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

**SITTING DAYS—2011**

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FORTY-THIRD PARLIAMENT
FIRST SESSION—THIRD PERIOD

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

Senate Officeholders
President—Senator Hon. John Joseph Hogg
Deputy President and Chair of Committees—Senator Hon. Alan Baird Ferguson
Leader of the Government in the Senate—Senator Hon. Christopher Vaughan Evans
Deputy Leader of the Government in the Senate—Senator Hon. Stephen Michael Conroy
Leader of the Opposition in the Senate—Senator Hon. Eric Abetz
Deputy Leader of the Opposition in the Senate—Senator Hon. George Henry Brandis SC
Manager of Government Business in the Senate—Senator Hon. Joseph William Ludwig
Manager of Opposition Business in the Senate—Senator Mitchell Peter Fifield

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

Printed by authority of the Senate
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(1) Chosen by the Parliament of South Australia to fill a casual vacancy vice Amanda Eloise Vanstone, resigned.

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

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

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

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

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

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. Mark Dreyfus QC, MP
Senator Hon. Kate Lundy
Hon. David Bradbury MP
Senator Hon. Jacinta Collins
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**

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<td>Leader of the Opposition</td>
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<td>Deputy Leader of the Opposition and Shadow Minister for Foreign Affairs and Trade</td>
<td>Hon. Julie Bishop MP</td>
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<td>Leader of the Nationals and Shadow Minister for Infrastructure and Transport</td>
<td>Hon. Warren Truss MP</td>
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<td>Leader of the Opposition in the Senate and Shadow Minister for Employment and Workplace Relations</td>
<td>Senator Hon. Eric Abetz</td>
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<td>Deputy Leader of the Opposition in the Senate and Shadow Minister for Attorney-General and Shadow Minister for the Arts</td>
<td>Senator Hon. George Brandis SC</td>
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<td>Shadow Treasurer</td>
<td>Hon. Joe Hockey MP</td>
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<td>Shadow Minister for Education, Apprenticeships and Training and Manager of Opposition Business in the House</td>
<td>Hon. Christopher Pyne MP</td>
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<tr>
<td>Shadow Minister for Indigenous Affairs and Deputy Leader of the Nationals</td>
<td>Senator Hon. Nigel Scullion</td>
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<tr>
<td>Shadow Minister for Regional Development, Local Government and Water and Leader of the Nationals in the Senate</td>
<td>Senator Barnaby Joyce</td>
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<td>Shadow Minister for Finance, Deregulation and Debt Reduction and Chairman, Coalition Policy Development Committee</td>
<td>Hon. Andrew Robb AO, MP</td>
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<tr>
<td>Shadow Minister for Energy and Resources</td>
<td>Hon. Ian Macfarlane MP</td>
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<td>Shadow Minister for Families, Housing and Human Services</td>
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<td>Shadow Minister for Climate Action, Environment and Heritage</td>
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<td>Shadow Minister for Productivity and Population and Shadow Minister for Immigration and Citizenship</td>
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<td>Shadow Minister for Small Business, Competition Policy and Consumer Affairs</td>
<td>Hon. Bruce Billson MP</td>
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[The above constitute the shadow cabinet]
SHADOW MINISTRY—continued

Shadow Minister for Employment Participation
Hon. Sussan Ley MP

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

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

Shadow Minister for Childcare and Early Childhood Learning
Hon. Sussan Ley MP

Shadow Minister for Universities and Research
Senator Hon. Brett Mason

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

Shadow Minister for Indigenous Development and Employment
Senator Marise Payne

Shadow Minister for Regional Development
Hon. Bob Baldwin MP

Shadow Special Minister of State
Hon. Bronwyn Bishop MP

Shadow Minister for COAG
Senator Marise Payne

Shadow Minister for Tourism
Hon. Bob Baldwin MP

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

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

Shadow Minister for Regional Communications
Mr Luke Hartsuyker MP

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

Shadow Minister for Seniors
Hon. Bronwyn Bishop MP

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

Shadow Minister for Housing
Senator Marise Payne

Chairman, Scrutiny of Government Waste Committee
Mr Jamie Briggs MP

Shadow Cabinet Secretary
Hon. Philip Ruddock MP

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

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

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

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

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

Shadow Parliamentary Secretary for Regional Education
Senator Fiona Nash

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

Shadow Parliamentary Secretary for Local Government
Mr Don Randall MP

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

Shadow Parliamentary Secretary for Defence Materiel
Senator Gary Humphries

Shadow Parliamentary Secretary for the Defence Force and Defence Support
Senator Hon. Ian Macdonald
SHADOW MINISTRY—continued

Shadow Parliamentary Secretary for Primary Healthcare
Dr Andrew Southcott MP

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

Shadow Parliamentary Secretary for Supporting Families
Senator Cory Bernardi

Shadow Parliamentary Secretary for the Status of Women
Senator Michaelia Cash

Shadow Parliamentary Secretary for Environment
Senator Simon Birmingham

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

Shadow Parliamentary Secretary for Immigration
Senator Michaelia Cash

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

Shadow Parliamentary Secretary for Fisheries and Forestry
Senator Hon. Richard Colbeck

Shadow Parliamentary Secretary for Small Business and Fair Competition
Senator Scott Ryan
WEDNESDAY, 11 MAY 2011

Chamber

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Wednesday, 11 May 2011

The PRESIDENT (Senator the Hon. John Hogg) took the chair at 9.30 am, read prayers and made an acknowledgement of country.

CONDOLENCES

Mr Herbert (Bert) Charles Nicholls

The PRESIDENT (09:31): I inform the Senate of the death, on 10 May 2011, of Herbert (Bert) Charles Nicholls, a former Deputy Clerk of the Senate from 1983 to 1987. Mr Nicholls commenced working with the Department of the Senate in 1951, and retired in 1987.

COMMITTEES

Electoral Matters Committee

Appointment

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) (09:31): I seek leave to move a motion to refer a matter to the Joint Standing Committee on Electoral Matters, and to vary the resolution of appointment for this reference.

Leave granted.

Senator LUDWIG: I move the motion in the terms circulated in the chamber.

(1) That the following matter be referred to the Joint Standing Committee on Electoral Matters for inquiry and report by 30 September 2011:

Options to improve the system for the funding of political parties and election campaigns, with particular reference to:

(a) issues raised in the Government's Electoral Reform Green Paper – Donations, Funding and Expenditure, released in December 2008;
(b) the role of third parties in the electoral process;
(c) the transparency and accountability of the funding regime;
(d) limiting the escalating cost of elections;
(e) any relevant measures at the State and Territory level and implications for the Commonwealth; and
(f) the international practices for the funding of political parties and election campaigns, including in Canada, the United Kingdom, New Zealand and the United States of America.

(2) That, for the purposes of this inquiry only, paragraph (3) of the resolution of appointment be amended to read:

That the committee consist of 12 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 4 Members of the House of Representatives to be nominated by the Opposition Whip or Whips and 1 non-aligned Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 1 Senator to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority group or groups or independent Senator or independent Senators.

(3) That this resolution be communicated by message to the House of Representatives for concurrence.

Question agreed to.

BUSINESS

Days and Hours of Meeting

Senator LUDWIG: I move:

That—

(1) On Tuesday, 14 June and 21 June 2011:

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

(2) On Wednesday, 15 June and 22 June 2011:
(a) the hours of meeting shall be 9.30 am to 8 pm;
(b) the routine of business from 4 pm shall be valedictory statements; and
(c) the question for the adjournment of the Senate shall be proposed at 7.20 pm.

(3) On Thursday, 16 June and 23 June 2011:
(a) the hours of meeting shall be 9.30 am to 8.40 pm;
(b) the routine of business from not later than 3.45 pm shall be:
(i) any proposal pursuant to standing order 75, and
(ii) government business only;
(c) consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with;
(d) divisions may take place after 4.30 pm; and
(e) the question for the adjournment of the Senate shall be proposed at 8 pm.

(4) In making valedictory statements, a senator shall not speak for more than 20 minutes.

Question agreed to.

BILLS

Therapeutic Goods Legislation Amendment (Copyright) Bill 2011
Second Reading

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

Senator FIERRAVANTI-WELLS (New South Wales) (09:32): I rise to speak today on the Therapeutic Goods Legislation Amendment (Copyright) Bill 2011. The coalition will not be opposing this bill. The amendments to the Copyright Act have arisen due to some instances where pharmaceutical companies have launched claims of infringement of copyright in their product information documents. The use of copyright infringement has the potential to provide pharmaceutical companies with an extended period of market exclusivity once the patent over that medicine has ended. This has an effect on generic medicines, because the generic medicines industry in Australia provides important competition for medicines once they come off patent. We recognise the important role that generic medicines and their timely introduction into the marketplace play in the healthcare system. We understand the purpose of these amendments, which is basically to ensure that we still have timely introduction of generics into the market and, in turn, increased affordability and access to pharmaceuticals in Australia.

This bill introduces two specific exemptions to copyright infringement under Australian law. The first exemption is that the use or lodgement of existing product information documents is not a copyright infringement when used to apply to register a medicine under the Therapeutic Goods Act 1989. This means that, for example, when a pharmaceutical company applies to the TGA for registration of a generic version of a medicine, they will not be infringing copyright if they submit a draft product information document that contains text that is similar to the product information already approved for the originator medicine. The second exemption removes copyright infringement to the supply, reproduction, publication, communication or adaptation of the TGA approved product information sheets, provided that the use is for a purpose related to the safe and effective use of the medicine.

There has been some consultation with stakeholders, and there have been concerns raised about some potential unintended consequences. One could be the effect on product information publishers—for example, the publication of the reference handbooks that are widely used by...
practitioners. The issue is what impact the exemption of copyright will have on these reference books. There is also the potential for unintentional infringements to result in the reduction of intellectual property protections.

We believe that the amendments do not go any further than is necessary to ensure that the TGA continues to have the ability to approve product information sheets that are in similar forms for both the originator and generic brands of the same registered medicine. We will, however, continue to monitor the situation. As I said, there are some concerns, but we believe the bill does provide important exceptions to copyright to protect the timely introduction of generic medicines into the Australian pharmaceutical market. The opposition will not be opposing the bill.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (09:37): Firstly, I thank senators for their contributions to the debate on the Therapeutic Goods Legislation Amendment (Copyright) Bill 2011. This bill amends the Copyright Act to allow the longstanding practice of the Therapeutic Goods Administration to approve similar product information of prescription medicines regardless of the brand of medicine. The amendments go no further than is absolutely necessary to ensure that this practice can continue, and the government believes that they will restore the appropriate balance between ensuring safe and timely access to medicines and encouraging research and development in the pharmaceutical industry through appropriate protections of intellectual property. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.
provisional vote is cast when the voter's name cannot be found on the certified list, the voter's name is marked off the list as already having voted, the voter is registered as a silent elector or the voter has cast an absent, early or postal vote. Broadly speaking, a provisional vote is used when an elector arrives at the polling booth but the official cannot find their name on the electoral roll.

It is of great concern to the Gillard government, which values and indeed nurtures the right of all Australians to vote, that over 27,000 provisional votes were rejected at the 2007 federal election. The total number of provisional votes was 167,500. At the 2010 federal election there were 203,488 provisional votes cast in total and 28,065 of these were rejected because the voter did not provide evidence of their identity by the first Friday following the polling day. Further examination by the AEC of the 28,065 provisional vote envelopes rejected because no proof of identity was provided showed that in 12,227 instances the name of the voter was later found on the certified list. This is not surprising if you consider that there can be miscommunication between the voter and polling official or that a simple mistake can be made by the polling official in not finding the voter's name on the certified list. It is unacceptable that at both the 2007 and 2010 elections thousands of provisional votes were rejected in the very preliminary stages of processing because voters did not provide the evidence of identity by the first Friday following polling day.

The Australian Electoral Commission has also noted that the admission rate for Senate provisional votes fell from 62.23 per cent in 2004 to 25.14 per cent in 2007. It is a sobering thought that, if the 2004 provisional vote admission rate prevailed in 2007, an additional 62,186 Senate votes would have been counted in that election. So the votes of 62,000 Australians were not counted in the Senate voting. That is a lot of Australian voters who did not get a say in the new parliament. Their votes were not counted because the current Electoral Act specifies that, if the required evidence of identity is not provided by the deadline, the envelope containing the ballot papers is excluded from preliminary scrutiny.

So why don't Australian voters provide their proof of identity to the AEC so their votes will be counted? There are many reasons why voters do not provide evidence of identity by the deadline and this does not necessarily indicate any attempt to vote fraudulently. Unlike for many of us here, their lives do not revolve around politics. They are working, raising families, paying mortgages, studying and trying to make ends meet. Many people cannot take time off work to find an AEC office and provide their proof of identity. Many would feel that they have done their duty by turning up on election day to vote. It is the current system that has let them down. It is Liberal Party philosophy which has let voters down. The Liberal Party, of course, is the one which abolished the seven-day close of rolls grace period, thereby preventing thousands of young people from getting on to the rolls and being able to vote in 2007. This government is dedicated to removing barriers to electoral participation, to modernising enrolment and electoral processes and to responding to the increased demand for early voting services. The Leader of the Opposition, Mr Abbott, has shown that he will take any opportunity to oppose democratic reform and to attack Labor's belief in a modern and fair electoral system.

The amendments in this bill will address the issue of exclusion of otherwise perfectly valid votes from further scrutiny. It is important that amendments are in place for
the next by-election, referendum or general election. At present only provisional voters, and no other declaration voter, have to provide evidence of identity in order for their vote to be accepted. This leads to inconsistency of treatment of different types of declaration votes. For example, a voter who is eligible to vote and has a provisional vote rejected at preliminary scrutiny only because of failure to provide evidence of identity would have had his or her vote counted if they had instead cast an absent vote, postal vote or pre-poll declaration vote. There is no reason to treat otherwise valid provisional votes differently from other forms of declaration voting.

The current requirement for provisional voters to show proof of identity by the Friday following the poll was put in place by the Howard government. One could question whether it was for honourable reasons that the Liberal government introduced changes to this legislation. The intent was not to improve the integrity of the electoral roll, but rather, one could guess, to assist the Liberal Party in the 2007 and future elections. Before the Liberal government changed the rules, the logical system of matching signatures was also applied to provisional votes. If an Australian voter applied at the polling booth and signed the outside of the envelope to say he was the person who voted, then AEC officials took this back to the commission and they checked it against the signature of the elector which exists on the original or subsequent enrolment forms held by the AEC.

What this government seeks to do is to restore that system through this bill because it is blatantly unfair that, as a result of the Howard government, provisional voters are treated differently from those who cast a postal vote or an absentee vote. Why should provisional voters face a greater likelihood of being disenfranchised? Why should they have to jump through more hoops simply to have their votes counted? Those opposite still agree with a requirement that provisional voters jump through hoops to have their vote counted. This is despite the detrimental effect on thousands of provisional voters. On the other hand, I am pleased to say that the Australian Electoral Commission supports the federal government's repeal of the identity requirement. In its submission to the inquiry of the Joint Standing Committee on Electoral Matters into the 2010 federal election and matters related thereto, the Australian Electoral Commission recommended that the requirement for production of evidence of identity by provisional voters should be repealed.

The government's Electoral and Referendum Amendment (Provisional Voting) Bill 2011 will ensure all voters who cast declaration votes are once again treated in a fair and equitable way. It will restore the Commonwealth Electoral Act 1918 to its pre-2006 status where the law, custom and established practice accepted the voter's signature as proof of identity. I commend the bill to the Senate.

Senator XENOPHON (South Australia) (09:49): I indicate my support for the Electoral and Referendum Amendment (Provisional Voting) Bill 2011. I want to discuss and foreshadow the amendments that I will move in the committee stage. I believe there is nothing more important in a democracy than ensuring that everyone who votes in an election has their vote counted. I state at the outset that I have had lengthy discussions with both sides of the chamber on this bill and, when the bills were introduced in a previous form to today, I spoke to the Australian Electoral Commission on this issue.
The current requirement regarding provisional voting was introduced in 2006 and at the 2007 federal election 167,682 Australians cast a provisional vote. However, of the 32,000 or so voters who were required to provide evidence of identity within five days to make their provisional vote count, only 5,000 turned up at an AEC divisional office to do so. The remaining 27,000 or thereabouts votes were subsequently destroyed, not read, not counted. Why those voters did not visit their divisional office is anyone's guess. They could have been busy, perhaps they forgot, they may have thought their electorate had already been decided so there was no point, they considered it too hard or, sadly, perhaps they just did not care enough. Who knows?

While the argument can be made that if these voters truly wanted to make their votes count they would follow the procedures set in place as advised to them by the AEC divisional officer on polling day, I am inclined to try to remove the onus on the individual so as to allow for as many votes as possible to be counted. It is a democratic right of every individual not only to be able to cast their vote but also to have their vote count. In some ways the contents of the envelope are irrelevant. Even if hypothetically all of those 27,000 provisional votes contained donkey votes, the point is that every vote that is cast should be counted.

The government's bill goes some way in addressing that, allowing that the divisional returning officer must check the signature on the envelope against the most recent record available to them to verify the vote. But under this model there may still be some whose votes cannot be verified. For example, a woman who has recently married and accidentally signed her married name signature instead of her maiden name or someone whose handwriting on the envelope is illegible—and I can relate to that. As such, I will be moving an amendment that requires, further to the government's measure, for any provisional votes which are not able to be verified against the electoral database that the divisional returning officer must make all reasonable attempts to contact the voter within three days of the election and give them until the Friday following polling day to provide proof of identity at a divisional office. I believe that this is a good and sensible middle ground that addresses the concerns of both sides while, most importantly, maintaining the integrity of our electoral roll. The right to vote is crucial and I think that everyone in the chamber would agree with us. And the right to have that vote counted is just as crucial. It is up to us as legislators to make it as easy as possible while maintaining the integrity of the electoral roll for Australians to vote. I believe that this amendment I will introduce in the committee stage provides that.

I also foreshadow that I will be moving an amendment to this bill with regard to misleading and deceptive conduct following some of the behaviour in recent elections particularly the South Australian state election just last year. This was quite a disgraceful episode where misrepresentation was made as to the how-to-vote cards that were being circulated, and I think that Senator Fielding has a particular interest in this. I look forward to debating this amendment during the second reading stage and I look forward to the passage of this bill.

Senator FIELDING (Victoria—Leader and Whip of the Family First Party) (09:52): There is nothing more important in our democracy than ensuring that we have a fair electoral system with a high level of integrity. Electoral reform is always a delicate issue because even the slightest change can have a tremendous effect on the outcome of an election. For this reason, I
think that parliament should always approach this issue with great caution.

This bill deals with the identification that is required for provisional voters. It seeks to reverse the changes that were made under the Howard government when the coalition held a majority in the Senate. As a result, the Senate at the time was treated more like a rubber stamp than a house of review. It is important that when changes are made to the electoral system we should keep our eyes on ensuring that the integrity of our political system is not driven by partisan politics. Ensuring a strong democracy goes above and beyond that. However, it would appear to some as if both sides over a period of time have approached this issue and formed their positions on the basis of how many votes they stand to gain or lose on any change. This is not the way we should be deciding changes to the electoral system. Family First's role is to scrutinise the merits of this bill and ensure our electoral system is fair and maintains a high level of integrity.

In this case, in looking closely at the bill I can see that there are certainly two legitimate sides to the debate. The coalition argues that by upholding a high standard of proof for provisional voters to prove their identity, it makes the opportunity for fraudulent behaviour less prevalent. The higher the onus of proof you place on a voter to prove their identity, the harder it will be for rorts to occur, and certainly insisting upon photo ID instead of simply comparing the two sets of signatures is a higher onus of proof.

But that is not the only factor that needs to be considered when looking at this bill, otherwise we would not just require provisional voters to produce photo identification, we would go even further and ask them to produce a number of sources of identification, perhaps, for example, a passport or a driver's licence, just to be sure. Obviously there needs to be a balance between what is necessary and what is reasonable. Just as it is important to ensure that every vote is legitimate, it is also important to ensure that every legitimate vote is counted. Under the current system there are indeed thousands of voters who take the time to go to the polling booths but who do not end up having their votes counted because they do not satisfy the amended identification requirements under the current legislation. These are people who want their voices heard and deserve to have their voices heard, but they do not happen to take their wallets with them to the polling booth and they now miss out on participating in the democratic process. The question is: is this reasonable or not?

It is true that provisional voters can go to an Australian Electoral Commission office within five days of an election and produce photo ID. But let's face it, how realistic is this option really for many, many Australians? Voting takes time and effort, and plenty of people who turn up to their polling booth and get told that they will have to make another visit in a few days time to show their photo ID simply do not get around to coming back a second time. That ultimately means that their votes get thrown in the bin and do not get counted like everybody else's. I think we would all agree that this is hardly a good result.

What this bill seeks to do is restore the system that was in place prior to the 2007 election and require provisional voters to have their signatures confirmed against their signatures on the AEC's records. Family First believes that this will still ensure a high level of integrity of the electoral system whilst at the same time not excluding thousands of legitimate votes. Family First did vote against the Howard government's 2006 bill and we do not support the retention of the existing measures.
In rising to wind up the debate on the Electoral and Referendum Amendment (Provisional Voting) Bill 2011, I thank all senators who have contributed to this debate. By repealing the requirement for provisional voters to provide evidence of identity as a requirement for these votes being included in the count for an election, this bill fulfils the commitment which Labor took to the last two federal elections to reverse the regressive changes made by the Howard government to the Electoral Act in 2006 and thereby to restore fairness to our electoral system.

As Minister Gray noted in his second reading speech, this amendment to the Electoral Act is supported by the independent Australian Electoral Commission, the AEC. In its submission to the inquiry of the Joint Standing Committee on Electoral Matters into the 2007 federal election, the AEC recommended that the requirement for the production of evidence of identity by provisional voters should be repealed. No-one had any doubt in 2006 about why the Howard government brought in the change that this bill seeks to reverse. The respected election commentator Malcolm Mackerras, a former member of the Liberal Party secretariat, said that they were motivated solely by a ‘relentless pursuit of the electoral interests of the Liberal Party’.

The effect of those changes was to make it harder for Australians to enrol to vote and harder to cast their votes, and that was in fact the coalition's intent. The changes were based on the calculation that the majority of the people who would lose their vote would come from those social groups more likely to vote Labor: first-time voters, new citizens, Indigenous Australians, people with poor English or low literacy skills, itinerant workers and the homeless. Professor Brian Costar of Swinburne University in Melbourne, one of Australia’s more respected political scientists, told the Joint Standing Committee on Electoral Matters:

We know that provisional voters ... are not a mirror image of the electorate as a whole. They tend to be more Labor and Green than they are Liberal, National, or anything else.

At the 2010 general election, over 28,000 provisional votes were rejected because the voter did not provide evidence of identity by the deadline. The AEC found that most of these people were actually correctly enrolled. They lost their vote purely because they did not supply photo ID as required by the 2006 coalition amendment. The coalition claimed that these amendments were necessary to maintain the integrity of the electoral roll. They maintained this claim, and presumably they are still maintaining it today, despite the fact that there is no evidence to support the assertion that any such threat exists. The Senate does not have to take my word for it on this point. Let me quote what the AEC said in its submission to the inquiry of the Joint Standing Committee on Electoral Matters into the 2007 federal election. It said:

… it can be clearly stated, in relation to false identities, that there has never been any evidence of widespread or organised enrolment fraud in Australia.

That is actually quite a conservative statement. In fact, there is no evidence of any organised enrolment fraud in federal elections in Australia at all. So we are moving to repeal the Howard government's 2006 amendments because they were partisan in their intent, because the justification for them was spurious and unsupported by any evidence and because they have been harmful in their effects.

This bill restores fairness and equality of treatment for all voters in our federal elections. I commend the bill to the Senate.
Question agreed to.
Bill read a second time.

In Committee
Bill—by leave—taken as a whole.

Senator XENOPHON (South Australia) (10:01): by leave—I move amendments (1) and (2), standing in my name, on sheet 7071:

(1) Schedule 1, item 2, page 3 (line 18), at the end of paragraph 3A, add "If, after so checking the signature, the DRO is not satisfied that the signature on the envelope is the signature of the elector, the DRO must make all reasonable attempts to contact the elector within 3 days after the election, to require the elector to provide evidence of his or her identity by the first Friday following the polling day for that election.".

(2) Schedule 1, item 5, page 4 (line 9), at the end of paragraph 3A, add "If, after so checking the signature, the DRO is not satisfied that the signature on the envelope is the signature of the elector, the DRO must make all reasonable attempts to contact the elector within 3 days after the referendum, to require the elector to provide evidence of his or her identity by the first Friday following the voting day for that referendum.".

These amendments are in respect of provisional votes. In my second reading debate contribution I outlined the nature of the problem. Under the government's bill, signatures of provisional votes will be verified against the electoral database and where the divisional returning officer is satisfied that the signature is accurate that vote is counted. But there may still be some which are not able to be verified for whatever reason. These amendments address those cases, requiring that for those signatures which were not able to be verified the divisional returning officer must make all reasonable attempts to contact the elector within three days of polling day to require them to provide evidence of their identity by the first Friday following the election. The amendments aim to ensure that as many votes as can be counted are counted. It is a halfway house between the government's position and the opposition's position. I think that it is fair, though, in the circumstances to deal with the nub of the problem. I am grateful for the discussions I have had with the Special Minister of State and the shadow special minister of state in relation to this and I look forward to the support of both sides for these amendments.

Question agreed to.

Senator XENOPHON: by leave—I move the amendments, standing in my name, on sheet 7072:

(1) Title, page 1 (line 2), omit "related", substitute "other". [consequential – misleading or deceptive conduct]

(2) Clause 1, page 1 (line 7), after "Voting", insert "and Other Measures". [consequential – misleading or deceptive conduct]

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

Schedule 2—Amendments relating to misleading or deceptive conduct

Commonwealth Electoral Act 1918

1 After section 329

Insert:

329A Misleading or deceptive conduct

(1) A person commits an offence if:

(a) the person either:

(i) engages in conduct; or

(ii) authorises another person to engage in conduct; and

(b) that conduct occurs during the relevant period in relation to an election under this Act; and

(c) that conduct is likely to mislead or deceive an elector in relation to the casting of a vote.

Penalty:

(a) if the offender is a natural person—$1,000 or 6 months' imprisonment; or
(b) if the offender is a body corporate—$5,000.

(2) In a prosecution of a person under subsection (1), it is a defence if the person proves that he or she did not know, and could not reasonably be expected to have known, that the conduct was likely to mislead or deceive an elector in relation to the casting of a vote.

Note: A defendant bears a legal burden in relation to the defence in subsection (2) (see section 13.4 of the Criminal Code).

(3) If the Electoral Commissioner is satisfied that, during the relevant period in relation to an election under this Act, a person is engaging in, or has engaged in, conduct that is likely to mislead or deceive an elector in relation to the casting of a vote, the Electoral Commissioner may request the person to desist from that conduct.

(4) In proceedings for an offence under this section, the court may take into account a person’s response to a request under subsection (3) in assessing any penalty to which the person may be liable.

(5) If the court is satisfied, in proceedings for an offence under this section, that a person has engaged in conduct that is likely to mislead or deceive an elector in relation to the casting of a vote, the court may order the person to desist from that conduct.

Referendum (Machinery Provisions) Act 1984

2 After section 122

Insert:

122A Misleading or deceptive conduct

(1) A person commits an offence if:

(a) the person either:

(i) engages in conduct; or

(ii) authorises another person to engage in conduct; and

(b) that conduct occurs during the referendum period in relation to a referendum under this Act; and

(c) that conduct is likely to mislead or deceive an elector in relation to the casting of a vote at the referendum.

Penalty:

(a) if the offender is a natural person—$1,000 or 6 months’ imprisonment; or

(b) if the offender is a body corporate—$5,000.

(2) In a prosecution of a person under subsection (1), it is a defence if the person proves that he or she did not know, and could not reasonably be expected to have known, that the conduct was likely to mislead or deceive an elector in relation to the casting of a vote at the referendum.

Note: A defendant bears a legal burden in relation to the defence in subsection (2) (see section 13.4 of the Criminal Code).

(3) If the Electoral Commissioner is satisfied that, during the referendum period in relation to a referendum under this Act, a person is engaging in, or has engaged in, conduct that is likely to mislead or deceive an elector in relation to the casting of a vote at the referendum, the Electoral Commissioner may request the person to desist from that conduct.

(4) In proceedings for an offence under this section, the court may take into account a person’s response to a request under subsection (3) in assessing any penalty to which the person may be liable.

(5) If the court is satisfied, in proceedings for an offence under this section, that a person has engaged in conduct that is likely to mislead or deceive an elector in relation to the casting of a vote at the referendum, the court may order the person to desist from that conduct.

Application of amendments

(1) The amendment made by item 1 of this Schedule applies in relation to elections the writs for which are issued on or after the commencement of this Schedule.

(2) The amendment made by item 2 of this Schedule applies in relation to referendums the writs for which are issued on or after the commencement of this Schedule.

Can I say in relation to my previous amendments that that was quite painless: nothing from the opposition, nothing from
the government, just demurring and support. I wish all my amendments were dealt with so simply.

The TEMPORARY CHAIRMAN (Senator Mark Bishop): Don't push your luck, Senator Xenophon!

Senator Feeney: If you talked to us more perhaps they might be!

Senator XENOPHON: Senator Feeney, sometimes I talk a lot about amendments and they still do not get up. If that were the only criterion, I could do a lot more talking. I do not think I will be so fortunate in relation to these amendments, which relate to misleading or deceptive conduct.

When it comes to casting a vote Australians should be provided with as much truthful and accurate information as possible in the lead-up to polling day and on polling day itself, which is when many voters make their decision on who they will vote for. At last year's South Australian state election, in four key seats Labor party volunteers donned blue T-shirts and handed out how-to-vote cards that read 'Put Your Family First', adding 'and send your preferences to Labor' in smaller print. The Family First candidate was listed in the top spot but then the Labor candidate second without party affiliations. It was clearly intended to lure Family First voters to vote for Labor. That should not be allowed to be repeated, given that Family First gave their preferences to the Liberal Party in their official how-to-vote cards. That is not casting a judgment; it is a question of what was the party intending to do. Clearly, it was misleading in that they were not officially endorsed by Family First.

This, sadly, was not an isolated incident. In the 2006 Victorian election the Liberal Party had handed out how-to-vote cards that resembled the Greens' how-to-vote cards. The amendments will make it an offence for any person to engage in or authorise another person to engage in any conduct which is misleading during an election campaign. The current act is inadequate in dealing with this issue. It states:

1 A person shall not, during the relevant period in relation to an election under this Act, print, publish or distribute, or cause, permit or authorise to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of a vote.

But it does not include the potentially misleading T-shirts worn by Labor Party volunteers who handed out how-to-vote cards that read 'Put Your Family First' at the 2010 state election. Many Australians make their final decision on who to vote for at an election as they walk towards the school hall polling station, and having handed out how-to-vote cards myself I can attest to that. The information they collect on the way can make up their mind. That is why it is crucial that any representations to them are truthful and accurate, and the amendments will ensure that. note that both the Special Minister of State and the shadow special minister of state say that this is more appropriate. This matter ought to be the subject of a specific reference to an inquiry by JSCEM, the Joint Standing Committee on Electoral Matters. I would be grateful, in the absence of support for this amendment, to obtain confirmation by both the government and the opposition that it is their intention to do so.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (10:07): I rise to indicate that Senator Xenophon's amendments as found on sheet 7072 are not supported by the government. In our view, the amendments proposed do not address the fundamental issue of what is the appropriate regulation of misleading and deceptive electoral advertising and related conduct. The government has agreed to examine this issue and to work with the
Greens and the Independents to bring forward appropriate regulation in the area that is colloquially known as 'truth in electoral advertising'. The proposed amendments incorporate the existing legal test contained in subsection 329(1) of the Electoral Act, which is:

... is likely to mislead or deceive an elector in relation to the casting of a vote.

This test has been limited by various court decisions and has also been criticised due to its limited operation. In the government's view, it is premature to consider the amendment without the full consideration of whether a wider legal test should be adopted and included in the Electoral Act. On that basis, the government does not support the amendments.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (10:08): Senator Xenophon did accurately predict that the smooth passage through this place of his amendments was not to continue. The opposition was happy to support Senator Xenophon's previous amendments. Although we are not supportive of this bill, we did think that, if this bill were to pass, his earlier amendments would improve it and lead to a higher standard of proof of identification. But in relation to the amendments on sheet 7072 there are questions as to the extent to which the concept of misleading and deceptive conduct which may be appropriate in the commercial sphere is applied in what you might call the political sphere—the area of the contest of ideas. It does have an application, but the extent to which that should be applied is, I think, an open question.

Having said that, I very much appreciate the motives behind Senator Xenophon's amendment: the outrageous behaviour of the Australian Labor Party in South Australia. They do say that imitation is the—

Senator Xenophon: And the National Party in 2006!

Senator FIFIELD: I am not aware of that case, Senator. But, as Senator Xenophon pointed out, we do all recall the Labor Party booth workers dressed as Family First booth workers. They say that imitation is the sincerest form of flattery, and I know that is true in a policy sense but I do not think it is true when it comes to booth workers, their appearance and the material that they hand out. That was an outrageous instance, and it is appropriate that Senator Xenophon raised it and sought to find a way to address it. The Joint Standing Committee on Electoral Matters is currently reviewing the 2010 election, and this matter among others is currently being considered. We think that is the appropriate place for that to happen. I know that Senator Xenophon has been in discussions with the shadow special minister of state about ways that that might be further examined, but we think that it is premature at this stage to seek to go further in expanding the use of the concept of misleading and deceptive conduct in the political arena. We therefore will not be supporting the amendments.

Senator LUDLAM (Western Australia) (10:11): I rise to briefly put some observations on behalf of the Australian Greens. I think these are very important amendments that Senator Xenophon has moved. Like him, I am surprised at the bipartisan consensus from the two old parties that the situation certainly needs a bit of a look at at some stage by somebody, and in the meantime they will be combining their numbers to vote this amendment down. I think it is, to go specifically to the matter that Senator Xenophon is seeking to address here around deceptive behaviour and
deceptive conduct on polling day, because the kinds of sordid tactics that we have seen deployed against Family First, against the Independents or, on more occasions than I can remember, against the Greens largely benefit one major party or another.

Because of the way that our preferencing system works, you can dress up as a Greens booth worker, hand out a piece of paper that says, ‘By all means, vote one Greens, and then go ahead and direct your preference to one of the major parties or another.’ That is just one example of highly deceptive conduct that has been seen more times than I can remember at polling booths on polling day. That kind of conduct, whether it is organised by the major parties or not, ultimately acts to funnel preferences away from those whom electors and voters think they are voting for.

We have long supported legislation to ensure truth in political advertising—to take a broader view of the matter—and this is one of the issues that Senator Bob Brown put on the agenda as part of the Australian Greens’ agreement with Prime Minister Gillard last August allowing her to form government. Truth in political advertising was very much on that agenda as a way of improving the integrity of our political process. We conceive of that agenda, I suppose, somewhat more broadly, so this is a very important component of it.

We believe that legislation to impose controls on political advertising and, in particular, penalties for breaches would enforce higher standards, would improve accountability, would promote fairness in political campaigning and would improve the health of our political system generally. There is conduct that you could not engage in in a commercial sense without falling foul of the Trade Practices Act. For some reason we allow in our political discourse that which would absolutely be illegal if companies engaged in those kinds of practices. People seeking to influence our electoral system, the bedrock of our democracy here in Australia, can get away with it with impunity, so this is a matter that is under active discussion by the Australian Greens at the moment with the government.

Until these matters are set to rest, we will continue to propose amendments to the Commonwealth Electoral Act to make it an offence to publish or distribute, for example, an electoral advertisement which is intended to affect voting in an election that contains a statement purporting to be fact that is inaccurate or misleading. He current provisions in the Electoral Act only extend to statements which are intended to affect the casting of votes; and, of course, as we have seen in the past these provisions have been interpreted very narrowly to apply only to how a voter marks out their ballot paper.

The amendments that the Greens have set out would have extended the truth in political advertising provisions to apply more broadly to all statements or advertisements which are intended or likely to affect voting in an election, not merely on polling day. If the Electoral Commission is satisfied that an electoral advertisement contains inaccurate or misleading materials it may request the advertiser to either withdraw the advertisement or to publish a retraction. That needs to be timely; there is not a great deal of point in having these disputes heard after polling day, by which time it simply does not matter.

Elections are an opportunity for political accountability, and it is extremely critical that representations are accurate and honest. I would have thought that particularly people in this chamber would have an affinity for that. Under the current system it is entirely possible for advertising that contains misrepresentation and outright false
statements to go unchallenged and without penalty. There is no real formal avenue for recourse, and the Electoral Commission is actually prevented from it—it is not through a lack of will, it is simply outside their mandate. It is not something they are able to do.

This, of course, can be particularly damaging in cases where the advertisements are presented by third parties, which under the current system are not required to identify themselves and therefore make known their own political or ideological position. The Australian Greens have had quite a long history of attacks by third parties who are extraordinarily difficult to identify. You then follow the chain of accountability back, which can take years, to discover exactly who it is who is running misleading, deceptive or outright false advertising in relation to the Greens in an attempt to influence the political system. This is, again, something that we would find simply unacceptable in commercial advertising or discourse.

Although such legislation was enacted briefly in Commonwealth law between 1983 and 1984, it was repealed with the support of both major parties. Opposition to such legislation relies on the argument that it infringes the right of free political communication. I hope that that is an argument that we can set to rest. Truth in political advertising legislation introduced in South Australia in 1985 was found to be constitutionally valid by the High Court. South Australia’s legislation does not ban all untruths in advertising, but it relates to inaccurate statements of fact rather than opinions that are found to be untrue. So, at least, there is some recourse there.

The Greens advocate an amendment to the Commonwealth Electoral Act to make it an offence to authorise or publish an advertisement purporting to be a statement of fact when the statement is inaccurate and misleading to a material extent. This is similar to legislation that was introduced in South Australia. Of course, as I have indicated, in the agreement signed between the Greens and the government last September it was agreed that the parties will work together with other parliamentarians to create a truth in advertising offence in the Commonwealth Electoral Act. I would be interested to hear, if either of the major parties care to offer their views on that, as to whether such a proposal has the support of the major parties because I think it goes to the foundation of the way the political debate is conducted in this country.

I congratulate Senator Xenophon for bringing this amendment forward. I think it is a great shame that the major parties have again ducked the opportunity to engage frankly with it, and to at least advance the debate in one important sense.

Senator XENOPHON (South Australia) (10:14): Very briefly, in response: I can indicate that I am grateful that the Australian Greens have indicated their support for this amendment. I will not seek to divide; it is clear that both the coalition and the government oppose it. The one question that I do have for the government—because I think that at least there is an acknowledgement that these matters need to be dealt with—is that I thought we could have dealt with this specific issue, where there is an anomaly and where there has been an abuse that was manifest at the South Australian state election in 2010, although, I know that Senator Feeney, who has got the carriage of this bill, was the architect of the Labor Party’s stunning win in South Australia in 2006—

Senator Fifield: No!
Senator XENOPHON: I am sure he was, apparently!

Senator Fifield: No!

Senator XENOPHON: I am sure they still miss him in South Australia, Senator Fifield! And I am sure that Senator Feeney would not have countenanced the sort of tactics that went on in the 2010 state election. He nodded—I presume that is to say that he would not do things like that.

Senator Ian Macdonald: I reckon he would have!

Senator Fifield: He may have inspired those who did!

The TEMPORARY CHAIRMAN (Senator Mark Bishop): Order!

Senator XENOPHON: I think I was praising Senator Feeney then. But these are important issues; I would have thought we could have dealt with this here and now. It is unfortunate that the government will not take that view. But notwithstanding that, could Senator Feeney indicate on behalf of the government a time frame for this issue and broader issues of truth in advertising and electoral advertising being dealt with? Given the value and the role which the Greens have had in relation to this debate, I think it is important and that this is something that we need to deal with. Otherwise I think you will continue to see a greater degree of the disengagement, disenchantment and cynicism which the Australian public has with the electoral process, unless we clean these things up.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (10:14): Thank you Senator Xenophon for those fine remarks concerning my electoral record in South Australia, not the least of which is, of course, the Labor Party's high standards for truth in advertising and proper respect for the electoral process.

Firstly, in the progress of this matter I am advised that pursuant to the government's arrangements with the Greens these matters are to be discussed and to reach finality by October of this year. From the government's perspective, the Special Minister of State for the Public Service and Integrity has carriage of these matters, obviously, and is charged with the task of negotiating these matters with the Greens with a view to those discussions concluding in October.

I might just also briefly respond to some of the remarks made by Senator Ludlam. In their contribution to the debate today the Greens raised a range of issues. My point would be that in the government's view none of those issues—while all virtuous of themselves—are advanced by the amendment proposed by Senator Xenophon. That, of course, is the critical point. Our view is that Senator Xenophon's amendment does not advance at all, in particular, as a matter of law. Senator Xenophon's amendment merely repeats the current test found in section 329, which is a test which, as you said yourself in your remarks, has been read down by the courts so as to limit this to the actual fact of marking a ballot paper. Really, so long as that is the case, I do not think Senator Xenophon's amendment provides you with relief on those various questions that you highlighted in your remarks. So I guess, in that vein, the government continues to oppose these amendments, not least of all because they are of no practical effect.

Senator XENOPHON (South Australia) (10:22): I was provoked by Senator Feeney to respond—serves me right for praising him in the first place! To say that these amendments are of no practical effect is not right, and I think we need to correct the record in relation to that. These amendments are of practical effect in the context of the mischief that occurred at the 2010 South Australian state election, because what
occurred there is something that could occur here at a federal level. You can have someone dressed up with a Family First T-shirt, Greens T-shirt, Labor T-shirt—

Senator Fifield: Or a Xenophon T-shirt!

Senator XENOPHON: Or a Xenophon T-shirt. It is one size fits all because I do not have the same budget as the major parties!

And you have a situation where you can give your first preference to a particular party but it then goes straight to a party or a candidate that it was not intended to on the official voting sheet for that party, on the ticket that has been lodged or in the preference arrangements that have been made. So it would deal with that mischief. I agree that there needs to be broader reform, but this is a particularly egregious and outrageous abuse where it seems that state and federal laws, at least in South Australia, cannot deal with it and our federal legislation is ambiguous, and this would have cleared that up. So, as much as I have a very high regard for Senator Feeney—and I do—I think that, in this case, to say that this would not be of any practical effect is simply wrong on the law. But I understand that this is something that will be the subject of a broader review, and I hope that we can deal with it substantively in the next few months.

Senator RYAN (Victoria) (10:24): I rise in this debate to raise a few other concerns. I understand Senator Xenophon's very legitimate concern about what happened with him in the last federal election. He has presented those matters to the Joint Standing Committee on Electoral Matters. He has presented those concerns to the Joint Standing Committee on Electoral Matters. I think he has a legitimate complaint about people trying to claim his title, his name and the first letter of his surname, which seems to be his particular brand.

But the concern that Senator Xenophon raises is—we do tend to come back to the conduct of the Labor Party over and over again in this—with respect to the 2010 state election in South Australia. This would not necessarily have stopped what happened at the polling booths, with people, effectively, representing themselves as aligned to Family First. The truth is that if it happens on polling day there is very little opportunity to stop it quickly.

Senator Xenophon interjecting—

Senator RYAN: I understand, but I do not necessarily think it stops the problem as it happens. There may be a penalty or a fine levied later on, but it does not actually stop the problem. There are pretty strong laws, for example, in Queensland, which were all exposed during the Shepherdson inquiry, about enrolling at the right place and not having a dozen people enrolled at one house. But the threat of imprisonment did not stop the misbehaviour. So I hasten to say that this does not necessarily prevent misbehaviour; it may actually seek to punish it.

