disability, other staff have also been provided with special equipment, such as special keyboards and standing desks, to support them with their individual health issues.

**Commonwealth Director of Public Prosecutions**
A range of policies, programs and services are in place to support staff with a disability. These are encompassed in the organisational commitments outlined in the ‘CDPP Strategic Directions’ and various provisions of the Enterprise Agreement particularly in relation to remuneration, workplace flexibilities, leave and employee wellbeing. Support is also provided through recruitment and selection.
policies and practices, the Workplace Diversity program, workplace assessment services and local support systems in CDPP regional offices.

**CrimTrac**

The agency has policies addressing equal employment opportunities that encompass people with disability. The agency’s Enterprise Agreement contains provision for flexible working arrangements. The agency provides support for staff with disability by ensuring that they have the appropriate furnishings, fittings and tools to support their participation in the workplace.

**Family Court of Australia**

The Family Court of Australia encourages and supports flexible working arrangements for staff. The Court provides access to an Employee Assistance support network, encourages and provides a work/life balance programme for women and carers and promotes a peer support programme throughout the court.

**Federal Court of Australia, Australian Competition Tribunal, Copyright Tribunal of Australia & Defence Force Discipline Appeal Tribunal**

In addition to its involvement in the “Stepping into Law” program, the Court has a range of programs and policies in place to support staff and allow for adjustment to accommodate their individual needs and circumstances. For example, the Court’s provisions relating to flexible work patterns, home-based work and part-time work. These initiatives are also reinforced by the Court’s Workplace Diversity Program, Employee Assistance Program and Workplace Harassment Policy.

**Federal Magistrates Court of Australia**

The Federal Magistrates Court of Australia encourages and supports flexible working arrangements for staff. The Court provides access to an Employee Assistance support network, encourages and provides a work/life balance programme for women and carers and promotes a peer support programme throughout the court.

**High Court of Australia**

The High Court seeks advice from a workplace ergonomist to audit the workplace and support requirements. The Court provides appropriate car parking spaces to the two staff with a disability.

**Insolvency and Trustee Service Australia**

ITSA is a member of the Australian Network on Disability (AND), an organisation that supports employers develop their disability confidence. AND offers training, advice and support to ITSA on how to support staff with disabilities.

**National Native Title Tribunal**


The EA and EH provide particularly for workplace flexibility; leave and employee wellbeing. Support is also provided to staff with a disability through:
- the Tribunal’s Diversity Program 2009-11;
- access to adaptive technology or other practical support required by employees with a disability;
- a centralised source of information and expertise to assist managers and employees with disability;
- training and/or awareness programs for managers and/or employees on mental illness, depression or related disorders;
other relevant training e.g. in relation to bullying and harassment.

**Office of Parliamentary Counsel**

The following policies, programs or services are there to support staff with a disability:

- **OPC No. 80** - Disability awareness: This Circular contains information relevant to relations between OPC, or OPC staff, and people with disability (including OPC staff, OPC clients, visitors to OPC or other people with whom OPC has dealings). The Circular outlines responsibilities under the Disability Discrimination Act 1992 and our agencies role as an employer under the Commonwealth Disability Strategy.

- **OPC No. 85** - Workplace diversity and recruitment matters: This Circular sets out workplace diversity-related requirements that are to be complied with in relation to recruitment matters. This Circular supports the recruitment of people with disability by including statements in position advertisements supporting workplace diversity including people with disability, providing alternative methods for applicants to contact OPC and submit applications.

- **OPC No. 63** - Workplace Diversity Program: The Program consists of the principles, objectives and actions together with the plans, policies, practices and procedures contained in other Circulars that reflect and embed workplace diversity, including disability. The objectives in this Program are to: raise awareness of workplace diversity and the value of a diverse workforce to OPC; ensure that workplace structures, conditions, systems and procedures foster diversity and allow employees to manage work and personal life; ensure equity in employment is promoted and upheld; continue to provide opportunities for employees to participate and contribute to the work of OPC; and prevent and eliminate bullying, harassment and unlawful discrimination in the workplace.

- a Senior Executive Service officer responsible for workplace diversity.

(8) **Attorney-General’s Department**

No policies or programs are currently under development.

**Administrative Appeals Tribunal**

Preliminary discussions have been held with an external provider in relation to a possible work placement for one or more persons with an intellectual disability. The Tribunal’s Diversity Committee meets regularly to identify initiatives that will assist staff with disabilities.

**Australian Commission for Law Enforcement Integrity**

ACLEI has no policies or programs presently under development specifically concerning the employment of people with a disability.

**Australian Crime Commission**

A Disability Action Plan is currently being developed.