But there is a bigger issue here: whether or not there should be a truth in advertising test in political debate. I am quite hesitant about this. I have seen this operate in other forums. I have seen this operate in voluntary organisations and non-government organisations. I do not know if the Trade Practices Act 1974 is the best example for us to use on this. Senator Xenophon and I have had long discussions about the accessibility to smaller players of what was formerly known as the Trade Practices Act as well as competition law for them to enforce their legal rights. It is clear there are problems in that space. I do not know if that is the path we necessarily want to go down with political debate. I do not know if that is the test we want to apply, because it does not really help the smaller player.

There is actually a bigger issue: do we actually want to see an increasing legalisation of our political processes? A lot
of the claims made in political advertising and political debate are contestable. Do we necessarily want a tribunal determining which particular claims are legitimate and which are not? I have said this before about issues of automatic enrolment. I think the AEC in Australia has a fine reputation. I do not want to see the AEC drawn further into political debate. If we say there is going to be any role for the AEC in determining truth in political advertising, the AEC will then lose some of its quite legitimate sheen as an independent agency that runs elections. Its conduct will then become the subject of political debate in the hottest environment possible: the midst of a federal election campaign. Quite frankly, that is not something that I think we should aspire for the AEC to do. The AEC is looked at around the world. Do we want to see our commission—I am not trying to necessarily paint this as the ultimate outcome, but it is a possible outcome—being looked at in the context of the way we might look at the conduct of some elections in other countries, where the agencies that run them are seen to be players in the debate, where the completely objective enforcement of the rules is not something that is alleged by one side or the other to be done unfairly? If we draw the AEC into ruling which claims are legitimate and which claims are not then I put to you that that is absolutely inevitable, and I do not think that is something we should aspire to.

Whether or not the Greens make a claim about a policy on climate change leading to the sea levels rising 50 meters in 10 years, whether or not the Labor Party makes a claim about the impact of Work Choices or whether we make a claim about the level of debt and its impact upon future Australians, I do not want those things to be determined legally. They are not questions that should be determined as if there is an absolute truth. Whether or not we used a question mark, a comma or an exclamation mark in the appropriate place, whether the footnote was big enough, the conduct of our elections will come down to legal technicalities and whether or not we have qualified a statement properly. Does anyone think we need political debate in this country to be more qualified, that we need to have fewer statements that are short, sharp and active?

The problem is that many of the statements we make in political campaigns are conclusions we have drawn from the evidence. The reason I sit in a different part of the chamber from where Senator Ludlam, Senator Xenophon and Senator Feeney sit is that we draw different conclusions from the evidence before us. That is political debate. So, on a philosophical or principled level, I think that we will be drawing the AEC in, potentially risking its reputation and trying to apply a legal test to a situation that we consciously give to the people to determine. If it came to referenda after these amendments were passed, Senator Xenophon, I think the situation would be even more risky, because if we go back through 100 years of debate over referenda and consider the effect of changing half a dozen words in the Constitution I venture to say that I, as a relatively well-known federalist, would draw very different conclusions to the conclusions that other people in this chamber would draw.

Did anyone think in 1944, when we added a few words in the Constitution to deal with social security and benefits for students, that we would necessarily have said that in 60 or 70 years the Commonwealth will be the sole funder and regulator of universities in this country? Let us go back to 1944. I do not think we would then have been able to predict the future well enough to be able to say: 'There's no basis for you to make that allegation. There's no basis whatsoever for...
you to come to that conclusion. That's misleading people about the impact of this particular referendum. Yet that is where we are today. I am not saying I would have made that prediction—I do not have that level of foresight on all things—but the point there is that that is something for the people to determine; it is not something for lawyers to determine and it is not something for the front pages of the newspapers of our country or for the television news to be leading with every night.

Do we really want our election campaigns to be accompanied by 'In the latest hearing before the AEC about the latest ad that the Labor Party or Liberal Party put up against one another, the finding has been as follows'? I say to you that I think they will if these amendments are passed. Senator Ludlam, I know the Greens have long campaigned on this, but I am a big fan of the bumper stickers that say 'A vote for the Greens is a vote for Labor'. Would you allege that that is misleading people? I know some Greens who have said to me, 'That's misleading.' I say it is not.

Senator Ludlam interjecting—

Senator RYAN: Are you going to seek to ban that from political debate? If it is misleading people and we have clauses such as this in the Electoral Act, what will happen is that those claims will be subject to some sort of adjudication by someone other than the people—that is, the people at the ballot box—whom we intend them to be subject to.

While I do understand that some who propose or support these amendments are motivated by the right reasons, I respectfully submit that they do not understand the consequences. The consequences will be in the conduct of political debate, which will lead to even more qualified language, more qualified statements and more jargon that our people can understand less than they can understand today's debate. Also, institutions which run our elections very effectively will potentially be drawn into political debate, and their reputations may be tarnished. So in a broader sense I think it is important to outline why there are some philosophical objections to the proposed amendments.

Senator XENOPHON (South Australia) (10:32): I will be brief. I think I must be doing something right, because both Senator Feeney from the government and Senator Ryan from the opposition have completely mischaracterised and misrepresented my amendments. Let us put this in perspective. These amendments relate to misleading conduct at polling booths where people get dressed up and say that they are representing Family First, another minor party or another Independent and then hand out how-to-vote cards when in fact they have nothing to do with the organisation. There were volunteers dressed up as Family First spruikers when in fact they were Labor Party stooges or volunteers.

Senator Ryan: It always comes back to the Labor Party. On that we agree with you, Senator Xenophon.

Senator XENOPHON: He agrees with me on that. There were also Liberals for Forests, as Senator Joyce points out. These amendments deal with that mischief. If passed, they would mean that, on polling day, somebody would not be able to dress up and say that they are representing Family First, another minor party or another Independent and then hand out how-to-vote cards when in fact they have nothing to do with the organisation. There were volunteers dressed up as Family First spruikers when in fact they were Labor Party stooges or volunteers.

Senator Ryan: It always comes back to the Labor Party. On that we agree with you, Senator Xenophon.

Senator XENOPHON: He agrees with me on that. There were also Liberals for Forests, as Senator Joyce points out. These amendments deal with that mischief. If passed, they would mean that, on polling day, somebody would not be able to dress up and try to hand you a how-to-vote card that said 'Put your Family First' or 'Vote Greens' or 'Liberals for Forests' or 'True blue Labor'. They would not be able to hand out a how-to-vote card for an organisation very different from the organisation that appeared to be represented.

I think that these amendments are quite narrow. They do not raise the broader philosophical issues that Senator Ryan was very much entitled to raise and that I think
will be the subject of further debate. The numbers are not here, but let us make it clear that this amendment was quite narrowly focused to deal with the mischief that occurred at the 2010 South Australian state election when the Labor Party's campaign—which Senator Feeney had nothing to do with because he was the architect of the stunning 2006 campaign—

Senator Birmingham: He probably left some recommendations behind, though.

Senator XENOPHON: No, I accept that Senator Feeney—

Senator Fifield: He's a source of inspiration to many!

Senator XENOPHON: There you go—Senator Feeney is a source of inspiration on the coalition side as well, and I do not think he needs that inspiration either from the coalition. These are focused amendments to deal with a wrong that occurred in South Australia on the state election day in March 2010. I think the numbers are not here, but this is something that needs to be dealt with eventually. I do not think that the amendments will cause the problems that Senator Ryan is concerned about, because they are quite narrowly focused, but that is another debate—a debate about truth in advertising.

Senator LUDLAM (Western Australia) (10:35): I do not propose to detain the chamber for long on this issue, but I do want to clarify one or two issues that were raised, particularly those raised by Senator Feeney. I acknowledge, though perhaps I did not do so strongly enough in my remarks, that I was deliberately providing some context for the views that I raised on Senator Xenophon's amendments. I quite freely acknowledge that the scope of these amendments is much narrower than the range of issues that I addressed, and I merely wanted to put on the record that this is something that we have long had a view on, not just because we have had many of these tactics deployed against us but also because they are in fact fundamental to the way that democratic debate is conducted in this country.

I apologise to Senator Xenophon for perhaps steering the conversation away from the direction in which his amendment intended it to go. I enjoyed Senator Ryan's contribution. I think that is precisely the kind of debate that we are trying to provoke here, and again I would raise the parallel with the way that we conduct debates and disputes in the trade practices realm. It is not currently lawful in this country—or, at least, it can be contested and disputed whether it is lawful—to lie and deliberately try to deceive people in commercial conduct. The matter of where we set the bar as to what constitutes deceptive conduct is, I think, the interesting conversation, and the bumper sticker example is a perfect one. That kind of conversation is precisely what we are trying to provoke here, given the severe consequences of deceptive conduct which attempts to change the political future of the country when it is engaged in during election campaigns. I do not think it is appropriate at all that people should have no recourse whatsoever when they are casting their vote if conduct is being engaged in that is blatantly deceptive. Senator Xenophon has raised a valuable point here. My comments were simply intended to broaden the debate and to remind senators that there is a great deal of unfinished business hanging over this chamber, including many of the issues that Senator Ryan raised, such as the independence and impartiality of the Electoral Commissioner as the umpire but particularly the fact that there is really no recourse—there is no backstop at the moment—for conduct engaged in on polling day or sustained, heavy advertising campaigns that are blatantly deceptive. At the moment,
regrettably, it is people who shout the loudest who are able to potentially influence voting behaviour.

We are simply pointing to the fact that this is conduct that needs to be addressed, because it is not as though it is a one-off. In every election that I have been involved in over the last 11 or 12 years, there has been an example you can point to where somebody simply has not been playing fair. Not all of the examples that come to mind would be contestable or appealable under the kinds of mechanisms that we are contemplating, but at least let us get something in place so that we can debate exactly how high that bar should be set.

Senator BIRMINGHAM (South Australia) (10:38): I would like to contribute to the discussion we are having here. I am inspired to do so, seeing that inspiration was taking hold in the chamber just before, to address some of the issues related to Senator Xenophon's specific amendment but also to address some of the broader issues that Senators Ludlam and Ryan have both so eloquently addressed. Senator Xenophon's amendment, as he has highlighted, follows from concerns related to the most recent South Australian election. That 2010 election saw some reprehensible conduct. Elections, sadly, do from time to time. In that instance the Labor Party in South Australia decided that dressing up as Family First volunteers and handing out how-to-vote cards purporting to be Family First how-to-vote cards that directed preferences in a manner—

Senator Conroy: No they didn't. That's outrageous. They did not purport to be Family First cards.

Senator BIRMINGHAM: They certainly did purport to be Family First how-to-vote cards. They were designed very much, Senator Conroy, to look like Family First how-to-vote cards. Michael Brown, the state secretary of the Labor Party, obviously was very inspired by the decision he made there. I do not know whether he was either Senator Conroy or Senator Feeney's candidate for the national secretary's position. I know Mr Brown was very hopeful of his chances there briefly, but, thankfully, those grubby tactics of the South Australian Labor Party were at least not deployed to the national office of the Labor Party on this occasion when you came around to choosing your own national secretary.

It was a very grubby act. We had the partners of Labor Party candidates dressed up in Family First T-shirts handing out how-to-vote cards.

Senator Fifield: No! Was it that blatant?

Senator BIRMINGHAM: It was that blatant, Senator Fifield. The partner of the member for Mawson, Mr Bignell, was there in her T-shirt purporting to be a Family First volunteer, handing out how-to-vote cards purporting to be from Family First but directing preferences in totally the opposite way to that which the actual Family First how-to-vote cards directed them.

So there was a serious issue at play here. It is an issue that has been canvassed by parliamentary committees in the previous federal parliament and, indeed, by the South Australian parliament but also by amendments to the act in this place already. We sought to tackle this issue of misleading how-to-vote cards. This, in the end, is the critical aspect here—that a how-to-vote card authorised by Mr Brown, the Labor Party state secretary, was directing preferences very clearly in a way that the party which it looked like they came from did not wish those preferences to go.

We have sought to address that here by making clear changes to the Electoral Act that ensure future how-to-vote cards must match up with those from the party of the
authorising person. Those changes were passed prior to the federal election. Senator Xenophon obviously believes those changes did not go far enough, but I think it is important to note that the changes we made were what should be done in our very fair, robust electoral system in this country. That is where we identify problems. We should narrow in on the problem and try to solve that problem, not broaden it and create potential unforeseen implications by proposing far wider solutions.

That is the concern with the amendment that Senator Xenophon has proposed. Yes, he is right, in a sense, that this amendment is narrow at the point of application in that it relates to the point at which a vote is cast; but it is broad as to the potential arguments that could be mounted around it. The notion of misleading and deceptive conduct at the polling booth is potentially far, far broader than the instance in South Australia with the written material of a how-to-vote card, which we have attempted to rectify through other changes to the act.

I would argue that this amendment would have potentially far more sweeping implications than the changes which we have already made that sought to address the particular problem that was identified. Whilst the intention behind this amendment—the desire to knock out misleading and deceptive conduct at polling booths—is sound, the potential arguments that could occur around that are very broad indeed.

When we think about the many, many thousands of Australian volunteers—volunteers for the most part—who give their time on polling day to stand at polling booths to attempt to encourage people to exercise their vote in a certain way, in most instances it all occurs in a very friendly manner. In most instances, the volunteers get along quite well and some unique and strange friendships are forged. But, from time to time, people cross a line in the way they behave at those booths. But, in crossing the line, it is very hard to argue where that line is drawn. It is very hard to judge the throw-away comments someone may make or the discussion they may have with a voter as they are entering the polling booth. These sorts of comments could all be captured by this amendment, and that is why it is, I think, a step too far in relation to tackling a particular problem—of misleading how-to-vote cards and misleading information given at the polling booth—that the parliament has already sought to tackle.

I will make some comments more broadly on Senator Ludlam's second issue, in relation to truth in conduct of elections, truth in advertising at elections and those general principles. There is probably very little I can add to the very sound arguments of my colleague Senator Ryan in this regard, but once again there seems to be a South Australian element or flavour that comes to this debate. Senator Ludlam has held up the truth-in-advertising standards of the South Australian electoral laws as a potential model for future debate in this place. Much as I would love, as a South Australian senator, to stand here and try to convince the Senate that the standard of conduct of elections in South Australia, the standard of debate during elections in South Australia, the quality of that debate and indeed the honesty and integrity in that debate are somehow greater than in federal elections or in any other state, I would, I fear, be guilty of misleading the Senate were I to make such claims.

Those laws have stood in South Australia for quite some time now. I have worked on numerous campaigns under them, and can I say they are little more than a pain in the proverbial for all to deal with rather than anything that actually promotes or delivers a
higher standard of political debate or conduct. Unfortunately, though once again they were put in place with good intentions, the reality is that they have delivered very little. The examples that Senator Ryan highlighted and the issues that he highlighted of the Electoral Commission becoming the arbiter of what is fact, what is not fact, what is misleading, what is not misleading, what is deceptive and what is not deceptive are indeed exactly what happens under the South Australian provisions. My entire job in one election campaign, for the last two weeks of that campaign, was to write letters to the South Australian Electoral Commissioner either alleging misleading behaviour in Labor Party material or responding to Labor Party allegations of misleading behaviour in Liberal Party material. That was pretty much the sole thing I did for those two weeks: to draft for our state director the arguments that were put backwards and forwards.

A large number of those cases were not resolved until after voting day. In almost all of the cases, the arguments were dismissed because, of course, they were all largely politically motivated arguments put by the different parties, and in the end I think there have been but a handful of examples—and there are some examples, but they are but a handful—where parties have been required to undertake corrective action for statements they have made. But, even where they have been required to undertake that corrective action, frankly it has been of little consequence. Often the corrective action is masked in a way so as to look like yet another piece of party material, and the actual correction is a bit like the corrections you will sometimes see buried away in newspapers; nobody much notices the correction when it is compared against the initial misleading statement in the first place.

So I would say that in this broader debate we do risk the problems that Senator Ryan highlighted: that we set up independent electoral commissioners as arbiters of political debate. That is something that would be most undesirable in our system. Trying to write these laws and trying to create and instil these principles of truth of political conduct or political advertising is a fine and noble principle, but in practice I do not believe it makes a jot of difference in South Australia. I do not believe that it works there. I do not think that it has broadened or enhanced the standard of our democracy there, and I would be very reluctant to see us set up a similar system at the Commonwealth level that would simply promote the same types of arguments between the parties and see us undergo the same types of wasting of time and resources not just of the political parties but of the Electoral Commission, who would be cast in that role of arbitration. So I would urge caution on that broader issue.

If I can return to the particular issue of Senator Xenophon's amendment, in closing I again emphasise that the issue we are talking about here, I believe, was broadly dealt with or specifically dealt with in the amendments passed to the Electoral Act that looked at how-to-vote cards and the structure of those how-to-vote cards. If there are particular things we can do to those amendments to strengthen them, I personally am most open to looking at that and I would hope the coalition would be as well, but I think it is important that, where we tackle those issues, we tackle them with a narrow focus not just on where they are applied but also on where there can be room for argument. I think the amendment proposed by Senator Xenophon unfortunately leaves a very broad scope for argument and for potential incidents at polling booths that we would not seek to be covered to become points of argument. I think that would be an undesirable consequence of the amendment.
Wednesday, 11 May 2011

Question negatived.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator FEENEY (Victoria—Parliamentary Secretary for Defence)

(10:52): I move:

That this bill be now read a third time.

Question put.

The Senate divided. [10:56]

(The PRESIDENT: Senator Hogg)

Ayes.................... 33
Noes.................... 31
Majority............... 2

AYES

Arbib, MV
Bilyk, CL
Cameron, DN
Carr, KJ
Collins, JMA
Crossin, P
Faulkner, J
Forshaw, MG
Fitzharris, SC
Hogg, JJ
Hutchins, S
Ludwig, JW
McKee, C
McLucas, J
Moore, CM
Moran, M
Polley, H
Pratt, LC
Sherry, NJ
Sterle, G
Xenophon, N

NOES

Parry, S (teller)
Ryrie, SM
Troeth, JM
Williams, JR

Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Bill 2010

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate)

(10:58): I rise to speak on the Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Bill 2010. This bill seeks to make two changes to electoral law that the coalition finds objectionable. The bill also makes two uncontroversial amendments to which the coalition is not opposed. The opposition sees no problem with allowing prisoners to remain enrolled on the electoral roll even if they are not permitted to vote—which is the substance of the first non-controversial amendment. The coalition also has no objections to the second uncontroversial amendment, which fixes an anomaly in the Electoral Act to ensure that all provisions of the act apply in the event of a half-Senate election. These two amendments are common-sense changes and the coalition does not seek to oppose them. However, the other two changes proposed in this bill are neither sensible nor common
sense and the opposition cannot support their passage through this chamber.

The first undesirable change proposed in this bill relates to enrolment and the date of the closure of the electoral rolls before an election. The government alleges that this change is designed to make sure that people are not excluded from voting. The government claims that previous amendments to the Electoral Act made in 2006—which changed the time of the closure of the electoral law from seven days after the issue of the writs to 8 pm on the day the writs are issued—prevented many people from voting. This claim is pretty simplistic, to say the least. Certainly, the number of new enrolment or changes of address that the AEC dealt with dropped from 520,000 in 2004 to 263,000 in 2007 after the amendments to the Electoral Act were made in 2006.

However, the amendments were accompanied by a strong advertising campaign funded by the then government to encourage people to enrol earlier. This is reflected in the fact that fewer people missed the enrolment deadline in 2007 than in 2004. In 2004 168,394 people missed the deadline of seven days after the writs were issued. Yet in 2007, when the deadline fell at 8 pm on the day the writs were issued, only 100,370 people missed the deadline. So we actually saw a drop in the number of people who were unsuccessful in their enrolment because of the deadline when it was moved forward under the 2006 laws.

Let us not forget, that it is indeed a criminal offence in this country to not be enrolled to vote once you are over the age of 18 years. What other laws are there that, when we break them, lobby groups like GetUp claim we are victims of some right-wing conspiracy of the Howard government? If we do not pay our taxes, no-one goes out on a limb to defend our rights to belatedly get the money to the tax office. If we forget to put on a seatbelt, no-one argues that they were not given enough time to do it up before driving off. In this country we are all bound by legal imperatives. Yet the legal imperative to be enrolled to vote and to have your enrolment record up to date is not sufficient for groups like GetUp. They feel that they need to sort of ride in on a white horse in case anyone has forgotten—

Senator Conroy: They did win the case.

Senator FIFIELD: As I was saying, GetUp have this irresistible urge to ride in like a knight on a white horse ready to right a great wrong. In this case, GetUp sought to do that just in case anyone had forgotten not to break the electoral laws of the land.

Moreover, part of the reason the previous government felt the 2006 amendments to the Electoral Act were necessary was the legitimate concern about the possibility for electoral fraud from high levels of new enrolments after an election has been called. The integrity of the roll can be easily compromised when you have large numbers of people enrolling themselves at the very last minute, after an election has been called, particularly in a marginal seat. That does open the prospect of a compromise of our electoral system.

The decision of the High Court in the case of Rowe v The Electoral Commissioner, which relates to the time of the closure of the electoral rolls, was interesting because the dissenting judges were very strident in their opposition to the decision which declared the 2006 amendments unconstitutional. In particular, Justice Heydon was strongly opposed to the decision. He said of GetUp's actions, in which they deliberately confected late enrolments in order to appeal to the High Court when their enrolments were rejected, and I quote:
The plaintiffs were prevented from exercising their entitlement because they failed to comply with simple obligations and procedures.

He also said:

All other voters outside the three exceptional classes who fail to enrol or transfer enrolment are the authors of their own misfortune.

Let me repeat that. Justice Heydon said that they are 'the authors of their own misfortune'.

He continued:

They have not taken the steps to enable them to vote which were not only available to them, but required of them by s.101. They are simple steps. It would have been very easy to take them. There was ample time to take them... It is they who disqualify, disenfranchise, exclude or disentitle themselves, not the legislature.

I want to reemphasise what Justice Heydon said there. He said:

It is they who disqualify, disenfranchise, exclude or disentitle themselves, not the legislature.

Spot on! They are very strong words and, in my view, they are entirely accurate. It is not the Electoral Act that disenfranchises a person, but rather a person's unwillingness to take the simple steps required of them by law to maintain an accurate enrolment. It is not the job of the state to be lenient on people who fail to do what is required of them by law and who lose out as a result of their own actions.

The second objectionable change proposed in this bill relates to the eligibility of some prisoners to vote. Prior to 2006, any prisoner serving a custodial sentence of three years or more was prohibited from voting in federal elections. In 2006, the Electoral Act was amended so as to prevent any prisoner serving a custodial sentence of any length of time from voting. He bill before us today reverts the law on prisoner voting back to the legislation that existed prior to the 2006 amendment, in line with the High Court decision in Roach v the Electoral Commission. The coalition introduced that amendment in 2006 because we believe that people who commit crimes sufficient enough to warrant a prison term should not, while serving that prison term, be entitled to vote and thereby exercise influence on the society whose laws and rules they have disregarded. We believed that in 2006 and we believe that now. People serving prison sentences have committed significant crimes and have proved themselves unwilling to accept the laws that govern this country. As a result, they have forfeited their right to have a say on the governing of this country for the period of their prison sentence.

I trust that I do not need to go through an extensive list of the crimes committed by people currently incarcerated in prisons across the nation. These people have broken laws and many have committed truly heinous crimes. Why on earth should our worst criminals be afforded the same voting rights as Australians who live their lives within the bounds of the law?

This bill is contrary to the principles that form one of the foundation stones of the justice system in Australia. We believe that if you refuse to live by the laws of our community, then you lose your right to participate in our community. That is after all why we send criminals to prison. But a prisoner voting in an election necessarily constitutes participation in the community in which they have forfeited their right to participate by committing a crime. The Labor Party is therefore undermining on a fundamental level one of the principles from which we derive our sense of justice in this country.

There is no compelling reason why this bill should go back to the three-year custodial sentence period as the cut-off point for prisoner voting. It would make much more sense for the cut-off point to be at the
one-year mark. Section 44 (ii) of the Constitution states that any person who:

… has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer …

… shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

So you cannot run for office if you are serving or are going to serve a prison sentence of one year or more. Should this rule not apply to voting eligibility as well? We think it should. The coalition believes there is a compelling case to connect this legislation with this section of the Constitution, and I will be moving amendments—which have already been circulated in the chamber—to this bill to that effect.

These amendments have two key justifications. Firstly, the amendments lower the maximum sentence served for which prisoners may still vote from three years to one year. This would bring the electoral law in to line with Section 44 (ii) of the Constitution, as I outlined before.

The coalition believes that connecting this section of the Constitution with the Electoral Act is common sense, as the right to vote is very much linked with the right to run for office and serve as a member of parliament. Indeed, the High Court of Australia, in its majority judgment on the case Roach v Electoral Commissioner, rejected the idea that the right to vote and the right to be elected and serve in parliament are not connected. Secondly, these amendments recognise that many prisoners serving sentences of two or three years have committed significant, often abhorrent crimes.

Certainly, removing someone's ability to vote is significant and should not be done lightly. But some of the crimes committed by people who will serve prison sentences of between one and three years are particularly offensive. Some child sex offenders are sentenced to less than three years in prison. Some perpetrators of extreme physical abuse involving the use of weapons are sentenced to less than three years in prison. Some people who perpetrate horrific violence on other members of our community are sentenced to less than three years in prison. Some people who are convicted of owning and disseminating child pornography are sentenced to less than three years in prison.

If this bill goes unamended by the coalition, many of these criminals will be granted the right to vote. I think this is a serious affront to the community's sense of justice.

People serving prison sentences are doing so because they were unwilling to accept the laws that govern this country. The coalition believes that, as a result of their unwillingness, they forfeit their right to have a say on the governing of this country for the period of their prison sentence.

I asked this question previously and I will ask it again: why should some of the worst criminals be afforded the same voting rights as Australians who live their lives within the bounds of the law? This bill is an insult to some of the principles of justice in our community. The reason we build prisons and lock people up in them is because we believe that if you refuse to live by the laws of our community then you lose your right to participate in our community, and voting for your choice of government is certainly part of participating in your community.

The amendments that the opposition will propose will bring the electoral laws into line with the Constitution in a sensible way. I am sure that most Australians would agree that there are criminals out there whose crimes are so serious that they do not deserve to
vote. They do not deserve access to the rights and privileges of Australians who choose to live their lives within the bounds of the laws that govern our society.

I will move these amendments in the committee stage. I put these amendments to the Senate and strongly recommend that they be passed.

The Labor Party has an appalling track record when it comes to trying to tweak electoral laws in their favour. That is why we must always be wary of the motives in legislation. It was not that long ago that there was still a state Labor government in New South Wales where we saw the efforts of the Labor Party there, with the support of the Greens, change the electoral laws in that state to the benefit of those two parties. Indeed, the Labor Party has twice now attempted to change the federal electoral laws in their favour. I refer, of course, to the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2010. Despite those opposite constantly complaining about the undue influence of big donations, that bill makes no attempt to regulate the biggest donors in Australian politics—the trade union movement. Why? Because we know where they get their money from.

But back to this bill, the bill in question: this bill makes two entirely unacceptable changes to the electoral laws of this country, and the coalition cannot and will not support either of them. We reject measures that will compromise the integrity of the electoral roll and we reject measures that give criminals the same voting rights as law-abiding Australians. However, I do encourage senators to consider the amendments that the coalition will put forward in the committee stage as a commonsense way to bring electoral laws into line with the Constitution without rubbing the principles of justice that we hold dear.

Senator CAROL BROWN (Tasmania—Deputy Government Whip in the Senate) (11:15): I rise today to also make a contribution to the Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Bill 2010. The bill we are debating today makes amendments to the Commonwealth Electoral Act 1918 and the Referendum (Machinery Provisions) Act 1984 to give effect to two decisions of the High Court of Australia.

The first decision by the High Court, as part of the Rowe v Electoral Commissioner case, relates to the close of rolls period decided on 6 August 2010. The second decision by the High Court was from the Roach v Electoral Commissioner case and relates to prisoner voting, which was decided on 30 August 2007. The High Court determined in both the Rowe and Roach cases that certain amendments made to the Electoral and Referendum Amendment (Electoral Integrity and Other Measures) Act 2006 were invalid.

The decision made by the High Court on the Rowe case relates to a purported attempt to decrease the close of rolls period; that is, the cut-off deadline for enrolment after the issue of a writ for an election. The Roach decision by the High Court concerned a purported disqualification of all persons serving a sentence of imprisonment from voting.

The bill we are debating today will help restore integrity to the roll by updating the Commonwealth Electoral Act 1918 to reflect the current constitutional position declared by the High Court. The High Court decision means that the Electoral Act 1918 will be amended to restore the close of rolls period to seven days after the date of the writ for a federal election. It will also reinstate the
previous disqualification for prisoners serving a sentence of imprisonment of three years or longer from voting at a federal election.

The bill will also address two matters which were raised as part of an inquiry by the Joint Standing Committee on Electoral Matters into the 2007 federal election and matters related thereto. As a member of JSCEM, I am pleased to see that through this piece of legislation and others the government is implementing a number of the recommendations identified as part of our inquiry into the 2007 federal election.

As part of the legislation we are debating today, we find that recommendation 47 of the JSCEM report is being implemented. Amendments ensure that while prisoners serving a sentence of imprisonment of three years or longer will be disqualified from voting they may remain on or be added to the electoral roll, which I believe Senator Fifield has indicated the opposition will be supporting.

The amendments relating to the close of rolls give effect to recommendation 1 of the JSCEM report, which led to the seven-day rule. The JSCEM report said in recommendation 1:

The committee can see no valid reason why it should be necessary to continue with close of rolls arrangements that serve to disenfranchise electors and that require unsustainable levels of funding to be expended in order to partly mitigate their effect.

There is no evidence that fraudulent activity was reduced as a result of the amendments to the close of rolls. On the contrary, there is no evidence available that indicates systemic fraudulent activity exists. Those opposite will cry foul over the possibility of potential fraud in the electoral system as part of this change to the Electoral Act, but the JSCEM report rebuffs this suggestion.

The Special Minister for State, the Hon. Gary Gray MP, highlights that a significant number of people were added to the roll before the last election, after the decision by the High Court. He states:

... A legislative purpose of preventing ... fraud “before it is able to occur”, where there has not been previous systemic fraud associated with the operation of the seven day period before the changes made by the 2006 Act, does not supply a substantial reason for the practical operation of the 2006 Act in disqualifying large numbers of electors.

This means you cannot merely assert fraud but have to show that substantial fraud is occurring before you go down the path of disenfranchising large numbers of electors. The opposition, for many years, has asserted that fraud is happening and they think that somehow the electorate will believe them.

The bill also includes an interpretative provision to ensure that certain references in the Commonwealth Electoral Act 1918 to ‘an election for a division’ or similar expressions can operate in the event of a half-Senate election held independently from an election of the House of Representatives. This addresses an anomaly in the Commonwealth Electoral Act 1918.

This bill builds upon the Labor government’s commitment to bring about
electoral reform and create a more transparent and robust electoral system. We have a number of pieces of legislation currently before the parliament which those opposite continue to oppose. Those opposite are not really interested in genuine electoral reform; otherwise, they would have already offered bipartisan support for a number of crucial electoral reform bills.

The Labor government is committed to the passage of legislation which brings transparency and accountability back to the electoral system. Under the watch of those opposite, transparency was thrown out of the window and loopholes were exploited. We have moved to tidy up the funding and disclosure system through the political donations and other measures bill, which introduces six measures across three key areas and will increase the transparency of political donations and disclosure, ensure that there is more frequent and timely reporting of political donations and expenditure and reform the public funding of elections. Overall, this will deliver a more transparent and accountable electoral system, along with the bill we are debating today, which will change the date for the close of rolls to seven days after the issue of the writ and will rectify the previous disqualification of prisoners serving a sentence of imprisonment of three years or longer from voting at a federal election.

In conclusion, this is an important bill that is necessary to ensure that the Commonwealth Electoral Act is reflective of the decisions made by the High Court of Australia. It is also important as it returns the seven-day period of the close of rolls after the issuing of the writs. This is fundamentally important to the government as it is an essential amendment to ensure that the maximum number of Australians are able to have their say in the democratic process and vote in elections. This includes rectifying the previous disqualification of prisoners serving a sentence of imprisonment of three years or longer from voting at a federal election. I commend the bill to the Senate.

Senator RYAN (Victoria) (11:23): I will not recap the contribution of Senator Fifield on the Electoral and Referendum Amendment (Enrolment and Prisoner Voting) Bill 2011 other than to say I am in support of it, particularly his critique of how we got to this point through the decisions of the High Court and the history of electoral reform in this area. I will not in detail debate the contribution of my predecessor; the issue has been debated many times in this place. But as long as the government refuses to address the single biggest donors to political parties in this country—the very groups that actually control the party that makes up the government—then, quite frankly, its bleating about transparency will never be taken seriously. And it is nothing more than that—contrived bleating.

To suggest or imply that there are people on this side of the House that do not want every Australian who has the right to exercise their vote to do so is to mislead this debate. At the same time, to say that it is somehow a burden to have to fill out a simple, DL sized, envelope sized, form to enrol to vote—that it is somehow hard to expect people to comply with that law to exercise their right to vote at polling places open all around the country, through prepoll voting, which is getting more and more common, or through postal voting, which is as easy to access here as anywhere in the world—is to lower the bar for voting so much that it becomes worthless.

The opposition opposes the bill. To add to the contribution of Senator Fifield, I would like to discuss how we got here, because I think this is very important. This legislation poses a challenge for this parliament because
it is partly—the government probably has a different view, but at least on our side we accept this—the result of High Court decisions in Rowe and Roach. They pose a challenge for this parliament, and I will go into that, but at the outset I will say that I am a strong supporter of judicial review; I always have been. A written constitution requires an authority to expound and enforce it and, in the words of Justice John Marshall, 'we must never forget that it is a constitution we are expounding', it is not merely a normal statute. In that great case of Marbury v Madison, which established this point, he said:

If then the courts are to regard the constitution; and the constitution is superior to any ordinary act of the legislature; the constitution, and not such ordinary act, must govern the case to which they both apply.

That may seem a little complex, but it is essentially the clause that established the concept of judicial review as we know it, and it is an important part of our Constitution.

But it also poses a challenge. The High Court rightly draws limits around the powers of this place. We have in our Constitution a Commonwealth of limited powers. For a decade it was debated and deliberated upon in great detail by the founding fathers and drafters, who were elected by the people after 1897. These drafters were, I should restate, elected by the people, and the Constitution was in a meaningful sense adopted by the people of Australia at the time voting in referendum—in some cases, on multiple occasions. For those who would put the view that it is merely an act of the Westminster parliament, I point them to the opening clauses of the Constitution, which qualify the position of Western Australia pending the result of a referendum being held in that state. In every meaningful sense, our Constitution was adopted by the people of Australia just over a century ago.

Despite the constant invitations by those opposite to change the original text, it has remained unchanged. I actually view the failure of referenda proposals put up by this place as a success of democracy rather that something that needs to be addressed. One of its great elements is that our Constitution was made the property of the people by section 128 and it is outside the power of this place to change that—it requires a vote of the people to do so. This legislation directly impacts on that, but it also is a result of the Constitution remaining outside the ambit of this place.

At referendum after referendum, the people of Australia have voted against constitutional change that centres more power in this place. They have also voted against change that allegedly creates or enshrines certain rights, and they have done so on multiple occasions. Yet, over decades, this parliament has attempted to circumvent those with elaborate constitutional schemes to avoid the protections granted to the people assembled in state parliaments.

It was the High Court, the so-called 'keystone of the federal arch', that was supposed to prevent this, and I do not think anyone would argue seriously that it has failed. In the particular case that I am getting to, we do have the High Court discovering certain 'implied rights', or however they may be described. It has failed to protect the constitutional structure from actions of the Commonwealth parliament and it has failed to protect it from temporary political passions, with notable exceptions—and this is the quandary we now find ourselves in. While the High Court has allowed the contrived constitutional constructs of the uniform tax cases and has seen fit to draw no boundaries around the two words 'external affairs' in section 51 of the Constitution—or, indeed, trading and financial corporations—the High Court has done so on this occasion.
It has also, rightly, protected the judicial power from encroachment by the legislative powers. But it has seen fit to intervene in electoral administration. This is not a voting rights case; this is an administrative one. If I turn to the Constitution and the clauses upon which this hangs, section 7 and section 24, we find the important words 'directly chosen by the people'. These are the words that the High Court has used to infer a limit on the Commonwealth power in this place to administer the electoral processes, despite the fact that section 30 outlines that the qualifications of electors stand as they are until the parliament otherwise provides. The Constitution grants these powers to the parliament and we find ourselves in a situation now where the High Court, despite not actually finding any implicit real restrictions on Commonwealth power with respect to its legislative power vis-a-vis the states, has done so on, of all things, whether or not the electoral rolls close and when they do so. In this particular case the High Court's decision, the dissent that was outlined by Senator Fifield and the words of Justice Heydon, where he referred to people being the authors of their own misfortune, may in fact come back to haunt this place, because decisions have actually been known in this place to be changed. That is the basis of the judicial power.

I put to you, Acting Deputy President Trood, and to the parliament that the High Court has seen fit to constitutionally intervene in an electoral matter that did no more than exercise the power to administer elections that is implicit in this place and that in fact the words 'directly chosen by the people' do not necessarily constitute a reasonable interpretation of the timing of electoral rolls closure.

The founders consciously chose to avoid the inclusion of a bill of rights in our Constitution. There are various guarantees scattered that generally limit the power of the Commonwealth throughout it, but it was a conscious decision to not have a section that guaranteed due process or a section that guaranteed voting rights. In fact, one of the founding fathers, Andrew Inglis Clark, promoted this very point and a due process amendment similar to the US 14th amendment, but he did not succeed. Yet our High Court has determined that this one limitation upon Commonwealth power should be discovered; that this one implication, this one implied right, should be discovered about something about the timing of rolls closure—not to do with who is eligible to be on the roll, at least in the Rowe case, but purely about the timing of the closure of rolls.

That is fine, but we should actually look at the High Court over its century—or 90 years since the Engineers case—and whether it is actually applied the same standard of discovering limitations on Commonwealth power in fulfilling its prime constitutional role, and that is to limit the powers of this place vis-a-vis the states. In this case I will actually quote the words of then Professor Greg Craven, who outlined in his Deakin Lecture in 1997:

The positive, and fundamental role of the High Court was to protect federalism. In this connection, it goes without saying that the Constitution itself breathes federalism, not merely implicitly, but expressly in its very terms. In reference to decisions that were discovering rights that were literally not written into the Constitution—not all of whose cases I actually oppose—he also said:

Fundamentally, there were two things that the Court was not intended to do. Generically, it was not to be the role of the Court [to] "up-date" the Constitution in light of the passage of time. Secondly, and more specifically, the Court was not intended to operate as a court of human rights,
enforcing abstract constitutional guarantees of civic liberties.

Those two facts are incontrovertible when one looks at the *Hansard* of our convention debates. We do not rely on the notes of people that were there; we actually have a full record of the committees and of the conventions themselves. I put to you, Acting Deputy President, and to the parliament, that in considering this legislation and how we got here, while we duly respect the decision of the High Court—it has that role in our Constitution—we should also consider whether or not, while it finds implicit limits upon Commonwealth powers in words that do not exist in the Constitution, while it finds implied rights that specifically were not placed in the Constitution by the people who drafted it and then put it to the Australian people for a vote, the High Court, discovering these, is failing in its most important duty, the role for which it was created, which was to actually limit the activities of the Commonwealth parliament in those areas with which it was specifically prescribed.

The opposition will be moving amendments to this legislation to maintain some degree of integrity in our voting system and some degree of fairness in our justice system to ensure that not all those prisoners who necessarily under the Labor Party's model would get to vote will get to vote. They are fair and reasonable amendments.

**Senator LUDLAM** (Western Australia) (11:34): I will just rise to add some brief remarks on behalf of the Australian Greens on this bill on a day when we have spent quite a bit of time discussing electoral reform. I indicate at the outset that the Australian Greens will be supporting the bill.

The two key issues, obviously, which have been fairly well canvassed in the debate thus far are those around the closing of the rolls. Schedule 1 to the bill addresses the Rowe decision and contains amendments relating to the close of the rolls. This is something on which we have been very strongly on the record since the decision was made by the Howard government.

The first of the High Court decisions that I will address, as other senators have, is *Rowe v Electoral Commissioner* as decided on 6 August 2010. That case related to the period of time before the close of rolls allowed for voters to either ensure that they were on the electoral roll or to update their details following the formal issue of a writ for an election. While the High Court has not yet handed down the reasons for its decision, there is sufficient information to amend the legislation to reflect the decision that has been made. This obviously will unto the changes that the Howard government made to the law which resulted in two important deadlines for the close of the rolls: at 8 pm on the day that the writ is issued for people enrolling for the first time or re-enrolling after having been removed from the roll, and at 8 pm on the third working day after the writ was issued for those who are (1) eligible who are currently enrolled but needing to update the details, (2) not enrolled but who will turn 18 between the issue of the writ and polling day and (3) eligible who are not enrolled who are to receive Australian citizenship between the issue of the writ and polling day. These changes were deemed necessary by completely unsubstantiated claims by the coalition government of the day of an untenable administrative burden on the AEC or electoral fraud damaging the integrity of the roll and encouraging voters to leave updating the details with the AEC until the very last minute.

I can remember the conduct of that debate quite vividly. It is worth noting that following the 2001 election the AEC conducted an audit in South Australia of address changes in the week from the issuing
of the writs to the close of the rolls, and in a roll of one million people no evidence of electoral fraud was uncovered. Elections are not held on fixed dates and they can be called unexpectedly. The Australian Greens would perhaps take a different position on this if you could see a federal election coming three or four years in advance. Then I think perhaps the coalition would have a leg to stand on in this debate. But of course we have not solved that particular issue federally. My colleagues in state parliament in the upper house in WA are looking forward to debating to provide for fixed four-year terms in the Western Australian parliament. At that point you could have a sensible debate about when the rolls should close, either if you were a new voter or if any of the other conditions apply that we are seeking to amend here. ut at the moment in federal politics elections are still called by the Prime Minister of the day for essentially tactical reasons, and it is all about political advantage for the party that has the hand on that particular lever of the issuing of the writs. I think most MPs privately will admit that that is an untenable situation, and that is something I will address in later remarks.

Closing the rolls early effectively disenfranchises voters—and let us be serious, that was the intention of the amendments in the first place—about 80,000 new voters; and particularly it disenfranchises young people. Senator Fifield's comments very early in the second reading debate—that is, that parliament did not disenfranchise people, people did because they did not respect the law and they did not bother to turn up on time—is extraordinarily disingenuous because this parliament sets the laws and the rules of conduct by which elections are conducted, and then it is up to people to keep track. We may live and breathe politics in this building and the various constituencies that we deal with, but for many other people politics is distant to the point of irrelevance. I think it is partly because of the conduct that is frequently displayed, for example, at question time, where we make a collective mockery of ourselves. The media obviously plays its part as well in the trivialising and politicising of policy debates. That aside, this is one of the reasons why people, particularly first-time voters, might not be sensitively attuned to the way that electoral law changes and the calling of the election is the wake-up call for many, many people, particularly young people—'All right, I'm interested in this debate. This is something I want to participate in. I am entitled to participate and so I'm going to get myself on the electoral roll or make sure that my details are accurate'—at which point they discover that former Prime Minister John Howard has made that impossible on their behalf. Some of the comments that we heard from coalition speakers revealed the gigantic disconnect between the theory and the practice.

The reduction in time for voters on the roll to change their address details created difficulties for about 200,000 people in the instance that I was addressing before. At the last election 62,583 people joined the electoral roll during the seven-day grace period. That was made up of about 16 per cent of the total growth of enrolments since the previous election, and that was partly at the will of the Prime Minister of the day. At the 2004 election 77,231 new electors, many of them young, first-time voters, got on the electoral roll during that seven-day window. Early closure of the rolls impacts disproportionately on younger voters in terms of adequate provision for first-time enrollers and due to the fact that the living arrangements of younger Australians are more likely to change from one election to the next; it is a more mobile population.
Young people are identified as a priority cohort for achieving the AEC target participation rate of 90 per cent of eligible electors being enrolled to vote. That is a good target, it is a healthy target, it is much higher obviously than in jurisdictions where enrolment is not compulsory and it is something that we can be justifiably proud of. It is encouraging participation in the democratic process. I do not believe—Senator Fifield can call me out on this if I am wrong—that any coalition speakers addressed the demographic imbalance of the people who were effectively disenfranchised by the changes that were made by former Prime Minister John Howard, and the fact that young people found themselves disproportionately impacted.

This bill brings Australia back into line with international standards: Australia, 8 pm on the day that the writs are issued, a minimum of 33 days before polling day; Canada, it is polling day; New Zealand, it is the day before polling day; the UK, 11 days before polling day. This bill does promote a valuable amendment to the way elections are run and the way that people can find themselves able to participate or not when the polling day finally comes around. It was a recommendation of the Joint Standing Committee on Electoral Matters in the Report on the conduct of the 2007 federal election and matters related thereto. The Australian Greens had planned to move amendments to the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2009 in the Senate to repeal the 2006 amendments, and we are therefore happy to support the government in finally taking action on this issue.

On the issue of prisoner voting, which I will address briefly, schedule 2 to the bill addresses the Roach decision and contains amendments relating to prisoner voting. The second High Court decision that this bill touches on is Roach v Electoral Commissioner, as decided on 30 August 2007, with reasons published on 26 September 2007. This decision relates to the franchise for people who may be serving a sentence of imprisonment. The amendments would ensure that while prisoners who are serving a sentence of imprisonment of three years or longer will be disqualified from voting, they may during this period of disqualification remain on or be added to the electoral roll. Remaining on the roll will ensure that a prisoner who has served his or her sentence does not have to enrol for a second time and will in part assist the prisoner's transition back into Australian society. I understand there are opposition amendments foreshadowed by Senator Fifield to change the three-year term to one year, which the Australian Greens do not support.

I will turn to other reforms that are not included in this bill, which we can perhaps address during the committee stage, which the Greens also support. Again, as I did during the debate on the earlier electoral reform bill, I would like to provide some context for why the Australian Greens are voting the way that we are on this particular package of legislation and to foreshadow some of the things that we believe still need to change. For example, lowering the voting age to 16 years and making that optional for younger people to be able to vote. You will notice a certain pattern here: that all of the proposals that we put on the table, and these are things that Senator Bob Brown has been championing for many years, encourage democratic participation, encourage political debate by the widest possible diversity of views.

Restricting the use of postal voting applications for party political purposes. We have probably all seen examples of this, where the boundary is completely blurred
between the kind of independent material that you expect to get from the Electoral Commission and party political material which provides you with the ballot at the same time as telling you how to vote. That would be an extremely valuable reform which is not often spoken of.

Allowing public citizens and dual citizens to stand as candidates in federal elections. Again, widen the franchise for candidates and for voters and broaden participation in our democratic process as much as possible. Adopting fixed terms for federal parliament. It is a long time since this has been seriously looked at. There are vague whiffs of this one that float in and out of the public debate, but it has never been seriously taken on. If any senator in this place would like to provide a rational justification for why the Prime Minister of the day gets to call an election I would be delighted to hear it, because I have not heard a convincing case made for that in the past.

Public funding for elections is an issue that Senator Brown has been championing for many years, as many of us have, as a way of pulling the corrosive influence of corporate funding out of our election process. Public funding for elections provides a platform for the entire diversity and the whole spectrum of political opinion in Australia to take its place at the table and potentially in these debating chambers here in Canberra.

As senators will obviously be aware, the proportion of the vote in the Australian public is not at all reflected by the proportion of representation in the House. That is one example where the Senate at least shows the way. The proportion of the vote—and I am not saying this because I am on the crossbenches; I think this is something that would be of interest to us all—should as accurately as possible reflect the balance of voting intentions and reflect the will of the popular view. Despite the malapportionment between the states and territories, the Senate still manages to reflect the popular view far more accurately than does the House of Representatives. Proportional representation in the House of Reps is, I think, a serious piece of unfinished business that needs to be addressed.

Another issue that Senator Brown has spent many years campaigning on is optional preferential above the line voting in the Senate to do away once and for all with the backroom preference negotiations and deals that are done by all parties and anybody contesting a political contest in Australia. The kinks and the quirks in the system on many occasions go some way away from reflecting the balance of popular opinion and the balance of political views in the community when preferences are channelled in various directions which people who vote '1' on the ballot paper may not necessarily be aware of unless they are paying very close attention to the Senate ticket. Optional preferential above the line voting in the Senate would go some way towards addressing some of those issues which I think are quite poorly understood in the community and tend to distort the political debate and the tone of debate during election campaigns and become the focus of excessive coverage by media organisations. I am not sure whether that is justified or not, but the fact is that we should take a serious look at anything that distorts the popular will and the will of the voter.

I will not dwell on truth in political advertising because we did canvass that in the early debate. And why not ban how-to-vote cards while we are at it? I have participated on polling day in election after election, and people are simply fatigued by the kind of behaviour that they are subjected to on polling day. Why not take a look at some examples from around the Australian states and, indeed, international experience
where everybody is given access to voting material and advice on how to vote but we are not simply dumping thousands of tonnes of paper on people to be used so ephemerally and then discarded. And potentially there is the introduction of electronic voting as well. What can we do to bring our electoral system into the 21st century as a way of broadening the franchise and enabling participation as broadly as possible?

These are things which this bill does not touch, but I do not intend to detract from the fact that this is an important reform. It is a reform that is contested by the coalition, which put these distortions into the system in the first place. The government should be congratulated for bringing these measures forward.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (11:48): I rise to wind up the debate on the Electoral and Referendum Amendment (Provisional Voting) Bill 2011 and I would like to thank all senators who have contributed to this debate. This bill does two things. First, it repeals the amendment made to the Electoral Act by the Howard government in 2006 which stipulated that the electoral roll must close at 8 pm on the day on which the writs for a federal election are issued. That amendment abolished the traditional seven-day period of grace in which voters could enrol to vote or change their enrolment details after an election was announced. Second, it repeals the Howard government's 2006 amendment which deprived all prisoners serving sentences of full-time imprisonment of the right to vote and returns the law to where it was before 2006, restricting the deprivation of the franchise to prisoners serving a sentence of longer than three years.

As Minister Gray, the Special Minister of State, noted in his second reading speech, in both cases the provisions of this bill have been prompted by recent decisions of the High Court of Australia. In 2010 the High Court found in Rowe v Electoral Commissioner that the 2006 amendment abolishing the period of grace for enrolment was invalid. The court's reasoning was that such a restriction on the right to vote contradicted sections 7 and 24 of the Constitution, which provide that the Senate and the House of Representatives shall be directly chosen by the people. The court found that the Howard government's amendments operated as a disqualification of citizens from their constitutional entitlement to vote, without sufficient substantive reason. This decision was in part based on a 2007 case—Roach v Electoral Commissioner—in which the court made a similar finding in relation to the 2006 amendment which excluded prisoners from voting. In that case the court found that, although it was legitimate to deprive prisoners serving long sentences of the franchise, it was an unwarranted restriction of the constitutionally guaranteed right to vote to exclude all prisoners serving custodial sentences from the franchise, since this was applying an arbitrary exclusion not based on any consideration of the severity of the offence.

These two High Court judgments require the parliament to amend the Electoral Act to bring it into conformity with the Constitution. But I want to make it clear that the first part of the bill, the part relating to the closing of the rolls on the day the writs are issued, is being brought forward not simply because the High Court decision requires it but because it fulfils a commitment which Labor has taken to the last two federal elections to reverse the regressive changes made to the Electoral Act 2006 by the Howard government and thereby restore fairness to our electoral system. The effect of
those changes in 2006 was to make it harder for Australians to vote and harder to cast their votes. The changes were based on the calculation that the majority of people who would lose their vote would come from social groups more likely to vote Labor. Professor Brian Costa, of Swinburne University in Melbourne, one of Australia’s most respected political scientists, told the Joint Standing Committee on Electoral Matters:

We know that provisional voters are not a mirror image of the electorate as a whole. They tend to be more Labor and Green than they are Liberal, National or anything else.

The coalition claimed that these amendments were necessary to maintain the integrity of the electoral roll. They still maintain this claim today despite the fact that there is no evidence to support the assertion that any such threat exists. The Senate does not have to take my word for it on this point. Let me quote Emeritus Professor Colin Hughes, a former Australian Electoral Commissioner. At the time Senator Abetz introduced his amendments in 2005 Professor Hughes wrote:

The thorough review of the electoral roll conducted in 2002 by the Australian National Audit Office concluded that, overall, the Australian electoral roll is one of high integrity and can be relied upon for electoral purposes. There are adequate safeguards in the current electoral laws and procedures to deal with any future attempts at fraud without stripping the vote from hundreds of thousands of citizens.

This bill reverses the unjustified and undemocratic amendments made by the Howard government to the Electoral Act in 2006. In doing so, the bill restores fairness and equality of treatment for all voters in our federal elections and referendums. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (11:53): by leave—I move opposition amendments (1) to (5) on sheet 7044:

(1) Schedule 2, item 2, page 9 (line 23), omit “3 years”, substitute “1 year”.

(2) Schedule 2, item 3, page 10 (line 8), omit “3 years”, substitute “1 year”.

(3) Schedule 2, item 3, page 10 (line 11), omit “3 years”, substitute “1 year”.

(4) Schedule 2, item 3, page 10 (line 19), omit “3 years”, substitute “1 year”.

(5) Schedule 2, item 3, page 10 (line 22), omit “3 years”, substitute “1 year”.

I do not propose to talk at length about the opposition’s amendments, which were canvassed at length in my earlier contribution. Suffice to say that the coalition is unequivocal in its view that those who have broken the law, those who have been sentenced to more than one year in prison, should forfeit their right to participate in the community by way of casting a ballot at an election. We were very comfortable with the amendments which we introduced when we were in office. Given the government is seeking to change that situation, seeking to reflect in legislation the decision of the High Court, we think that it is appropriate to link the eligibility to vote to the constitutional requirement that someone who has a custodial sentence of more than a year is not eligible to stand for parliament. We think that is an inappropriate linkage to make. I will not go any further on that matter. I have canvassed it at length in my contribution. I commend the opposition amendments to the chamber.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (11:56): I will respond to those remarks from Senator Fifield. Obviously, in
considering the amendments set out on sheet 7044, the government opposes those amendments. We oppose those amendments on the basis that we have received legal advice on the international law aspects of this proposal from the Attorney-General's Department. That advice states that limiting the right to vote in the way envisaged by these opposition amendments would 'not be objective, reasonable or proportionate' according to the standards of international law in this area. That advice concludes that such a ban would be unlikely to comply with Australia's human rights obligations. We think that the formula found in the bill is an appropriate balance between the right of persons to vote and persons in custodial sentences forfeiting that right.

Senator LUDLAM (Western Australia) (11:57): The Greens will not be supporting the opposition amendments. We are not necessarily hostile to the coalition's position, but it is a matter of degree. If you have copped a parking fine, arguably you have broken the law and nobody would seek to remove your franchise there. What the parliament is attempting to do here is identify exactly where that threshold or boundary should lie of having that important citizenship entitlement withdrawn from you if you are subject to a certain term of imprisonment. In this instance we are inclined to support the government for the reasons Senator Feeney has just set out. Question put:
That the amendments (Senator Fifield's) be agreed to.

The Senate divided [12:02]

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

AYES

Boswell, RLD
Brandis, GH
Cash, MC
Cooman, H
Fielding, S
Fifield, MP
Heffernan, W
Johnston, D
Macdonald, ID
McGauran, JJ
Nash, F
Payne, MA
Scullion, NG
Trood, R

AYES

Boyce, SK
Bushby, DC
Colbeck, R
Ferguson, AB
Fierravanti-Wells, C
Fisher, M
Humphries, G
Kroger, H
Mason, B
Minchin, NH
Parry, S (teller)
Ryan, SM
Troeth, JM
Williams, JR

NOES

Arbib, MV
Bilyk, CL
Bishop, TM
Brown, CL
Brown, RJ
Cameron, DN
Carr, KJ
Collins, JMA
Crossin, P
Faulkner, J
Feeney, D
Forshaw, MG
Hanson-Young, SC
Hogg, JJ
Hurley, A
Hutchins, S
Ludlam, S
Ludwig, JW
Lundy, KA
Marshall, GM
McEwen, A
McLucas, J
Milne, C
Moore, CM
O'Brien, K (teller)
Polley, H
Pratt, LC
Sherry, NJ
Siewert, R
Sterle, G
Wortley, D
Xenophon, N

PAIRS

Bernardi, C
Cormann, M
Conroy, SM
Cormann, M
Carr, KJ
Carr, KJ
Crossin, P
Faulkner, J
Feeney, D
Forshaw, MG
Hanson-Young, SC
Hogg, JJ
Hurley, A
Hutchins, S
Ludlam, S
Ludwig, JW
Lundy, KA
Marshall, GM
McEwen, A
McLucas, J
Milne, C
Moore, CM
O'Brien, K (teller)
Polley, H
Pratt, LC
Sherry, NJ
Siewert, R
Sterle, G
Wortley, D
Xenophon, N

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.

Third Reading

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (12:05): I move:
That the bill be now read a third time.

Question put.

The Senate divided [12:10]

Ayes........................33
Noes........................31
Majority.....................2

AYES

Arbib, MV
Bilyk, CL
Bishop, TM
Brown, CL
Brown, RJ
Cameron, DN
Carr, KJ
Collins, JMA
Crossin, P
Faulkner, J
Feeney, D
Fielding, S
Forshaw, MG
Hanson-Young, SC
Hogg, JJ
Hurley, A
Hutchins, S
Ludlam, S
Ludwig, JW
Lundy, KA
Marshall, GM
McEwen, A (teller)
McLacanas, J
Milne, C
Mohampton, SC
Wong, P
Wortley, D

NOES

Abetz, E
Adams, J
Back, CJ
Birmingham, SJ
Boswell, RLD
Boyce, SK
Brandis, GH
Bushby, DC
Cash, MC
Colbeck, R
Cooman, H
Ferguson, AB
Fierravanti-Wells, C
Fifield, MP
Fisher, M
Heffernan, W
Humphries, G
Johnston, D
Kroger, H
Macdonald, ID
Mason, B
McGauran, JJ
Minchin, NH
Nash, F
Parry, S (teller)
Payne, MA
Ryan, SM
Scullion, NG
Troeth, JM
Trood, R
Williams, JR

PAIRS

Conroy, SM
Eggleston, A
Evans, C
Ronaldson, M
Farrell, D
Bernardi, C
Furner, ML
Cormann, M
Stephens, U
Joyce, B

Question agreed to.

Bill read a third time.

Sex and Age Discrimination Legislation Amendment Bill 2010

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (12:12): The Sex and Age Discrimination Legislation Amendment Bill 2010 arises principally from the government's response to the Senate Legal and Constitutional Affairs Committee's 2008 inquiry into the effectiveness of the Sex Discrimination Act in eliminating discrimination and promoting gender equity. I should say that the elimination of discrimination and the promotion of gender equity has always been a core value of the Liberal Party and it is a value in which we have been pioneers in giving legislative effect.

The report's very broad recommendations were supported in part by the Liberal senators of the committee and the government's response aligned fairly closely with the position taken by Liberal senators. The bill would make four substantive amendments to the Sex Discrimination Act: to extend the act to ensure equal protection for men as well as for women; to broaden the prohibition on discrimination on the ground of family responsibilities to include indirect discrimination to both men and women in all areas of their work; to establish breastfeeding as a separate ground of prohibition of discrimination; and to strengthen the protections against sexual harassment in workplaces and schools to also include cyber bullying and electronic harassment. he
amendments to the Age Discrimination Act provide for the establishment of an age discrimination commissioner within the Australian Human Rights Commission. This is intended to reflect the increasing needs of an ageing population and to address the factors that contribute to age discrimination in the workplace and the broader community.

The Senate committee reported on 1 March. The majority recommended that the bill be passed as drafted. However, Liberal members of the committee reiterated their dissenting findings in the 2008 report that there was no evidence of systemic discrimination on the basis of family responsibilities or circumstances of sexual harassment that are not adequately addressed by the existing legislation; that the combined effect of the proposed amendments relating to family responsibilities and sexual harassment would impose significant compliance costs; that the provisions are so drafted as to facilitate vexatious claims; and that there was no need to further extend the powers of the Australian Human Rights Commission. I will return to those grounds of concern in a moment. The Liberal senators supported the amendments relating to the appointment of a new office of age discrimination commissioner; the amendment which would give equal coverage to both men and women of the operation of the Sex Discrimination Act; the recognition of breastfeeding as a separate ground of prohibition of discrimination; and the amendments in relation to sexual harassment of students.

I want to say something in particular in relation to the prohibition of indirect discrimination on the ground of family responsibilities. The coalition takes the existing prohibition of direct discrimination very seriously, and we strongly support it. It is vital that those seeking to make a contribution to society, and especially those seeking to support their families, are not locked out of opportunities because of a misplaced fear that the demands that families place on workers will detract from their effectiveness or commitment. But the amendment proposed by this bill goes much further than that and has the potential for serious unintended consequences. In fact, I query whether this amendment should be advanced under the rubric of the Sex Discrimination Act at all or whether its proper place is in industrial relations legislation. Indeed, in the view of the coalition, what this amendment reflects is an attempt—perhaps a cynical attempt—to use the suite of discrimination legislation to advance industrial relations agenda which have no place in discrimination law at all.

The explanatory memorandum for the bill is particularly unenlightening. The justification offered for the amendment is this: For example, an employer who refused to contemplate flexible working arrangements under any circumstances would particularly disadvantage people with family responsibilities.

So there we have it, Mr Acting Deputy President: the explanatory memorandum itself—against which, as you well know, the terms of the act would be construed by a court or tribunal—tells us that the intention of the drafter and the intention of the government in putting forward this piece of legislation would be to establish a new prohibition against any employer who refused to contemplate flexible working arrangements under any circumstances if a case could then be constructed that a flexible working arrangement in any circumstances might disadvantage people with family responsibilities. It is bogus and false and a legislative sleight of hand to suggest that that is an attempt to advance the cause of antidiscrimination. What it is an attempt to do, as I said, is to use the Sex Discrimination Act as a cover to promote greater inter-
ference in the workplace, not in order to protect people from unlawful discrimination but in order to interfere with the legitimate interests of employers and employees in discussing and arriving consensually at decisions about the arrangements within that workplace.

The amendment would do much more than that. The example which I have cited from the explanatory memorandum is evidently wilfully blind to the true effect of the amendment because it ignores the strict liability it imposes. The bill provides that it will be discrimination if a condition, requirement or practice is imposed or proposed that has or is likely to have the effect of disadvantaging a person with family responsibilities. Thus, a struggling company with a casual workforce would be constrained from cutting the hours of its casual employees because those with family responsibilities, with their inherently lower disposable incomes, could be left in a disadvantageous position relative to those with less pressing expenses. It does the cause of antidiscrimination law reform no good at all if the antidiscrimination laws of Australia are used to advance an industrial relations agenda that is in truth unrelated to the bona fide cause of antidiscrimination in a way that punishes, in particular, employers operating small businesses.

Accordingly, I foreshadow that the coalition will be moving amendments to the bill to omit clause 18—that is, the clause which seeks to extend discrimination on the ground of family responsibilities and to create a prohibition on what is called indirect discrimination—and to omit clause 59, which seeks to extend the prohibition of sexual harassment to include customers and contractors. That issue may I say that no case is made for making an employer responsible for unacceptable conduct by a customer of the employer or a contractor to the employer for which in truth the employer has no responsibility, no oversight, does not condone, sanction or direct and, in fact, has no capacity to control. That is once again an example of using a statute such as this within the category of discrimination law in order to impose inappropriate burdens on employers to govern conduct which is in fact beyond their control. We will also oppose, because we think it to be unnecessary, the extension of the Australian Human Rights Commission's powers proposed by clause 68.

Let me close by reiterating that just as the coalition has always supported the Sex Discrimination Act and has pioneered antidiscrimination legislation in this country ever since the days of the Fraser government, and at the state level as well, we will be supporting most of the measures in this bill. Australia's population is ageing but older workers are finding it difficult to re-enter the workforce and, anecdotally, to have their applications for employment considered on their merits. So there is a strong case, which we believe and sympathise with, for extending the provisions of the legislation to aged Australians and for creating the office of an age discrimination commissioner. But what we will not do is allow the antidiscrimination laws of Australia to be used as a pretext to impose burdens on business which are not truly prohibitions against discriminatory conduct but seek to impose an industrial relations agenda. If the government wants to amend the Workplace Relations Act to deal with these matters, that is the appropriate place for them to do so, and let us have the debate in that context. But let us not distort the purpose and objects of discrimination laws, in particular, employers operating small businesses. But let us not impose additional, in many cases unendurable, burdens on employers—particularly employers conducting small businesses—under the bogus and false pretext of advancing antidiscrimination.
Senator CROSSIN (Northern Territory) (12:25): I rise today to contribute to the debate on the Sex and Age Discrimination Legislation Amendment Bill before us. I want to provide a bit of background to this legislation and then I intend to address some of the issues that Senator Brandis has just raised in his contribution. The bill before us today is the government's response to the inquiry by the 2008 Senate Standing Committee on Legal and Constitutional Affairs into the effectiveness of the 1984 Commonwealth Sex Discrimination Act. The inquiry was initiated by me back in 2008, as I had a belief that after 25 years of the Commonwealth Sex Discrimination Act it was time to undertake a review of that act to look at whether it was still effective and relevant and whether or not it needed to be modernised. So I am delighted to see this legislation before us today. Back in 2008 when we held that inquiry, we came up with quite a number of recommendations—43, in fact—as a result of the review of the act, and this legislation sees some of those recommendations being picked up by this government.

The Senate Legal and Constitutional Affairs Legislation Committee also conducted an inquiry into this current legislation, the Sex and Age Discrimination Legislation Amendment Bill 2010. This legislation received overwhelming support from those who made submissions to the inquiry, particularly from organisations that specialise and work in the area of discrimination. Nearly all of the submitters were supportive of schedule 1, which seeks to enhance the protections against sex discrimination and sexual harassment that are currently in the Sex Discrimination Act. This bill seeks to protect not only women but also men from sex discrimination. The Sex Discrimination Act in its current form implements certain provisions of CEDAW, the UN Convention on the Elimination of All Forms of Discrimination Against Women. This bill also extends the operation of the Sex Discrimination Act to men by including the definition of 'relevant international instrument', which would include a range of treaties that promote gender equality, such as the International Covenant on Civil and Political Rights. An important aspect of this bill is the creation of a separate ground for discrimination—breastfeeding. While discrimination on the basis of breastfeeding is already prohibited as a subset of sex discrimination since it is only women who breastfeed, the Attorney-General's Department made clear its reasons for now establishing it as a separate ground for discrimination. The department stated that it
will 'make it clearer that actions known as special measures can be taken by employers to address specific requirements of women who are breastfeeding'.

It is imperative that a modern Australia provides protection from discrimination to women who are breastfeeding. Breastfeeding mums all over the country experience discrimination, both direct and indirect, every day simply for trying to feed their newborns, whether it is at work, in shopping centres or in restaurants—as we found recently in Darwin. Discrimination against a breastfeeding mother can also occur subtly. For example, an employer can impose a requirement on employees that prevents them from taking any breaks for set periods during the day under any circumstances, which would consequently disadvantage a woman who needed to express her breastmilk. This bill will also ensure that women breastfeeding in areas of public life—such as accommodation, clubs, education, goods and services and facilities—cannot be prohibited from doing so.

While people are protected by the Sex Discrimination Act from discrimination due to family responsibilities, the act does so only in relation to termination of employment and does not include indirect discrimination. The bill seeks to also address this by ensuring that, in employment generally, an employee cannot be discriminated against due to family responsibilities. The definition of 'family responsibilities' is expanded to mean the 'responsibilities of a person', rather than an employee, 'to care for or support a dependent child, or any other immediate family member who is in need of care and support'.

Employees have shown that discrimination does not have to be direct. The explanatory memorandum for this bill provides examples of both direct and indirect discrimination due to family responsibilities. Direct discrimination, for example, would occur where an employer terminates a person's employment before they return to work from parental leave, on the basis that they consider that the employee's new family responsibilities will interfere with their work. Indirect discrimination, on the other hand, would occur where an employer refuses to consider flexible working arrangements under any circumstances, which would particularly disadvantage people with family responsibilities.

This government has consistently recognised that a balance between work and family life is important. The Fair Work Act contains provisions for employers to help employees strike the right balance for all involved. The amendments to the Sex Discrimination Act to ensure employees are protected from discrimination due to family responsibilities complement the reforms made in other areas.

I want to turn for a minute to some of the comments that the previous speaker, Senator Brandis, made. I have great difficulty in understanding the logic behind Senator Brandis's comments. As a former industrial advocate who has worked in a workplace and dealt with discrimination against women in particular and women dealing with family responsibilities I have to say some of his comments indicate to me that he just does not get it. This is not an attempt to impose conditions on employers through some sort of backdoor facility that would otherwise be or should be in the Fair Work Act. This is about complementing and strengthening the rights of people to take action in a workplace where the fair work provisions and the industrial provisions may well be intact. There may well not be a breach of any industrial rights in the workplace; the Fair Work Act may well be shown to have been
upheld in a number of these instances. But what this bill does is strengthen the rights of women in particular to take action under those industrial conditions if they believe they have been discriminated against because of their family responsibilities or because they are a woman.

I think that what Senator Brandis, from his comments, has failed to realise is that the two can actually work in a cooperative way; they can intersect correctly and jointly together. If you listened to Senator Brandis, you would think that you could have only one or the other—that, if you have industrial relations conditions and workplace conditions that can only apply to men and women in the workplace, it prevents you from taking any action under the Sex Discrimination Act. I think he is wrong. It may well be a point of intellectual argument, but I think it is fundamentally wrong.

I represented many, many women in the workplace over my industrial advocacy days where the industrial instrument was totally sound and the provisions under that industrial instrument were not broken but were upheld. Employers did what they believed was right according to the legal instrument under the Industrial Relations Act at the time. But, indirectly, their policies failed to recognise that women were not getting the rights they deserved, simply because of their gender, because they had caring responsibilities or because they wanted to be able to return to work and breastfeed. The industrial instrument of the day did not provide flexibility in taking breaks and did not allow an employer to accommodate that in the workplace.

If you are going to modernise the workplace, you have to understand that at times employers do actually welcome an intersection between the Sex Discrimination Act and the industrial relations conditions that occur in this country. I do not believe—contrary to what you heard Senator Brandis say—that it has to be one or the other. It has got to be both. At the end of the day, you have got to be able to provide that backup for people in their workplace if they are being victimised, discriminated against, harassed or bullied due to a provision under the Sex Discrimination Act. It does not just have to be: all complaints have to go through Fair Work Australia or all complaints have to go under an industrial relations umbrella. It does not work like that. Otherwise, we would put all Comcare provisions and all superannuation provisions under one large single piece of legislation in this country. We do not do that. We have different pieces of legislation in the workplace that apply to different people under different circumstances. As our report shows:

The existing prohibition of discrimination on the grounds of family responsibilities in the Sex Discrimination Act protects employees from termination of employment only. Further, the protection is limited to direct discrimination and does not include indirect discrimination.

The Senate Report recommended that the prohibition of discrimination on the grounds of family responsibilities should be broadened to include indirect discrimination and discrimination in all areas of employment …

My report back then went on to say:

Evidence to the committee overwhelmingly supported the view that the protection against discrimination on the basis of family responsibilities under the Act is too limited. The current protection is limited to direct discrimination resulting in termination. This excludes the most common types of discrimination on this ground such as employees being denied training or promotion, or being demoted or otherwise treated less favourably as a result of their family responsibilities.

So you see you can actually have a provision in an industrial agreement that provides for training and promotion, but the indirect
discrimination may clearly show that not everyone in the workplace is getting equal access to those provisions. That is where I think Senator Brandis fundamentally lacked the link between the importance of this legislation to work with and alongside and to complement what is happening in the industrial arena. The committee in 2008 also noted:

... that a failure to strike an appropriate balance between work and caring responsibilities has negative consequences for the health of carers and for their workforce participation.

This is also important to overcoming some entrenched aspects of gender discrimination which continue to lock women into the role of carer and men into the role of breadwinner to the detriment of both sexes. The committee recommends broadening protection against discrimination on this ground—specifically, both direct and indirect discrimination should be prohibited and protected and should extend to all aspects of employment not just termination.

So you have seen in both the 2008 report and in this report a restatement. As I said previously, you do not have to have just one or the other. The argument has not been raised in either of the Senate committee inquiries that for some reason we should not extend this provision on the grounds of family responsibilities under this legislation and only tuck it under an industrial relations instrument. This is the first time I have heard this argument, interestingly from the coalition. It is not a position that was put by the majority of the submitters. The majority of submitters actually welcomed this legislation, welcomed the fact that the Sex Discrimination Act was going to be broadened and strengthened and certainly talked about the way it intersected and worked with any industrial agreement.

The amendments to the Sex Discrimination Act before us ensure that employees are protected against discrimination due to family responsibilities and complement the reforms made in other areas. When the Sex Discrimination Act was created in 1984 the technology we rely on today was not yet in use. Modern technologies, such as the Internet and social networking sites, have many positive uses, but it is also another avenue where sexual harassment can occur. Using the Commonwealth's power under section 51(v) this bill seeks to prohibit sexual harassment via new technologies.

Another important amendment includes extending protection against sexual harassment to students, regardless of their age, and removing the requirement that the person responsible for the harassment be at the same educational institution as the victim of the harassment. I want to comment on this because it was a flaw in the original act that we picked up in 2008. If you are a student at an educational institution, for example, under the original piece of legislation you were prevented from taking a claim of harassment against another student, a teacher or anyone else involved unless that person was at the same educational institution. It was a fundamental flaw in the first piece of legislation which we now see is picked up and corrected with this new bill. It will broaden the protection of students while they might be on excursions, sporting trips and camping trips or involved in interschool activities. A claim will now be able to be taken if it is needed. I think that is a welcome change and a modernising to what is happening in our society in terms of when harassment is occurring, how it is occurring and to whom it is occurring.

Also we have seen that workers will be protected from sexual harassment by customers, clients and other persons with whom they come into contact in connection with their work. For example, shop assistants
will not have to put up with sexual harassment from a customer in their shop. Again this is not something that can be addressed under a provision under Fair Work and it is not something that can be addressed under an industrial relations instrument, because the customer is not party to the industrial relations instrument. Shop assistants should be able to make claims of harassment, bullying or discrimination against members of the general public they deal with. They will be protected by their industrial instrument to do that, but the actual complaint mechanism will be through this bill. The test for sexual harassment will also be amended so that harassment occurs if a reasonable person would anticipate the possibility that the person harassed would be offended, humiliated or intimidated.

This bill will continue to preserve the operation of state and territory laws to refuse to make, issue or alter an official record of a person's sex if a law of the state or territory requires the refusal because the person is married. The department advised the committee that the Marriage Act 1961 does not ban a person who is married from legally changing their sex, and that full consideration and consultation must be given to the effect this might have on birth, death and marriage laws in states and territories. The Australian government is, however, working with states and territories to consider the many issues raised by the Human Rights Commission in their concluding paper in this area.

This bill predominately establishes the dedicated position of Sex Discrimination Commissioner. This received strong support during the Senate inquiry. It establishes the office of the commissioner and outlines the terms and conditions in appointing the commissioner. Everyone in this country, regardless of age, should not be prevented from participating in society, including in the workplace.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Hutchins): Order! It being 12.45 pm, we will move to matters of public interest.

R v Arthur Phillip Freeman

Senator McGAURAN (Victoria) (12:45): I wish to raise in the Senate the tragic event of 29 January 2009 when high on the West Gate Bridge in peak-hour traffic a man named Arthur Freeman threw his four-year-old daughter off the bridge to her death. It was morning and Darcy was on her way to attend her first day of school. Arthur Freeman did so in a revenge act towards his former wife. This particular high-profile public act of horror weighs heavily on the minds and hearts of Victorians. It was an act that has wrought unspeakable misery. Its mere contemplation creates an unshakeable dread for so many. I will refer to just some of the victim impact statements made in the court. Kristine Gough, an ambulance officer, was among the first on the scene. She said:

I asked Darcy to fight to live, but she could not. I begged her verbally not to give up, but her body had.

Also called to the job was police officer Colleen Spiteri, who said:

I remember feeling so overwhelmed by what I was seeing and I turned back towards the footbridge and almost fell to the ground.

Spiteri went on to talk about what she said to the mother at the hospital:

I spoke to the girl's mother. I told her that her daughter was strong and fought hard. I told her that in the short time I was with her I loved her so that she had love around her.
I will not refer to the heart-wrenching family statements, though they were widely reported.

Arthur Freeman was convicted by the jury of consciously, voluntarily and intentionally tossing Darcy to her death. However, it took the jury five days to deliberate. The case came exceedingly close to a mistrial, if not for the supreme effort and guidance of the ruling judge. He was strong in his advice that the jury continue to deliberate even when the jury had indicated more than once that it had exhausted all avenues by which to reach a verdict. A reading of the court transcripts shows the judge's thorough attention to every detail in the case. He admirably upheld his oath of office and moreover would not let the truth be buried under any legal or court jargon, any strict procedure or court atmospherics, even human exhaustion and emotion, let alone misleading and false witness.

It is this latter point I wish to take up in the Senate and I do so fully aware I speak under privilege of the parliament. First, as all would be aware of and in full agreement with, it is the foundation stone of our justice system that every person is entitled to a defence. However, they are not entitled to a concocted defence. This, I believe, is what occurred in the Freeman case. I refer to crucial evidence given by Professor Graham Burrows in favour of Arthur Freeman. Professor Burrows was the only one of six psychiatrists who spoke for the accused. Professor Burrows's time in the witness box on 17 March was dutifully and meticulously used to explain away Freeman's deliberate actions. Professor Burrows absurdly claimed Freeman as being 'in a state of serene disassociation' or a 'hypnotic state like sleepwalking'. Burrows actually said: 'Freeman didn't know what he was doing.'

Every other expert who had the same access to Freeman as Burrows disagreed in the extreme with his analysis. For them, Arthur Freeman knew exactly what he was doing. I add that any common and reasonable person's analysis of the facts of that fateful day would lead them to the same conclusion: that Arthur Freeman knew exactly what he was doing. There was crystal clear fact after crystal clear fact. So it is not good enough for Professor Burrows to hide behind what he would say is his superior knowledge or assessment to that of his peers or say that while his opinion differs his is still an opinion. An opinion is not just an opinion in a murder case. It is held up to be the truth, the whole truth and nothing but the truth. Yet Professor Burrows's time in the witness box came chillingly close to convincing some in the jury and thus dangerously close to getting Freeman off his subsequent murder conviction.

Perhaps it was because certain members of the jury were in bewilderment of such cruelty coming from a father. Enter Professor Burrows who used his eminent position with an intellectual concoction to give an excuse for such a merciless act. Darcy deserved better than that. Professor Burrows is a gun for hire. He has been described as a psychiatrist of last resort and one who will sing whatever song the defence wants. He has been a star witness for the defence before this particular case. I refer to the Robert Baxter wife killing case, a mirror image defence and performance by Professor Burrows. From the moment Professor Burrows entered the stand in the Freeman case, as the court transcripts will attest, it seems the judge had a rightful suspicion, if not contempt, for this so-called expert. As the judge said, he had crossed paths with Burrows before. While the defence counsel sought to impress the jury with the seemingly eminent credentials of witness
Burrows, the judge persistently interrupted the flow of the defence counsel and questioned its relevance. Such was the back and forth of the defence lawyer and the judge on this point, that the court was adjourned on the matter. I refer to but one exchange. The defence counsel, speaking on Burrows' credentials said:

All right. Just while I am on my feet, the five pages of degrees, professional activities and memberships and chairmanships and not setting it out—

His Honour quips and interrupts—

Professors Burrows is eminently qualified. You only have to ask him.

The Defence Counsel: Yes, well the five—

His Honour again quips:

You might appreciate that our paths have crossed in the past.

The Defence Counsel: I was sort of guessing that.

What was it that motivated Professor Burrows to take the stand and argue against the plain truth? Or is it for Professor Burrows a case of 'what is truth'? The position Professor Burrows holds at Melbourne university is quoted in the court transcripts and used to display his eminence before the jury. Professor Burrows is a professorial fellow of the Department of Psychiatry, so I say that the university ought to remove him from that position for the evidence he gave in the Freeman case. The university's reputation must surely be sullied if Professor Burrows remains in that position. I call upon the vice-chancellor to take a stand for common decency and reject the professor's actions. I call upon the vice-chancellor to consider all the facts, to deliberate beyond the excuses like academic freedom or acting outside the university's jurisdiction, and consider the case, its effect on family and society and the university's reputation. I would think that a Melbourne university student of psychiatry would be in peril of misdirection under such a faculty contributor, however occasional.

I do not rise on this issue and make such claims lightly. Indeed, I am only too aware of how people's lives have been changed, ruined, hurt and affected by this case. It would be easier to let it drift into the mist. However I believe I am compelled to use my position on such an occasion for such a purpose so Professor Burrows may be prevented from being used as a star or eminent witness again.

**Building the Education Revolution**

**Teaching and Learning Capital Fund for Vocational Education and Training**

Senator HUTCHINS (New South Wales) (12:55): Thank you, Acting Deputy President Boyce, for this opportunity to speak today, and indeed, for standing in for me in the chair. I want to speak today about the success of the federal government's Building the Education Revolution and also the Teaching and Learning Capital Fund for Vocational Education and Training. It may be a bit unusual for a retiring senator to spend his last weeks criss-crossing vast reaches of Western New South Wales rather than at some overseas location, but I took the opportunity to visit a number of towns and villages in the electorates of Calare and Parkes.

On that journey I had the pleasure of being able to open school halls, libraries, schoolrooms, science labs, innovative centres and much more. I think I covered 1,400 kilometres in five days. I was able to do this because of the foresight and courage not only of the current government but also the Prime Minister herself. The BER was part of the economic stimulus program announced in February 2009. This meant that there will be 24,000 projects to be delivered
over five years in 9,000 schools supporting local jobs in the construction of minor and major infrastructure projects in primary schools or science and language centres in secondary schools. Shortly I will share with the Senate the programs that this government funded and the genuine gratitude that was shown to me as a representative of this government because of our decisions. All up, I was able to announce that this government had spent $11,590,282 in those areas in schools and TAFEs.

Last week in New South Wales it was Catholic Schools Week. It was appropriate, then, that my first school was All Hallows in Gulgong. Gulgong is a famous old gold-mining town where Henry Lawson spent the early part of his life, and in fact the local Labor Party celebrates that formidable feminist, his mother, Louisa Lawson, at an annual Louisa Lawson Dinner. The school, All Hallows, was opened in 1883. The school was run, up until some years ago, by the order that founded it, the Order of Sisters of St Joseph, that is, St Mary McKillop's order. She may well have visited that school.

The building itself was constructed in the Spanish Mission style. The school received $1.4 million. The project was managed by that exceptional group of men in the Catholic Education Office in the diocese of Bathurst. The executive director, Peter Hill, was present, as were those chaps from that division, Brian Morrissey and Gerry Lynch. The school has 120 students, and the school captains, Grace Hensley and Olivia Sevin, gave me a tour of the facilities in which they learn. Principal Catherine Gaudry, staff, parents and locals worked hard to get that new classroom, library and the multipurpose refurbishments delivered on time and on budget. It did support the employment of 40 local workers and everybody is proud of the outcome, despite the snickers of those opposite. Indeed, the extensions were blessed by Monsignor Frawley who had a hall named after him, and also by Father Bellamy, who did not have one named after him—maybe he will later. I moved from there to Borenore Public School. This school has been going since May 1876 and the BER, our program, delivered an impressive structure including a new library. The BER funds amounted to $300,000. This primary school has 40 students, and this figure has almost doubled in the last few years. The school captains, Gabrielle Guisard and James Maclellan, gave me a very professional tour of the school. The Principal, Ruth Harris, a former schoolgirl from Tullibigeal—I am sure Senator Nash knows where that is—

Senator Nash: I certainly do.

Senator Hutchins: spoke at the opening, as did Paul Stirling from the New South Wales Department of Education and Training. I would also like to make a special mention of the school cleaners, Max and Colleen Baker, who retired after 35 years of cleaning the school. Also present at the opening was Cabonne shire councillor Kevin Duffy, who is a former ALP candidate. Kevin advised me that his family has been handing out Labor how-to-votes at Borenore Public School for well over a century—and not once have we won that booth. I suggested that maybe it was time we changed families!

The Catholic school at Eugowra is named St Joseph's. It received $1.24 million from the BER program. The Catholic Education Office out at Bathurst did their usual exceptional and very professional job. For those opposite, 40 jobs were created as a result of the initiative of this government. There are 33 students at this school. It was founded in 1882, again by the Sisters of St Joseph, and St Mary MacKillop may have visited here as well. I was greeted by the school captains, Sophie Welsh and Troy
Park. Peter Hill and his team were there, as was the Cabonne shire mayor, Bob Dowling, who sat on my left—I suggested to Bob that that is probably the only time he has been on the left of anything—and councillors Kevin Duffy and Janelle Culverson. The Principal, Kathy Eppelstun, expressed her extreme gratitude for what the federal government had given the school community. Father Dooley blessed it. There was also a nun who had taught there, Sister Kathy Jennings. A nice sideline was that a cake was cut at the opening of the school hall and it was cut by the oldest known former student, Ron Sloane, who left school in 1929, and the youngest, Olivia Holland.

It was a great day at Eugowra. The St Joseph's community were particularly generous to me. I do not think I need to declare this to the Senate but I was given a variety of gifts. I was given a nice wool clip that I understand contributed to the making of Prince William's jacket. I was given a bit of the marble that was mined there that is in the hall outside. I was also given some honey, wine and soap.

Opposition senators interjecting—

Senator HUTCHINS: I am not sure about the soap but I have used the wine. From there I went to Lake Cargelligo Central School and inspected the new science centre and the refurbished primary classrooms. The school received $3 million under the BER. It has 210 students, of whom 30 per cent are of Indigenous background. The Principal, Margaret Chamen, the teachers and students were very, very happy with what the BER money had been able to do for them. I was given an impressive welcome by the Aboriginal dance group, a great reception by the kids and a great lunch put on by them. Again, there were shire councillors there: Des Manwaring from Lachlan shire; an old mate of mine, Graham Scott, and Bob Sanson, who is the local representative.

Finally, I attended the opening of programs at the TAFE New South Wales Western Institute in Orange. I had an opportunity to look at the Green Skills Trade Centre, which I opened, and other programs that the government contributed to. The government contribution here was $5.6 million. It employed many locals. It gave some of the apprentices an opportunity to test out their skills and it is going to make a valuable contribution to the local economy. In 2010 this institute had enrolled 40,556 students, of whom 7,132 were Aborigines. That is an increase from 2009 of 589. The building where the centre is located is truly spectacular and any members of the Greens would be smacked by the innovation of the imaginative teachers. Indeed, the mobile mining simulator and the in-house one are very important. These courses train men and women to work in the mining industry. As a number of us would be well aware, there is plenty of work in mining out in western New South Wales. The mobile simulator is able to move between a variety of communities, Aboriginal and non-Aboriginal, and it allows people to be trained to work in the mining industry. I would like to congratulate Sandra Gray and Rebeca Wilcox, who were my guides on the day, and the institute's well respected director, Kate Baxter, a great leader. I was joined on the day by another old mate of mine, John Davis, whom I first met when he was the Mayor of Blayney and who is now the Mayor of Orange, and by an old sparring partner, John Cobb, the member for Calare, who turned up.