**Australian Customs and Border Protection Service**

A Workplace Equity and Diversity Plan is in draft and once finalised will be followed by a range of strategies that align with the employment model. This includes a Disability Action Plan.

**Australian Federal Police & the Australian Institute of Police Management**

The Disability Program and Strategy 2007-2011 is currently being reviewed and will be re launched in 2011. The AFP Diversity Plan has recently been revised. It will be revised again to reflect any new milestones established when the new Disability Program and Strategy is launched later in 2011.

**Australian Government Solicitor**

(See response to part 3). AGS regularly reviews its diversity policy to ensure it remains relevant and appropriate to AGS as a business and to the maintenance of an inclusive working environment. AGS is
currently not developing any particular plans, additional to its diversity policy, with respect to the employment of people with disability.

**Australian Human Rights Commission**
We are currently developing a Disability Action Plan – it is in draft format at the moment and scheduled for release in September 2011.

**Australian Institute of Criminology**
The Australian Institute of Criminology does not currently have any policies, programs or plans in development as the Institute has a suite of strategies already established. Refer to question three.

**Australian Law Reform Commission**
The ALRC has an existing strategy for the employment of people with disability and is reviewed periodically.

**Australian Security Intelligence Organisation**
ASIO’s policies, programs and services for employment of people with disability meet the responsibilities under the Commonwealth Disability Strategy, are mature and are outlined above.

**Australian Transaction Reports and Analysis Centre**
AUSTRAC is currently developing a Disability Action Plan.

**Commonwealth Director of Public Prosecutions**
At this stage, there are no new policies, services or plans currently under development within the CDPP concerning the employment of people with disability.

**CrimTrac**
Given the success of our pilot above we are considering other opportunities where we may engage other people with a disability under the Commissioner’s Directions.

**Family Court of Australia**
The Family Court of Australia has an existing recruitment strategy for people with disability. All other recruitment policies and procedures are being reviewed to ensure they comply with this strategy.

**Federal Court of Australia, Australian Competition Tribunal, Copyright Tribunal of Australia & Defence Force Discipline Appeal Tribunal**
The Court will to continue to support the Australian Disability Network and the ‘Stepping into Law’ program through 2011-2012. The Court will also continue to review and update policies in line with Government initiatives in relation to people with disability. The Court is also currently developing a Workforce Plan which will include additional recruitment and retention strategies for people with disability.

**Federal Magistrates Court of Australia**
The Federal Magistrates Court of Australia has an existing recruitment strategy for people with disability. All other recruitment policies and procedures are being reviewed to ensure they comply with this strategy.

**High Court of Australia**
There are no specific policies, programs, services or plans under development concerning the employment of staff with a disability.

**Insolvency and Trustee Service Australia**
ITSA is currently developing a reasonable adjustment policy to support the recruitment and retention of people with disability.
National Native Title Tribunal
The Tribunal’s 2009-2011 Diversity Program will be reviewed and the review will include an assessment and evaluation of the identified strategies for the fourth objective in the Program - Adopting better practices to promote the attraction and retention of people with disability.

Office of Parliamentary Counsel
There are no policies, programs, services or plans currently under development within Office of Parliamentary Counsel concerning the employment of people with disability. However, the relevant Office Procedural Circulars and Workplace Diversity Program already mentioned are reviewed regularly and updated where necessary.

Defence: Submarines
(Question No. 634)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 29 April 2011:

Why does it take 30 months for a full cycle docking of a Collins Class submarine, when this length of time is not comparable with docking cycles for other current classes of submarines operated by other countries?

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator’s question:

The current Integrated Master Schedule (IMS) allows for a 36 month Full Cycle Docking (FCD) period, which includes provision for emergent issues, project implementation and contingency. The FCD is an extremely complex activity where the material state of the platform is assessed and restored to as close to initial condition as possible. This period is also used to install new capability which, due to its engineering complexity, can only be conducted during these periods, for example, heavy weight torpedo and replacement combat system.

Drawing on established relationships with Kockums from Sweden and Electric Boat from the USA, responsible for the sustainment of the Gotland and Los Angeles class submarines respectively, a maintenance benchmark study was conducted. As highlighted in Question on Notice 12 from the Senate Additional Estimates Hearing of 23 February 2011, the study indicated that there was no direct equivalent to the Collins class FCD and that other significant factors prevented a direct comparison of maintenance effort from being undertaken.

Defence
(Question No. 713)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 23 June 2011:

TomatoExchange, a division of CostaExchange Limited, has a 20 hectare glasshouse located on Elm St, Guyra in northern New South Wales. Between the hours of 6.30am and 6.45am on Monday, 23 May 2011 there was extensive damage to 110 panes of glass in their 72 000 pane glasshouse. The glass was shattered by an unknown cause but it has been determined that the damage was not related to hail or similar weather, a seismic occurrence or human sabotage. The cost of replacing the panes is approximately $110 000.