I have detailed my visit to western New South Wales because I want it understood how many BER and other initiatives this government has taken up have been overwhelmingly well received. The BER gave schools a once in a lifetime chance to
do those things that they needed to have done but other priorities pressed. It provided work for locals where work was a bit quiet. It gave communities halls to be used by all, libraries, classrooms, science labs and, in Orange, a spectacular skills centre and practical courses for the mining industry in which Newcrest is actively involved. These decisions that we, the government, made were not supported by all in this parliament, but they are definitely supported by the communities I went to in the last week in the electorates of Parkes and Calare. All the programs were delivered on time and on budget. And it has to be said that the Prime Minister was the minister who pioneered this initiative, and the facilities these students enjoy today and will enjoy into the future are a product of her leadership. These people have said to me in no uncertain terms how grateful they are for the projects that this government has delivered to regional education.

Papua New Guinea

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (13:08): I wish to follow on from Senator Hutchins's account of his trip by accounting to the Senate a trip which I took to Papua New Guinea, beginning on Thursday, 28 April. I have wanted to go to this marvellous country, which is our nearest neighbour, for many, many years. This was the first time I did, and I spent four days with my partner, Paul Thomas, in that country. At the outset we received a remarkably warm welcome from Dorothy Tekwie, who was, on that or the next day, elected as the President of the Papua New Guinea Green Party. Dorothy Tekwie was in Australia just a few months ago and toured many states, including my home state of Tasmania. She made an enormous impression on everybody who met her and who listened to her speak about the problems confronting her home country.

Indeed, I think it was a call to Australia, their wealthier neighbours to the south, to take a little bit more notice of what is happening in Papua New Guinea affairs. It is an independent country which is resource rich, and in many ways, including that one, it has parallels with this country of ours. What is notable is the extraordinary power of the mining corporations and the logging corporations which are currently operating and intending to operate in Papua New Guinea. They are making decisions outside that country but being facilitated by a political system where corruption is not a foreign entity but is part of the process.

I met with the Acting Deputy High Commissioner for Australia, John Feakes, shortly after arriving. We were later to meet the High Commissioner, Ian Kermish, and we had the services of Tim Bryson from the commission who, by the way, along with the High Commissioner, grew up in Papua New Guinea. They are very well placed to be representing Australia in that country and I thank them for their assistance.

We spent two days in Port Moresby and two days in Madang. I want to give some of my impressions in the short time that is available on matters that we do not often hear aired in this chamber. Firstly, Papua New Guinea, as we all know, has been a functioning democracy since, during the Whitlam years, Australia handed across the reins of self-government. There are just over 100 members of parliament and only one of them is a woman: Dame Carol Kidu. I met her at a meeting of the United Nations organisation in Port Moresby. In fact, we were hosted by the United Nations Development Program there, and the Papua New Guinea Council of Women were in strong attendance.

Dame Carol told me about the progress of a bill for 22 places to be allocated to women
in future parliaments to try to redress this imbalance. I was able to point out that for the first time in six years following the last election Australia's representation of women in parliament has fallen below 30 per cent. However, it is a very different situation to there being a solitary woman in the Papua New Guinea parliament. Dame Carol will not mind me saying publicly—she made no bones about it there—that after three terms she will not be standing at the next election. I wish well the women and the men behind the move to have this legislation through the parliament in time for the next elections next year—and this includes the Prime Minister of New Guinea, Prime Minister Somare, who was recovering from heart surgery in Singapore while I was in the country; I wish him well.

I got a very good briefing from Margaret Lokoloko and other members of the PNG Council of Women at the reception. They are remarkable advocates for the representation of women in their parliament and I hope they have success. The bill was gazetted just before I went to Port Moresby and it is in the hands of a parliamentary debate. I would say to the men of the Papua New Guinea parliament, as a man of the parliament here in Australia, that nothing but good can come from having an increased representation of women in the parliament, if my experience of 15 years in this parliament—and before that 10 years in the Tasmanian parliament—is anything to go by. It is not just a counter-balancing contribution to parliament; having more women in the parliament lifts the standard of parliament's debate, content and representation of the people. Mining is a huge industry in Papua New Guinea, and I want to talk about just a couple of the current huge mines proposed in that country. One of them is the Ramu nickel mine east of Madang on the northern mainland of Papua New Guinea. This is largely Chinese owned. It was established on the work of the Australian company, Highlands Pacific, which still has a nine per cent interest and which I understand could increase that to 22 per cent in the future depending on the success of the mine.

The mine has been established well inland from the coast, and a processing factory is established on the coast. This is as a result of a quite huge investment by the Chinese company involved. However, it is held up in the courts because of the intention to simply dump the tailings of this massive mine straight into the ocean. When I asked the Department of Environment and Conservation in Port Moresby about this—the fact that those tailings are going to be dumped into a sea canyon off the coast—I was unable to elicit any real information about the ecological systems on that marine floor. I got a specious response that the watercourses, particularly when they are in flood, take silt out into the ocean and that this canyon has been receiving that as a matter of natural systems for a long time, so, effectively, what would putting mine tailings on top of it matter? I was horrified by that response.

The matter has been taken up by landowners. Fisheries are very important to large numbers of people in this part of Papua New Guinea—well, the whole of coastal Papua New Guinea, but that includes New Ireland, New Britain and Bougainville to the north and east of the mainland. I understand that a court determination will be made on 23 May. But when I asked the Department of Environment and Conservation if they would take it to appeal if the landowners and environmentalists win there, I did not hear 'no' to that. When I asked if the government would move to legislate to override the court decision on existing law if an appeal is then successful, I again did not get a 'no' to it. We must be very fearful that we are looking at a process where even the due implementation
The threats of that form of process are global. The London Sea Dumping Convention would prevent the Ramu nickel mine from doing what it is doing, and the Australian company would know that. It could not do that in Australia—this is the nickel mine dumping into a canyon. The proponents of Nautilus Minerals have, no doubt, started their experiments off the sea coast for the same reason. They are doing it in Papua and New Guinea, but it is a process coming to affect the oceans of the whole world. I gave a commitment then and there to the representatives from New Ireland that I would move in this Senate to have an inquiry into deep sea seabed mining, and I intend to ask the Senate to seek a government inquiry into the process so that we can assess what that means for our own country's natural marine resources and fisheries into the future.

I come back to Mr Fairweather's petition, which he was handing around at the Catholic university where I spoke in Madang. It is about these sea fisheries and simply says, 'Statement by Ken Fairweather MP, member for Sumkar, Madang Province. We need a fishing ban on foreign vessels. Recent suggestions by the European Union and the Pacific Islands Forum Fishing Agency to reduce fishing in our waters by 30 per cent does not do enough. PNG—indeed, the South Pacific—needs a five year ban on all foreign fishing in our waters. It is simple really: (1) PNG gets no real revenue from commercial fishing; and, (2) there are few fish left in the seas. Tuna schools have collapsed, yet waters off New Ireland and Bougainville are the breeding grounds for tuna. The Kavieng fishing factory—PNG owned and operated—cannot fill its orders. Village fishermen are giving up fishing in despair.

The NFA—the National Fishing Authority—says it is going to do a fish
stocktake of the seas. Saying it is going to do that is lies and humbug. Go on a boat in the water around Madang; you will not see a seabird or catch a fish,'—and he is referring to the big fish that used to be caught in any amount. Tuna are now an endangered species in PNG waters. We are now forced to set up false reefs and FADs'—fish-attracting devices—to help villages catch fish. PNG needs a determined inland fish farming program, not lip service and chickenshit money thrown at some mad scheme.' That is a call by a member of the Papua New Guinea parliament for foreign investors in PNG to respect the idea that the fisheries of PNG, upon which so many million people directly or indirectly rely, be allowed to recover, not be further depleted by a series of projects such as mining and onshore industrial works—indeed, logging affects this as well—which are running down the fisheries of this very important neighbour of ours.

I thank the Senate for listening to this brief of the trip to PNG, and my heartfelt thanks goes to all the hosts in that beautiful, wonderful country to our north, with whom we should be much more fruitfully engaged.

Budget

Senator NASH (New South Wales—Deputy Leader of The Nationals in the Senate) (13:23): I rise today to make some comments in response to the delivery of the budget by the Treasurer last night, but before I do I would like to acknowledge in the chamber today my very good friend and Senator elect Bridget McKenzie from Victoria. The budget delivery last night by the Treasurer indicated to us that the government has a complete lack of strategy and a complete lack of substance when it comes to the future sustainability of this nation. The other things it highlighted were the opportunities that have been missed because of this government's waste and mismanagement.

But, firstly, some of the significant announcements last night in the budget were, of course, the announcements around the deficit: $49.4 billion this year, the second-largest since World War II and $8.6 billion worse than was forecast in last year's budget. We have a forecast for the budget deficit in 2011-12 blown out by $9.6 billion to $22.6 billion. We have a net government debt increasing to a record $107 billion in 2011-12. Remember: when we came to government back in 1996, there was $96 billion worth of debt, and that took us 10 years to pay off. The government has managed to rack that up in just a few short years.

Senator Sherry: We just had a world recession.

Senator NASH: I note government senators on the other side are already starting to spark up. I am not surprised that they are a little bit tender when things are pointed out about this budget that they really will not like at all. This government is borrowing $135 million a day. What I think will really interest families and people working—indeed, everyone around this country—is the interest on that government debt, which is going to cost $20 million a day. That is, to put it in context for people around Australia who may or may not be listening, $4,700 debt a day for every single Australian. When you look at those figures, how can you possibly consider that this is a good budget for the Australian people?

Interestingly, the Treasurer is keeping the focus, as I am sure he would like to do, on this wafer-thin, $3.5 billion surplus that we are apparently going to get in 2012-13. I say don't hold your breath. The chances of that happening—they may well—are about as thin as the figure that has been presented to
us. The Treasurer, you can see very clearly, is using this as a distraction. He is jumping straight to 2012-13, saying: 'Look at this surplus. Isn't this fantastic? We're on track to get the surplus.' What he is not mentioning nearly as often is the almost $50 billion deficit we have this year and the almost $23 billion deficit we have for the next financial year. It is extraordinary.

This budget has no inclusion whatsoever of the carbon tax. That has serious implications for the veracity of the budget. There is no doubt about that. And this is a carbon tax, I might add, that what seems to be a very few short months ago—just before the last election—the Prime Minister promised the Australian people we would not have. This was a carbon tax we would not have. There will be no carbon tax under the government I lead.

That is what the Prime Minister said. It did not take long before we had the government—I am sorry: the Labor-Greens-Independents government—which meant that apparently Australia was now going to get a carbon tax. I can tell you right now the Nationals and Liberals will be doing everything we possibly can to stop that. But, having promised not to have a carbon tax and then telling the Australian people they were now going to have one, there is no inclusion of it in this budget. There is nothing. They have completely ignored the importance of one of the most important issues for this country over the years to come.

I want to move on to what this budget has for regional Australia, and I have to say it is precious little. There is no plan, there is no strategy and that is not surprising at all from what is a weak and indecisive government. There is no vision. Where is the vision? Where is the plan for regional Australia from this government? The commitment to regional education in the budget is very big on talk but very short on detail. The attention to agriculture is nothing short of pitiful. There is not much more than empty promises for regional development. There are a whole range of areas, but they are the ones I will particularly focus on today.

What we have seen in regional education is something called the Regional Priorities Round of the Education Investment Fund. What this is is a $500 million raid of the Education Investment Fund for some priorities round that has absolutely no detail behind it—remembering, of course, that that funding was there because of the coalition in the first place. But there is no detail at all on how this will work. What is particularly curious is the fact that in Budget Paper No. 2, where this particular measure for the Education Investment Fund Regional Priorities Round is put forward, it has the rather extraordinary sentence at the bottom saying:

This measure delivers on the Government's agreement with the Member for Lyne, and the Member for New England.

It is unprecedented that in a budget paper there should be a reference to a particular member of parliament. That is extraordinary. It just shows the depth to which this government has had to go because of this Labor-Greens-Independent government. That is what it is: it is a Labor-Greens-Independent government. The thing here is: who is in charge of this country? This country is like a ship without a captain. We have no idea where it is headed because we never know when the next thing is going to come from the Greens or the Independents that is going to shunt the Prime Minister off in another direction. We simply do not have a clue. It should not be a budget paper; it should be BS propaganda. This is extraordinary stuff from
a government that has no idea about strategy and a plan for the future of this country.

I cannot help but compare the use of the Education Investment Fund for this. The coalition has been saying for months that the Education Investment Fund should be utilised to fix the problem of independent youth allowance for students in the inner regional areas. The government would not use the funding out of the Education Investment Fund to fix a problem right now that they have said that they cannot fix because of cost and they cannot possibly fix the Education Investment Fund for that. But what do we see here, Senator Mason? We see that they are quite happy to raid it for some funding that is going to appease the Independents. It is extraordinary stuff. Students across the country should quite rightly be absolutely furious that they have been left out in the cold by this government when there was a perfect funding measure available for this government to use to fix the problem and to treat regional students fairly regardless of where they live when it comes to independent youth allowance. It is shame on the government that they refuse and continue to refuse to fix that measure.

What there is in the budget for agriculture is pathetic. Of the 350 pages, 7½ pages are devoted to agriculture. Take out the five pages that are dedicated to the winding-up of drought assistance in EC, there are 2½ pages. Australian farming and the related sectors generate $155 billion a year in production. They underpin this nation. They contribute 12.1 per cent of GDP. And they get 2½ pages in the budget from this government. That shows more clearly than anything the complete disregard this government has for rural and regional Australia. There is no vision and there is no strategy. It is appalling. No wonder people across regional Australia are screaming out about the complete disregard and the complete disconnection from this government when it comes to the future for regional Australia.

In 2050 we are going to have a global population of around nine billion people, and the issue of food security is going to be huge. This government completely ignore it. They have absolutely no idea. The Treasurer, as we have seen through this budget, simply does not have a clue. He is clearly clueless. Not only did his budget not contain anything significant at all for the future of regional Australia, but we have also seen the Treasurer just recently, apparently, approve the sale of a significant proportion of our grain handling and storage facilities to a privately-held American company, Cargill. The Treasurer has not even gone on the record himself to say that he has done this; this has come from the company.

What this is potentially going to do to this country is extraordinary when we look at the issue of food security. We are potentially going to have a privately-held American company that is not subject to the same transparency as publicly-listed companies having a significant degree of control over our grain silos, through the system, through the rail system, and potentially having a 50 per cent ownership of Melbourne Port. And, in terms of competition, we are potentially going to have the Coles and Woolworths of the grain industry through GrainCorp and Cargill. And what is the Treasurer doing? He goes, 'Okay; that's fine. No problems.' There are no ideas about conditions or anything that should be placed on this. It is the perfect example of the fact that the Treasurer has no idea about what is needed for the future of food security in this nation.

Then we have regional development. This is really quite an extraordinary area. I will just run through a few of the issues. We have millions set aside for a website called MyRegion—which appears to be duplicating
other websites and maybe even duplicating the local Yellow Pages, if you look at it closely enough. I think there is about $4.2 million going to that. We have got millions going to regional development committees to do things like funding forums, sitting fees, web engagements and interdepartmental agreements—millions of dollars on this sort of activity—but where are the things of real substance for regional?

I particularly like this one: $19 million on 34 regional strategists, who are actually going to tell regional people what they already know about problems faced with regional education and skills. Compare that to the fact that in the budget the government has failed to address the very important issue of attracting teachers to regional areas and retaining them. The government in its budget has completely failed to address that issue. Then we see that the Building Regions Fund is losing $100 million dollars; yet Sustainable Suburbs gets an extra $100 million allocated to metropolitan suburbs to support employment. This government are completely clueless as to what the strategy is for a sustainable regional Australia into the future. You only to have to look at the fact that they refused to acknowledge the unfairness for students in the inner regional zones when it comes to independent youth allowance to know that they simply do not understand the needs of regional Australia. et us just look at that in the context of the budget. Because of this government's debt, because we are running up to $107 billion worth of debt, this government has to pay $20 million a day. In just five days the government would have enough money to pay for an entire year for the changes that need to be made to the independent youth allowance so that all regional students can be treated fairly—just five days of interest. These regional students are being hung out to dry because this government refuses to fix the problem.

This is a budget that has precious little for regional Australia. This is a government that is clearly unable to understand what is needed in the regions. Where is the plan? Where is the plan that says: in 2020, 2030, 2050, this is how we want regional Australia to look? There is nothing in the budget for them. It is all just about the next election cycle—for the government and the Prime Minister, if she is indeed leading the government at the next election. The Australian people deserved better than that. They deserved a budget that was substantive and they deserved a budget that was going to deliver a strong future for the Australian people, which is what they would have got from a coalition government.

Sitting suspended from 13:38 to 14:00.

QUESTIONS WITHOUT NOTICE

Budget

Senator CORMANN (Western Australia) (14:00): My question is to the Minister for Finance and Deregulation, Senator Wong. Minister, why is the government claiming the $1.7 billion-plus flood tax and $4.5 billion in other new taxes, tax increases and revenue measures as if they were spending cuts? Isn't it true that, without those tax increases, the government's net spending actually increases over the forward estimates rather than decreases?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:00): Isn't it extraordinary! The first question on the budget and the best the opposition can do is to question a levy which has already gone through this place which they opposed with a real amount of—

Honourable senators interjecting—
The PRESIDENT: Order! Senator Wong, if I could just interrupt you for a moment: I need some silence.

Senator WONG: A levy which was the subject of an enormous amount of chest-beating on that side and went through this chamber very quietly with the opposition opposing, but not too loudly. What an extraordinary thing! This is a budget which is about bringing the budget back into the black, a budget that is about jobs, jobs, jobs—creating jobs, training people for jobs and getting more people into jobs—and the best they can come with is: 'We don't like a levy to help rebuild Queensland.' That is the best they can come up with! It is amazing, isn't it? This is an opposition which in government was happy to have a levy to help the sugar industry and happy to have a levy to buy back guns, but they are still fighting an argument on a levy to help rebuild Queensland and other areas of Australia that were hit by a natural disaster. But the most interesting thing is this—

Honourable senators interjecting—

The PRESIDENT: Senator Wong, I will just get you to sit down for a moment. I understand that people want to debate this issue but, as I point out constantly, the time to debate these issues is at the end of question time when ample time is given for people to put their views forcefully. I need to listen to the answer. I call the minister.

Senator WONG: The most interesting aspect of the question is that Senator Cormann does not know how many additional levies and taxes were in his own supposed $50 billion worth of cuts. Remember that the opposition went to the election with a levy to fund their paid parental leave scheme. We know that the opposition have included these sorts of things in the past as savings measures. If you want to apply that rule in terms of savings, your theoretical savings— (Time expired)

Honourable senators interjecting—

The PRESIDENT: Order! I remind senators that it is disorderly to shout across the chamber. I need to listen to the answers that are given. Senator Cormann.

Senator CORMANN (Western Australia) (14:03): Mr President, the minister clearly has no explanation as to why a tax increase is said to be a spending cut. I have a supplementary question. This was supposed to be a tough budget. Why then has the government failed to offset new spending in both 2010-11 and 2011-12 with savings, increasing the deficit by more than $7 billion? Is the minister aware of comments by respected economic commentator Alan Kohler that 'any decent chief financial officer would be embarrassed by this budget'?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:04): First, we have identified $22 billion worth of savings in this budget. Second, the net save/spend position in this budget is a net save in excess of $5 billion. And I should say that, in terms of restraint on expenditure, the average real growth in expenditure in the years of this budget is about one per cent per year. Under Peter Costello, in his last five budgets it was around three per cent a year—I am talking about real growth. The last time a government showed this sort of expenditure restraint was in the 1980s. This is a budget that brings the budget back to surplus and puts more Australians into jobs, trains more Australians and increases participation. If Senator Cormann wants to talk about performance, why don't we talk about Mr Hockey's performance last night and this morning? (Time expired)

Senator CORMANN (Western Australia) (14:05): Mr President, I ask a further supplementary question. Now that the
minister has started talking about tight fiscal discipline and limiting spending growth, does she accept that the government's commitment to keep spending growth below two per cent in real terms is a very easy target to achieve given that government spending is coming off a highly inflated base with spending growth of more than 17 per cent over the last two years in real terms, the highest since Whitlam?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:06): If it was so easy, why did you never achieve it?

Senator Cormann interjecting—

The PRESIDENT: Senator Cormann, you have been given your chance to ask the question. I want to listen to the answer. There have been many people interjecting on both sides, which is completely disorderly, and everyone knows that.

Senator WONG: If it was so easy, why did they never achieve it? That is the first response. Why did they never achieve this amount of spending restraint? But the more important issue is this: the shadow Treasurer—

The PRESIDENT: Senator Wong, resume your seat. If you want to debate the issue, the time to debate the issue is after question time. I have just reminded the Senate that interjections are disorderly.

Senator WONG: I can understand why they want to interrupt. Their shadow Treasurer has given the most embarrassing performance that an opposition has given in a very long time. This is a shadow Treasurer who says he wants to bring the budget back to surplus earlier, who says there are not enough tough savings and now has opposed at least two or three of the savings. How is it possible that you can come back to surplus and oppose savings measures? Perhaps the opposition should have a think about that.

Budget

Senator MARK BISHOP (Western Australia) (14:07): My question is to the Minister for Finance and Deregulation, Senator Wong. Can the minister inform the Senate of the importance of setting out a plan to return the budget to surplus?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:08): Last night the Treasurer presented the government's budget that will bring the budget back to black by 2012-13, as we have committed to. It is a surplus achieved by taking some $22 billion worth of savings and a surplus achieved despite the significant downgrade in revenues from the legacy effects of the global financial crisis as well as the effects of a high dollar and the floods and disasters on the Australian economy—things that the opposition seem to like to avoid.

We have seen revenue write-downs in 2010-11 and 2011-2012 of some $16.3 billion but, despite this, this government has taken the decisions to ensure the budget comes back to surplus and that the budget prepares Australians for the increase in employment which we will see continue. Remember, this is a government under which there have been some 750,000 jobs created and we anticipate another 500,000 jobs in the year ahead. It is a budget focused on ensuring we reprioritise expenditure, make spending cuts and apply our investment to those things which are good for the economy, good for Australian workers and good for Australian families.

We know that some of the decisions in this budget will not be popular, but they are necessary because we must build surpluses. We must not compound the price pressures we know will increase as a result of the gathering pace of the mining boom. That is why the government have made the
disciplined decisions necessary to achieve that surplus. We look forward to the opposition finding some semblance of economic responsibility in the number of hours between now and the budget reply.  
(Time expired)

Senator MARK BISHOP (Western Australia) (14:10): Mr President, I ask a supplementary question. Can the minister outline to the Senate why it is important to detail the cuts that the government is making in order to bring the budget back into surplus?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:10): Last night's budget set out a clear path on the return to surplus. The government set out its decisions about where we are reducing expenditure, where we are taking savings, where we are reprioritising and how we bring back the budget to surplus by 2012-13. We are very conscious of cost of living pressures; we are very conscious of the price pressures arising from the gathering pace of the mining boom. That is why it is responsible to bring the budget back to surplus.

We have presented our decisions and our discipline. What we look forward to, and the Australian people deserve, is Mr Abbott tomorrow night in his budget reply demonstrating that same discipline. It is very interesting: they have gone very quiet over there. When they talk about discipline on this side, they do not want to talk about what they would do. They simply want to pretend they can get—(Time expired)

Senator MARK BISHOP (Western Australia) (14:11): Mr President, I ask a further supplementary question to Senator Wong. Can the minister outline to the Senate any alternative approaches that are a threat to sound economic management?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:12): There is a range of alternative approaches on the other side. Some of them are quite novel. It might be instructive for senators from the opposition to be aware of just where Mr Hockey is taking them. Mr Hockey has committed to bringing the budget back to surplus by 2011-12. He has done it all by himself but he has committed you to it. He also says he does not want to support the government's savings measures. He is complaining that a number of the measures that the government put forward in last night's budget which will return funds to the budget to help the return to surplus should be opposed. I wonder if opposition senators, who pretend to care about economic and fiscal responsibility, would be aware that they have been put in a position of opposing savings measures but delivering a surplus earlier. It simply does not add up. (Time expired)

Budget

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:13): My question is to the Minister representing the Treasurer, Senator Wong. In its agreement with the Independents to form government, the government agreed to invest $1.4 billion in community infrastructure. Can the minister please outline how much of this money is being spent on regional infrastructure projects over the forward estimates as outlined in last night's budget, and did your negotiations with the Independents insist on investment in such things as crazy ants, the Australian Antarctic Division, Canberra centenary celebrations and Perth airport roads?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:13): This budget has delivered for regional Australia like no other budget. I
know that is embarrassing for the National Party who, when they were in coalition, never managed to deliver what a Labor government with this parliament has delivered last night. I can understand why Senator Joyce might feel a little embarrassed about that issue. As I go through some of the many investments in regional Australia that the government is putting in place. There is a $4.3 billion investment in health, education and infrastructure initiatives for the benefit of regional Australians. One of those is, as the senator would know, the Health and Hospitals Fund where there is a commitment of $1.8 billion, of which $1.3 billion was delivered last night. There were a great many regional hospitals and other health investments out of that $1.3 billion fund for Queensland and for states and territories all around Australia. I hope that the coalition will be supportive of those investments in regional health programs. In addition, the government is delivering a $500 million investment in the regional priorities round of the Education Investment Fund to support capital investments in regional higher education and vocational education. So they are amongst the $4.3 billion worth of investments in regional Australia delivered under this government and in this budget.

The senator should also be aware of the Regional Development Australia Fund. That was referred to last night and has previously been announced by Minister Crean. So this is a government that has not only delivered on its commitments to the Independents; more importantly, it has delivered on its commitments to regional Australia and delivered on— (Time expired)

Senator JOYCE (Queensland—Leader of The Nationals in the Senate) (14:16): Mr President, I ask a supplementary question. In March this year the government announced the five-year $1 billion Regional Development Australia Fund. Can the minister please inform us directly how money in this fund is actually listed in the budget over the next four years? What is the amount?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:16): It does sound like we have got to an estimates question pretty quickly. My recollection of Minister Crean's announcement is that it is obviously his portfolio as that was a grants based program. My recollection is also that provision for at least some of this fund was made in the MYEFO as well as referenced in last night's budget, but I can come back to the senator in more detail on that.

I think the question is about profiling of that particular line item of the federal budget and I do not have that detail in front of me. It is the case—

Senator Joyce: Mr President, I rise on a point of order on relevance. If the minister does not know the answer, or is not capable of giving the answer, she can just take it on notice and get back to us. We do not need to waste any more time.

The PRESIDENT: Senator Joyce, there is no point of order.

Senator WONG: Thank you, Mr President. As I said there is $1 billion in the Regional Development Australia Fund which is about additional investment in economic and community infrastructure in regional Australia. The senator might also be aware that, through Minister Crean's portfolios, we have—

Senator Joyce: Mr President, I rise once more on a point of order on relevance. The minister has approximately six seconds to say a number. She either knows the number or she does not know the number. She is the finance minister; she might possibly be able to have a crack at it. All we need is the
number of how much, over the next four years, is actually listed in the budget.

Senator Ludwig: Mr President, on the point of order: Senator Wong has indicated that the question is most likely well outside the budget portfolio that she has. Together with that, it is a question about an announcement in March by the regional development minister, Simon Crean, about a $1 billion announcement. Minister Wong also indicated that she would have a look at that. But, notwithstanding that response, Minister Wong was also directly relevant to the question by dealing with the substance of the matter—that is, the question around the $1 billion announcement. All of that means that Senator Joyce is well outside his comfort zone in asking this question and I would ask that no point of order be recorded.

The PRESIDENT: There is no point of order.

Senator Wong: Thank you, Mr President. My recollection is that Minister Crean, prior to the budget, did announce guidelines for the program the senator has mentioned.

Senator Joyce (Queensland—Leader of The Nationals in the Senate) (14:19): The answer was $300 million, but anyway. Mr President, I asked a further supplementary question. How can regional Australia trust this government to deliver when it does not put the money it promises into accounts it keeps?

Government senators interjecting—

The PRESIDENT: Order on my right!

Senator Conroy interjecting—

The PRESIDENT: Senator Conroy! This is wasting valuable question time. Senator Joyce, you are entitled to be heard in silence. Continue.

Senator Joyce: Thank you. What guarantee can the government give that after the next election this government will not raid these funds to deliver on its increasingly fanciful predictions of a more than $50 billion turnaround in the surplus in two years time?

Senator Wong (South Australia—Minister for Finance and Deregulation) (14:20): I am happy to answer the question, Mr President, but perhaps we could ask you to consider how that is a supplementary question given it is about post the next election.

We have announced the Regional Development Australia Fund. We have announced the guidelines to that and Minister Crean made that announcement pre the budget. If the senator is asking about what is linked to that fund, he may be referencing the fact that the minerals tax does provide a contribution to that fund. So I suppose the National Party will be in a position, when that legislation comes before this Senate, of whether it supports additional investment in regional infrastructure in this country.

Forestry

Senator Bob Brown (Tasmania—Leader of the Australian Greens) (14:21): Mr President, my question goes to the Minister for Agriculture, Fisheries and Forestry, Senator Ludwig. Can he tell the Senate what he knows about the logging of the Gulaga Mountain, south of Narooma in New South Wales? Is it true that this process is being taken under contract with the New South Wales forestry department by a Tasmanian logging company, which was given an $825,000 payout under the minister's $17 million funding of Tasmanian contractors? Did the minister facilitate this contractor from Tasmania to outcompete other potential contractors in New South Wales against my advice to him before he
issued or signed off on that contract last year?

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) (14:22): I thank Senator Bob Brown for his question. When we talk about the issue around Tasmania and the contractors' package, can I indicate at the outset that was an area where it was incredibly important to support the Tasmanian forest contractors in Tasmania for their outcomes in the reduced effort that was needed.

The Gillard Labor government values and recognises Tasmania and the ecological, social and economic aspects of our native forest resources. We consider that it is important to get the balance right and a sustainable approach to how we manage our native forests. We also recognise the challenges, including capacity issues, that were facing the Tasmanian forestry industry.

During the 2010 federal election campaign, as you correctly identified, the Gillard Labor government committed $20 million to help Tasmanian forest contractors and their employees. We did exceed that commitment on 23 November 2010 when we announced $22.4 million for the Australian government funding package. If I go through the explanation of the package, it will answer the question you asked about New South Wales because this package was designed to deal with the oversupply of contractors in that sector while continuing to support viable ongoing businesses in Tasmania. The package was developed following discussions with the Tasmanian government representatives from the Tasmanian forestry industry and the CFMEU. The measures included both exit and financial support measures. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (14:24): The minister is aware that I did advise him that contractors getting these packages in Tasmania should not be allowed to come to the mainland to send other contractors on the mainland broke. I ask the minister: regarding the contractual arrangements with Tasmania, what is the $300,000 line item in last night's budget for processing the Tasmania forest agreement for? What further expenditure on that matter does the government have in mind?

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) (14:24): The object of the exit package was to help manage overcapacity in the forest-harvesting and haulage sector as the industry in Tasmania repositions itself. The guarantees were required to cease business operations in the Tasmanian sector for a minimum period of five years. Grantees were not excluded from being able to operate outside of Tasmania. I think that is an important point for the package and for the Tasmanian oversupply that was occurring.

There are, as we know, ongoing negotiations and discussions around the Tasmanian forest statement of principles, the forest agreement line item that you are referring to, which was signed by the Tasmanian forestry industry bodies and conservation groups. (Time expired)

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (14:25): I may give the time for the minister to inform the Senate, as he was about to, of the particular line item for $300,000. What is it to be expended on? Can the minister say...
when he will be announcing any further financial assistance—

Senator Ian Macdonald: Why don't you sort this out at your Monday morning meetings?

Senator BOB BROWN: I am being interrupted, Mr President.

The PRESIDENT: Continue. You will be given time to answer your question.

Senator BOB BROWN: The other part of my question is to ask what other measures the government has in mind in terms of funding.

The PRESIDENT: Senator Brown, I did not understand those last few words.

Senator BOB BROWN: I asked what other measures the government has in mind in funding that agreement.

The PRESIDENT: I think there might be something wrong with your microphone.

Opposition senators interjecting—

The PRESIDENT: I will not take technical advice from those who are not in charge. I can only go from those who have some command of the system; I do not. If there is something wrong with your microphone, Senator Bob Brown, we will have it checked out at the end.

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) (14:27): In dealing with the last line item, it is not within the portfolio that I have nor the one I represent. Under the Department of Sustainability, Environment, Water, Population and Communities there is a line item, point 3, where the government will provide $0.3 million in 2011-12 to support signatories to the Tasmanian forest statement of principles leading to an agreement among other relevant organisations to better engage and consult with their membership in the negotiation process and assistance will be provided to industry, environmental organisations, unions and other groups. As I indicated, that is within the Department of Sustainability, Environment, Water, Population and Communities, but I am happy to provide that information out of Budget Paper No. 2 as an explanation of what that is used for. In the broader issue that you mentioned, I will see what further information I can provide.

Carbon Pricing

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (14:28): My question is to the Minister representing the Treasurer, Senator Wong. Is the response to climate change and the imposition of a carbon tax central to the government's economic and fiscal strategy?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:28): Isn't it amazing? Only three questions in the day after the budget and they cannot ask a budget question. All they want to talk about is a carbon tax. It is extraordinary.

Opposition senators interjecting—

The PRESIDENT: Senator Wong, all you need to do is address the question.

Senator WONG: There was a time when those opposite cared about their economic credibility and cared about their fiscal credibility. Now you have got Mr Hockey running around promising surpluses but opposing savings, which, as you know, does not add up. We also have Mr Abbott, who we know has previously described economics as very 'boring'; and rather than talking about something that bores him like how you bring the budget back into the black and secure the future prosperity of the nation all he wants to do is run around and say,
'Where's the carbon price?' That is all he wants to talk about.

I think the Australian people are on to you. They know that the only reason you want to talk about the carbon price is that you have nothing to say on the budget, you have nothing to say about the jobs of Australians, you have nothing to say about how we bring the budget back into surplus and you have nothing to say about building the workforce for this nation's future.

If somehow the allegation is that we should have put the carbon price into this budget, as we have said on many occasions, we will account for the carbon price after it has been finalised in the first update post those decisions. That is what we have said, and we are no different in that to Mr Howard, who promised an emissions trading scheme, but never put it in his budget. Mr Howard talked about a GST in 1997 but did not put it into his budget for a couple of years. What we are doing is no different to what Mr Howard did. We will account for it. (Time expired)

Senator FIFIELD (Victoria—Manager of Opposition Business in the Senate) (14:35): Mr President I ask a supplementary question. Will the minister confirm that the imposition of a carbon tax will significantly change all the key figures in last night's budget, including the revenue estimates, the spending estimates, the growth estimates, the employment estimates and the inflation estimates? Given their importance, can the minister please advise the Senate why the details of the carbon tax were not included in the budget? How can the budget documents have any credibility without them?

Senator Cameron: You voted for Costello. You've got no economic credibility.

Senator Abetz: Says the dinosaur!

The PRESIDENT: Order! I remind honourable senators that debate across the chamber does not help the conduct—
Honourable senators interjecting—
The PRESIDENT: Order! I remind the Senate once again that the time for debate is at the end of question time.

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:36): I will say again: when the government finalises its decisions on the carbon price the government will account for it properly in its next update, just as Mr Howard did on the GST. I think really we all know what is going on here. Those on the other side have no answer to this question: how would you bring the budget back to surplus? They have no idea on that question of how you would bring the budget back to surplus. So they want to create as much noise and palaver as possible. They want to continue to talk about the carbon price and they want to beat their chests about fiscal discipline but not put up their plan. The reality is that they are doing this to avoid showing any responsibility themselves, and people know it. (Time expired)

Senator FIFIELD: Mr President I ask a further supplementary question. Can the minister explain why the carbon tax was not included in last night's budget but funding for the advertising campaign was? Does this not just prove that the government believes spin is far more important than substance?

Senator Cameron: You'd know that, working for Peter Costello.

Honourable senators interjecting—
The PRESIDENT: Order! When we have silence on both sides we will proceed.

Senator WONG: In relation to the first part of the question; I think I have answered that on a number of occasions already. In relation to the second question, it is the case
that there is some funding for the Climate Change Foundation campaign in last night's budget. I should advise the Senate that this is not new money but a transfer of already announced funds between years—a killer blow, Senator. It is to be used for activities to increase understanding of climate change but does not include, on my advice, paid advertising, and no decision has been taken by the government on any climate change advertising campaign.

Yet again we hear a lot of noise from the other side. What are they doing? They are trying to duck any semblance of responsibility. They are trying to avoid having to account for themselves. (Time expired)

Opposition senators interjecting—

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

Budget

Senator CAMERON (New South Wales) (14:36): Thank you, Mr President. Now that the rabble has settled down, my question is to the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, Senator Evans. Can the minister outline to the Senate the importance of the government's skills initiatives in the budget?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:36): I thank Senator Cameron for the question and his interest in the important issue of skilling up Australians. The most important thing a government can do is to give people the security and dignity that comes with a job, and this government has a very proud record on jobs. During the global financial crisis we saved hundreds of thousands of jobs by our investment stimulus, and since coming to government we have created 750,000 jobs in the economy, abol is the party of work, jobs and opportunity. That is why this budget will get more Australians into work. We will invest in skills, we will let many people keep more of their pay when they take up work and we will require more from those who are not working. Labor believes that those who can work should work and those who want to work should have the opportunity to gain the skills they need to enter the workforce.

Yesterday the government announced a $3 billion investment in skills and training initiatives over six years to ensure Australia has the skilled workers the economy needs and ensure more Australians can benefit from our growing prosperity. Through these measures, we are putting industry at the heart of the training effort with a new national workforce development fund that will be administered by an independent, industry led workforce agency; reforming the apprenticeship system to make it more modern and flexible, including accelerated apprenticeships and mentoring support; and increasing access to the workforce for disadvantaged Australians by addressing the barriers that they confront.

Many Australians find themselves locked out of our success, sitting on the sidelines unable to join the workforce for a whole range of reasons. This budget gives them the chance to get off the sideline and get into the game, to share in our nation's success and build a better life through skills development.

Senator CAMERON (New South Wales) (14:38): Mr President, I ask a supplementary question. Minister, can you outline to the Senate the government's changes to the apprenticeship system in this year's budget?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate)
The Gillard government's investment in training has produced outstanding results in recent years, with record numbers of Australians in traineeships and apprenticeships. Numbers are now at historical highs, with around 448,000 Australians undertaking apprenticeships and traineeships.

But, even with this success, the Gillard government recognised the need for reform when we commissioned an independent review of the Australian apprenticeships system by an expert panel last year. That report provides a clear direction for reform of the Australian apprenticeship system. The package announced in the budget this year is the Gillard government's initial direction-setting response to the panel's recommendation and is informed by stakeholder consultations. We are investing over $200 million in initiatives to boost apprenticeship completion rates by introducing mentoring support and competency based training that allow us to see more apprentices start and complete their apprenticeships and join the workforce with high skills. (Time expired)

Senator CAMERON (New South Wales) (14:39): Mr President, I ask a further supplementary question. Minister, as you are aware, under the Howard-Costello government leadership, apprenticeships were in decline in this country. Can the minister explain to the Senate how the government is helping apprentices access the training that they need?

Senator CHRIS EVANS (Western Australia—Minister for Tertiary Education, Skills, Jobs and Workplace Relations and Leader of the Government in the Senate) (14:40): The Gillard government has made serious investment in upskilling our workforce and giving young Australians an opportunity to take up an apprenticeship. As I have indicated, we have record numbers of young people in apprenticeships and traineeships. The Kickstart program, which we conducted during the global downturn, saw apprenticeship numbers remain strong for the first time ever, I think, in a downturn, and we have been able to build on that now.

But, equally, we have actually invested in building new vocational education and training facilities around Australia. We have put $700 million into building new facilities, many of which are coming on stream now, including one I opened for TAFE New South Wales last week. These are giving world-class facilities to TAFE and other providers to allow apprentices to get quality training in quality institutions to continue our tradition of having top-class tradespeople to provide the skills we are going to need. (Time expired)

Budget

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (14:41): My question is to the Minister for Finance and Deregulation, Senator Wong. When the minister said this morning that this budget is a 'very Labor budget', was she referring to the fact that net debt is now set to peak at $107 billion next year and will remain above $100 billion for at least the next four years? How does this reconcile with the government's supposedly 'tight fiscal rules'? Is the minister proud that she has now topped Paul Keating's debt record of $96 billion?

Senator Conroy: No wonder they put you fourth!

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:42): I was actually going to give Senator Bushby a compliment: at least he has obviously read the budget papers, which is more than could be said for any of the spokespeople who asked questions ahead of him.
In relation to the net debt figures, the budget figures do indicate that net debt peaks at 7.2 per cent of GDP in 2011-12. It might be useful to remember how that compares with the net debt figures of other major advanced economies. The average peak net debt figure of major advanced economies is over 90 per cent of GDP. Ours peaks at 7.2 per cent; the average net debt peak of advanced economies is in excess of 90 per cent of GDP. So let us get a bit of perspective into how much stronger our economy is as a result of where we are in the world, the nature of the terms of trade and the actions of this government to invest in the economy to support jobs, opposed by those opposite. Let us get some perspective of how much stronger our economy is than other major advanced economies.

In terms of this budget, we have delivered a path for a return to surplus. I encourage those on the other side who, like the good senator who asked me the question, actually do care at least a little about the fiscal credentials of the opposition to perhaps suggest to their spokespeople, who are busy wrecking the surplus by opposing some of the savings measures in the government’s budget—(Time expired)

Senator BUSHBY (Tasmania—Deputy Opposition Whip in the Senate) (14:44): Mr President, I ask a further supplementary question. Minister, could you explain why net debt is estimated to actually increase from $104.6 billion in 2012-13 to $105.3 billion in 2013-14 despite the government claiming it would deliver surpluses over those years?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:46): The net debt figures are laid out in the budget papers, and they are a function of the calculations that Treasury and Finance undertake. The peak net debt is in 2011-12 at 7.2 per cent of GDP and, as I said, this is a level less than a 10th of the average of the major advanced economies. But if the senator cares about debt levels—and he appears to—then he should be pressuring and demanding that his shadow Treasurer and his leader lay out their path for a return to surplus, because if he does not and if they do not then we will know that what Mr Hockey and Mr Abbott really stand for is wrecking the surplus through opposing savings measures that the government is putting in place. That is what you will be
known for, and no amount of rhetoric will get you out of that particular bind. (Time expired)

**Crime**

Senator FIELDING  (Victoria—Leader and Whip of the Family First Party) (14:47): My question is to the Minister representing the Minister for Privacy and Freedom of Information, Minister for Home Affairs and Minister for Justice, Senator Ludwig. Given the crazy loophole that still exists that allows criminals to change their name by deed poll and thereby erase any record of their criminal history, and given the evidence by Detective Superintendent Carver to the Joint Parliamentary Committee on the Australian Crime Commission—he said, 'Just moving states or even to countries like New Zealand and then changing your name by deed poll and coming back, you are almost like a new person'—what is the government doing to fix this dangerous situation so that criminals are not running around changing their names and walking away from their past crimes?

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) (14:48): Can I say at the outset that there are a couple of intersecting issues that you have raised. One is dealing with the change of name. As we know, births, deaths and marriages are state responsibilities, and they deal with them, so deed poll changes are not a matter for the Commonwealth as far as I am aware. But if I am wrong about that then I will correct the record. In terms of privacy, it is not a privacy matter per se if you want to change your name and deal with births, deaths and marriages in a state registry. They may require and have to keep privacy issues surrounding births, deaths and marriages and those matters. So I am just attempting to separate the two issues out. In terms of privacy, of course, this government has significant reform in this area. We have already announced the first tranche of reform of the privacy legislation.

Dealing with the specificity of your question, however, the issue around how you effectively couple up states around births, deaths and marriages to ensure that criminals cannot take advantage of the system by how you have described it, and the evidence that has been provided, is a matter that I think falls more correctly within the Attorney-General's portfolio, dealing with the type of response, the type of sharing of information and the ability for the Australian Federal Police to work with the state police to ensure those loopholes are closed. But, to the extent that I can take that on notice and get further and better particulars in relation to the primary issue, I will.

Senator FIELDING  (Victoria—Leader and Whip of the Family First Party) (14:50): Mr President, I ask a supplementary question. Given that this was already raised two years ago in Senate estimates and the federal and state attorneys-general have been working on this, and despite there still being no meaningful progress, can the government explain why it is still dragging its feet? This has been a federal issue, working with the states. Why has this not been resolved?

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): Thank you, Senator Fielding. We do seem to have jumped a fraction from the initial substance of the question—which I thought did go to privacy, which is within Minister O'Connor's portfolio, which deals with privacy reform—to an issue which now is subsumed within

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**CHAMBER**
the Attorney-General's portfolio, dealing with the AFP and how to effectively close this particular loophole. In looking at this issue, I am not aware of it having been raised two years ago in Senate estimates. However, if it has been, I will certainly ask the Attorney-General's portfolio to have a look at Senate estimates and to examine the issue that you have raised and provide an explanation, to the extent that they are able to, as to the work that they are conducting. In and around what I think you have identified is an issue where people with— (Time expired)

Senator FIELDING (Victoria—Leader and Whip of the Family First Party) (14:52): Mr President, I ask a further supplementary question. Given that the states have occasionally used the Privacy Act to hide behind the changes, when will the government support changes to the Privacy Act to make it clear that the Privacy Act does not prevent government agencies from passing on relevant information to each other in relation to tracking a person's criminal history so that criminals cannot exploit this loophole and hide their real identities and their past crimes?

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (14:52): In response to your question, the issues around the powers of the Information Commissioner and the privacy legislation itself are quite complex, because you are talking about the relationships between the states, the territories and the Commonwealth in terms of investigations about transfer of information. I will take the question on notice to ensure I am correct, but my recollection is that there is a significant amount of information-sharing between the Commonwealth, through the Australian Federal Police, and the states and territories. They use CrimTrac, which is a body that has been set up to deal with the sharing of criminal information. However, in the earlier issue around identifying how we close loopholes— (Time expired)

Asylum Seekers

Senator EGGLESTON (Western Australia) (14:53): My question is to the Minister for Finance and Deregulation, Senator Wong. Can the minister confirm that the cost of asylum-seeker management has blown out by a further $1.75 billion, according to the estimates in last night's budget, while at the same time Labor is cutting $2 billion from support for working families? Why should struggling Australians pay the price for Labor's inability to manage our borders?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:54): It is the case that there has been an increase in this budget for the cost of dealing with asylum seekers. We know that management of our borders does cost money. We know that detention arrangements do cost money, as they did under the previous government. We have made appropriate provision for that, and it is the appropriate thing to do to ensure that we manage Australia's borders in the way that is expected.

In relation to family payments, I would make a number of comments. This government has been a strong supporter of family payments. This government took to the last election the policy to extend a higher level of family tax benefits to families with teenagers who were still in study and in training. We think that is a sensible policy that will mean more families get higher levels of support through the family payment system. That policy was fully funded, fully costed and has been provisioned for in last
night’s budget. If the opposition want to complain about measures we have taken to target the family payment system to ensure it is more sustainable, I hope the opposition will live up to its own rhetoric and point to what other savings it would put forward if it wishes to oppose those measures. The opposition cannot keep getting away with opposing savings— (Time expired)

Senator EGGLESTON (Western Australia) (14:56): Mr President, I ask a supplementary question. Minister, why did your government freeze the indexation of key family payments and income thresholds to pay for Labor’s failed border protection policies?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:57): The Treasurer is a very strong supporter of the family payments system. This government supports the family payment system. We also support it being sustainable.

Opposition senators interjecting—

Senator WONG: Here we have the hypocrisy on the opposition side. On the one hand we have Senator Cormann wanting to be tough—‘You haven’t been tough enough’—and then you have Senator Eggleston and others who are interjecting on that side saying that we should not put in place measures to better target family payments so that they are more sustainable into the future. You cannot have it both ways. This is the problem that the shadow Treasurer, Mr Hockey has. On the one hand he wants a bigger surplus and wants it earlier, but he is opposing savings. The Australian people are entitled to something a little more coherent from the alternative government than the complete mess they are presenting in response to this budget.

Senator EGGLESTON (Western Australia) (14:58): Mr President, I ask a further supplementary question. Minister, how much of the money taken from Australian families to pay for the cost blow-out in border protection could have been saved if the Prime Minister had swallowed her pride and picked up the phone to Nauru?

Senator WONG (South Australia—Minister for Finance and Deregulation) (14:59): I wonder if the opposition ever chose to cost Mr Abbott’s proposition to double the intake of humanitarian asylum seekers post the last election. I do not see that appearing anywhere in their election costings or subsequently. I think people know, if they are watching this question time, the sorts of politics that are being played on the other side and they know this: there is no sensible response to the opposition as yet on this budget—a budget which is very important for Australia’s future; a budget that brings the budget back to black; a budget which is focused on creating jobs, training more people for jobs and getting more people into jobs. That is what this budget is about. But what do we see from the other side? Absolutely nothing. (Time expired)

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

QUESTIONS WITHOUT NOTICE: 
TAKE NOTE OF ANSWERS
Budget

Senator RONALDSON (Victoria) (15:00): I move:

That the Senate take note of answers given by the Minister for Finance and Deregulation (Senator Wong) to questions without notice asked by Opposition senators today relating to the 2011-12 budget.

What an appalling first day for the government after the budget was given. They have no idea and there is no plan and no process. And not one question was actually
answered today—but that should be of no surprise at all.

Senator Sherry: Why didn't you ask a question, Ronno?

Senator RONALDSON: Senator Sherry, of course, is interjecting—and he is one of the greatest recalcitrants on the other side. He cannot answer a question. He is not across his portfolio and all he does is either snooze or interject during question time—and normally in that order.

I now want to talk about what this budget does not include, which means that it is not set in stone but rather it is a budget built on sand. This budget will not stop the boats. This budget will not pay off debt, but rather will increase it. This budget will not put the budget into surplus. No-one believes this government can ever, ever deliver a budget surplus. It will take very, very minimal movement in the economy of China—upon which this surplus is built—for the surplus to dissipate in front of our very eyes. This budget will not stop the government's waste and mismanagement. It will not ease the cost-of-living pressures on Australian families, but rather will add to them. It will not assist private health insurance and it will not do anything about the government's dishonest dealings with the Australian community.

But what this budget will do is impose a carbon tax and a mining tax and destroy private health insurance. It will increase net debt. It will require the borrowings of approximately $135 million per day this financial year and, over the next four years, $20 million a day in borrowings—$4,200 for every Australian over the next four years. This is a government that inherited a strong economy. This is a government that inherited a budget surplus. This is a government that inherited no debt. And in the short space of three years they have driven the net debt into the second highest in this country's history. It was a despicable act last night. It was not a budget; it was an excuse for inactivity. It was an excuse for a government that simply has not got any control of itself. It has no control of our borders and it has no control of the economy, and families are ultimately the ones who have suffered.

I will repeat the comments that Senator Eggleston made when he said: 'Why should families be responsible for this government's refusal or inability to do anything about properly protecting our borders?' This so-called Malaysian deal, which will cost close to $300 million, is a complete and utter farce. There is not one person in the Australian community who believes that it is going to resolve the situation. The solution is there, as Senator Eggleston said, with Nauru. It is quite simple. The Prime Minister knows that, the Labor Party backbench knows that, but the Prime Minister will not swallow her pride, admit she has made a mistake and get on and do something about it. Why should the Australian community pay for her refusal to acknowledge the mistakes that she has made? Why should they pay for her ego? Why should they continue to pay for her refusal to protect Australian families and to ease these increasing cost-of-living pressures?

This government had an opportunity to do something significant for this country in last night's budget. But, instead, they have put every single egg of every single Australian family in the basket of the Chinese economy. This is a Chinese economy driven budget—and if there is a sneeze in the Chinese economy we will get a very, very serious does of the flu. Not one economic or political commentator thinks for one minute that there will not be a sneeze in the Chinese community. It beggars belief that in the next three years there will not be a shiver in the Chinese economy. No-one for one minute
thinks that the Chinese economy is at risk, but no-one believes that there will not be some— (Time expired)

Senator FORSHAW (New South Wales) (15:06): This is the 17th budget that I have witnessed as a member of this parliament. I arrived here at the time of the budget in 1994. So I have seen a lot of budgets—both Labor ones and coalition ones. And let me tell you something: the history of this country shows that when the country gets into some trouble you have to go to a Labor government to get us out of it. It happened in World War II—you fell apart and John Curtin had to take over to save the country. It was Chifley, of course, who started to rebuild the Australian economy after World War II and it was the Hawke and Keating governments that transformed this economy and opened it up to the world—and today we see the great benefits of those visionary decisions. What have we had in the last couple of years? We have had the worst global financial crisis since the Great Depression. What do we have in Australia? We have an economy that is the envy of the Western world. We have the only economy in all of those great nations that did not go into recession. We have an economy that has low unemployment, that has a low inflation rate and that has one of the lowest government-debt-to-GDP ratios of the world. We are a country with an economy that did not have all of the crises that we continue to see in Europe, in countries like Spain, Greece, Ireland and so on. Why was that? It was because of the great economic management of the Rudd and Gillard governments, through, as I said, the worst economic crisis this world has seen since the 1930s.

But it is as if the opposition thinks that it did not occur—because we fixed it, or because we made sure that our economy did not suffer in the way those other nations did. Senator Ronaldson talks about how when China sneezes we get a cold. A couple of years ago the world had one of the worst cases of economic flu in the history of the world in this century and the last century, but we did not catch a cold. We did not even sneeze, and that was because of the decisions taken by the Labor government at the time, decisions which those on the other side opposed. You opposed the economic stimulus package which ensured that our people stayed in work and that our economy continued to grow.

Now we hear the latest pronouncement on this budget. Senator Ronaldson just rattled off his problems as if he thinks this is the worst budget in history—as somebody over there said. It is not. This is a budget for the times. This is a budget that delivers some real increases in important services and important programs to this country, to areas, like mental health, that people have been screaming about for years. I served on a Senate select committee where we made recommendations for increased funding to mental health. I acknowledge that the Howard government did belatedly do something about it, but we have now put another $2.2 billion into that area. That is one of the most vital areas and it has been crying out for government support. Other changes we have made clearly will benefit many Australian families, particularly in terms of getting more people into the workforce.

The budget has also had to have some savings cuts in it, because we are still going to meet that target to get this budget back into surplus by the next financial year, 2012-13. Those cuts are important. But what do we get from the opposition? On the one hand, as Minister Wong said, the opposition says that it will just happen. They say they will just take us back into surplus if they were in government. But, as Senator Wong also pointed out, Mr Hockey is saying he
will not support any of these savings cuts. What are you going to cut? Tell us the areas you are going to cut. You have an opportunity tomorrow night to tell the Australian parliament and the Australian people in what areas you will find the savings in government spending?

When you were in government, government spending grew by an average of three per cent. Under the Rudd and Gillard governments it has been growing at one per cent, so do not lecture us about wasteful government spending and all the rest of it. This is a terrific budget for the times and for the Australian people. (Time expired)

Senator IAN MACDONALD (Queensland) (15:11): Before I correct Senator Forshaw's attempt to rewrite history, I want to congratulate Senator Wong, who, together with the Treasurer, Mr Wayne Swan, has been responsible for putting Australia in a position where we now borrow $135 million each and every day. We pay something like $18 million to $20 million every day in interest on those monies that Labor keeps borrowing. In the time we have had question time today, Labor has borrowed another $5.6 million—ticking it up on the credit card. That is something like $92,000 a minute. While I am speaking today, Labor will have borrowed something like $500,000—in the five minutes I have today.

Senator Forshaw reminded us of the Keating days. What he forgot to tell us is that, when we took government in 1996, we found a $10 billion deficit that had been hidden by the Keating government out of that year's budget alone. When we looked at the books, we found that there was a $96 billion deficit run up by Labor's prolific spending, Labor's incapacity to run a country without taxing, spending and borrowing. It took the Howard government something like seven or eight years to pay off Labor's $96 billion debt. We did that through a lot of hard work and here we are a couple of years later with another Labor debt of in excess of $100 billion.

No wonder they moved Senator Wong from climate change; they should move her from this as well, because she is completely incapable. She talks about what a great economy Australia has. Australia used to have a great economy. Why? Because John Howard and Peter Costello paid off Labor's $96 billion debt and then put us into a $50 billion to $60 billion surplus, which in two short years Labor has blown and run us into additional debt of over $100 billion. Sure, we had a great economy. It was recorded by I think it was the OECD as the miracle economy of the world when it was under the control of Peter Costello and John Howard. Now we are rapidly moving down to the bottom. As one of my colleagues interjected on the GDP, Labor would have us try and emulate those countries who are in debt to the extent of 90 per cent of GDP. It is not, can I say to Senator Wong, a race to the bottom.

As I look through this budget I see very little for rural, remote and regional Australia and I see absolutely nothing for agriculture. The minister sits in the chamber—he should hang his head in shame. There is no new money whatsoever for agriculture. We have a cutback in the Defence budget of some $4.3 billion over four years. At least the Defence budget puts a bit of money into rural and regional Australia, but that is being slashed by this government. Dealing with asylum seekers, as one of my colleagues has mentioned, has eaten up $2.5 billion over five years out of this budget, due to Labor's incapacity and inability to manage it properly.

I note with some amusement the money allocated for the NBN rollout. I wonder where the 'private investment'—which was so lauded by Senator Conroy prior to the
NBN starting—is. I see in the budget papers some reference to 'infrastructure bonds', but you ask them about it, you say, 'What are these about?' and nobody wants to talk about it.

This is a budget from a weak, indecisive government who simply cannot be trusted to manage Australia's economy. (Time expired)

Senator WORTLEY (South Australia) (15:16): As the minister pointed out, last night the Treasurer delivered a budget that aims to put the opportunities that flow from a strong economy within reach of more Australians. It is a budget that aims to get more people into work and to train them for more rewarding jobs. We know Australia emerged strongly from the global recession, with hundreds of thousands of jobs created, while around the world we saw record unemployment and the enormous social consequences it triggered. As the Treasurer pointed out last night, our public debt is a tiny fraction of that carried by comparable economies and our fiscal position is the envy of the developed world.

Today we have sat in this chamber and heard those opposite—and I was listening earlier to Senator Nash and, just now, to Senator Macdonald—talk about regional Australia. I would like to point out a few facts. The 2011-12 budget will invest a record $3.7 billion over the next 12 months in renewing and extending road, rail and aviation infrastructure across regional Australia—a sum far greater than anything ever provided before. Compared to what was spent in the last full year of the Howard government, we will be providing more than twice as much regional infrastructure funding.

The latest budget figures should make the National Party feel particularly uncomfortable about their record in government because they again confirm that, when it comes to regional infrastructure, Labor governments deliver more than coalition governments. The choice for regional Australia is clear: a record infrastructure budget under federal Labor or cuts and the shelving of nation-building projects such as the NBN with Mr Abbott and his mates in the Nationals.

Other areas of interest include the mental health package. There was a fantastic contribution there. The mental health reform package, of $2.2 billion over five years, will improve the lives of thousands of Australians with mental illness and their families, providing more intensive support services and better coordinating those services for people with severe and persistent mental illness who have complex care needs. It targets support to areas and communities that need it most, such as Indigenous communities and socioeconomically disadvantaged areas that are underserviced by the system as it is today. It will help to detect potential mental health problems in the early years and support young people who struggle with mental illness. Given the impact of mental illness on individuals, their families and the community, the Gillard government believes mental health reform should be a priority. That belief is reflected in the funding provided in what is a very responsible budget.

The budget also builds on the government's strong record of lifting educational standards. Over three years, $200 million will be invested to support students with disabilities in their classrooms and to improve their learning outcomes. This package applies to students with a disability in our government, Catholic and independent schools and includes new services such as speech and occupational therapy delivered at schools, additional hours of in-class support and access to specialist equipment.
From 2012, students from years 9 to 12 will be offered a new national trade cadetship as an option under the Australian Curriculum. This cadetship will be delivered through local trades training centres and other eligible venues. Up to 50,000 additional structured work experience places will also be provided to students.

All Australians, regardless of their background or where they live, should have the opportunity to gain a university education. Labor is investing a further $1.4 billion to meet the growth in university enrolments. We will see 480,000 undergraduate places funded this year. A fund will be created to upgrade infrastructure at regional tertiary institutions and to assist universities to support, attract and retain students from lower socioeconomic backgrounds.

Jobs are another important issue. Training a bigger workforce is vital for the strength of the economy and the living standards of our community. The 2011-12 budget invests in education, apprenticeships, jobs and training. This government is delivering the skilled workers our economy needs while ensuring more Australians benefit from our growing prosperity. (Time expired)

Senator RYAN (Victoria) (15:21): Well, I have heard everything! If nothing is the responsibility of this government then for some reason they will claim credit for everything. The conceit on the part of this government—claiming credit, as we have heard from previous speakers, for the resilience of the Australian economy over the last three or four years! The conceit to say that all the small business people who worked harder and all the people that took reduced hours contributed nothing! The conceit of this government to think that it controls the economy and that the success of the economy belongs solely to it is unbounded. e know this from the last 70 years of economics. While I am a big fan of the writer that wrote about the ‘fatal conceit’, the point is that this government only claims credit for those things it wishes to. It seeks to avoid responsibility and makes excuses for those issues it wants to avoid. It says we should compare Australia's debt to that of other nations. I have never heard a successful defence when a bank comes to repossess a house or business being based on, 'My neighbour owes more.'

It is ridiculous to compare the success of the Australian economy and the massive run-up in debt that we have experienced over the last three years with what is happening in other parts of the world because, quite frankly, they are profoundly mismanaged. Unlike those governments in other parts of the world, this government did not inherit a mismanaged economy. It inherited the most sound finances of any government in the Western world.

What the government does not want to tell you is that, while the average debt in Australia is lower than some of our competitors, if we look at other countries we have had the third fastest run-up of public debt in the OECD over the last five years. You have got the bronze medal there. I suppose you are going for gold very soon if we keep up this record of 20 per cent explosions over six months in budget deficits. In one year this government has run up half the debt that was repaid by 10 years of the previous government. That is $50 billion of debt in one year—up by $10 billion in six months. The children of Australia are never going to see a debt-free Commonwealth if this government stays in office. I fear for the work that will have to be undertaken, the difficult decisions and the sacrifices that will have to be made, if this government stays in office much longer. It has run up $50 billion—half of the previous...
debt of the Commonwealth that was repaid in a decade.

At its core is a profound misunderstanding of the Australian economy. Yes, the Australian Commonwealth does not have as much debt as some other nations. If we look at net public sector debt around Australia and the behaviour of our state governments, we have a fairly significant debt level in Australia. All this, due to the terms of the Loan Council provisions in the Constitution, is effectively guaranteed by Australian taxpayers. Let us not just look at the Commonwealth balance sheet; let us look at what is happening in the states to see what Australian taxpayers are really up for.

While we have had historically low public debt in Australia since the coalition paid it back, we have incredibly high private debt. Our private banks are dependent upon levels of funding on a regular basis from overseas that, quite frankly, their competitors in the private sector banking systems of other countries are not dependent on. You do not need to be an economist to know that the only reason our four big banks could continue to access the funds they needed for functioning during the credit-squeeze phase of the global financial crisis was that, even though their debt position was safe, the Australian financial system was regarded as strong—that there was indeed a strong net financial position for the Commonwealth of Australia. You cannot have a situation where both of your private banks are dependent on massive borrowings from overseas. You cannot have a situation where you are a capital-importing country having regular levels of foreign investment from overseas and at the same time are continuing to run up Commonwealth debt.

This budget is going to sink without trace. This government looks at the next three years and says it is not increasing spending. It is like an alcoholic saying 'I am not having a drink today' after a three-day binge, because in the last few years spending has increased by more than 15 per cent, in real terms. This government will stand condemned for its mismanagement and run-up of debt in Australia.

Question agreed to.

PETITIONS

The Clerk: A petition has been lodged for presentation as follows:

Australian War Memorial

The petition of the undersigned shows:
That we support the Coalition's four point rescue plan for the Australian War Memorial, which includes an immediate $5 million increase in annual government revenue to the Memorial, a ban on the charging of an entrance or parking fee, prioritisation of funding for the World War One Gallery redevelopment and an independent audit of the Memorial's finances.

Your petitioners request that the Senate supports the Coalition's plan and condemns the Labor Government for repeated failures to address the 'crippling' financial crisis engulfing Australia's cherished national Memorial to 103,000 war dead.

by Senator Ronaldson (from 157 citizens)

Petition received.

Marriage

Senator HUMPHRIES (Australian Capital Territory) (15:27): by leave—I present to the Senate a petition, from 145 citizens, which is not in conformity with the standing orders as it is not in the correct form.

NOTICES

Presentation

Senator LUDWIG: To move:

That—
(1) To ensure appropriate consideration of time critical bills by Senate committees, the provisions of all bills introduced into the House of Representatives after 12 May 2011 and before 2 June 2011 that contain provisions commencing on or before 1 July 2011 (together with the provisions of any related bill) are referred to committees for inquiry and report by 14 June 2011.

(2) The committee to which each bill is referred shall be determined in accordance with the order of 29 September 2010 allocating departments and agencies to standing committees.

(3) A committee to which a bill has been referred may determine, by unanimous decision, that there are no substantive matters that require examination and report that fact to the Senate.

(4) This order does not apply in relation to bills which contain no provisions other than provisions appropriating revenue or moneys (appropriation bills).

Senator LUDWIG: To move:
That the temporary orders of the Senate of 25 November 2009 and 22 November 2010, relating to modified rules for question time and the consideration of private senators' bills, continue as temporary orders till the end of 2011.

Senator FERGUSON:
Senator BERNARDI:
Senator FISHER: and
Senator MINCHIN: To move:
That the Senate—
(a) recognises the important role that community hospitals play in the lives of regional communities and in providing early access to care for life threatening conditions and trauma;
(b) condemns the South Australian Government for deciding in its 2010 State Budget to cut funding to three community hospitals in regional areas;
(c) recognises the critical role that the Keith and District Hospital Inc., Moonta Health and Aged Care Service Inc. and the Ardrossan Community Hospital Inc. play in the lives of those living and travelling in regional South Australia; and
(d) calls on the Government to:
(i) reduce the National Healthcare Specific Purpose Payment to the South Australian Government by $1,046,000 in the 2011-12 financial year;
(ii) index the above amount by the growth factor contained in Schedule D of the Intergovernmental Agreement on Federal Financial Relations,
(iii) make a direct financial transfer to the Keith and District Hospital Inc. of $600,000 and annually index this amount by the growth factor contained in the Intergovernmental Agreement,
(iv) make a direct financial transfer to the Moonta Health and Aged Care Service Inc. of $300,000 and annually index this amount by the growth factor contained in the Intergovernmental Agreement, and
(v) make a direct financial transfer to the Ardrossan Community Hospital Inc. of $146,000 and annually index this amount by the growth factor contained in the Intergovernmental Agreement.

Senator FIFIELD: To move:
That the Senate notes the Labor Government's ceaseless and ongoing commitment to debt and to deficit budgeting, which is putting upward pressure on interest rates and further pressure on household budgets.

Senator CAMERON: To move:
That the Joint Standing Committee on the National Broadband Network be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 12 May 2011, from 5 pm.

Senator XENOPHON: To move:
That the following bill be introduced: A Bill for an Act to amend the Public Service Act 1999, Public Service Amendment (Payments in Special Circumstances) Bill 2011.

Senator SIEWERT: To move:
That the time for the presentation of the report of the Community Affairs References Committee on the Commonwealth contribution to former
forced adoption policies be extended to 21 November 2011.

Senator SIEWERT: To move:
That the Senate—
(a) notes with concern decisions by major retailers to heavily discount alcohol as a 'loss leader' to increase market share, with beer and wine being sold below the wholesale price so that it is now often cheaper than bottled water;
(b) draws attention to research that demonstrates that young people, disadvantaged groups and risky drinkers are highly sensitive to the price of alcohol;
(c) raises concern at the number of serious incidents of alcohol-related violence leading to death, permanent disability or disfigurement in recent weeks;
(d) notes:
(i) that alcohol impacts not only on individuals but on the wider community, and
(ii) the high cost of alcohol-related harm to the community, conservatively estimated for the 2004-05 financial year at more than $15 billion per year; and
(e) calls on:
(i) these retailers to end their cheap alcohol promotions in the interest of public health and safety, and
(ii) the Government to consider introducing a floor price for alcohol.

Senator LUDLAM: To move:
That the Senate—
(a) notes that:
(i) cluster munitions are one of the most inhumane forms of weapons from a humanitarian, medical and ethical perspective,
(ii) as a 'legacy weapon' cluster munitions continue to kill and maim, affecting generations of people after conflict is over, meaning that survivors of war do not necessarily survive the peace,
(iii) during the Vietnam War, 280 million cluster bomblets were dropped on Laos, leaving at least 80 million unexploded cluster bombs in that country alone such that 37 years later, survivors are still being harmed and killed,
(iv) cluster bombs are still being used and produced internationally, with confirmed reports of their use against civilians in the Libyan conflict in April 2011,
(v) Australia is one of 108 countries that has signed the 2008 Convention on Cluster Munitions, and
(vi) by signing the convention, Australia undertook to never under any circumstances use cluster munitions, develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, cluster munitions, or assist, encourage or induce anyone to engage in any activity prohibited to a state party under this convention;
(b) acknowledges the bravery of 19 year old cluster bomb survivor Mr Soraj Ghulam Habib from Afghanistan and the work he is doing as an international advocate for peace and universal disarmament of cluster bombs; and
(c) calls on the Minister to:
(i) urgently revise the bill to reflect the convention which states parties should never 'under any circumstances' engage in prohibited activities related to cluster munitions,
(ii) apply the convention's prohibitions on use in joint operations with non-states parties,
(iii) urgently revise the bill in relation to jurisdiction issues which explicitly allow foreign forces to use Australian territory to stockpile and transit cluster bombs,
(iv) honour our obligations under the treaty to ban all forms of both direct and indirect investment in cluster munitions and which echoes calls from the Australian financial industry and the Australian Council of Super Investors, and
(v) honour our obligations under the treaty to provide assistance to ensure adequate provision of care and rehabilitation for victims of cluster munitions, clearance of contaminated areas, education and destruction of stockpiles.

Postponement
The following item of business was postponed:
General business notice of motion no. 237 standing in the name of the Chair of the Environment and Communications Legislation Committee (Senator Cameron) for today, relating to the authorisation for the committee to meet during the sitting of the Senate, postponed till 12 May 2011.

**COMMITTEES**

**Finance and Public Administration References Committee**

*Reporting Date*

**Senator PARRY:** At the request of the Chair of the Finance and Public Administration References Committee, Senator Fifield, I move:

That the time for the presentation of the report of the Finance and Public Administration References Committee on the administration of health practitioner registration by the Australian Health Practitioner Regulation Agency be extended to 3 June 2011.

Question agreed to.

**Senators' Interests Committee**

*Reporting Date*

**Senator PARRY:** At the request of the Chair of the Standing Committee of Senators' Interests, Senator Bernardi, I move:

That the time for the presentation of the report of the Standing Committee of Senators’ Interests on the development of a draft code of conduct for senators be extended to 7 July 2011.

Question agreed to.

**Legal and Constitutional Affairs References Committee**

*Reporting Date*

**Senator PARRY:** At the request of the Chair of the Legal and Constitutional Affairs References Committee, Senator Barnett, I move:

That the time for the presentation of the report of the Legal and Constitutional Affairs References Committee on Water Act 2007 provisions relating to the development of a Basin Plan be extended to 6 June 2011.

Question agreed to.

**Corporations and Financial Services Committee**

*Meeting*

**Senator PARRY:** At the request of the Chair of the Parliamentary Joint Committee on Corporations and Financial Services, Senator Boyce, I move:

That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 12 May 2011, from 11.30 am.

Question agreed to.

**Environment and Communications References Committee**

*Meeting*

**Senator PARRY:** At the request of the Chair of the Environment and Communications References Committee, Senator Fisher, I move:

That the Environment and Communications References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 12 May 2011.

Question agreed to.

**Migration Committee**

*Meeting*

**Senator McEWEN:** At the request of Senator Bilyk, I move:

That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 15 June 2011, from 10.30 am to noon, to take evidence for the committee’s inquiry into multiculturalism in Australia.

Question agreed to.
Environment and Communications Legislation Committee

Meeting

Senator McEWEN: At the request of the Chair of the Environment and Communications Legislation Committee, Senator Cameron, I move:

That the Environment and Communications Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 12 May 2011.

Question agreed to.

Environment and Communications References Committee

Reference

Senator BOB BROWN: I move:

That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 12 October 2011:

The social, environmental, health, economic and legal impacts of coal seam gas mines, with particular reference to:

(a) adverse health effects associated with coal seam gas mines;
(b) impact of coal seam gas mines on property values;
(c) food security and the viability of farms with coal seam gas mines;
(d) contamination of underground water sources and soil;
(e) the legal rights of property owners versus gas companies; and
(f) any other relevant matters.

Question put.

Ayes....................6
Noes....................33
Majority..............27

AYES

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

NOES

Abetz, E
Birmingham, SJ
Cameron, DN
Colbeck, R
Crossin, P
Faulkner, J
Ferguson, AB
Fifield, MP
Humphries, G
Hutchins, S
Ludwig, JW
Marshall, GM
McLucas, J
O'Brien, K
Policy, H
Sterle, G
Wortley, D

Bilyk, CL
Brown, CL
Cash, MC
Cormann, M
Farrell, D
Feeney, D
Fielding, S
Forshaw, MG
Hurley, A
Kroger, H
Macdonald, ID
McEwen, A
Moore, CM
Parry, S (teller)
Pratt, LC
Troeth, JM

Question negatived.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (15:36): I seek leave to make a short statement.

Leave granted.

Senator BOB BROWN: The proposal that has just been turned down was that the Senate should look into the coal seam gas industry, which is currently—

Senator Parry: I rise on a point of order. Sorry to interrupt the speaker, but we did grant leave for two minutes and the clocks have not been set accordingly.

The DEPUTY PRESIDENT: Leave has been granted for two minutes. Senator Brown.

Senator BOB BROWN: The coal-seam gas proposals in Australia, like those in the United States, Russia and elsewhere around the world, are simply mind-bending. There is a proposal for 40,000 gas wells to be sunk on the Darling Downs, one of the world's premier food lands, alone. There are now proposals for 550 such gas wells in the Pilliga Scrub woodland near Narrabri in New South Wales. We know that there is a
proposal for a gas well at Petersham, right in
the heart of metropolitan Sydney, and there
are other proposals breaking out all over
Australia. The concern about this is that not
only would these proposals compromise
some of the best farm and food producing
lands in the country but they offer a direct
threat to the groundwater systems, because
they involve going through the groundwater
systems into coal seams underneath and
extracting methane under various
measures—the worst of which is fracking,
which involves the use of carcinogenic
chemicals which have caused pandemonium
in the United States. One only has to read the
Financial Times of this last weekend to see
the extreme concern that is being expressed
in Pennsylvania, for one. I am amazed that
the big parties, and in particular the National
Party, have voted against an inquiry into
coal-seam gas in this country. I am amazed
that there could be such a deliberate
subservience to these corporations that the
Senate has denied the opportunity for there
to be a proper inquiry.

Opposition senators interjecting—

Senator BOB BROWN: The National
Party is interjecting here because they are
embarrassed, and should be embarrassed,
about their studied ignorance. It is not only
the coal-seam gas; it is their heads stuck in
the ground that we have seen exemplified
here today. (Time expired)

Senator Joyce: I seek leave to make a
short statement.

The DEPUTY PRESIDENT: Leave is
granted for two minutes.

Senator JOYCE (Queensland—Leader
of The Nationals in the Senate) (15:39):
First of all I would like to set the record
straight. The National Party did not vote
against that; we abstained from that vote and
were not present for it. Secondly, I would
like to clearly state for the record what is
currently on the Rural Affairs and Transport
References Committee website:

The committee—
which is currently afoot—
will examine:

- the sustainability of water aquifers and future
  water licensing arrangements;
- the property rights and values of landholders;
- the sustainability of prime agricultural land
  and Australia’s food task;
- the social and economic benefits or otherwise
  for regional towns and the effective
  management of relationships between mining
  and other interests; and
- other related matters including health impacts.

We currently have an inquiry afoot into
precisely this issue and we cannot see the
point of having two inquiries into the same
thing except to give this man beside me a
wedge. That is what that was about—to
create a wedge.

I would suggest to you, Senator Brown,
that before you get your facts wrong saying
who voted for something and who did not
vote to something, before you get the facts
wrong about whether there is actually an
inquiry there, you should check. If you had
checked the website you would have seen
that we are right at the forefront of trying to
get into this issue and make sure we protect
the interests and the property rights of
landholders throughout the basin to make
sure that they get a fair deal. So I ask you,
Senator Brown, to retract your statement that
you just
made that the National Party voted
against that.

Senator Bob Brown: I stand by my
statement.

The DEPUTY PRESIDENT: Order!
You have got to seek leave to make a
statement, Senator Brown. You are aware of that.

Senator Ludwig: I seek leave to make a short statement—as unwise as this may be.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

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) (15:41): The government indicated that it did not support the motion although it does appreciate—and I can say this in a more measured way than perhaps Senator Joyce—the public concerns about this issue, which is primarily regulated by the states. The government notes that it has already made a commitment to the member for New England, who chairs the Regional Australia Committee, to investigate coal-seam gas mining. In this capacity the Commonwealth will support that inquiry which will include some of the relevant matters that Senator Brown's motion refers to.

The government also notes that at present the New South Wales government is formally developing a strategy to investigate many of the areas raised in Senator Brown's notice of motion, and pending the conclusion of this review the regulatory environment is uncertain in New South Wales, making an inquiry at this time premature in our view. I do note the fracture that is developing between the National Party and the Liberal Party on this issue, though.

Senator Williams: Mr President, I seek leave to make short statement

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (15:42): I would like to add to this debate that—

The DEPUTY PRESIDENT: Order, Senator Williams! This is not a debate. You sought leave to make a statement and a statement you are allowed to make. You are not allowed to debate.

Senator WILLIAMS: I wish to say in my statement that this is a very controversial issue. It was raised prior to the state election in New South Wales of 26 March. The then shadow minister handling this portfolio on this issue was the Hon. Duncan Gay, now Minister for Roads and Ports. Mr Gay put his coalition policy forward, which was endorsed by the Greens in the New South Wales parliament, prior to the election. The Greens supported the coalition and the National Party-led policy that the states are responsible on this very issue about exploration and mining rights. It was a very protective way the National Party put that policy forward, supported by the Greens in the New South Wales parliament. We have an inquiry into this under the Rural Affairs and Transport Committee. Senator Brown would probably like to have two to waste more taxpayers' money, because he does not understand budgets. We see that as a waste of money. The issue is being handled by the Rural Affairs and Transport Committee led by Senator Heffernan as chair. The inquiry will be carried out. We know how important it is to protect these areas, especially the underground water in these very prime agricultural areas. We support the inquiry totally. There is one running now. I have told you, Mr Deputy President, about the National Party in the New South Wales parliament in conjunction with our coalition partners led by Premier Barry O'Farrell and the policy announced prior to the election that was supported by the Greens in the New South Wales parliament. This is simply a political wedge by Senator Brown, trying to
cause trouble. We support the inquiry and we will go with the inquiry that is already established.

The DEPUTY PRESIDENT: Order! Could I remind senators that we are dealing with formal motions and this is not the time for debating motions. If you wish to debate them they should not be done under the session for formal motions.

Legal and Constitutional Affairs References Committee
Reference
Senator IAN MACDONALD (Queensland) (15:44): I move:
That the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 31 October 2011:
The incidence of international child abduction to and from Australia, including:
(a) the costs, terms and conditions of legal and departmental assistance for parents whose child has been abducted overseas;
(b) the effectiveness of the Hague Convention in returning children who were wrongly removed or retained, to their country of habitual residence;
(c) the roles of various Commonwealth departments involved in returning children who were wrongly removed or retained, to their country of habitual residence;
(d) policies, practices and strategies that could be introduced to streamline the return of abducted children; and
(e) any other related matters.
Question agreed to.

Environment and Communications References Committee
Reference
Senator HEFFERNAN (New South Wales) (15:45): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator HEFFERNAN: I have noted the recent division on the coal seam gas motion and I would like to most definitely—

Senator Forshaw: You didn't turn up!

Senator HEFFERNAN: There is a good reason; I am dealing with something that is an emergency outside. We are well and truly going to cover this issue in the inquiry, which I will chair. This was put in the notice of motion for the rural committee on the Murray-Darling Basin inquiry as the coal seam side to it. The debate in the community is well developed. I agree there are serious issues, which include health and the issue of fracking. It has locked up in the courts for 20 years a lot of serious potential and we will certainly be dealing with every aspect of it in the coming weeks, starting in the Dalby and Gunnedah areas.

MOTIONS
Israel

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (15:47): I move:
That the Senate—
(a) notes:
   (i) its decision on 23 March 2011 to acknowledge that Israel is a legitimate and democratic state and a good friend of Australia and to denounce the Israeli boycott by Marrickville Council and condemn any expansion of it,
   (ii) the response by the Leader of the Australian Greens, Senator Bob Brown, to this decision of the Senate, which was to ask that the Australian Greens' opposition to this motion be recorded,
   (iii) subsequent statements by Senator Brown that it was a mistake for the New South Wales Greens to advocate this policy and that it was neither the Federal Greens, nor his policy to boycott Israel, and
(iv) Marrickville Council's decision on 19 April 2011 to rescind its Boycott, Divestment and Sanctions (BDS) policy against Israel;

(b) rejects the policy of the New South Wales Greens which calls on all Australians and the Australian Government to boycott Israeli goods, trading and military arrangements, and sporting, cultural and academic events;

(c) notes with concern:

(i) the resolution carried at the 2010 Regional Conference of the Queensland Branch of the Australian Labor Party (ALP) to support the BDS campaign against Israel,

(ii) initial support for the support for the BDS campaign against Israel by four Labor councillors on Marrickville Council,

(iii) the decision by the New South Wales ALP to preference Greens candidate and Marrickville Mayor, Fiona Byrne, in the seat of Marrickville at the New South Wales state election, and

(iv) reports that Mr David Forde, Convenor of Labor 4A Just Palestine, who supports the BDS campaign, is a frontrunner for ALP preselection for the Queensland state seat of Stretton;

(d) denounces support lent to the BDS campaign against Israel by the: Victorian Trades Hall Council; Geelong Trades Hall Council; Newcastle Trades Hall Council; South Coast Labour Council; Queensland Council of Unions; Unions ACT and branches of the Australian Services Union; Teachers' Union; Liquor, Hospitality and Miscellaneous Workers Union; Construction, Forestry, Mining and Energy Union; Maritime Union of Australia; Australian Manufacturing Workers Union; Communications, Electrical, Plumbing Union; Electrical Trades Union; Finance Sector Union; Health and Community Services Union; and Rail, Tram and Bus Union;

(e) calls on the Australian Council of Trade Unions to oppose this campaign; and

(f) in light of events and information available to the Senate since 23 March 2011, reaffirms its decision that Israel is a legitimate and democratic state and a good friend of Australia.


The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator LUDWIG: It is one of those matters which is a longstanding foreign affairs issue. The government has a longstanding practice of not dealing with complex foreign policy matters through Senate motions. The government does not support boycotts that impede legitimate trade between states and has expressed its strong opposition to the Marrickville council's earlier proposed boycotts, disinvestment and sanctions campaign against Israel.

The motion moved by the Senator Abetz does appear to be more concerned with politics than expressing support for Israel. I ask Senator Abetz if he would care to explain to the Senate why at the last federal election the Liberal Party directed preferences to Greens candidates in New South Wales, in particular why the Liberal Party directed preferences to Sam Byrne, the Greens candidate for Grayndler, which covers Marrickville council. But without turning this into the politics that Senator Abetz has expressed, the longstanding practice really highlights the issue that I have indicated—that is, they are complex foreign policy matters and on that basis it has been long practice that we do not support this motion.

Senator XENOPHON (South Australia) (15:48): I seek leave to make a short statement, and also to move an amendment to the motion.

The DEPUTY PRESIDENT: Leave is granted for two minutes.
Senator XENOPHON: I foreshadow that I will seek to amend this motion to make reference to the detrimental effect of the Israeli blockade in Gaza on the Palestinian people living in Gaza, and also to note that Australia is a good friend of the Palestinian territories and its people. I did previously circulate a motion which simply referred to the Israeli blockade on the Palestinian people. That is not correct in the sense that the blockade is confined, if you want to use that word, to Gaza. But if we are going to move this motion, it is important to also state as a matter of fact the impact on the Palestinians in Gaza in terms of the blockade. I did give notice earlier to my colleagues, as soon as I could, but I do seek to move from the floor an amendment to the motion to put at the end of Senator Abetz’s motion. I move:

After paragraph (e), insert:

(ea) notes:

(i) the detrimental effect of the Israeli blockade in Gaza on the Palestinian people living in Gaza, and

(ii) that Australia is a good friend of the Palestinian territories and its people; and

Senator Abetz: Mr Deputy Speaker, I raise a point of order for your consideration in relation to the amendment that Senator Xenophon has moved. This is a motion relating solely to the BDS situation—that is, the boycotts, divestment and sanctions policy against Israel. Senator Xenophon is now trying to introduce other extraneous matters not directly relevant to the motion and, interestingly enough, on a technical point, it is interesting that Senator Xenophon sees the need to note the detrimental effect of the Israeli blockade on the people of Gaza, but allegedly the Egyptian blockade on the people of Gaza can be completely ignored and that is the evil of the BDS policy because what it seeks to do—

The DEPUTY PRESIDENT: Order! Senator Abetz, I think you are—

Senator Abetz: I am now debating rather than raising a point of order.

The DEPUTY PRESIDENT: If you want to seek leave to make a statement, you can.

Senator Abetz: I will ask you to rule on the point of order first.

The DEPUTY PRESIDENT: I will rule on the point of order first. An amendment only has to be relevant to a notice of motion and we were always given a fairly wide brief in relation to amending notices of motion before the chair, so I must allow the amendment to continue.

Senator Abetz: I accept your ruling, Mr Deputy President, and I now seek leave to make a short statement.

Leave granted.

Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (15:52): The Labor Party come into this place with a lame excuse that this is somehow a complex issue. On 23 March this year it was not a complex issue. What has made it complex for the Australian Labor Party is that they are unable to justify why so many of their affiliated unions, and indeed the state division of the Labor Party, of which their foreign minister, Mr Rudd, is a member, have passed motions in support of this objectionable policy.

Senator Bob Brown: I raise a point of order, Mr Deputy President. I understand that in granting leave the usual two-minute time limit will apply.