Given that the Royal Australian Air Force (RAAF) Amberley base is the closest RAAF base to Guyra and the home-base of the F/A-18F Super Hornet fighter, what is the possibility of jet aircraft, effecting a sonic boom, operating in the vicinity of the TomatoExchange at the times specified above.
Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

1. There were no Royal Australian Air Force fast jet aircraft airborne during the period 6.30 – 6.45 am on 23 May 2011.
2. The only fast jet aircraft to take off that day in Queensland or New South Wales were from RAAF Base Williamtown. The first wave departed at 9.00 am and missions were conducted in the local Williamtown training areas, a significant distance from Guyra.

Defence: Staffing
(Question No. 730)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 5 July 2011:

1. As at 30 June 2011, how many:
   (a) permanent uniformed staff, both part-time and full-time; and
   (b) civilian staff, both part-time and full-time, were in each of the three service areas (i.e. army, navy, and air force).

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

1. The number of uniformed and civilian staff in each of the three Services as at 30 June 2011 was as follows. Numbers are for individuals, i.e. headcount:
   (a) The numbers of uniformed members within each Service. These figures include GapYear members and those Reserve members serving full-time.
      (i) Navy: 14,420;
      (ii) Army: 30,444; and
      (iii) Air Force: 14,718.
   (b) The civilian numbers in each Service group were:
      (i) Navy: 837;
      (ii) Army: 1,172; and
      (iii) Air Force: 928.

Defence: Staffing
(Question No. 731)

Senator Johnston asked the Minister representing the Minister for Defence, upon notice, on 5 July 2011:

For the period 1 January to 30 June 2011, how many uniformed full-time, permanent personnel were recruited to each of the service areas (i.e. army, navy and air force).

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

The numbers of personnel recruited into the Regular forces over the period 1 January to 30 June 2011 were as follows. These figures are inclusive of Gap Year members and those who have prior service in the military.

(a) Navy: 893;
(b) Army: 1,660;
(c) Air Force: 575.

**Defence: Staffing**

(Question No. 732)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 5 July 2011:

(1) For the period 1 January to 30 June 2011, how many:
   (a) uniformed staff; and
   (b) civilian staff, resigned from each of the service areas (i.e. army, navy and air force).

(2) For the period 1 January to 30 June 2011, how many:
   (a) uniformed staff; and
   (b) civilian staff, were made redundant or accepted severance packages in each of the service areas.

**Senator Chris Evans:** The Minister for Defence has provided the following answer to the honourable senator's question:

(1) (a) For the period 1 January to 30 June 2011 the following permanent uniformed personnel voluntarily separated from the Services. This includes personnel who left each of the Services through resignation, within 90 days of enlistment, as a transfer to another Service or completion of an employment contract.

<table>
<thead>
<tr>
<th>Service</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navy</td>
<td>467</td>
</tr>
<tr>
<td>Army</td>
<td>1045</td>
</tr>
<tr>
<td>Air Force</td>
<td>474</td>
</tr>
</tbody>
</table>

(b) For the period 1 January to 30 June 2011 the following civilian staff resigned from each of the Service areas:

<table>
<thead>
<tr>
<th>Service</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navy</td>
<td>33</td>
</tr>
<tr>
<td>Army</td>
<td>38</td>
</tr>
</tbody>
</table>

(2) (a) For the period 1 January to 30 June 2011 the following permanent uniformed personnel were made redundant or accepted packages from the Service areas:

<table>
<thead>
<tr>
<th>Service</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Army</td>
<td>60</td>
</tr>
</tbody>
</table>

(b) For the period 1 January to 30 June 2011 the following civilian staff were made redundant or accepted packages from each of the Service areas:

<table>
<thead>
<tr>
<th>Service</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Navy</td>
<td>2</td>
</tr>
<tr>
<td>Army</td>
<td>4</td>
</tr>
</tbody>
</table>

**Defence: Staffing**

(Question No. 733)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 5 July 2011:

For the period 1 January to 30 June 2011, how many temporary civilian positions, both full-time and part-time, were created in the department, in the Defence Materiel Organisation and in the Defence Science and Technology Organisation.
**Senator Chris Evans**: The Minister for Defence has provided the following answer to the honourable senator's question:

During the period 1 January to 30 June 2011, a total of 151 temporary civilian positions, both full-time and part-time, were created in the Department. Of these 82 were in the Defence Materiel Organisation and 2 were in the Defence Science and Technology Organisation.

**Defence: Staffing**

(Question No. 734)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 5 July 2011:

For the period 1 January to 30 June 2011, how many temporary civilian positions, including part-time, existed in the Department, in the Defence Materiel Organisation and in the Defence Science and Technology Organisation.