The DEPUTY PRESIDENT: I apologise, Senator Brown. That was my mistake. I should have said leave was granted for two minutes because in fact the clerks cannot set the clocks unless I announce it from the chair. Leave was granted for two minutes.
Senator ABETZ: In relation to Senator Xenophon's amendment, I do find it quite objectionable—and I say that to my good friend—that all he is concerned about is the Israeli blockade of the Gazan people and there is no concern about Egypt. That is why the BDS policy that the Greens have been promoting is so wrong: it only seeks to condemn Israel and not Egypt. Why don't we have a BDS policy on Egypt courtesy of the Greens, especially from New South Wales? Why doesn't that concern Senator Xenophon?

The amendment he has moved has unfortunately shown what is actually behind this. Is it that Australia is a good friend of the Palestinian territories and its people? I have no objection to that. But that is not part and parcel of what we are dealing with. We are dealing with the evil of the BDS policy which Senator Bob Brown himself has finally come to reject in the wake of the New South Wales state election where one of the Green candidates clearly did not win a seat against Labor because of that policy. I say to the people of New South Wales, 'Well done!' In relation to the allocation of preferences that Senator Ludwig raised, I say to Senator Ludwig: in the New South Wales election for that seat, the Liberal Party did not allocate preferences. The Labor Party did and put Fiona Byrne at No. 2 on the how-to-vote card in the state election, so please do not come in here and try to lecture and hector us. I know it is embarrassing for certain elements in this place that the anti-Israel stance being taken by some political parties and groups, such as trade unions, does need to be opposed. *(Time expired)*

Senator LUDWIG (Queensland—Minister for Agriculture, Fisheries and Forestry, Manager of Government Business in the Senate and Minister Assisting the Attorney-General on Queensland Floods Recovery) (15:55): by leave—If I have stated a fact which is incorrect I would withdraw that. I will check that but, on the basis that Senator Abetz has raised the issue I may have misled the Senate, I would withdraw it at this stage unless I could confirm otherwise. That is the easiest and fairest thing to do.

Senator XENOPHON (South Australia) (15:56): Mr Deputy President, I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator XENOPHON: I am very grateful to Senator Abetz for his contribution. It was remiss of me not to include the Egyptian blockade. I do not have the expertise that Senator Abetz clearly has in foreign affairs. I think it is a fair point. Clearly the blockade, whether it is by Israel or Egypt, on Gaza and the impact on the Palestinian people is something that is causing detriment and that should be noted. That was the intent of the motion. I seek your guidance, Mr Deputy President, as to whether I can withdraw my previous amendment and move another amendment which would incorporate Egypt as well as Israel in terms of the blockade. This could be dealt with to incorporate the concerns raised by Senator Abetz, and I am grateful, genuinely, to him for raising that.

The DEPUTY PRESIDENT: Senator Xenophon, I am advised you can seek leave to amend your amendment by adding the words 'the Israeli and Egyptian blockade' if you wish.

Senator XENOPHON: I seek leave to amend the amendment.

Leave granted.

Senator FORSHAW (New South Wales) (15:58): Mr Deputy President, I seek leave to make a short statement.
The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator FORSHAW: As all senators know, I am a person who has many times spoken in this parliament as a strong supporter of the state of Israel and I do so again. But I want to point out that if you read this motion carefully you will have no doubt that this is simply a political stunt, because all it seeks to do is condemn trade unions and certain members of the Labor Party because of a particular stance that they have taken on the BDS.

I am totally opposed to the BDS. I have been on the record on that and my position is absolutely clear. Let me point out there are people in the coalition—I know them—including former ministers from former Liberal Party governments who are also hostile towards the Israeli government. I will name one: Tim Fischer. Tim is a very honourable man but a person who is on the record as being, and whom I have heard on certain occasions being, very hostile towards the Israeli government. I will name one: Tim Fischer. Tim is a very honourable man but a person who is on the record as being, and whom I have heard on certain occasions being, very hostile towards the Israeli government. I will name one: Tim Fischer. Tim is a very honourable man but a person who is on the record as being, and whom I have heard on certain occasions being, very hostile towards the Israeli government. I will name one: Tim Fischer. 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I am doing is pointing out to you that you are trying to single out for a political purpose the fact that there may be people in our party or in the trade union movement who have a particular view on the Middle East issue. That is a fact right across the country—they exist in your political party—and this is simply hypocrisy of the highest order.

Senator Fifield: Since when has Tim Fischer said he supports the BDS?

Senator FORSHAW: You know as well as I do that this is nothing more than a political attack.

The DEPUTY PRESIDENT: Order! Senator Forshaw, you are starting to debate the issue rather than making a statement.

Senator FORSHAW: I am pointing out the reasons that I would not support this motion. I would support the sympathies that underlie opposition to a BDS. I think we are clearly on the record on that—it is our position as a party—but have a look at yourselves in the mirror for once before you start trying to attack others.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (16:00): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator BOB BROWN: I draw the Senate back to the terrific circumstances which have led to this debate both in Marrickville in the New South Wales elections and now in this great parliament—that is, the unhealed sore of the disputes, the violence, the continuing death toll and the harrowing circumstances of people living in Palestine and in Israel and, indeed, in other parts of the Middle East.

It is our job to think about it and to debate it. We should not merely find ourselves fighting over it. We should also find some way of actually helping more than the world has helped in the past to ensure the security of the people of Israel and their right to live in peace into the future as well as the right of the people of Palestine to have their own country with equal security to chart their own future in the same way as the rest of the world does. It is incredibly important that we try to limit in the future the violence that we have seen in the past from both sides and to give a peace dividend to the whole region by having those two peoples living in peace with each other. Maybe we should set aside a full and open debate at some stage in this chamber to talk about just that. They deserve it, and we deserve to do it in a constructive way that would end in a peace which would in turn make all of us on this planet a bit more secure and happy.
Senator ABETZ (Tasmania—Leader of the Opposition in the Senate) (16:02): I seek leave to make a statement for 30 seconds.

The DEPUTY PRESIDENT: Leave is granted for 30 seconds.

Senator ABETZ: I wish to put a proposition to Senator Xenophon. Is Senator Xenophon willing to acknowledge on the record that the blockade is in response to acts of terror perpetrated by Hamas from the Palestinian territories on Israel? If he would be willing to acknowledge that on the record, we would be minded to support his amendment. That would be the caveat.

Senator Cameron interjecting—

The DEPUTY PRESIDENT: Order! Senator Cameron!

Senator XENOPHON (South Australia) (16:03): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator XENOPHON: It would be ungracious of me not to respond to Senator Abetz’s invitation.

Senator Siewert: Proposition.

Senator XENOPHON: Or his proposition; I think it was an invitation as well as a proposition, Senator Siewert. The position is this: there is no doubt, on the basis of the discussions I have had with members of the Palestinian community and the friends of Palestine here in Australia, that both the Egyptian and the Israeli blockades have had an enormous impact on Palestinians who are completely innocent of any involvement with Hamas. The effect on children and on the supply of medicines is quite profound. I note that the Israeli government says that they have instituted the blockade in response to the role of Hamas; but things such as pasta, pencils and stationery have been blockaded. So I think that the blockade goes well beyond issues of security.

I feel comfortable about supporting this motion if this amendment is passed, but I do not support the blockade of Israel that has been proposed by, I think, the New South Wales Greens and by some in the Labor Party. I think that is completely unacceptable, and I want that to be on the record; but in the context of this motion I believe it to be appropriate that we acknowledge the impact of the Israeli blockade on the Palestinian people. That in itself should not be seen as an endorsement in any way whatsoever of a terrorist organisation such as Hamas; instead it is about the impact of the blockade on innocent Palestinians and the very deep detrimental effects on those Palestinians.

The DEPUTY PRESIDENT: I remind senators that we are in the process of discovering formal business. Formal business means that senators seek leave to make statements but today they have turned into debates and it is an issue that I in my position as the Deputy President may refer to the Procedure Committee. This is not the correct process of discovering formal business.

Senator BOSWELL (Queensland) (16:06): I seek leave to make a statement for two minutes.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator BOSWELL: This started out as a simple motion; it is now becoming anything but simple. I am frightened that I am going to be voting for something I do not want because I do not have the amendment in front of me. I think we ought to get this amendment down in writing and before everyone in the Senate prior to a vote being taken.
The DEPUTY PRESIDENT: Senator Boswell, you have foreshadowed what I intended to do: I am now going to put the amendment, but before I do so I will ask the Clerk to read the amendment as moved by Senator Xenophon.

The Clerk: The amendment to general business notice No. 226 is as follows:

After paragraph (e), insert:

(ea) notes:

(i) the detrimental effect of the Israeli blockade in Gaza on the Palestinian people living in Gaza, and

(ii) that Australia is a good friend of the Palestinian territories and its people; and

The ACTING DEPUTY PRESIDENT: The question therefore is that Senator Xenophon's amendment to Senator Abetz's motion be agreed to.

Question agreed to.

The DEPUTY PRESIDENT: The question now is that Senator Abetz's amended motion be agreed to. Those of that opinion say 'Aye' and to the contrary 'No'. I think the ayes have it.

Senator Bob Brown: Mr Deputy President, I ask that it be recorded that the Greens supported Senator Xenophon's amendment but not the motion.

The DEPUTY PRESIDENT: Senator Brown, I need to be quite clear here, having called it. When I asked for support for the amended motion of Senator Abetz, you said 'Aye'. That means you called it for the ayes, and I called it for the ayes on that basis.

Senator Bob Brown: Then I ask for the call to be had again to clarify the matter.

Question put:
That the motion (Senator Abetz's), as amended, be agreed to.

The Senate divided. [16:13]
(The President—Senator Hogg)
Middle East

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (16:16): I move:

That the Senate supports the aspirations and rights of the Palestinian people and the Israeli people to an independent state, living in peace and free of the threat of invasion from its neighbours.

Question agreed to.

Budget

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (16:17): I ask that general business notice of motion No. 228 standing in my name for today, which calls on the government to review its imposition of the efficiency dividend on cultural institutions like the National Gallery, be taken as formal. Before proceeding, I seek leave for Senator Milne to co-host this motion.

Leave granted.

Senator BOB BROWN: I, and also on behalf of Senator Milne, move:

That the Senate opposes the Government's move to impose an efficiency dividend on Australia's cultural institutions such as the National Gallery of Australia, the National Library of Australia, the National Portrait Gallery and the National Museum of Australia.

Senator HUMPHRIES (Australian Capital Territory) (16:17): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator HUMPHRIES: The coalition senators will not support this motion, not so much because of what it says as because of the stench of hypocrisy which surrounds it. At the last federal election, the efficiency dividend was a very big issue in the ACT. The coalition proposed, as members will know, a two per cent efficiency dividend across the Public Service. The Labor Party and the Greens strongly opposed this. In fact, the ALP said that, if elected, it would tolerate no increase in the efficiency dividend applying to the Public Service.

Honourable senators interjecting—

The DEPUTY PRESIDENT: Order! I cannot hear you, Senator Humphries.

Senator HUMPHRIES: I will speak more loudly. A few days ago, of course, the government announced, courtesy of Senator Wong, that it was breaking that election promise and increasing the efficiency dividend from 1 1/4 per cent to 1 1/2 per cent. I put that on the record because broken promises from this government are now so frequent that they are not even newsworthy anymore. We know that both major parties at the last election proposed to reduce the cost of the Public Service, but of course only the coalition was prepared to be honest about its intentions. Labor also said in the last few days that it would save cultural institutions by providing that the dividend did not necessarily apply to small institutions like the cultural institutions, but in the budget tabled last night the budgets of those institutions were all reduced on account of the increased dividend.

Senator Brown and his Greens closely supported the Labor Party's campaign in the ACT against the coalition's proposals, and now Senator Brown's Greens support the government and their budget by guaranteeing supply. The hypocrisy inherent in this motion is breathtaking, and for that reason the coalition senators will not support it.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (16:20): I seek leave to make a statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.
Senator BOB BROWN: Thank you. I will not respond in kind but will try to be a bit more informative to the chamber than the submission we have just heard from Senator Humphries. But let me say at the outset that, had we supported the coalition into government, the cuts to these institutions now through a bigger dividend would be even more destructive to the cultural institutions here in the national capital and elsewhere in the country.

The other thing that escapes Senator Humphries here is that, yes, the Greens have guaranteed to ensure supply—and we will, because that is a responsible contribution to the welfare of this country and that is what voters would expect of us—but it does not mean that all the detail of a budget into which we had no effective input has to be accepted. If we can find a means through good argument and a strong approach to the government to take the burden of cuts from the great art and cultural institutions then we will do that, and if we cannot then we will look at other means.

I am aware that, for example, the cuts to the National Gallery may mean that five or six hugely publicly wanted exhibitions will not occur in the next 12 months and that there will be a couple of dozen, if not more, people losing their jobs at that institution, to the great detriment of the cultural wellbeing of this whole nation. It is just an example of why we should not be doing this. I hope Senator Humphries will join me in seeking to influence the government to alter this component of the budget for the wellbeing of the institutions and the people of Australia as a whole.

Question put:

That the motion (Senator Brown’s) be agreed to.

The Senate divided. [16:22]

(The President: Senator Hogg)
thyroid cancer and leukaemia, may result from

(iii) 116 000 people were immediately evacuated following the incident and another 230 000 people were relocated in subsequent years,

(iv) an estimated 200 000 clean-up workers from the army, power plant staff, local police and fire services were initially involved in containing and cleaning up the radioactive debris during 1986-87,

(v) more than 5 million people still live in areas of Belarus, the Russian Federation and Ukraine that were contaminated by radiation from the incident,

(vi) Ukraine has shut down (in 1991, 1996 and 2000) the three remaining reactors at the Chernobyl site and constructed a sarcophagus over reactor number four which urgently requires replacement, and

(vii) nuclear power accounts for approximately one-third of Ukraine's electricity production, it has 15 nuclear power plants in operation and 2 under construction, and its nuclear power plant operators follow the internationally agreed nuclear safety standards of the International Atomic Energy Agency;

(b) commemorates the 25th anniversary of the Chernobyl disaster; and

(c) acknowledges the importance of nuclear safety.

Question agreed to.

Asylum Seekers

Senator HANSON-YOUNG (South Australia) (16:30): I seek leave to amend general business notice of motion No. 239 standing in my name for today relating to the government's asylum seeker arrangement with Malaysia.

Leave granted.

Senator HANSON-YOUNG: I have circulated the amendment. It is a very small one. It makes the motion simpler. I move the amended motion as follows:

That the Senate—

(a) condemns the Gillard Government's deal with Malaysia that would see 800 asylum seekers intercepted in Australian waters and sent to Malaysia; and

(b) calls on the Government immediately to abandon this proposal.

Senator CASH (Western Australia) (16:31): I seek leave to make a short statement.

The DEPUTY PRESIDENT: Leave is granted for two minutes.

Senator CASH: Thank you, Mr Deputy President. The coalition will be supporting this motion. The desperate deal announced by the Prime Minister shows that this government will pay any price and do any deal, no matter how one-sided, to avoid implementing the proven policies of the coalition. The deal that has been struck by the Prime Minister is a desperate stop-gap deal with Malaysia, with the use-by date of just 800 arrivals. At the current rate of arrivals this will last just a few months, with no renewal. The five-for-one swap proposed by the Prime Minister is a deal that shows that the Malaysians clearly saw the Prime Minister of Australia coming and shows just how politically desperate this government has become.

The Prime Minister's dealing in Asia shows that, under her prime ministership, Australia is now the junior partner in the region. Because of the Labor government's border protection policy failures Australia is now negotiating from a position of weakness. When you negotiate from a position of weakness you end up with a deal that has been struck—one which will in no way benefit Australia. This Malaysian deal is a panicked announcement from a government that is yet again proving it is directionless, untrustworthy and incompetent. The deal will cover about 12 boats and after that it will be back to business as usual under Labor because Labor
have no permanent plans to deal with the mess they have created on our borders and in our detention centres.

The Prime Minister's announcement makes a mockery of the government's rejection of Nauru on the grounds that they are not a signatory to the UN convention on refugees, as Malaysia is also not a signatory. This government will adopt any excuse to avoid the proven policies of the coalition. If the Prime Minister wants to send a tough message to people smugglers, there is one thing and one thing alone that she can do: reinstate the policies of the Howard government. They worked and the statistics show that they were proven to work.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

The DEPUTY PRESIDENT (16:33): The President has received the following letter from Senator Fifield:

Dear Mr President

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

The Gillard government's decision in this Budget to be tough on Australian families, rather than tough on itself with a new assault on families that are already struggling under cost of living pressures

Is the proposal supported?

I call upon those senators who approve of the proposed discussion to rise in their places.

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

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

Senator FIFFIELD (Victoria—Manager of Opposition Business in the Senate) (16:34): I think the subject of the matter of public importance bears repeating:

The Gillard government's decision in this Budget to be tough on Australian families, rather than tough on itself with a new assault on families that are already struggling under cost of living pressures.

I do not think there has ever been a government that is so reticent to take difficult decisions, that is so timid and so hidebound by its own electoral self-interest, that it does not take the decisions necessary for the national interest.

'The national interest' is a phrase that you will hear Labor members and senators use over and over. Any half-baked idea, any act of political self-interest, will always be followed by the phrase 'because this is in the national interest', as though those are magic words—you use the phrase 'national interest' and it transforms self-interested policies in the eyes of the electorate into worthwhile policies. Whenever we hear those words 'national interest' from the Labor Party we know that it is anything but.

The Labor Party used to tell us all the time that they were the party for families. They used to say that they were the party for workers. That then morphed into the 'party for families' and then you could not turn on the television in 2007 without hearing a Labor MP drone on about 'working families'. We care about working families, but for the Labor Party it is a mantra. It is a focus-group tested mantra which they think will convince the voting public. But what has changed between 2007 and now? Labor did profess to care about working families and Labor have now cast away that commitment to working families. There was no mention of working families in the budget. Given the measures in the budget, it was a little too much even for the Labor Party to talk about a commitment
to working families—such would be the hypocrisy if they did that. Indeed, not only has the budget neglected families, it has absolutely potted them, with a raft of measures that are going to make things worse for families. We know that Australian families are facing severe cost-of-living pressures due to Labor's profligacy and waste. Electricity prices are up 51 per cent since Labor was elected; grocery prices are up by 14 per cent; education and health costs are up by about 20 per cent; and there have been no fewer than seven interest rate rises in a row, increasing average mortgage repayments by over $500 a month.

I am not asserting that every one of those cost-of-living increases is the direct result of Labor policies. Some of them are. Some of those cost-of-living pressures have been exacerbated by Labor policies. But, surely, it is the job of government firstly, when it comes to the Australian people, to seek to do no harm. This government has exacerbated those cost-of-living pressures and has made it even harder for families to meet those in this budget.

So, instead of trying to fix this problem, Labor's budget has cut support for families and it has hit them with new and higher taxes. The budget strips $2 billion from families by freezing for three years the indexation of key family tax payments and income thresholds. It also slugs families and businesses with $6 billion of new and increased taxes. To make matters worse, Australian families are yet to be hit by the Gillard-Brown carbon tax.

Instead of taking the opportunity that this budget presented to end months of uncertainty around the carbon tax, the budget fails to give any details of the carbon tax or its impact on living costs or jobs. We know that all the budget forecasts will be thrown out the window when the government finally does get around to releasing the details of the carbon tax. I guess they will have to release some sort of mid-year economic forecast to update all of those effects.

As Tony Abbott has said many, many times, the budget is not worth the paper that it is written on, because it does not include the biggest macroeconomic so-called reform. Not everything a government does is a reform. But this government calls it a 'reform'; it is a misnomer. The budget does not include that significant macroeconomic reform that they claim.

The government's failure to rein in reckless and wasteful spending is going to lead to high inflation. It is going to put upward pressure on interest rates. That is going to see more interest rate hikes by the Reserve Bank—we know that. But just at the time that families are being slugged by increases in interest rates, they will be in a worse position because there will be the freezing of indexation of key family tax benefits which are usually indexed to the CPI, so it is a double whammy.

The government has also frozen the indexation of the higher income thresholds for family payments for the next three years. These thresholds are usually indexed by the CPI. These thresholds are to be frozen, and they include the $150,000 limit for FTBB, the $75,000 baby bonus eligibility limit for family income, the $150,000 paid parental leave income limit and the higher income threshold for FTBA.

This is also the first budget in eight years that has not provided tax cuts for Australians. Instead, as I have mentioned before, Labor has hit Australian families and the economy with more than $6 billion in new and higher taxes. Labor are still determined to means test the private health insurance rebate to hurt families. Labor have been tough on families because they have
failed to be tough on themselves. I want to evidence that. There is a thread that runs through and joins each Labor budget. There is an unerring constancy and a consistency of approach. They are undoubtedly works of fiction. I have those works of fiction here: the 2008-09 budget, a work of fiction; the 2009-10 budget, a work of fiction; the 2010-11 budget, a work of fiction; and the most recent work of fiction, the 2011-12 budget, another work of fiction.

I want to detail what I mean. Let's go back to 2008, the first budget by Mr Swan, when he said:

We are budgeting for a surplus of $21.7 billion in 2008-09, 1.8 per cent of GDP, the largest budget surplus as a share of GDP in nearly a decade.

An opposition senator: Yeah, right!

Senator FIFIELD: 'Yeah, right' indeed! What was the outcome of that budget? It wasn't a $21.7 billion surplus; it was a $27.079 billion deficit. So, there is another work of fiction. If you look hard in 2009-10 budget, you will not actually find the forecasted deficit, so embarrassed was Mr Swan. The outcome was a $54 billion deficit. In the 2010-11 budget—and these numbers actually get further back in the budget speech as you go—Mr Swan said the budget deficit would be $40.8 billion for 2010-11. It ended up being $49 billion. Now we have the final work of fiction, which says that there will be a deficit for 2011-12 of $22.6 billion. I am guessing it might actually be a bit bigger.

But the government actually did something extremely helpful: they changed the colour of the budget papers, so now it is easy to tell. Any blue budget paper is a deficit budget. That was very thoughtful, Mr Swan. Thank you for doing that.

These are the exhibits to support the case that Labor are not tough on themselves. They are clearly not. They always take the soft option. I just want to touch on a few comments of Mr Swan over the last few days. He said yesterday that the opposition is set to wreck the surplus. There is no surplus, and any good psychologist will tell you that the best predictor of future behaviour is past behaviour. I do not believe there will be a surplus. Mr Swan yesterday said: I've done a lot of things Peter Costello has never done.

He is spot on. Peter Costello: 12 budgets and 10 surpluses; Wayne Swan: four budgets, four deficits and no surpluses.

Penny Wong yesterday said this is a typical Labor budget. You bet it is—debt and deficit, with no tough decisions, and at the same time slugging ordinary Australians. If you listen to Senator Wong, she will tell you that they have really had a lot of bad luck, that overwhelmingly it is revenue shortfalls that have led to these budget deficits. That is not true. The overwhelming majority of the reasons for the budget deficits have been policy decisions by government. If you look at the reasons for the budget deficits, they are policy decisions by government, not revenue shortfalls. But if you listen to Senator Wong and Mr Swan you will believe that no government has ever had such a bad run of luck as this outfit has.

This government, the Labor Party, claimed at the 2007 election that they would be economic conservatives. They have no been. This has been a government of sloth, waste and incompetence. The people who are paying the price for that are the Australian public, and this budget stands as a testament to the fact that the Australian Labor Party are...
not tough on themselves; they cannot take a tough decision. It is always the Australian people who pay. They are paying again. They are suffering from rising costs of living. This budget will exacerbate those costs of living. Every budget tells the story of deceit. Every budget tells the story that it is the Australian Labor Party, through their bad policy decisions, who are inflicting pain on the Australian people.

Senator BILYK (Tasmania) (16:46): What an appalling matter of public importance brought on by Senator Fifield. It is appalling because it feeds into the campaign of fearmongering that the federal opposition continues to engage in. It is absolutely breathtaking in its hypocrisy. Another day, another scare campaign. The opposition are trying to tell us how to budget when they brought forward election costings with an $11 billion black hole. Being criticised by the opposition on fiscal responsibility is like being flogged with a feather duster. I would sooner take marriage guidance lessons from Tiger Woods than I would take lessons in accounting from those opposite!

The other great hypocrisy is that, if there was ever an assault on families, it has been perpetrated by the coalition. Let's look at their record. They talk about Work Choices being dumped and yet they come up with a workplace relations policy that revives the worst elements of Work Choices. They talk about cost of living pressures and last year they proposed a levy that would feed through to the cost of every grocery item at Coles and Woolworths. They talk about the effects of a carbon price and then they come up with a so-called 'direct action' plan which will cost the average family $720 a year and will blow a $30 billion black hole in the budget.

While the opposition perpetrates its attacks on families, the Gillard Labor government is actually delivering for families in this budget. The headline initiatives for families in this budget—just in case Senator Fifield missed them. We are providing a $296.3 million boost to provide more community based support for people with mental illness and their families. We are providing $147 million through the Better Start for Children with Disability initiative, which will give children with disability affecting their development better access to early intervention services.

We are trialling new measures in disadvantaged communities to help teenage parents to finish school and support their children. These measures will break the cycle of disadvantage experienced by some families. For vulnerable and disadvantaged Australians we are making investments in financial counselling, emergency relief and other money management initiatives.

The headline initiatives for families are our changes to the family payments system. At the same time as making the system fairer, simpler and more sustainable in the long term, we are providing more support for low- and middle-income families raising children. From 1 January this year, family tax benefit part A will be increased for 16- to 17-year-olds in secondary school by $4,208
per year and for 18- to 19-year-olds in school by $3,741 per year. This measure will benefit the families of 650,000 teenagers. We will also give families access to more flexible advance payments of family tax benefit part A.

At the core of this budget is the one thing that helps Australian families more than anything else, and that is the dignity and financial independence that comes with getting a job. Since coming to government in 2007, Labor has created well over 700,000 jobs, and we intend to build on this success. The Gillard Labor government is investing $3 billion over six years in skilling the Australian workforce. We are also delivering a package of participation reforms to make sure that more Australians have the opportunity to engage in the workforce. This includes a workforce development fund to deliver 130,000 training places over four years, a national mentoring program to help 40,000 apprentices finish training, and investment in more flexible training models to allow apprentices to be fast-tracked as they acquire critical trade skills.

We are providing additional investment in the national partnership with the states and territories to boost vocational education and training. We are reforming the disability support pension and providing more support for DSP recipients to participate in work. We are extending our 'earn or learn' requirements to 21-year-olds and creating new pathways to full-time employment for early school leavers. We are investing in targeted wage subsidies and extended work experience programs to help the long-term unemployed into work. Now let me go to the issue of a carbon price, because there are a couple of things the opposition conveniently overlooks in its commentary on this. First of all, the carbon price is not going to be included in the budget because the design is yet to be finalised. It will not affect the budget bottom line because the measure is expected to be revenue neutral. However, one member of the opposition who is sceptical about that claim put in one of the best comical performances I have ever seen on Insiders last Sunday morning. I am referring to the shadow Treasurer, Joe Hockey. For those who missed it, here is the transcript:

JOE HOCKEY: Well on budget night when they claim to deliver a surplus in 2012/13 there will be a gaping hole and the hole will be the carbon tax ...

BARRIE CASSIDY: It's true that the carbon tax figures won't be there but isn't it generally accepted that the figures will be broadly neutral in that first year?

JOE HOCKEY: No, because revenue will be higher.

Mr Hockey claims that the government's carbon price will make it more difficult to deliver a surplus in 2012-13 and then five seconds later he claims that revenue from the carbon price will be higher than expenditure. Can the opposition please make up their minds on this one? If one member of your caucus has two views, it is no wonder you have trouble coming up with any sensible policies.

The other salient fact that the opposition choose to ignore when they start their big scare campaign on cost of living pressures is that this is a tax on big polluters. While we accept that there will be some price increases, we have committed to at least 50 per cent of the revenue from a carbon price going to household assistance, a measure that we expect will fully compensate many Australians and will leave millions of Australians better off.

When it comes to supporting families, this government's record is second to none. The opposition likes to try to scare families because it suits its political purpose, but the scariest prospect for families would be if Tony Abbott became Prime Minister. We
must not forget that if Tony Abbott had his way there would be an $11 billion black hole in the budget and 200,000 Australians would be out of work because of his opposition to the economic stimulus plan.

We understand the pressures that Australian families are under. We have just been through a global financial crisis and, despite Australia’s resilience, we have all felt the effects. But this Gillard Labor government is supporting families, supporting skills and jobs and supporting strong and responsible fiscal management that will return the budget to surplus by 2012-13.

We all know Mr Abbott has a knack of getting the big economic calls wrong. Just look at his approach to the global financial crisis, the flood recovery package and his so-called health reform. The big risk to Australian families is the opposition, just as it is a big risk to the budget and a risk to our $1.3 trillion economy.

Senator WILLIAMS (New South Wales—Nationals Whip in the Senate) (16:55): Senator Bilyk said this Gillard Labor government is committed to fiscal restraint and fiscal responsibility, but we are yet to see a budget in the black. This matter of public importance today about the harm this government is causing to our families and to their cost of living is simply a free kick in front of goal for us on the opposition benches.

It is important to look at the history of the Labor Party. Senator Cormann pointed out to me last night what happened in the 13 years of the Hawke-Keating government. How many budget surpluses were there? Just three out of 13. It was borrow, borrow, borrow—and run up the debt. We know the debt. It was $96 billion inherited by the Howard coalition government. They had some 10 or 11 years to pay it off. We can go back to the late eighties and the early nineties and look at the way the Labor Party managed the states. Victoria had a $60 billion debt and down the tube it went. South Australia, Western Australia and Tasmania were similar.

Senator Farrell: That’s not true!

Senator WILLIAMS: It is absolutely true. What happened to your bank in South Australia, Senator Farrell? It had to be cashed in to clean up some of your debt. It was all brought on by the Labor Party. It has not changed. On 26 March this year, there was a state election in New South Wales. I think those opposite would probably like to forget about that date. They should remember it. It was when the people of New South Wales really had their say on what they thought of that state’s Labor administration after 16 years. And guess what: the Treasurer has now confirmed there is a $5 billion hole in the New South Wales budget and forward estimates. Does that surprise anyone? Not at all. All my life I have talked to people in the street and they say, ‘Every time Labor gets into government they send us broke.’ Nothing has changed; it is the same here.

Let us have a look at what is happening now. Senator Fifield pointed out earlier that this current financial year has a budget with some $41 billion deficit, and $9 billion has been added to that. There was $50 billion borrowed this year. It is amazing. Yesterday I looked on the website of the Australian Office of Financial Management. It stated that the debt was $187.7 billion and growing.

I find the stimulus package amazing—the $42 billion stimulus waste that was brought forward to this parliament. That package had a section in it where the government could borrow up to $2 billion. That was the overdraft. I think we will have to extend the overdraft. If we are on $187.7 billion now,
by the end of this month it will be $190 billion; yet next year's budget forecast is $22.6 billion. So it will be back to the parliament to extend the overdraft.

There is not only concern about the federal government's debt but also concern that this parliament has underwritten the states' debts for some $240 billion. If the federal government's gross debt goes to $220 billion and there is $240 billion for the states, we would be looking at a $460 billion debt between the states and the federal government of Australia. With a $1.3 trillion GDP, we will probably be looking at 40 per cent. It is only a guess.

The real problem is what this is going to do to working families. Remember that prior to the 2007 election it was all about working families. These are the same families that had $2 billion taken out of their family allowances in Mr Swan's budget last night. That this means is higher interest rates. I have told the Senate before about the days of Treasurer Paul Keating. At one stage he was the so-called 'world's greatest treasurer'. For what—borrowing money and running up debt? We were paying an interest rate of 22.25 per cent on the farm. People cannot believe that today. It is a figure I will never forget, and I hope Senator Cameron does not forget it. We have now had seven interest rate rises. The cash rate was at three per cent but it is now at 4.75 per cent and there is more to come.

When interest rates go up, there are two effects. The Aussie battlers, those buying their home and trying to fulfil their dream, are the ones who will pay. People in small business, with their debts, will pay. The farmers, after eight years of drought and with many having their crops washed out over the summer months last year, will pay. That is what happens with interest rates. But the bad effect of all this is that the higher our interest rates go in Australia, the greater the difference between Australian interest rates and overseas rates. And then what happens? We have foreign investors investing in the higher rates in Australia and we have a stronger Australian dollar, and the stronger the Australian dollar gets, the more income is wiped out of regional Australia again. This is why, when the government say they are out to promote jobs and help unemployment, the higher interest rates and the higher Australian dollar are going to have a very negative effect on the future of our regional economies.

What concerns me is that, for the next four years, the government's interest bill will be close to $20 million a day. That is quite amazing. Last night, when I was watching Sky TV, I saw the member for New England, Tony Windsor, saying, 'Don't be concerned about the deficit, it is really not a problem.' How far he has turned to the left since he has been in alliance with the Labor Party and the Greens!

We have seen the budget deficit growing and this is on top of increased taxes. First of all, there was the alcopops tax, then there was the car tax and then the flood tax. Soon there will be a mining tax and then there will be a carbon tax, the tax we were never going to have. We had a promise from Ms Gillard that, under any government she leads, there will be no carbon tax. And we had the magical words of Treasurer Swan on the hysterical accusation that if Labor won the election in August 2011 they would introduce a carbon tax. Of course, it is on the way. So that is the situation we face now.

But I want to raise a smaller issue—it might not be big to people in here—and that is the funding of our cooperative research centres, which do all the research. Look out for cures for disease in animals, whether it be in the poultry industry, the pork industry, the
sheepmeat industry, or in the cotton industry now that we have $33.4 million sliced out of the funding to our CRCs.

Senator Boyce: Oh, careful, they might've been productive!

Senator WILLIAMS: Exactly, Senator Boyce. I will take that interjection. They would be productive; they will increase productivity; they will lead to growing more food so that we can actually feed people. But, no, Treasurer Swan and the Labor Party take an axe to research and development in our regional centres and our rural and agricultural products. I find that simply amazing.

Senator Ryan made this point earlier on. So many times we hear this comparison about Australia's debt in relation to many other countries: 'Well, it's not too bad really, there's nothing to worry about.' That is a furphy. Imagine if you were having trouble paying your mortgage, if you owed, say, $300,000 on your home loan. Does it make you feel better if the bloke down the road owes $400,000 or if the lady across the street owes $450,000? That does not help you to pay your debt any easier. The fact is that $18 million to $20 million a day, every day, seven days a week, is what we are going to have to pay in interest for the next four years.

The government talks about the surplus. If there is a four per cent reduction in commodity prices, or a further increase in the exchange rate, there will be no surplus. As I said at the start of this debate, we had 13 years of Labor from 1983 to 1996 and we had three surpluses. We have had another four years of Labor from 2007 to 2011. That makes 17 years of Labor government and we have had just three surpluses. Borrow, borrow, spend, spend, and mortgage our children's futures away, and they call it economic and fiscal responsibility! It is reckless, it is wrong, and that is why the people of Australia are going to turn against this government in a big way. When interest rates rise—and, as sure as I speak, they will—and the exchange rate rises further as a result of that, we will see less income for our nation, more imports and the loss of jobs, and industries like cement, aluminium and steel will be affected. When we get the carbon tax that is when we are going to see it all come to a head. We will see exactly what that tax does to destroy jobs and destroy families' livelihoods.

Senator POLLEY (Tasmania—Deputy Government Whip in the Senate) (17:05): Madam Acting Deputy President, thank you for the opportunity to respond to the opposition's MPI. I am very happy to have the opportunity to place on record the benefits of the Gillard government's budget, a budget to ensure the long-term future of all Australians, and I congratulate Treasurer Wayne Swan on this budget. The Gillard government's budget of 2011-12 will strengthen the Australian economy, creating jobs and opportunities. We said this would be a tough budget, and it is. However, the Gillard government is delivering for Australian families with increased flexibility and fair and sustainable financial support. We will deliver a further $300 a year of the low-income tax offset into pay packets and not at the end of the year. Extra support is also being directed to families with an increase in family tax benefit part A of up to $4,208 per year for older teenagers and $3,741 per year for 18- and 19-year-olds in school. We understand the costs associated with raising children and we know that you cannot plan for unexpected expenses. For this reason we will be offering a $1,000 advance for family tax benefit part A to Australian families at any time to cover those unexpected costs. He government is providing more support for low- and middle-
income families raising children through our election commitments to increase family assistance to support teenagers in school; making advance payments more flexible; and encouraging parents to get health checks for their children before they start school. Finding a way to include these important measures in a budget that makes a substantial saving to return to surplus in 2012-13 shows the strength and the discipline of the government’s commitment to supporting Australian families.

The FTB part A will only be available for families where their teenager is in full-time study, secondary study or vocational equivalent. This government is committed to ensuring Australian youth have access to the best possible educational opportunities. This funding is aimed at helping youth stay in school until at the least year 12. This government believes that having the building blocks for further education or vocational training is essential for the youth of Australia. The families of around 650,000 teenagers turning 16 over the next five years could benefit from substantial increases if the young person stays in school. Family tax benefit will be the primary payment for dependent full-time secondary students living at home. Youth allowance will continue to be available for those children who meet other eligibility criteria.

This has been a budget that required us to make difficult choices and create savings where possible. However, our commitment to supporting Australian families is obvious. The Gillard government is committed to supporting families through increased funding aimed at education and training, placing industry at the heart of the training effort with a new $558 million National Workforce Development Fund. $233 million will be aimed at supporting the very long-term unemployed move back into employment through the Building Australia’s Future Workforce package. Would the coalition prefer people to stay on welfare and struggle to make their lives meaningful? It is very easy to forget the day-to-day benefits of employment when all you have are concerns with political spin. The more Australians we encourage to get into the workforce, the larger our tax base will be. This gives us additional funding to spend in areas of necessity such as health and education.

There is nothing the government can do to assist a family more than to have those family members eligible to work having a job. The Gillard government is reforming the apprenticeship system to make it more modern and flexible, including accelerating apprenticeships and mentoring support. It is increasing workforce participation by getting disadvantaged Australians the skills they need to get a job—something the opposition had plenty of opportunity to do over the 11½ years those opposite sat on the government benches. We know and industry know, as the Australian community know, that they failed to do anything. They failed to provide the skills this country needed. Those on the opposition benches should hang their heads in shame because we are reaping the disadvantages of those 11½ years of the Howard government.

Mental health has been a focus of this budget, something I know we all welcome in this chamber. $2.5 billion has been committed over the next five years to improve and establish an array of community mental health services. This is, once again, another area that those opposite had 11½ years to do something about but failed miserably in. They should be ashamed of themselves. To come in here with the hypocrisy that they have demonstrated thus far is shameful. But the Australian people do see through them.
The Gillard government has also understood the importance of easy, accessible, quality health care and as a result will invest $1.8 billion to improve regional health infrastructure through the Health and Hospitals Fund regional priorities round. This funding will be directly helping people in my home state of Tasmania, where $240 million has been allocated to the Royal Hobart Hospital. Funding has also been allocated to Cygnet and Sheffield.

Senator Bushby interjecting—

Senator POLLEY: I am surprised—no, I should not be surprised, Senator Bushby, at your interjection, because we know your record on standing up for Tasmania. This expansion will particularly benefit people with mental illness living in regional and remote Australia who have access to psychological and related services, with referrals through general practitioners.

Keeping Australians engaged and connected with their communities and families is of high importance to this government. Thousands of older Australians will be able to stay connected to their family and friends through free access to broadband internet, with continued funding under the Gillard government’s successful Broadband for Seniors initiative. This government will invest a further $10.4 million over four years to 30 June 2015 to keep supporting the 2,000 Broadband for Seniors kiosks already established across this country.

This is a budget that will ensure we are on track for a surplus in 2012-13. This is despite dealing with the new challenges to our finances that come from natural disasters and the lingering effects of the GFC. The budget will also train Australians for better jobs and spread the opportunities of the mining boom. Our government has a track record for getting the big economic calls right. Our policy responses helped protect hundreds of thousands of Australian jobs—

Opposition senators interjecting—

Senator POLLEY: Those opposite can laugh, because we know what their solution was with the GFC—and that was to keep your head in the sand, sit back and do nothing. The Australian people have their jobs. We have Australian workers still working because we took the action that was needed. We protected Australian jobs and businesses from the worst global financial downturn in 75 years. Now we are putting the settings right to deal with the pressures and to build our economy.

The contrast with the performance of Tony Abbott and the coalition cannot be more stark. He has a knack of getting the big economic calls wrong: whether it is the GFC, the flood recovery package or health reform. That is what makes them such a risk to the bottom line, to jobs and our economy. For the party that once claimed the high moral ground for fiscal responsibility, they would now struggle to get a seat even at the Mad Hatter’s tea party! All the coalition do is oppose. They oppose everything and support nothing. They say this budget is too tough and then they say it is not tough enough. The aim is to cause political division and confusion within the community. But the Australian people are much smarter than that and in fact very much smarter than those opposite. aybe it is about time the coalition thought about the Australian community rather than their own selfish interests. And what I have to say to the chamber and to those listening today it is that I encourage Australians to listen in tomorrow night to what I hope will be an alternative budget put up, because it would be the first time that has happened. We want to know where the savings are coming from, because those opposite cannot have it both ways and they
cannot just attack the Public Service in this country. They will not be able to do that because the Australian community sees through them. The Australian community sees how ineffective those opposite are and they are also very much aware of the three Stooges that lead the coalition's financial team.

Senator BOYCE (Queensland) (17:15): I am not quite sure where the three stooges are, but I think we can generally—

Senator Polley: Madam Acting Deputy President, I can name them if you like.

Senator BOYCE: I think they are sitting on the government benches. It is worth making the point that this is about families and I will repeat the motion, which I think was a good move by Senator Fifield, to make the point. Our concern here is about:

The Gillard government's decision in this Budget to be tough on Australian families, rather than tough on itself with a new assault on families that are already struggling under cost of living pressures.

I must admit I found the whole effort of the Treasurer last night quite bemusing. He is happily admitting that we have a patchwork economy that is growing unevenly across the nation, and then he uses the current Labor mantra for why this would happen. Thank God in some ways, the Labor government must be saying, for the natural disasters that have affected my home state of Queensland and many other parts of Australia because it has allowed them to continue to mask the fact that the only thing that is prospering in this country right now is the mining industry and businesses associated with it. We do indeed have a patchwork economy. And perhaps the government might like to think a little bit about that and about how they might do something about it because this budget certainly is not the way of doing it.

Let us look at families and some of the budget measures that have come up. Families include people with mental health problems, they include people with disabilities, they include teenage mothers and their children, they include the vulnerable people who have been affected by floods and cyclones and other natural disasters, they affect fathers who are planning for paid parental leave, they affect people who own small businesses, and yet none of these areas have been helped in any way by the Labor government's budget and by the smoke and mirrors in it.

Let us start with mental health and the much-trumpeted $2.2 billion, shall we? There appears to be about $500 million of new spending in that. The rest of it has already been announced. It follows on very much from the pattern and the policy announced three weeks ago by the Leader of the Opposition, Tony Abbott, and our shadow minister for mental health, Senator Fierravanti-Wells. I might also make the point, perhaps for Senator Polley's edification, that when the current Leader of the Opposition was the minister for health Australia had a record national spend on mental health, the establishment of most of the policies that underpin the work that is going on in that area.

Let us look at that. Mental health, an extra $500 million or so over four years, and a desperate need. It is a good start, but it is just a bit of a start. Let us look too at the need to get disability support pensioners into work. Great idea, good idea, should be done. However, how are we proposing they get to work? I have received email after email in the past month, since these moves were mooted, saying, 'I'd love to work, but I can't get the care package I need to get someone to come here, give me a shower, get me dressed and give me breakfast in time to turn up to work at the starting time every day.' So we
have the much-vaunted national disability insurance scheme, which of course is not even mentioned here because it is not even going to start in this forward estimates period. We already have the criticism of the current scheme saying it is underfunded, inequitable, it is not even a support scheme; it is just something that has been cobbled together. Yes, let us get disability support pensioners out to work, but let us put the supports in place that would give them the chance to take jobs by providing someone to assist them to get ready for work in a timely fashion. Let us put all of those support services out on the never-never, then whose fault will it be when this fails? It is yet another implementation problem that this government has.