**Senator Chris Evans**: The Minister for Defence has provided the following answer to the honourable senator's question:

During the period 1 January to 30 June 2011, there was an average of 176 temporary civilian positions in the Department of Defence, an average of 119 in the Defence Materiel Organisation and an average of 10 in the Defence Science and Technology Organisation. This is an overall average of 305 positions.

**Defence**

(Question No. 790)

**Senator Johnston** asked the Minister representing the Minister for Defence, upon notice, on 5 July 2011:

For the period 1 January to 30 June 2011: (a) what 'First Pass' Project approvals; and (b) what 'Second Pass' Project approvals, have been made.

**Senator Chris Evans**: The Minister for Defence has provided the following answer to the honourable senator's question:

(a) For the period 1 January to 30 June 2011 Government gave first pass approval to the following projects:

(i) JP 2008 Ph 3H – Military Satellite Capability – Wideband Terrestrial Terminals;
(ii) JP 2047 Ph 3 – Terrestrial Communications;
(iii) JP 2072 Ph 2B – Battlespace Communications Systems (Land);
(iv) JP 2097 Ph 1B – REDFIN – Enhancements to Special Operations Capability;
(v) Sea 1448 Ph 4A – ANZAC Electronic Support System Improvements; and
(vi) One classified project.

(b) For the period 1 January to 30 June 2011 Government gave second pass approval to the following projects:

(i) Air 8000 Ph 4 – Additional C-17 Globemaster III Heavy Lift Aircraft;
(ii) Air 9000 Ph 8 – Future Naval Aviation Combat System;
(iii) Air 9000 Ph SCAP – Seahawk Capability Assurance Program;
(iv) JP 2044 Ph 4 – Digital Topographical Systems Upgrade;
(v) JP 3030 Ph 1 – Interim Amphibious Capability;
(vi) Land 116 Ph 3.1 – Additional Bushmasters; and
(vii) Two classified projects.

Australian Water Licences
(Question No. 834)

Senator Birmingham asked the Minister representing the Minister for Sustainability, Environment, Water, Population and Communities, upon notice, on 6 July 2011:

(1) Does the Government keep a record of water licence holdings and purchases of Australian water licences by foreign interests; if so, what information is collected in this regard; if not, what steps will it take to obtain such data.

(2) What are the current figures, in terms of number of holdings and volumes of holdings held by foreign interests.

(3) What changes in terms of number of holdings and volume of holdings has occurred over the past 3 years.

(4) Does the Government keep a record of the countries that foreign investors in Australian water licences are from; if so, can details be provided.

Senator Conroy: The Minister for Sustainability, Environment, Water, Population and Communities has provided the following answer to the honourable senator's question:

(1) No. State and Territory authorities are responsible for maintaining registers of water entitlement ownership. The Government is taking action to strengthen the transparency of foreign ownership of rural land and agricultural food production to address community concerns. The Australian Bureau of Statistics is undertaking the Agricultural Land and Water Ownership Survey to address the current lack of information available on foreign ownership of agricultural businesses, including land and water entitlements.

This collection will provide data on the following areas of interest:

a. foreign ownership of agricultural businesses in Australia;
b. foreign ownership of Australian agricultural land; and
c. foreign ownership of water entitlements (used for agricultural purposes) in Australia.

(2) and (3) The State and Territory organisations responsible for maintaining registers of water entitlements do not keep information on foreign ownership of water licence holdings and purchases of Australian water entitlements.

(4) No.

Defence: Aircraft
(Question No. 838)

Senator Abetz asked the Minister representing the Minister for Defence, upon notice, on 20 July 2011:

In regard to a recent Lateline program on aeroplane constructing (namely Boeing) and parts not meeting their specifications, especially supporting hoops for fuselages: As a result of the report:

(a) have any investigations been undertaken by the department, the Royal Australian Air Force or any organisation within Defence in relation to equipment purchased from Boeing by the department; if so, what have those investigations revealed;

(b) is the department in negotiations with Boeing concerning these revelations; and
(c) what steps, if any, have been taken to investigate the potential safety issues outlined in the program

Senator Chris Evans: The Minister for Defence has provided the following answer to the honourable senator's question:

(a) Defence has not conducted, nor is conducting, any investigations in relation to Boeing aircraft parts mentioned in the Dateline program. Defence relies on the United States Federal Aviation Authority to notify operators, in accordance with the Chicago Convention, of safety concerns.

(b) Defence is not in negotiation with Boeing concerning this.

(c) Defence has taken no steps to investigate this as there is no evidence of a safety issue. Defence maintenance programs for both Boeing Business Jets and aircraft include inspections of the areas alleged to be suspect.