We need to also look at the wonderful $200 million package for early intervention services. Now in the disability area, special education area, I think people are grateful for all of the crumbs they get. People are grateful for this, but $200 million over three years divided by 165,000 students—you come down to about $400 a year per student. This is to provide necessary early interventions and specialist therapies. Has anyone tried to employ a speech pathologist recently? You will pay well over $100 or $150 for an hour's session. So $400 a year per student. It is not something that is going to assist families in any meaningful way. Let us look at the teenage mothers, shall we. I was most amused to hear an apologist for the Labor government on radio recently suggest that, if teenage mothers had problems getting child care locally so they could go to work, as this government wants them to, they could just drive to another childcare centre about 10 minutes away. We are talking about teenage mothers who own cars and who are going to drive to childcare centres? Yes, we are. Again, this government does not have a clue about the reality out there. I do not know many 16- or 17-year-old mothers who drive their own cars.

I said in my newsletter a little while ago that I am expecting a series of poorly thought through plans to take money from middle-income groups so that the government could then ineptly squander it somewhere in the vicinity of people in need. But I did get that wrong because it is not even being squandered ineptly in the area of people in need—it has not even been brought within the vicinity of the people who need it. Once again, we have ideological plans that have no chance of being able to be implemented because the government does not understand their audience and does not understand the practical needs of people.

We will have increases in the costs of petrol, electricity, groceries, health costs and mortgage costs brought on by the flood levy, the carbon tax and the mining tax. It will go on and on, yet this government is attempting to say that it is helping families. It is a nonsense.

**Senator CAMERON** (New South Wales) (17:23): I am always amused when I hear these Liberal members and certainly members from the Nationals lecture about economic competence. The coalition government, when they were in power, had 11½ years to build this country, yet they had not one big vision, not one big initiative. We had massive problems in the hospitals and we inherited massive infrastructure problems. I will come to these further on.

What is Labor doing? Labor will get the budget back into the black by 2012-13. We will build Australia's future workforce. One of the biggest crimes against this country committed by the coalition was to diminish the number of tradespeople that were trained in this country. You handed money over to McDonald's and Red Rooster and forgot that
you needed tradespeople in this country to build the country. Your record on building skills for this country was abysmal. It was an absolute national disgrace.

We will build the infrastructure in this country. You were warned time and time again by the Reserve Bank, by the Treasury, by engineers and by academics. Academics said the infrastructure in this country needed to be rebuilt, and what did you in the coalition do? You did nothing because you had no vision and no values to take this country forward with. We will continue, through this budget, to invest $36 billion in roads, rails and ports, including $1 billion in funding for the duplication of the Pacific Highway. We are going to put better hospitals and health care in place. When we came to government, what was the complaint we heard? That the hospitals were in crisis. The coalition could not deliver on hospitals. They could not deliver on health care.

We said we would make every school a great school, and we will make schools great schools. I have opened a number of BER projects and, let me tell you, the number of coalition members who want to come along and actually bathe in the glory of increasing the infrastructure in our schools is quite mind-boggling. Your members are there in droves, trying to get their picture taken with the opening of the new facility that the federal government has put in place.

We are going to help families, we are going to help low-income earners and we are going to invest in our regions. The Nationals, who are supposed to be about regional Australia, delivered nothing but pork-barrelling over all the years they were in power—anything to try and get a vote but nothing of any vision or future proofing of the economy. We will invest $4.3 billion in this budget on our regions and on our businesses. To argue that this is an assault on families and the hypocrisy of the coalition to talk about cost-of-living pressures is mind-boggling.

This is a government which has delivered 750,000 jobs since it has been in power. We will deliver another 500,000 jobs over the next two years. We are prepared to take on the fear campaigns and the nonsense that will leave our economy in the backwoods for generations to come. We will put a price on carbon and we will make sure that our industries are at the cutting edge. We will build for the low-carbon future—something which you know has to be done but which, for pure base political motives, you are not prepared to pull on. We are prepared to make sure that the miners pay their fair share of taxes, that ordinary people in this country get a fair go and that the money does not just slosh around in the back pockets of the mining magnates. We will look after pensioners. We will look after school-children. That is what Labor is about—building jobs and building a good society.

Let me tell you about Menzies—the great Sir Robert Menzies that you keep talking about. He said:

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

The knowledge in this nation is being overthrown every day by the Leader of the Opposition, Tony Abbott, and his three-line points of view. Tony Abbott is certainly about delivering ignorance, not knowledge, in this country—the antithesis of what Sir Robert Menzies said. Sir Robert Menzies also said:

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

Every day in this place, we see a disrespect for the Australian people from the coalition; we see fear and ignorance from the
opposition party benches. We see fear being peddled on everything that this government is trying to do. The Leader of the Opposition takes unprincipled positions and shamelessly peddles fear and ignorance.

The opposition are the great pretenders. That is what they are: great pretenders. Tony Abbott is out there masquerading as the friend of workers. Well, workers are onto Tony Abbott. They know he is not a friend of workers; they know he is a friend of Work Choices. They are the great pretenders. The opposition try to tell us they are good economic managers, but what did they say at the time of the global financial crisis? They said, 'Wait and see what happens.' That was the opposition's approach. That has been proved wrong, while it has been proved that this government did saved and underpinned 210,000 jobs and kept this country out of recession. They are the great pretenders on climate change. Those in the opposition who do believe in climate change pretend that they now do not believe, because the Leader of the Opposition considers it 'crap'. There are those on the other side like Senator Boswell, who just does not believe in it, who keeps telling us that he goes out on his yacht off Brisbane on a regular basis and cannot see any rise in the sea level. That is the level of argument dominating the coalition. The great pretenders try to pretend that there were no disasters in Japan, that the GFC had no influence on the Australian economy, that there were no disasters in Australia—no floods, no Cyclone Yasi—and no disasters in New Zealand. None of those things matter; they really do not matter! They want to continue to run fear campaigns on refugees, on government debt and on climate change.

There is little left of the Menzian legacy in this rabble sitting across from me every sitting period. They are not Menzians; they are extremists—and they are extremists on all the issues that are important for this country.

They talk about us being tough on Australian families—what hypocrisy! Let me go back to what Senator Bushby said a bit earlier in this place. He said, 'We created 380,000 jobs through Work Choices.' Senator Bushby, who is in the chamber, nods his head, because he is a great supporter of Work Choices. Senator Bushby and Senator Abetz want to go back to Work Choices. They want to go back to a position where 65 per cent of workers on individual agreements lose their penalty rates, where 70 per cent of workers lose their shift allowances, where over a million award workers lose $100 a week, where 68 per cent of workers lose their annual leave loading, where 25 per cent of workers lose their public holidays and where 3½ million workers lose their protection from unfair dismissal. Don't lecture us about economic ability; you are a failure. And Peter Costello was one of the worst treasurers this country has ever seen. The record is there. He was incompetent, he had no courage and he did nothing to build this nation—a failed Treasurer, and now a failed opposition.

The ACTING DEPUTY PRESIDENT (Senator Pratt) (17:33): The debate has concluded, pursuant to standing order 75.

COMMITTEES

Scrutiny of Bills Committee

Report


Ordered that the report be printed.

Senator BUSHBY: I move:

That the Senate take note of the report.
I seek leave to incorporate the tabling statement in *Hansard*.

Leave granted.

The statement read as follows—

SENATE STANDING COMMITTEE FOR THE SCRUTINY OF BILLS
TABLING STATEMENT

Alert Digest No. 4 and Fourth Report of 2011

11 May 2011

In tabling the Committee’s Alert Digest No. 4 I particularly draw the Senate’s attention to the Committee's comments on the Australian National Registry of Emissions Units Bill. This bill seeks to provide a legislative basis for an electronic registry system used to account for emissions units under the Kyoto Protocol.

The Committee has raised a number of concerns about the bill arising under Standing Order 24. These include that:

- a significant amount of detail required for the operation of the bill is being left to delegated legislation, including the creation of civil penalty provisions that carry significant penalties;
- merits review is not being made available for one type of decision to be made by the Administrator to refuse to transfer units (although it is available in other similar circumstances); and
- information is being incorporated into the bill by reference to other documents, which removes the Parliament's ability to review any changes to the incorporated material.

The Committee will seek further advice from the Minister about these issues.

The Committee also draws the Senate's attention to some other matters in the bill of relevance to Standing Order 24:

- it contains significant penalties that exceed the usual standards, but the justification provided is that a large financial penalty is warranted because of the potential gains arising from a breach of the scheme requirements;
- it includes a very broad regulation power 'to make further provision in relation to non-Kyoto international emissions units' which is justified on the basis that this is a 'framework' bill and regulations will need to deal with issues such as determining conditions that may apply to the transfer of units; and
- penalty provisions are treated as strict liability offences to encourage relevant parties to 'take steps to guard against any inadvertent contravention'.

In Alert Digest No. 4 the Committee explains its possible concerns with these provisions, notes the justification for them provided in the explanatory memorandum and leaves it to the Senate as a whole to determine whether or the proposed provisions are appropriate.

Several other bills also contain issues of potential concern under Standing Order 24. These include the Carbon Credits (Carbon Farming Initiative) Bill; the Competition and Consumer Amendment Bill (No. 1); the Family Law Legislation Amendment (Family Violence and Other Measures) Bill; and others. I draw the Senate’s attention to all of the Committee’s comments in Alert Digest No.4.

In relation to scrutiny concerns raised in previous Digests the Committee has received replies to the issues it raised in relation to the Environment Protection and Biodiversity Conservation (Abolition of Alpine Grazing) Bill, the Human Services Legislation Amendment Bill and the National Health Reform Amendment (National Health Performance Authority) Bill.

The Committee particularly thanks the Minister for Health and Ageing who has provided detailed responses to issues raised by the Committee and who has agreed to make public any instruments specifying additional functions to be performed by the National Health Performance Authority.

The Committee also notes that the explanatory memorandum to the Alpine Grazing Bill that was inadvertently omitted from circulation is reproduced in its Fourth Report.

I commend Alert Digest No. 4 of 2011 and the Fourth Report of 2011 to the Senate.

Question agreed to.
Public Accounts and Audit Committee Documents

Senator McEWEN (South Australia—Government Whip in the Senate) (17:34): On behalf of Senator Bishop and the Joint Committee of Public Accounts and Audit, I table a statement on the draft budget estimates for the Australian National Audit Office for 2011-2012, and seek leave to have the statement incorporated in Hansard.

Leave granted.

The statement read as follows—

REPORT BY THE JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT ON THE 2011-12 DRAFT ESTIMATES FOR THE AUDIT OFFICE

Mr President, the Public Accounts and Audit Committee Act requires the Committee to consider ‘draft estimates for the Audit Office’, with the Committee ultimately making a statement to the Senate following the budget on whether, in our opinion, the Auditor-General has been given sufficient funding to carry out his duties.

In support of this process, the Auditor-General is empowered under the Act to disclose their budget proposals to the Committee, which we then consider in making representations to Government as necessary. This process reflects both the Committee's status as the Parliament's audit committee, and the Auditor-General's status as an independent officer of the Parliament.

The Committee met with the Auditor-General in March to review the Audit Office's budget proposals for the coming financial year. The Auditor-General advised that, although facing a number of cost pressures, he is conscious of the overall pressures on the Government's budget and is not seeking additional budget supplementation at this time.

The Auditor-General advised that, in common with other agencies, the ANAO is facing increased employee and supplier costs. He again reiterated that the Audit Office has had to absorb the impact of recent changes to the Australian Auditing Standards which came into effect from January 2010. Despite the support of the previous Committee, the ANAO were not successful in receiving additional supplementation in either the 2009-10 or 2010-11 Budgets to offset these costs. The Auditor-General advised the Committee that the ANAO is now managing significant additional costs in this regard.

The Auditor-General advised that further pressure could result from the possible implementation of the JCPAA's recommendation in Report 419: Inquiry into the Auditor-General Act 1997. The recommendations would require the Auditor-General to review the adequacy of agencies' performance indicators. This is not expected to affect the ANAO's 2011-12 Budget as the report still requires formal Government consideration. However, if implemented, in addition to initial set up costs, ongoing costs of between seven and ten percent of the cost of the financial statement audit program could be required. The Committee would expect the Auditor-General to seek additional budget supplementation to cover this extended mandate in 2012-13.

The Committee appreciates the efforts of the Auditor-General and his staff to establish a strong working relationship with the new Committee. They have made themselves available to brief the Committee regularly and have been responsive to our requests for information on a variety of topics. The Committee looks forward to continuing a productive relationship with the Audit Office over the term of this Parliament.

The Committee recognises the important role the Auditor-General plays in scrutinising the Government and will continue to support that role. The Committee does not want to see the discretionary work of the Audit Office suffer due to future budget constraints and will endeavour to ensure the Office remains adequately resourced. This acknowledges the importance of the performance audit program and the contribution that the ANAO makes to better practice across agencies.

The Audit Office's total revenue from Government is $74.891 million in 2011-12. Mr President, the Auditor-General has advised that his appropriation for the year ahead is sufficient for him to discharge his statutory obligations and
planned audit work plan for 2011-12. He also advises that his office will be able to absorb the increase in the efficiency dividend over the next two years. Therefore, we endorse the budget proposed for the Audit Office for 2011-12.

I present a copy of my statement on behalf of the Joint Committee of Public Accounts and Audit.

Question agreed to.

Public Accounts and Audit Committee Report

Senator McEWEN (South Australia—Government Whip in the Senate) (17:35): On behalf of Senator Bishop, I present the 422nd report of the Joint Committee of Public Accounts and Audit, Review of the 2009-10 Defence Materiel Organisation major projects. I move:

That the Senate take note of the report.

Question agreed to.

Treaties Committee Report


That the Senate take note of the report.

Senator BUSHBY: I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—

Mr President, the Joint Standing Committee on Treaties' Report 116 contains the Committee's views on 15 treaties ranging from amendments to CITES, and the Australia and New Zealand Closer Economic Relations Trade Agreement; to ILO conventions on the working conditions of sailors, the treatment of asbestos, and occupational health and safety.

I am happy to advise, Mr President, that this Report deals with the last of the treaties for which consideration was delayed by the 2010 Federal Election.

It is a credit to the Committee's Members that it has been able to consider and report on no less than 55 treaties since the election, and has met the agreed reporting deadline for each one of them.

In addition Mr President, for many of the treaties, the Committee did not only issue invitations to participate to its regular stakeholders, including Commonwealth Government Agencies and State and Territory Governments, but was able to take evidence from a range of other interested parties.

For example Mr President, the Committee's consideration of amendments to the Australia New Zealand Closer Economic Relations Trade Agreement involved a visit to suiting manufacturers the Stafford Group, whose plant is in North Melbourne.

The Stafford Group retails its suits under the brands Anthony Squires, Giotto and 1096.

Anthony Squires is the only retailer of high quality suits still manufacturing in Australia. The Stafford Group is concerned that this arrangement will be placed at risk by the amendments proposed to the Australia New Zealand Closer Economic Relations Trade Agreement.

The Committee has been assured by the Government that it is aware of The Stafford Group's tenuous position, and is working to ameliorate the impact of the treaty amendments on that organisation.

Mr President, I would also like to draw the Parliament's attention to the participation of the seafaring community in the inquiry into the ILO Maritime Convention.

The Convention is intended to provide a set of basic working conditions for seafarers employed in international commercial shipping. The Convention requires that seafarers, amongst other things: be properly trained; have written, legally enforceable pay and conditions; and have appropriate living conditions and access to medical care.
Crucially, the Convention will ensure that the conditions extend to ships registered in countries that are not party to the Convention.

International shipping that does not meet these conditions will face severe penalties when it enters the ports of Convention signatories. The penalties will remove any shipping cost advantages attributable to poor working and living conditions for seafarers.

Amongst those to have already ratified the Convention are the ‘flag of convenience’ states Liberia, Panama and the Bahamas.

The Convention has been well received by the seafaring community in Australia. Amongst those expressing support for Australia’s ratification of the Convention are: peak employer organisations Shipping Australia Ltd and the Australian Ship Owners’ Association; seafarers’ representatives the Maritime Union of Australia and the Australian Institute of Marine and Power Engineers; and representatives of charities supporting seafarers the Australian Council of the Mission to Seafarers and the Sydney Seafarers’ Centre.

All of these organisations had useful suggestions about how the Convention is implemented, and the Committee commends their suggestions to the Government for consideration.

Mr President, only one submission, from the Australian Patriotic Movement, opposed the Convention.

Finally, Mr President, Report 116 expresses the Committee’s frustration about treaties amended without ratification that come into force before they are scrutinised by the Committee or the public.

For example, the Treaty amending the International Convention for the Prevention of Pollution from Ships was tabled in Parliament in November 2010, after having come into force some five months earlier.

This does not need to happen.

Changes to treaties amended without ratification are provided to signatory countries for consideration up to twelve months before they take effect. This period allows signatory countries that do not agree with the changes to either ‘opt out’ of the changes or attempt to have the changes removed.

In the case of the Treaty amending the International Convention for the Prevention of Pollution from Ships, the amendments were provided to Australia in mid 2009, and the period for objecting to the Treaty ended in June 2010.

Mr President, there is enough time in this twelve month period for Parliament and the public to make a material contribution to the outcome.

The Report recommends that amendments to treaties of this sort be referred to the Parliament for consideration at the time they are first provided to Australia, so that the Parliament can have a say before the changes come into force.

Mr President, I commend the report to the Senate.

Question agreed to.

Legal and Constitutional Affairs Legislation Committee
Corrigenda to Report
Senator McEWEN (South Australia—Government Whip in the Senate) (17:36): On behalf of Senator Crossin, I present a correction to the report of the Legal and Constitutional Affairs Legislation Committee on the Wild Rivers (Environmental Management) Bill 2011.

Ordered that the document be printed.

DOCUMENTS
Credit Card Surcharging
Tabling

The ACTING DEPUTY PRESIDENT (Senator Pratt): I table a response from the Assistant Treasurer, Mr Shorten, to a resolution of the Senate of 17 November 2010 concerning credit card surcharging.

DELEGATION REPORTS
Parliamentary Delegation to Bhutan and Mongolia

Senator HURLEY (South Australia) (17:37): by leave—I present the report of the Australian parliamentary delegation to
Bhutan and Mongolia that took place from 9 to 21 July 2010. I seek leave to move a motion in relation to the document.

Leave granted.

**Senator HURLEY:** I move:

That the Senate take note of the document.

The key aim of the delegation was to visit two countries that are relatively new democracies. In particular, the delegation aimed to gain an understanding of political, economic and social issues in both countries and to obtain an insight into Australia's development assistance activities.

Bhutan is a small landlocked country in the eastern Himalayas in South Asia, bordered by India to the south, east and west and by China to the north. Bhutan has recently developed from an absolute monarchy into a constitutional monarchy. Australia enjoys a modest yet warm relationship with Bhutan, extending back to the early 1960s, with formal diplomatic relations with Bhutan being established in 2002. The initial relationship was based around the provision of aid to Bhutan. The focus of Australia's aid program is now primarily on human resources development. The Australian government will provide approximately $5.3 million in development assistance to Bhutan in 2010-11. Education, through a scholarships program, is the focus of Australia's bilateral assistance to Bhutan. Since 1998, nearly 600 Bhutanese students have studied in Australia through various scholarship schemes. As a result of these scholarship programs there is now a core of Bhutanese senior to mid-level public servants who have been educated in Australia.

The first members of the parliament of Bhutan took their seats in 2008. His Majesty the King of Bhutan has stated that the country's first democratic government has the responsibility of setting the right examples, laying strong foundations and promoting the best practices of democracy. The parliament of Australia is able to assist the parliament of Bhutan in dealing with the steep learning curve it faces in all aspects of operating a parliament. The parliament of Bhutan is seeking guidance and advice, particularly in the areas of legislative drafting, development of procedures for both houses and the development of secretariat support for members of parliament, both houses and parliamentary committees.

The report recommends that the Australian government provide legislative drafting assistance to the parliament of Bhutan. The delegation understands that providing training in drafting is a very resource intensive activity for our agencies; however, that drafting expertise is of vital importance, especially to parliaments that are newly established and still coming to terms with new procedures, practices, roles and responsibilities. The report recognises the value of the Australian parliament's inter-parliamentary study program; however, the report recommends that the Australian parliament investigate the provision of more exclusive access to our parliament for senior parliamentary officials from Bhutan. Short-term residencies for several officials, perhaps over a sitting fortnight, may provide unique opportunities for those officials to learn, through shadowing roles, about our parliamentary departmental functions.

Mongolia is a landlocked country in East and Central Asia. Mongolia became a democracy in 1990 after 70 years of Soviet style, single party rule. Australia established diplomatic relations with Mongolia in 1972, with bilateral relations developing further following democratic and free market reforms in Mongolia in the early 1990s. Australia has been a longstanding development partner for Mongolia. Since 1995 Australia has provided more than $50
million in aid to Mongolia. In 2010-11 Australia will provide approximately $7.4 million in aid.

Since 1993 the provision of scholarships to Mongolia has been Australia’s primary mode of development assistance. In recent years the number of scholarships has almost doubled. The Mongolia Australian Scholarships Program provides 28 Australian Development Scholarships to Mongolians from both the public and private sectors each year. The scholarships program is highly regarded by the Mongolian government, with graduates including current and former ministers, parliamentarians and senior public service officials.

The delegation met with representatives from Australian businesses with a presence in Mongolia. Companies such as Leighton and Rio Tinto now have significant investment in Mongolian mining and resources, particularly through coal mines at Tavan Tolgoi and the substantial copper and gold mine at Oyu Tolgoi in the Gobi Desert. Australian businesses have benefited from the presence of an Austrade official on a trial basis in the Mongolian capital of Ulaanbaatar. Australian businesses emphasised the importance of Australian government representation in Mongolia and called for, at best, representation through an embassy in Ulaanbaatar and, at a minimum, permanent Austrade representation. The delegation notes that Mongolia established an embassy in Canberra in 2008.

The delegation observed that the most pressing need for larger firms is the presence of high-level advocacy to the Mongolian government. This is particularly important for the protection of current investments and for the support of new ventures. The delegation considers that Australian government representation through an embassy in Ulaanbaatar is necessary for the continued development of a strong relationship between the two countries.

The delegation was very warmly received. I would like to thank the host nations for their friendly hospitality and willingness to share their experiences with us. I would like to thank the many individuals and organisations in the host countries who were generous with their hospitality, insight and knowledge. I would also like to thank the other members of the delegation: the Hon. David Hawker MP, the Hon. Bob Debus MP and Mrs Kay Hull MP, all of whom retired at the end of the 42nd Parliament after many years of dedicated parliamentary service. I also particularly want to thank Mr Anthony Overs, secretary to the delegation, for his assistance. I commend the report to the Senate.

Question agreed to.

Parliamentary Delegation to the 19th Annual Meeting of the Asia Pacific Parliamentary Forum, Ulaanbaatar

Senator McEWEN (South Australia—Government Whip in the Senate) (17:44): by leave—I present the report of the Australian Parliamentary Delegation to the 19th annual meeting of the Asia Pacific Parliamentary Forum which took place in Ulaanbaatar, Mongolia, from 22 to 27 January 2011. I seek leave to move a motion in relation to the report.

Leave granted.

Senator McEWEN: I move:

That the Senate take note of the document.

and I am pleased to make a few comments about it before the Senate decides on that motion.

I was a member of the delegation that went to Mongolia for the Asia Pacific Parliamentary Forum. The delegation comprised the Speaker of the House of Representatives; the member for Reid, Mr
John Murphy; and me. The delegation would also have included two members from the coalition, but unfortunately the flooding in Queensland and Victoria prevented their participation on this occasion.

A delegation from the Australian parliament has participated in every annual meeting as well as the meetings that prepared for the establishment of the Asia Pacific Parliamentary Forum, and this was the second time that I had attended an annual meeting of the APPF. My first experience was in Jakarta in 2006, and I was very pleased to have the opportunity to renew friendships at the APPF and to see the way the forum is developing as it approaches its 20th anniversary.

As usual, there were three broad subject headings on the meeting agenda for the APPF: economic and trade matters, political and security issues, and interparliamentary cooperation. The Australian delegation to the forum usually proposes a number of draft resolutions that are then debated and negotiated during the meeting. On this occasion the draft agenda for the meeting was delayed, and so we were able to propose only one resolution—and that was on the reform of the APPF. The New Zealand and Canadian delegations joined with us in finalising a resolution for adoption by the plenary.

Although our delegation was smaller in number than usual and proposed only this resolution, we were very active in the plenary and participated in all sessions of the drafting committee and in bilateral meetings with other delegations, some of which I will refer to shortly.

Each member of the delegation spoke in the plenary. The Speaker, Mr Jenkins, contributed to debate on reform of the APPF and on peace and security in the region. The member for Reid spoke on the agenda item on promotion of economic partnership and free trade. And in the plenary I addressed an agenda item that I had also spoken about in Jakarta in 2006, the Millennium Development Goals. It was useful to make a comparison of the situation then with the current context. The resolution that the meeting adopted on this topic included an affirmation of the role of parliaments in legislating, budgeting and monitoring, to support the achievement of the Millennium Development Goals.

As well as participating in the formal parts of the meeting, the delegation had a number of meetings with individual Mongolian leaders and delegations from other countries. The delegation was pleased to have meetings with the Prime Minister of Mongolia, who subsequently visited this parliament shortly afterwards; with the Chairman of the State Great Hural, who was also President of APPF 19; and the delegations from Russia, South Korea and China.

Our hosts at the parliament in Mongolia, the State Great Hural, were very generous and thoughtful to us, and I would like to thank them for that. The Vice-Chairman of the Hural, Mr Enkhbold Nyamaa, had studied at the University of Sydney and, from our first day in Ulaanbaatar, he made us especially welcome. He also ensured that we met a number of Mozzies—members of the Mongolia Australia Society. Mr Enkhbold, like all of the Mongolian people we met, was friendly and had the same dry sense of humour that we think of as the hallmark of Australians.

In preparation for the meeting of the APPF, the Department of Foreign Affairs and Trade in Canberra assisted us, as usual, with comprehensive briefing materials, and we appreciated their assistance. The delegation also greatly appreciated the
invaluable and tireless assistance of Ms Catherine Cornish, the delegation's secretary. The Australian embassy in Seoul is currently responsible for relations in Mongolia and the First Secretary, Mr Charles Adamson, travelled to Ulaanbaatar and assisted the delegation throughout the meeting. He gave us practical and thoughtful advice as we prepared for meetings, and he continued that role until we left. We were very grateful to have him with us for the whole time and for his understanding of Australia's interests in Mongolia as well as on matters that arose during the APPF and the various bilateral meetings. So our thanks to Mr Adamson.

I also wish to thank the staff member from the Hural, the Mongolian parliament, who was our liaison officer: Mr Amartuvshin Amgalanbayar. Amartuvshin had studied at Monash University, so he was well versed in Australian ways, and he was always cheerful, calm and thoroughly professional and a delight to spend time with.

One of my abiding memories of Ulaanbaatar is the weather. It is the coldest national capital in the world, and the January meeting was in midwinter. The temperatures averaged minus 34 degrees. It will be some time before I complain about a Canberra winter again.

The next meeting of the APPF is scheduled to be held in Tokyo in January 2012, and I wish our colleagues in the Japanese Diet well in their preparations, particularly given the devastating tsunami and earthquakes that have occurred in Japan since the APPF meeting.

In concluding, I would like to thank the Speaker for his leadership of the delegation, and the member for Reid for his enthusiastic cooperation in the delegation's work. I believe that the delegation effectively represented the Parliament of Australia.

Question agreed to.

DOCUMENTS
Tabling

The Clerk: Documents are tabled in accordance with the list circulated to senators. Letters of advice in response to the continuing order relating to departmental and agency appointments, vacancies and grants are tabled.

The ACTING DEPUTY PRESIDENT (Senator Pratt): I have received a letter from a party leader seeking to vary the membership of a committee.

COMMITTEES

Environment and Communications References Committee
Membership

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (17:51): I seek leave to move a motion to vary the membership of a committee.

Leave granted.

Senator JACINTA COLLINS: I move—

That Senator Bob Brown replace Senator Ludlam on the Environment and Communications References Committee for the committee's inquiry into the status, health and sustainability of the koala population, and Senator Ludlam be appointed as a participating member.

Question agreed to.

Public Works Committee
National Broadband Network Committee
Membership

Messages have been received from the House of Representatives notifying the Senate of the appointment of members to the Parliamentary Joint Standing Committee on Public Works and the Joint Standing
Committee on the National Broadband Network.

**BILLS**

**Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Bill 2010**

**Returned from the House of Representatives**

A message has been received from the House of Representatives agreeing to the amendments made by the Senate to the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Budget and Other Measures) Bill 2010.

**Midwife Professional Indemnity Legislation Amendment Bill 2011**

**Returned from the House of Representatives**

A message has been received from the House of Representatives forwarding the Midwife Professional Indemnity Legislation Amendment Bill 2011 for concurrence.

Senator JACINTA COLLINS (Victoria—Parliamentary Secretary for School Education and Workplace Relations) (17:53): I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Senator JACINTA COLLINS: I move:

That this bill be now read a second time and I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

As you will recall, the purpose of the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010 and the associated Midwife Professional Indemnity (Run-off Cover Support Payment) Act 2010 was to support the new MBS and PBS arrangements by enabling the establishment of a government supported professional indemnity scheme for eligible midwives from 1 July 2010. Those acts removed a longstanding barrier for appropriately qualified and experienced midwives who wish to provide high-quality midwifery services to Australian women as part of a collaborative team with doctors and other health professionals.

The Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2010 currently excludes ‘employed’ midwives from accessing a Commonwealth Contribution and a Run-off Cover Commonwealth Contribution, to ensure there is no intentional cost shifting from employers of midwives to the Commonwealth.

This bill tidies up the act by placing the rule-making powers in a more appropriate section and thus ensures that eligible ‘self-employed’ midwives are not excluded from access to a Commonwealth contribution for claims that are made while they are in the workforce and also any claims that are made after they retire. By doing this the act will continue to exclude other ‘employed’ midwives (such as those employed by private hospitals) to prevent cost shifting to the Commonwealth by employers.

The changes to the act proposed by this bill will also allow a specific rule-making power to appropriately address any new and innovative midwife self-employment models that may arise in the future. This will ensure that the bill will be able to accurately describe midwives and their employment arrangements that are within the scope of the government’s maternity reform policy.

This bill also corrects a typographical error in the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2010 that would, if left unchanged, impose a higher than intended tax on insurers of eligible midwives.

This bill is essentially a technical fix for two minor elements the act.

This bill is an important component of the government’s maternity reform package. The
package aims to improve the choices that are available to women in relation to maternity care. The total cost over four years of the professional indemnity for midwives component of the package is $25.2 million.

Debate adjourned.

Sex and Age Discrimination Legislation Amendment Bill 2010

Second Reading

Debate resumed on the motion:

That this bill be now read a second time.

Senator WORTLEY (South Australia) (17:55): I rise this evening to address the Sex and Age Discrimination Legislation Amendment Bill 2010. The bill before us is a product of an important election commitment. It represents additional strengthening of protections against sex and age discrimination. Our Sex Discrimination Act, now more than a quarter of a century old, realised our obligations as a ratifying party to the Convention on the Elimination of All Forms of Discrimination Against Women. It encompasses, too, parts of the ILO Convention 156 which refers specifically to those workers who have family responsibilities.

We all know that the act's overriding intention is to promote equality between men and women. It eliminates discrimination on the basis of gender, marital status, pregnancy, and family responsibilities in the context of unlawful dismissal. It aims to eliminate sexual harassment in the workplace, in education, and in the provision of accommodation, goods and services. The Sex Discrimination Act has proved its worth over more than 25 years of profound social and economic change in our country.

The Age Discrimination Act 2004 is an equally worthy adjunct. Its aim is to ensure that a person's age does not result in less favourable treatment in the areas of employment, education, or the provision of goods, services or Commonwealth programs. The act also protects those whose age might otherwise disadvantage them. Individually and together, these acts have assisted and protected Australians—both women and men—in all walks of life and enabled them to participate fully in our social, public and economic environments.

I turn to the bill before us. It will augment the provisions of the existing Sex Discrimination Act 1984 by strengthening protections against sex discrimination and sexual harassment, and it will establish the position of an Age Discrimination Commissioner in the Australian Human Rights Commission to make certain the proposition that all citizens, whatever their age, are able to participate in Australian society. The amendments intended to improve protection against sex discrimination and sexual harassment are just one element of the government's response to the inquiry of our Legal and Constitutional Affairs Committee into the effectiveness of the Sex Discrimination Act in eliminating discrimination and promoting gender equality.

This bill represents four strategic amendments to the present sex discrimination legislation. No. 1, it will make certain that the act provides equal protection to both women and men. No. 2, it will enlarge the ambit of the prohibition on discrimination with regard to family responsibilities. This would ensure equivalent protection from discrimination to both men and women in every sphere of endeavour. This prohibition will of course encompass indirect discrimination as well.

Unlike those opposite, our Labor government will never treat Australian workers and working families with disdain, as units in an economic equation that takes no account of personal circumstances or personal need. We are committed to
supporting our people, to enhancing productivity, to allowing workplace flexibility, and to underpinning our competitive edge. For these reasons, the third amendment will establish discrimination with regard to breastfeeding as a distinct and separate ground of discrimination rather than as an element of sex discrimination. And No. 4 will strengthen the protections against sexual harassment in schools and workplaces.

Court cases featured in the news over the last 12 months or so have highlighted the fact that sexual harassment continues to be a significant problem in the workplace. Profile of our Sex Discrimination Commissioner in a recent edition of Fairfax's *Sydney Magazine* indicated her ongoing concern with this matter and re-emphasised the need 'to focus on the alleged behaviour and whether such a thing could happen where we work', rather than on the appearance of the complainant or the quantum of the compensation sought. It is incumbent upon us as legislators to ensure that the message is loud and clear: sexual harassment—against women or men—will not be tolerated. I fully support these amendments, and turn now with equal enthusiasm to those related to the Age Discrimination Act.

These amendments will establish and administratively support the position of Age Discrimination Commissioner within the Australian Human Rights Commission. This is a timely initiative, and one which will simultaneously provide a specific advocate for the rights of mature Australians in the workforce and elsewhere and enable our Sex Discrimination Commissioner, who has thus far been responsible for both areas, to focus specifically on sex discrimination matters.

It is undoubtedly the case that we have an ageing demographic. Our forward planning has highlighted the requirement for a dedicated role in age discrimination matters: to engage with employers, employees and communities; to address workplace and community age discrimination; to educate people about the values of fairness and respect; and to alleviate the attitudes and the stereotypes that often, regrettably, hurt our older people and dissuade or prevent their full engagement. Our mature citizens, our mature workers, our mature carers and volunteers all represent invaluable skills and resources and provide invaluable services. They are our social memory and, increasingly, often our corporate memory.

The bill we discuss today provides, through its amendments to the act, the mechanism for the appointment of the new Age Discrimination Commissioner, whose term is scheduled to begin from July this year, and the terms and conditions of his or her employment. By virtue too of the amendments, the commissioner will be a member of the commission and have the same advocacy powers as his or her fellow commissioners.

These amendments will: impact positively on and strengthen protections for working families by expanding the prohibition of discrimination for both men and women on the ground of family responsibilities; send a strong message that sexual harassment is unacceptable anywhere, including in the workplace; and confront the incidence of age discrimination in the workplace and in the broader community. They will contribute also to the ongoing cultural change that consequently improves understanding and cooperation and enhances the dignity of and respect for all of our people, whatever their stage of life. I commend the Sex and Age Discrimination Legislation Amendment Bill 2010.

Senator FEENEY (Victoria— Parliamentary Secretary for Defence)
I thank honourable senators for their contributions to the debate on the Sex and Age Discrimination Legislation Amendment Bill 2010. The bill will make important amendments to the Sex Discrimination Act to better protect both women and men from discrimination and sexual harassment in the workplace, in schools and in the community at large. In particular, the bill will ensure the act provides equal protection to women and men. It will also broaden the prohibition on discrimination on the grounds of family responsibilities to provide equal protection from discrimination, including indirect discrimination, to both men and women in all areas of work. It will also establish breastfeeding as a separate ground of discrimination rather than as a subset of sex discrimination. Finally, it will strengthen the protections against sexual harassment in workplaces and schools.

The amendments to the Sex Discrimination Act contained in this bill implements in part the government's response to the 2008 report of the Senate Standing Committee on Legal and Constitutional Affairs into the effectiveness of the Sex Discrimination Act—and what a fine and upstanding report that is indeed, Acting Deputy President Crossin. Other recommendations will be considered as part of the government's broader review of Commonwealth antidiscrimination laws.

The bill also includes historic amendments to the Age Discrimination Act to establish the position of Age Discrimination Commissioner within the Australian Human Rights Commission. There is a need for a dedicated commissioner to engage with stakeholders including industry and community representatives, to address discrimination in the workplace and in the community, to promote respect and fairness and to tackle the attitudes and stereotypes that can and do contribute to age discrimination.

The government has committed additional funding of $5.7 million to the Australian Human Rights Commission for the appointment of a new Age Discrimination Commissioner and a stand-alone Race Discrimination Commissioner, which will mean that once again we will have stand-alone race, sex, age and disability discrimination commissioners. This will ensure that the Australian Human Rights Commission continues to play a leading role in the protection and promotion of human rights, including their valuable public education role and advocacy for vulnerable members of our community. Appointment processes are currently underway and the new commissioners are expected to commence their duties on 1 July 2011.

I thank the Senate Legal and Constitutional Affairs Legislation Committee for its report on this bill. In its report the committee recommended that the explanatory memorandum be revised to specifically recognise the role of the Age Discrimination Commissioner in protecting and promoting the rights of younger Australians. I would like to take this opportunity to address the committee's recommendation and in particular confirm that the new Age Discrimination Commissioner will be an advocate for all Australians who are susceptible to age discrimination, regardless of their age. This could include children, teenagers, retirees, mature Australians and everyone in between. A specific area which the new commissioner will focus on is the need to address issues in employment against older workers, which continues to be the most common cause for complaint under the Age Discrimination Act.

The committee also recommended that the government consider the outstanding
recommendations in the committee's 2008 report on the effectiveness of the Sex Discrimination Act as part of the review of antidiscrimination laws under Australia's human rights framework. I would like to reiterate that the government will and, indeed, is doing something. The review and consolidation of federal antidiscrimination legislation into a single act is underway and the government will be undertaking public consultations in 2011.

The committee also considered the inclusion in the bill of an exemption from marital status discrimination for state and territory laws relating to the legal process for changing a person's sex on the births, deaths and marriages register. The exemption has been included to maintain the existing policy position that the registration of change of sex is a matter for states and territories.

I will just make a few remarks concerning the proposed opposition amendments. Senator Brandis has foreshadowed that he will be moving opposition amendments to the bill during the committee stage. I will address each of the proposed amendments in more detail during that stage, but let me now say that the government will be opposing each of these amendments. I would also like to note at this stage that the government does not agree with the opposition's characterisation of the amendments contained in the bill.

In conclusion, this bill will implement important reforms in the areas of age and sex discrimination. These reforms are part of the government's strong and continuing commitment to fostering an inclusive Australia and ensuring our antidiscrimination laws are relevant to both now and into the future. I commend the bill to the Senate.

Question agreed to.
Bill read a second time.

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**In Committee**

Bill—by leave—taken as a whole.

**Senator BRANDIS** (Queensland—Deputy Leader of the Opposition in the Senate) (18:08): by leave—I move opposition amendments (2), (3) and (5) on sheet 7046 together:

(2) Schedule 1, item 19, page 7 (line 7), omit "7AA(2) or 7A(2)" substitute "7A(2) or section 7A".

(3) Schedule 1, item 22, page 7 (line 17), omit "7AA(1) or 7A(1)" substitute "7A(1) or section 7A".

(5) Schedule 1, item 65, page 12 (lines 25 and 26), omit "paragraph 7A(1)(b) or (c) or subsection 7A(2)" substitute "section 7A”.

We also oppose schedule 1 in the following terms:

(1) Schedule 1, item 18, page 6 (line 17) to page 7 (line 5), item TO BE OPPOSED.

**Senator BRANDIS:** The reason these amendments are being dealt with together but not with amendments (4) and (6) is that these are the bracket of amendments which deal with the extension of the grounds of discrimination to indirect discrimination on the basis of family responsibilities, whereas the other two opposition amendments deal with different topics. These amendments reflect the opposition's opposition to the extension of the prohibition of discrimination on the grounds of family responsibility. (1) is directed against the introduction of proposed section 7A2, while amendments (2), (3) and (5) are consequential to that.

As I indicated in the second reading debate, the coalition supports a prohibition against discrimination on the grounds of family responsibility. That is our position; it has always been our position. But we are concerned at the extension of the characterisation of discrimination, which would fall foul of that prohibition to include the very amorphous concept of indirect
discrimination. As the bill puts it, imposing ‘a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons with family responsibilities’ carries a substantial risk of unintended consequences. The proposed extension would make employers liable in respect of working conditions or practices where there was no intention to discriminate and, indeed, where there was every intention not to discriminate.

In my second reading debate speech I gave the example of a company needing to reduce the hours of its casual workforce. That would have a disproportionate effect on workers with family responsibilities, because they seem to have more pressing financial commitments than those without family responsibilities. The scope of claims that could be arguably in breach of the proposed extended language of the statute is enormous because of the time, money and added worry that having a family necessarily entails.

To the objection that a reasonableness test applies, the answer is that the act places the onus of establishing reasonableness on the employer, whose compliance obligations would therefore extend to anticipating every effect of every work practice on those employees whose lives tend to be more complicated than their unencumbered colleagues, and the employer must respond in a way that does not preference men over women or vice versa or parents over workers without children. What the provision does, in effect, is to legislate for employers to implement a work-life balance scheme in anticipation of possible liability for discrimination. The proper way to address those issues is through the industrial relations system, where the interests of employers and employees can be managed consultatively and by reference to appropriate processes. This provision, however, is a blunt instrument which creates potentially boundless claims, and responsibility is sheeted home entirely to the employer.

As the Liberal senators on the Senate Standing Committee on Legal and Constitutional Affairs also noted:

There was no evidence presented to this inquiry of any systemic or widespread discrimination on the grounds of family responsibilities … which are not currently adequately addressed by existing legislation.

Finally and lastly, let me make this point: when this parliament imposes new burdens, obligations or responsibilities upon people, it is good legislative practice to make those burdens, obligations and responsibilities as clear as they can possibly be so that the people upon whom that imposition is made know what is required of them and can arrange their affairs and, in the case of a business or a workplace, arrange their practices to ensure that they are compliant with those obligations. Hen you introduce an amorphous concept like indirectness, that as a matter of the very meaning of language adds an additional penumbra of uncertainty around the core concept. So it is that much more difficult for people to know whether or not their conduct is compliant. As we know, when we introduce a greater degree of uncertainty into a law, then it involves additional cost consequences with full compliance.

We, as legislators, need to be specific in telling people what we expect of them when we impose an obligation upon them. And to expand the scope of that obligation into the amorphous, almost category-less, concept of indirect breach of the legislation flies in the face of that very legislative objective. It flies in the face of good legislative practice.

For the reason the Liberal senators gave in the committee, and for the reasons of good legislative practice that I have recited, the
opposition opposes this amendment. We look to the crossbenchers, particularly to Senator Xenophon—whose role as a champion of the interests of small business and small employers we all acknowledge and respect—to think very carefully about the potentially very serious consequences for small business were this amendment not to be carried.

Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:16): I seek to make a few remarks concerning the contribution made by Senator Brandis about the opposition amendments.

A key feature of this bill is to enhance protections from family responsibilities discrimination. The Gillard government is committed to help Australian working families, and the proposed amendments in the bill will assist both men and women to balance work and family responsibilities without fear of penalty. The proposed amendments implement a recommendation of the Senate committee's 2008 inquiry into the Sex Discrimination Act, which was based on evidence from various groups, including business representatives and human rights advocates, which supported the need to improve the current provisions.

These amendments will provide greater consistency with existing protections and therefore help to simplify the current regulatory approach. The government, as I indicated earlier, will not support the opposition's amendments.

We are disappointed that the opposition is seeking to limit these new protections to direct discrimination only so that working parents will not be protected from indirect discrimination on the basis of their family responsibilities. We do not accept the opposition's claims that these provisions are unnecessary or will unnecessarily impose additional burdens on employers. The protections do not discriminate on the grounds of family responsibilities and only applies to reasonable working arrangements. An employer must have legitimate reasons for their actions so as to avoid unlawfully discriminating on the grounds of family responsibilities.

For example, the new provisions would only apply to reasonable working arrangements. As an example, it would not be reasonable for an employee in a restaurant to be unavailable at meal times due to family responsibilities, as being available during these periods is evidently an inherent requirement of the position. In contrast, it may constitute discrimination if an employer decided to deny a worker the opportunity to undertake specialised training solely because that worker had previously taken time off to care for their sick child.

The opposition has suggested that these provisions require an employer to take into account an employee's disposable income or cost of living before making a legitimate business decision. This is quite simply not the case.

I now seek to make a few remarks about how the new family responsibilities provision interacts with the Fair Work Act and National Employment Standards. The National Employment Standards, found in the Fair Work Act, provide the right to request flexible working arrangements. Such a request can only be refused on reasonable business grounds. The Fair Work Act also prohibits an employer from taking adverse action against an employee, which can include a range of employment decisions, on the basis of family responsibilities. These amendments will ensure that the SDA is consistent with these provisions by: firstly, affording the protections to men and women equally; secondly, applying to all areas of employment, not just termination decisions;
and, finally, including indirect discrimination.

Prohibiting discrimination on the basis of family responsibilities in the SDA will bolster the protections afforded by these provisions. It will reassure employees that they can balance their work and family responsibilities without fear of dismissal or discrimination.

In terms of what impact the family responsibilities will have on business, we say that discrimination against men and women on the grounds of family or carer responsibilities is currently prohibited under the Fair Work Act 2009 and, of course, also under relevant state and territory legislation. The amendments will clarify the obligations of employers, making them consistent at the federal level. We argue that the bill does not impose an additional regulatory burden on business. Instead, they will operate to reduce the existing regulatory burden arising from inconsistencies in legislation found at the federal, state and territory levels, a fact recognised by the Senate committee in its report.

Lastly, the government's project to review and consolidate federal antidiscrimination laws into a single act will focus on removing unnecessary regulatory overlap and making the system more user friendly. Put simply, the proposed provisions do not require employers to take into account the living expenses of people with family responsibilities. I commend the bill to the Senate.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (18:21): Parliamentary Secretary Feeney, the conduct you have described would be caught by a prohibition against direct discrimination; and, as I have been at pains to say, the opposition supports the prohibition of discrimination against people on the grounds of family responsibilities—as long as that is direct or intended. But the problem with your argument is that that is not what the proposed section 7A does. If I may take you to clause 2 of the proposed new section, this is how it defines discrimination:

For the purposes of this Act, a person (the discriminator) discriminates against another person (the aggrieved person) on the ground of the aggrieved person’s family responsibilities if the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons with family responsibilities.

That is what it says.

Let us take a relatively small business. You may have the business owner or the business operator with a perfect record when it comes to treating people of both genders equally and with equal respect. He or she may be a business operator who goes out of their way to be careful of and considerate of the needs of his or her employees who have family responsibilities. This person might be a paragon of antidiscrimination practice. But in the business they might employ single people without family responsibilities and married people or people with children who do have family responsibilities. Because there is not an element of intention in your proposed provision—because it does not include what lawyers call a 'purpose test' but only an 'effects test'—this business operator, if he or she introduces a practice that has a differential effect on the single person or the person with family responsibilities or if it is even a practice which may not have any differential effect but is likely to have a differential effect, falls foul of the prohibition.

I think you have children, Parliamentary Secretary. I have children. Most of our colleagues do. Anyone who has any familiarity with family circumstances knows
that the parents of children have particular obligations as a result of that fact alone that single people do not have; and therefore, a change in workplace arrangements is bound to affect employees with parental responsibilities in a different way from the way it affects employees without parental responsibilities. Because of the legislative overreach in the proposed section 7A, the business operator whom I have postulated—this paragon of good antidiscrimination practice whose motives are as pure as can be and who would never intentionally discriminate against one of his or her employees because of family circumstances—could still fall foul of it simply because of the fact of life that people with children live different lives and have different pressures and, therefore, have different workplace pressures from single people. That, if I may say so respectfully, Parliamentary Secretary, is unreasonable, and it does impose an unreasonable compliance burden on, in particular, all small business operators.

That is why, as well, as I said in the second reading debate, the opposition is also concerned that a provision like this could be used for a collateral purpose: to achieve an industrial relations outcome in prosecution of an industrial relations agenda, not for the bona fide purpose of preventing discriminatory practices in the workplace itself. We all know how legislative prohibitions, burdens or superadded obligations can be used for collateral purposes, and that also ought always to be avoided. Unless, Parliamentary Secretary, you can be reassured that no decision an employer ever makes will have a different effect on employees who have children and on employees who do not have the family responsibility of children, then such an employer will always potentially be in breach of this law.

How can it possibly be the case that it is good legislation to create a prohibition so wide that any employer could always be in breach of it merely because that employer employs parents and non-parents among the workforce? What it will have—and beware the law of unintended consequences—is a greater reluctance, particularly for small business operators, to employ people with family responsibilities in the first place but to mask their recruitment practices in such a way that it would never be apparent that that was their motive. The result of section 7A will be to entrench much deeper potential discrimination against people with family responsibilities because of the incompetence of the legislative overreach inherent in this section.

Senator HANSON-YOUNG (South Australia) (18:29): I would like to ensure that it is on the record that the Greens will not be supporting any of the coalition’s amendments. I realise that they are being moved in two blocks—or at least that is my understanding, Senator Brandis. There is no way that the Greens will be supporting these amendments. The justification being put forward by Senator Brandis on behalf of the coalition is simply an attempt to find any which way to get out of the fact that for far too long Australian working women in particular have wanted this parliament to accept that there is discrimination in our workplaces—whether it is based on gender, whether it is based on our family responsibilities or whether it is based on the age of a woman, particularly if she is in a family situation. It does happen, and that is why there was an inquiry into this issue. For far too long Australian women have been asking for this parliament to take this issue seriously, and to come in here and hear the opposition try to justify the idea that somewhere there should be a loophole for
employers to continue to discriminate is absolutely appalling.

The other issue is the coalition's attempt to ensure that the Human Rights Commission does not get the support it needs to make sure that these new laws are monitored and looked after. We know what the coalition's view on the Human Rights Commission is: you hate it. You do absolutely everything you can to tear the commission down, whether through this bill or any other bill. You spend your entire time during Senate estimates ripping into the Human Rights Commission just because you feel like it and not because of anything it does wrong.

So let us not waste time here in the Senate. This is a piece of legislation that Australian working women in particular have been calling for for a very, very long time, and it is about time that we just got on with it, got it passed and got over this pettiness being put forward by the coalition.

**Senator BRANDIS** (Queensland—Deputy Leader of the Opposition in the Senate) (18:31): I cannot let that pass. I thought, Senator Hanson-Young, that you were a lot smarter than that, if I may say so.

**Senator Fierravanti-Wells:** Whatever gave you that impression?

**Senator BRANDIS:** I am just a generous soul, I suppose, Senator Fierravanti-Wells. First of all, let me for the record say that the Australian Human Rights Commission is and has always been supported by the coalition. But that does not mean that either we—or for that matter you, Senator Hanson-Young, as a parliamentarian with oversight of a Commonwealth agency—should not feel at liberty to criticise it at times, including in estimates. It is a rather shocking proposition that merely because a senator criticises an aspect of the operation of a Commonwealth agency in Senate estimates they hate that agency. That is a very, very foolish thing to say, Senator Hanson-Young, and not worthy of you.

May I return to the principal point here: it is very foolish indeed to describe the coalition's opposition to proposed section 7A of the bill as a 'loophole'. This is a proposition that says: 'We will overreach as far as we like in order to prohibit a practice, and because somebody points out to us that we have overreached they are therefore seeking to rely on a loophole. Their heart isn't in it. They don't really support the legislative intention.' Senator Hanson-Young, in case you were not listening, the coalition supports this bill.

**Senator Hanson-Young:** Then stop playing with it.

**Senator BRANDIS:** Stop playing with it? That is what the Senate does, Senator Hanson-Young—it moves amendments to improve legislation where in the opinion of non-government senators that legislation could be improved in the committee stage. The fact is that we support this bill, but there are three particular aspects of it which form the subject of our amendments and which we think are injudicious and bad legislative practice and will in fact have the unintended consequence of making discrimination worse, not better. For that and only that reason, we are moving these amendments.

We believe that discriminating against people because of their gender, because of their age or because they have family responsibilities is wrong. There has never been any controversy about our commitment to that position. But our criticism of this proposed section and the reason we moved the four related amendments to delete it from the bill is that it is not a competent or effective way of dealing with discrimination. You do not competently attack the vice of discrimination in this society by treating as discrimination conduct which is not
discrimination. To say that any decision of an employer which may have different effects or bearing upon people who have the responsibility of parents and people who do not have that responsibility is discrimination is foolish in the extreme.

We know from the ordinary experience of our lives that people who lead single lives and do not have family responsibilities lead different lives to those led by people who do have family responsibilities—in particular, responsibilities in relation to the care and nurture of children. We also know from the ordinary experience of our lives that what happens in the workplace will impinge upon people in those two different categories differently. That is just common sense. To identify the vice of discrimination in the fact that the experience or practice of the workplace might impinge differently upon people with family responsibilities and people without family responsibilities—which is inevitable in some circumstances—is to miss the point; it is to chase a shadow. We want to see those who would discriminate against people because of family responsibilities prohibited from doing so. You do not achieve that objective of social policy by in fact attacking something different which is so widespread and commonplace—that is, the fact that people who are single and people who have the responsibility of children lead different lives and have a different relationship with the workplace and that workplace practices might affect them differently.

It saddens me that you attack the motives of the opposition, who, as I have said all along, have championed antidiscrimination. We seek to improve this legislation by drawing it back to its core value and its core legislative objective, which is to make it against the law of this country to discriminate against people, not to make it against the law of this country to run a workplace in which you have single people and parents and therefore, inevitably in the ordinary course of human life, the reality that decisions will affect people in each of those two categories differently and then to say that is the vice of discrimination.

### Senator FEENEY (Victoria—Parliamentary Secretary for Defence) (18:38)

I think I comprehend Senator Brandis's concerns and let me now set to the task of allaying them. The government's position is that the key issue here is reasonableness and the test of reasonableness. As you would be aware, the Sex Discrimination Act has at section 7B:

**Indirect discrimination: reasonableness test**

1. A person does not discriminate against another person by imposing, or proposing to impose, a condition, requirement or practice that has, or is likely to have, the disadvantaging effect mentioned in subsection 5(2), 6(2) or 7(2) if the condition, requirement or practice is reasonable in the circumstances.

2. The matters to be taken into account in deciding whether a condition, requirement or practice is reasonable in the circumstances include:

   a. the nature and extent of the disadvantage resulting from the imposition, or proposed imposition, of the condition, requirement or practice; and

   b. the feasibility of overcoming or mitigating the disadvantage; and

   c. whether the disadvantage is proportionate to the result sought by the person who imposes, or proposes to impose, the condition, requirement or practice.

We say that in practical effect that reasonableness test means that, if, for example, a food factory owner arbitrarily changes the starting time for all employees from 9 am to 7.30 am, this may be found to constitute discrimination because it would disproportionately disadvantage those employees with young children. However, it
would not constitute discrimination if that same owner made the same change because the food produced in the factory has a limited shelf life and needs to be distributed to shops as early as possible before it goes off, because this change is reasonable in the circumstances.

Further, using the example of an employer who, due to economic downturn, equally cuts the hours of all casual staff, some of whom have children and some of whom do not, this would not constitute discrimination on the basis of family responsibilities because the action applied equally to all of the employees and it was reasonable in the circumstances. The fact that the workers with children may find it harder to cope with the reduced income is not relevant to the actions of the employer; it is exactly the same situation as two employees having different sized mortgages or different lifestyles or, indeed, different spending habits. Put simply, we say the proposed provisions do not require employers to take into account the living expenses of people with family responsibilities. For example, employers will not be required to pay a worker who has a family and therefore higher expenses more for the same job than a worker who does not.

We say that section 7A relates to indirect discrimination against people with family responsibilities but indirect discrimination arises where an apparently mutual condition, requirement or practice has the effect of disadvantaging a particular group, in this case people with family responsibilities. We say that section 7B, the reasonableness test, means that common sense will prevail. We are not imposing further obligations upon the business community, let alone the small business community. You can be reassured that your concerns are dealt with through that reasonableness test.

Senator BRANDIS (Queensland—Deputy Leader of the Opposition in the Senate) (18:42): In response to the parliamentary secretary—you are a parliamentary secretary, aren't you? I should not be calling you Minister? I have forgotten.

Senator Feeney: Parliamentary Secretary.

Senator BRANDIS: Pardon me, Senator Feeney. Through you, Madam Temporary Chairman, the problem with your response, Senator Feeney, is this: reasonableness is a defence. To use the example you have posited of an employer who changes the starting time from 9 am to 7.30 am, that will have a differential effect upon those of his employees who take their kids to school and those of his employees who do not have kids to take to school. I know this well. At 7.30 am on any day in Brisbane when parliament is not sitting I may be seen taking my boy to school. The dropping off of kids at school is, as most of us know, just part of the daily life of parents.

If the starting time were to be changed and it had a differential impact on parents and single people, then proceedings could be brought under the act against the employer. It would then be thrown upon the employer to demonstrate that his or her decision was a reasonable decision. The issue of reasonableness only starts to arise once the employer, the small business person—and we have been talking, in the context of this debate, in particular about small businesses with narrow margins, uncertain cashflows and usually not very deep capital resources—is already in the toils of the act, has already been proceeded against and then, in the appropriate tribunal, must defend themselves. Reasonableness is not an a priori part of this legislative scheme. So it is very little comfort to a small business operator who finds themselves being pursued under
your proposed section 7A—after potentially spending tens of thousands or even hundreds of thousands of dollars on lawyers that they cannot afford, and spending days upon end of worry and distraction from their business which they cannot afford—at last to prepare a defence to the claim: 'Well, this was reasonable in the circumstances. So reasonableness, as I say, sounds fine—as a legal practitioner myself, I know all about advancing arguments and mounting defences on the basis of the reasonableness of the conduct—but those arguments and defences are raised once it is already, in essence, too late for the small business operator.

Secondly, reasonableness is itself, as we all know, a very porous, open-textured concept. So, if we are to observe the good legislative practice of giving people certainty about the nature or extent of the obligations and burdens that we are imposing upon them, we should not think that we have discharged our duty by simply saying, 'If you can show reasonableness, you don't have a problem.'

Senator XENOPHON (South Australia) (18:47): I indicate that I would like to ask Senator Feeney to respond to some of the matters raised by Senator Brandis and what Senator Brandis says are unintended consequences. As I understand it, with proposed section 7A(2), you need to get over the threshold of showing that:

... the discriminator imposes, or proposes to impose, a condition, requirement or practice that has, or is likely to have, the effect of disadvantaging persons with family responsibilities.

I would have thought that would not be an easy threshold to show. You would need to show that the act of disadvantage is linked to that person's family responsibilities; that would be the burden of proof for someone seeking to bring a claim for discrimination. I would like the parliamentary secretary, Senator Feeney, to comment on that.

Secondly, Senator Brandis has raised a number of concerns in relation to issues of regulatory burden, if you like, and I want that to be explored in terms of instances where Senator Brandis says this would apply. The bill says in proposed section 7A(3):

This section has effect subject to sections 7B and 7D—of the Sex Discrimination Act. Section 7B does take into account the issue of reasonableness. It takes into account:

(a) the nature and extent of the disadvantage resulting from the imposition, or proposed imposition, of the condition, requirement or practice; and

(b) the feasibility of overcoming or mitigating the disadvantage; and

(c) whether the disadvantage is proportionate to the result sought by the person who imposes, or proposes to impose, the condition, requirement or practice.

So there is that aspect of it.

There is another issue that I wanted to raise—again, with both the government and the opposition. Before I do that, I should refer to section 7D of the Sex Discrimination Act; this proposed amendment that the opposition opposes refers to section 7D. Section 7D is headed 'Special measures intended to achieve equality'. It says:

A person may take special measures for the purpose of achieving substantive equality—

(Time expired)

The TEMPORARY CHAIRMAN (Senator Crossin): Senator Xenophon, before I go to government documents I am going to just say that your questions will be considered when debate on this bill resumes and to remind the chamber that we are dealing with opposition amendments (1), (2), (3) and (5) on sheet 4076 together. But the
first question that we will put when we come to consider those amendments would be that schedule 1, item 18 stand as printed, and then the next question would be that amendments (2), (3) and (5) be agreed to.

Progress reported.

**DOCUMENTS**

The ACTING DEPUTY PRESIDENT (Senator Crossin): It being past 6.50 pm, I now call on consideration of government documents.


Senator IAN MACDONALD (Queensland) (18:53): I move:

That the Senate take note of the document.

I want to make some remarks in relation to this report, although I will probably make my substantive comments on the next document. With respect to this document, the report for 2008-09, I simply want to raise with the Senate that we are now into the year 2011, almost starting the financial year 2011-12, and this report from effectively three financial years ago is only coming before the parliament at this stage. I make the comment also that the report, perhaps for reasons I do not understand, is limited. I hasten to add that the next report that I want to speak about, which is the same report for the next financial year, is a bit more effusive, but with the 2008-09 report, unless you knew what was happening you would not really have any idea of what the Royal Australian Air Force Welfare Recreational Company actually did or does.

This is a government that wanted to be open and accountable. It wanted to make sure that anything that is government funded is able to be viewed by the public. Tabling this report some three years after the event is not good enough. I say with all due respect to you, Madam Acting Deputy President Crossin, but with no respect to the current government: this sort of poor accountability cannot be accepted. It is even more difficult to accept given that the current Prime Minister was elected on a mantra of openness and accountability. The words are easy to say; the actions are much harder. I think that this report, coming out some three years after the event, is typical of this government's lack of accountability and lack of openness in spite of the rhetoric.

Question agreed to.

**Royal Australian Air Force Welfare Recreational Company, Report for 2009-10**

Senator IAN MACDONALD (Queensland) (18:57): I move:

That the Senate take note of the document.

I note in this report, although it is a little late coming before the parliament, that the report does in this instance contain a chairman's report. I want to congratulate Air Commodore Hewitson for the report and for the work he has done in relation to this trust over many years. The trust was established to provide for affordable holidays for members of the Australian Air Force. I must say that, as a senator of some longstanding in this parliament, I had never heard of this activity before. That is perhaps a criticism of me rather than of anyone else. From what I see in the chairman's report, it is a very useful organisation and it is one that I do want to learn a little more about. I understand from the chairman's report that the basis of activity for the trust is to provide affordable holidays for members of the Air Force, and that is a very creditable activity and one which I support. I note that the trust owns 11 units at the Ambassador Hotel on the Gold Coast, six apartments in the Tuscany apartment complex in Merimbula on the South Coast of New South Wales and one apartment in...
Darwin. The idea of providing assistance to service personnel at an affordable rate is to be commended, although I will look into this a bit further in relation to my role in the opposition in a small way in the Defence area. In the context of that general initiative, the Rotary Club of Surfers Paradise Central has for some years had a foundation going, the Ken Bromley Memorial Foundation, which provides holidays for wounded Defence Force personnel and their immediate families. Again, this is a foundation set up by Rotary and providing, as I understand it, fully recompensed holidays for wounded Defence Force personnel and their families. That is a very creditable approach from the Rotary Club of Surfers Paradise Central—one which, regrettably, does not get the publicity and recognition it deserves. Although Rotary Club members do not seek recognition or publicity, I wanted to say in this parliament: congratulations to them on the establishment of the Ken Bromley Memorial Foundation.

I had the pleasure—indeed, the honour—of being with the Rotary Club of Surfers Paradise Central recently. I spoke to a very fine gentleman, Colin Bannister OAM, who was very involved in this very creditable community service organisation. I am just sorry that, before that day, I was not aware of it. I am sure most Australians are not aware, and I suspect many members of the defence forces are not aware, of this foundation's activities. I want to congratulate the Rotary Club and, as much as I can, publicise the work of the Ken Bromley Memorial Foundation. I encourage our servicemen who have been wounded in action to contact the foundation. Surfers Paradise is a great place to have a holiday, and the Rotary Club will really look after those members of the services who contact them to take advantage of what they offer. Congratulations, Rotarians on the Gold Coast. I seek leave to continue my remarks.

Leave granted; debate adjourned.

**Natural Heritage Trust of Australia**

**Senator IAN MACDONALD** (Queensland) (19:02): I move:

That the Senate take note of the document.

I want to say a few words on the Natural Heritage Trust of Australia—Report for 2007-08. Again I raise the point that this report deals with activities—in this case of the Natural Heritage Trust—which occurred three financial years ago. Unless they have been in this place for as long as I have, people would probably not remember the activities of the Natural Heritage Trust back in 2007-08. I simply cannot understand why the Gillard government takes three years to table a report—

**Senator McLucas:** How long does it take you to respond to the report of the state and territory disability—

**The ACTING DEPUTY PRESIDENT** (Senator Crossin): Order, Senator McLucas! Senator Macdonald, please continue.

**Senator IAN MACDONALD:** Thank you. I did not quite get the interjection, but no doubt the interjection was made in embarrassment by a member of the government front bench over the lack of accountability of this government in reporting to parliament. This report for 2007-08 is really a report on the final years of the Howard government. It is up to the following government to get the report in, and that is why it is so late coming.

Having a look at the report brought back some nostalgia, some recollection of the good times for serious environment groups and conservation in our country. Reading this report demonstrates just what the Natural Heritage Trust did in a genuine way
for Australia’s environment and natural resources.

I want to pay credit to the advisory committee of the Natural Heritage Trust. Unfortunately, I do not have the document in front of me. I wanted to actually name those who were on the advisory committee at the time. It is a significant list of very prominent Australians who gave their time to assist in the natural resource management of Australia. The work they did in those days showed a genuine commitment to natural resource management—something that, I am disappointed to say, has almost disappeared under the Gillard and Rudd governments.

I have now, thanks to the attendants, got the report before me. I want to particularly thank Sir James Hardy, who was chair of the advisory committee back in 2007-08, and the board members: Professor Peter Cullen, who has, regrettably, passed away; Ms Diane Tarte; Professor Jamie Kirkpatrick; Ms Pam Green; Mr Geoff Gorrie; Professor Bob Beaton; Mrs Roberta ‘Bobbie’ Brazil; Ms Melissa George; and Mr Kim Keogh. All are significant Australians who made a significant contribution to the management of our natural resources.

This report deserves more attention than I am able to give it in the couple of minutes I have. I note, however, that the Auditor-General commented on this report. That Auditor-General’s report is dated 4 September 2008. Unfortunately, this report is not dated. It is for 2007-08, but the Auditor-General saw it in September 2008 and it has taken almost three years for the Gillard government to get this report before the parliament. ow can the Gillard government claim any accountability or respect for parliament when it takes three years for a very simple report, dealt with by the Auditor-General three years ago, to get before this parliament? It is almost like reading old history. I would have liked to talk more about this report today but time will prevent me from doing so. Perhaps the only point I can really make, apart from congratulating those who were on the advisory board at the time, is to emphasise again the lack of accountability of the Gillard government. They have no interest in the environment, no interest in conservation and no interest in natural resource management.

The ACTING DEPUTY PRESIDENT (Senator Crossin): Senator Macdonald, your time has expired.

Senator IAN MACDONALD: I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The government documents tabled earlier today (see entry no. 2) were called on but no motion was moved.

The following orders of the day relating to government documents were considered:

Department of Finance and Deregulation—Campaign advertising by Australian government departments and agencies—Report for the period 1 July to 31 December 2010. Motion to take note of document moved by Senator Macdonald. Debate adjourned till Thursday at general business, Senator Macdonald in continuation.


General business orders of the day nos 119 to 123, 126, 127, 129, 130 and 132 to 135 relating to government documents were called on but no motion was moved.
The Acting Deputy President (Senator Crossin): Order! I propose the question:

That the Senate do now adjourn.

Harrington, Mr Ian

Senator CAMERON (New South Wales) (19:10): I rise tonight to honour the memory of a friend and colleague, Ian Harrington. Ian leaves behind his wife of 42 years, Fran, his five children, Tricia, Cheryl, Linda, Michelle and Greg, and 14 grandchildren whom he adored and who adored him.

Ian lived for his family. He will be sadly missed by his family and friends. He was a modest man but a man of incredible strength and capacity. In his younger days he was a champion high-board diver, winning many state and national competitions. Such was his modesty that not many of his friends or colleagues knew of his skills and talent in this sporting field.

Ian died recently of mesothelioma, contracted during his working life as a fitter. Mesothelioma is a horrible disease contracted by exposure to airborne asbestos fibres. It is a tragedy that Ian Harrington, who campaigned against the use of asbestos while he was a rank and file delegate and an elected official of the AMWU, became another working-class victim of asbestos related disease. Mesothelioma is a horrible, destructive disease that inevitably results in an agonising and debilitating death.

The incidence of death from mesothelioma is increasing. It afflicts Australians who have worked with asbestos in many industries, including manufacturing, engineering, our wharfs and the building industry. We should never forget that companies like James Hardy and CSR made huge profits from asbestos and from the suffering and devastation that this product brings to working-class Australians and their families.

We must continue to be vigilant and ensure that employers who expose workers to asbestos related disease are held to account through appropriate legislative and legal processes. Through the hard work of the trade union movement, all forms of asbestos have been banned since the end of 2003. Unfortunately, despite the ban asbestos is still common in many older houses. Ian would have wanted me to issue a general warning to all householders to be extremely careful if they come across asbestos in a domestic situation and to ensure its removal by properly trained personnel.

Ian served his apprenticeship as a fitter and travelled the world as an engineer in the merchant navy. He worked for many years at Shell's Clyde refinery in the maintenance team. It was at the Shell refinery that he met his good mate David Hughes. David delivered a moving tribute to Ian at his recent funeral. David spoke of the kindness and support that Ian gave to him and everyone else that he came in contact with. The high regard in which Ian was held resulted in his election as the metal trades union delegate at Shell. Ian held that position for almost 15 years. In that time Ian gained the enormous respect not only of his workmates but also of other delegates in the oil industry and the union and of the employers.

Ian was seen as a tough negotiator and an honest person, a voracious defender of workers' rights and conditions and one who would never back away from a dispute if workers' rights were being challenged. In his capacity as a highly competent union delegate, Ian was recognised by his union, the AMWU, where he became a union organiser, a position he held for 10 years. It was during this time that I became a friend
and colleague of Ian's. found Ian to be a tough and courageous organiser who would never leave you wondering what he thought. He was involved in many tough industrial disputes but always came out of them with the respect of his members and the employers. I have always said that a good union organiser instils confidence in their members, knows the benefits of education and training and fearlessly and tirelessly works for their members. If I was a worker in trouble I would have been extremely confident when Ian Harrington walked onto the job that my interests were going to be looked after by a tough, professional union official. Ian represented workers on the shop floor and as an advocate in the Australian Industrial Relations Commission, where his capacity for research, preparation and advocacy helped thousands of workers over his career.

Ian's trade skills were recognised by the former state and federal minister the Hon. Bob Debus when he seconded Ian to his office to help establish the trade courses that are now offered to TAFE students in New South Wales high schools as part of their curriculum. Ian spent his final few working years as a member services manager with the Superannuation Trust of Australia, now called Australian Super. Ian very quickly became an expert in superannuation matters and was a fantastic advocate for industry superannuation and the rights of workers to retire with dignity and security.

Ian was nominated for Senior Australian of the Year for his ongoing contribution to the welfare of others during his lifetime. This was most appropriate, as Ian spent the major part of his life trying to improve the lot of working people, even after he retired. In his retirement, Ian enjoyed a couple of beers with his mates and fishing at Fingal Bay in New South Wales. My wife, Elaine, and I visited Fran and Ian in Fingal Bay not long after he had been diagnosed with mesothelioma. He had a lovely home, a loving wife, fantastic kids and wonderful grandkids. It is an absolute tragedy that asbestos and mesothelioma destroyed Ian's retirement and his life.

Ian was optimistic about his condition but also realistic. His good mate David noted that, when Ian was in the final stages of the disease, his strength and courage amazed everyone. Despite his personal battle with the horrible disease that is mesothelioma, Ian always had a genuine concern for others and was always wondering how he could help them with their problems. As David said, 'Let's not remember the way he died but, rather, how he lived—as a genuine and good man.'

It is important also to remember that Ian was taken from his family and his friends by a disease that was avoidable. We must never forget that workers die while building this nation. I am sure that Ian and his family and the families of the thousands of workers who lose their lives through industrial accidents or industrial disease will applaud the decision of the government to honour the memory of workers who lose their lives while building this nation by building a national workers memorial in Canberra. People like Ian should be remembered for their efforts, and their families should have a place to remember them and contemplate their lives together when they visit the national capital. The memorial will be a fitting tribute to Ian and his fellow workers who have lost their lives as a result of their employment. I congratulate the Prime Minister and Minister Evans for supporting this important symbol of the nation's recognition of the sacrifice of workers. I pay tribute to the government, the coalition, the Greens and the Independents, who have worked together to ensure that a memorial
for people like Ian Harrington will be built in the national capital.

Vale, Ian Harrington. You were a good man, a union man and a great family man. You will be sadly missed.

Fitzgerald, Mr Alan

Senator HUMPHRIES (Australian Capital Territory) (19:19): I too rise to note the passing of a significant Australian. Mr Alan Fitzgerald passed away on 31 March 2011. Alan was a distinguished journalist, author and satirist. He was a founder and former president of the National Press Club and a member of the former ACT Advisory Council. He was one of the iconic characters of Canberra life during the period after the Second World War when this city was growing at a remarkable pace and was full of people who had come to live here from other parts of Australia. To feed the requirements of government departments, people were being shifted here from Melbourne, Sydney and the like. Canberrans had a common experience at that time as they began to populate this new city which was going rapidly.

Alan was born in Sydney in 1935 and educated in Catholic schools in the eastern suburbs before going first into advertising and then into trade journalism. He came to Canberra in 1964 from Fiji, where he had edited the Fiji Times. He was invited to write a satirical column for the Canberra Times by the paper's then editor, John Pringle, whom he had met while writing in London. This column made Alan Fitzgerald an immensely popular figure in Canberra.

Alan Fitzgerald's writing was very successful in part because his wry observations reflected the experience of most of his readers. At this time Canberra was burgeoning, with the population increasing by 10 per cent a year and a new suburb opening almost every month. Young public servants were arriving in Canberra, getting married and starting families, just as Alan and his wife, Maria, were themselves doing. Through common experience, and often shared frustration, Alan's satire helped to forge the character of a rapidly growing city. But he had a much wider audience than just the people living in the ACT. He also wrote opinion pieces for the Age, the Sun-Herald, the Sunday Australian; the Sunday Observer and the Sydney Morning Herald.

Alan Fitzgerald was a founder and early president of the National Press Club. He was president from 1969 to 1971 and remained active on the club's committee for many years. He was a member of the federal parliamentary press gallery. He was hired as a foreign correspondent for the Canadian Broadcasting Corporation in Ottawa in 1974. He conducted his own current affairs program for nine years on Canberra radio station 2CA. He was also a frequent contributor to ABC radio programs and made regular appearances on Channel 7's breakfast program. In time he even became a publisher himself, presiding over the conservative periodical the Australian National Review for five years and establishing the Australian Constitutional News. He continued to be a prolific author all his life, writing thousands of satirical newspaper stories, hundreds of opinion pieces and a dozen humorous and historical books on Canberra. His son Julian, also a journalist, recently commented that almost until the day of his death his father was still reading newspapers and listening to current affairs. He published the satirical compilation Fitzgerald's Canberra: A Guide to Life in the National Capital, which contained gems such as this:

The longest distance between two points is a Canberra bus route … Bus routes are determined by the need to move the least number of people the longest distance in the maximum time.
Some would say that not much has changed in the intervening few decades. He, however, was never cruel or spiteful in his satire; it was a gentle ribbing of the city, its institutions and the way in which it worked.

Like so many who moved to this city in its rapidly growing phrase, he loved the city and he knew it very well. For many years he was a member and chairman of the ACT Historic Sites and Building Committee, now the ACT Heritage Council, that had been established at his initiative to protect and preserve historic homesteads and buildings at a time of rapid expansion of the city into the surrounding rural area. Like so many adopted sons and daughters of this city, he was deeply in love with this place. Beyond his daily journalism he published a number of books on the history of Canberra, including *Historic Canberra 1825-1945*, *Canberra's Engineering Heritage*, *Canberra and the New Parliament House* and *Canberra in Two Centuries—A Pictorial History*.

He was also involved in the public life of this city. That is somewhat ironic given that he spent a lot of time lampooning the institutions that he ultimately participated in and joined. He had a real dedication to the formation of the city of Canberra and to his fellow citizens, but I think he felt an obligation to remind them of the less serious side of that process while doing that. In 1967 he was elected to the pre-self-government ACT Advisory Council, an institution he had lampooned in his columns. He ran on the platform that he promised to do absolutely nothing, citing as his inspiration local politicians. This promise, I must say, was not kept. Once elected, Mr Fitzgerald took his role very seriously, working behind the scenes to help the Canberra community.

With increasing respect and popularity in the Canberra community, he was twice fielded as a candidate for the Australia Party and ran for election in 1970 and 1972 in the federal seat of the Australian Capital Territory, as it was then known. Though he missed out both times, he is remembered for having gained the largest vote of any Australia Party candidate in an election.

He served as a director of the National Capital Development Commission, which of course was the precursor of today's National Capital Authority. That again may seem slightly ironic, given that he had lampooned the NCDC for many years. Of course, in that respect he was in very good company: virtually every Canberran had something unpleasant to say about the NCDC—at least until the time it disappeared, at which point everyone became very nostalgic about its role in the building of the city. For example, Alan wrote:

In Canberra, even the mistakes are planned, by the National Capital Development Commission.

But, again, once in office in that role at the NCDC he was instrumental in improving Canberra, taking very seriously his role as a representative of the Canberra community in that way and ensuring that the city grew consistent with the character that was conceived for it and that reflected the needs of a living, breathing city and not merely a design-winning entry in a competition. He was also a foundation member and chairman of the ACT and region branch of the Australians for Constitutional Monarchy and played an active role in the debate about Australia becoming a republic in 1999.

He said in his 2001 autobiography: ...

... my life had been shaped by living in the national capital in ways that I could not have imagined possible had I lived elsewhere.

In saying that, once again, he exhibited this great ability to speak for many, many Canberrans. He was changed, as were thousands and thousands of people, by the
On this occasion I believe we need to extend, as a chamber, our condolences to Alan's family, particularly his wife, Maria, and his sons, Dominic and Julian—and I see some of them in the chamber tonight—his six grandchildren, his extended family and his friends in their loss. He was more than simply a contributor; he was a man who chronicled and reflected the changing nature of the national capital at a critical time in its development. We would all certainly have been much, much poorer had he not been here, had he not written so prolifically about this city, had he not lifted the tone of the city with his comments and had he not made the contribution he made in so many ways to the institutions which were responsible for the development of the modern city of Canberra.

Cluster Bombs

Senator LUDLAM (Western Australia) (19:29): On 17 January 2008, a two-year-old child, Dokthjan Saynaydet, was playing with his brother and seven other boys in their home town in Laos. They chanced upon an unexploded cluster submunition, or bomblet, left over from the years of fighting that ravaged their country. The war was long over, but this relic remained. The submunition exploded, killing the child's brother and three of the other boys, leaving him and four other bloodied children screaming in pain and terror from shrapnel injuries.

In 1998, again in Laos, Phouvieng was digging in his garden and hit an unexploded cluster munition. It blew off his left arm and left leg. Fourteen-year-old Smajic found a cluster bomb in the woods while playing with friends in Bosnia in 1997. He lost his hand. Afghan student Rafeullah was 11 years old when he and his brother found a cluster bomb in 2002 which they believed to be a toy. It blew off his right hand. Zahra Soufan was also 11 when she found a cluster bomb, this time in Lebanon. She lost the fingers of her right hand.

In 2007, 17-year-old Rasha was watching television in Lebanon when her sister brought in a sack of thyme their father had just harvested. She reached into the bag and to her surprise pulled out what appeared to be a white ribbon. The cluster bomb inside the bag exploded, tearing her left leg to shreds. In that same country in 2006 a 34-year-old fisherman pulled in his net and the cluster bomb that was caught in it exploded, blowing off his hands and blinding him for life. This father of four was left a total invalid.

These are the stories of the survivors; these are the 'lucky ones'. Every one of them was injured after the fighting in their country was over, and in some cases had been over for decades. Many, many more are killed and we do not know their names. Of the victims of submunitions from cluster bombs that do not explode on first impact, 98 per cent are estimated to be civilian. These weapons are indiscriminate. They remain a threat for decades after deployment. They are designed intentionally for maximum human casualties and maximum human suffering. As military doctrines have changed over the decades it has become apparent that these weapons are far more effective at killing children than they are at winning wars.

The Vietnam War ended 37 years ago but survivors of that war are still being harmed and killed by cluster munitions. There were 280 million cluster bombs dropped on Laos
with an estimated 30 per cent failure rate, leaving approximately 80 million unexploded cluster bombs in that country alone. These weapons must be eradicated. Not reduced, not scaled back, not discouraged, but completely eliminated from the arsenals of every country in the world.

This chamber will shortly debate a bill which ostensibly ratifies the Convention on Cluster Munitions. The treaty is an impressive legal document. Australia was at the front of the queue to sign it. We have played an important role in its creation and the treaty itself, as a tribute to many, many people who worked for a very long period of time, seeks to eliminate these weapons. It is a disarmament treaty. It bans the use, manufacture, stockpile, trade and investment with no exceptions. The first provision in the treaty is the most important: never under any circumstances. Proper adherence to this treaty expressly outlaws the presence of these weapons on Australian soil; it outlaws our military in assisting in the use of these weapons of indiscriminate destruction. Australia is one of the 108 countries that signed that treaty, and I am very proud to be part of that. The object and the purpose is universal disarmament.

Australia has had a long history, and often a proud one, in the creation of international treaties and arms control instruments of this kind. And so it is profoundly disturbing that the role of the Australian government in this treaty has been revealed to be so shameful. Senators are no doubt aware of the piece that ran in the Sydney Morning Herald by Philip Dorling on 2 May this year that exposed the role of the Australian government in this process. WikiLeaks has again shown another example of just why the government is expressing so much outrage about the document drops that are coming from WikiLeaks and just how valuable they are. Every now and again you overturn one of these diplomatic stones and look at what is going on underneath it. Diplomatic cables from the US embassy have revealed the Australian government told the United States government in 2007 that it was prepared to withdraw from negotiations on a global ban if key issues to the United States, because Australia does not deploy these weapons and we never have, were not addressed—principally the inclusion of a loophole to allow signatories—that is, us—to cooperate with military forces still using cluster munitions.

It was reported in that same report that our authorities lobbied Asian countries, including Vietnam—what an extraordinary irony there—on the issue and sought advice from Washington on which African countries in which these horrific devices have also been deployed might be recruited to vote with Australia on parts of the treaty text. What an extraordinarily ugly episode in modern Australian history.

The bill that will shortly be before the Senate is therefore the expression of those behind-the-scenes negotiations where Australia was effectively doing the dirty work of a party that is refusing to sign and ratify that treaty. There is Australia doing the dirty work of the United States, which still sees these devices as having utility, these weapons that drop from aircraft or are fired from ground forces that then disperse into multiple explosive devices that get left behind on the battlefield or in metropolitan or civilian areas.

The bill that the Senate will soon be debating allows the stockpiling and transfer
of cluster bombs. It permits our forces to violate the spirit and intent of the treaty if the act involving cluster bombs is carried out in the course of a joint exercise with a non-party to the treaty, which is exactly what happened during Operation Desert Storm when we assisted the United States in the invasion of Iraq.

Harvard Law School's International Human Rights Clinic said this bill could be interpreted to:

… allow Australian military personnel to load and aim the gun, so long as they did not pull the trigger.

Former Prime Minister Malcolm Fraser warns that the bill is 'scattered with alarming loopholes'. Former Australian Defence Force head Paul Barratt says this bill is now at odds with our obligations under international law. Some of us, perhaps naively—certainly naively—had assumed that perhaps it was sloppy drafting, that the Australian government was trying to be a little bit too cute. It has been revealed in the ugliest possible fashion that, no, it is entirely intentional and it is the result of a strategy.

Australia must not make, use, distribute or assist in the use of cluster bombs and we must not allow the funding of cluster bombs. Australia's Future Fund, in a welcome recent development, divested from companies connected to the manufacture of cluster munitions. This was a positive step, but it actually goes beyond what is required under the bill.

I would like to thank photojournalist John Rodsted, who is in the public gallery tonight, co-recipient of the 1997 Nobel Peace Prize, for providing some of the stories of the survivors. And I would also like to congratulate the work of the Cluster Munition Coalition and their allies and friends and supporters for the work they have done in getting us to where we are today.

have one final story. Soraj Ghulam Habib was 10 years old when he and his cousin came across a cluster bomb in Afghanistan. Soraj's legs were blown off and his cousin was killed. With his legs destroyed, covered in blood and unconscious, he was also believed to be dead. He was taken to the morgue, where his uncle realised he was still alive and rescued him. Soraj is here today and, through you, Madam Acting Deputy President, I welcome him to the Australian Senate's public gallery. He has come to Australia to urge us to adopt laws that will make real progress towards the eradication of these weapons forever. Soraj is calling on all governments to take a strong stand and to ban cluster bombs, with no exceptions, which I think is nothing more nor less than the Australian public would have anticipated when we signed this treaty in the first place. He has urged those who use, produce and transport munitions of this kind to stop and, in his words, 'to act as if your own children had such a distressed destiny'.

This is not a question of left or right; this is not something on which the crossbenchers plan to score political points off either of the major parties. It is a question of humanity against inhumanity. The Senate must fix this bill. We will shortly be given the opportunity to do just that. This is something that we are not looking back on in retrospect. This is not a proposal to amend an instrument that has already occurred or to come back and fix a mistake. We do have the opportunity before us, as parliamentarians and as representatives of a constituency that has not suffered the use of these weapons on Australian soil, to get this right the first time when we debate this bill shortly. The signs from the government and from the opposition thus far are not encouraging, but for some reason I still have a certain amount of hope that perhaps we can get this right. When the bill is debated we will put some amendments
forward that do no more nor less than what the expert witnesses who appeared before the Senate Foreign Affairs, Defence and Trade Legislation Committee recommended we do to bring the treaty into proper legal effect in Australia, as is happening overseas. I hope there is still time to get this right for the sake of people like Soraj, who have come to tell us their stories directly.

Relay for Life

Senator BILYK (Tasmania) (19:39): I rise to speak about one of those wonderful fundraisers that many politicians get involved in, and that is the Cancer Council's Relay for Life. I will specifically refer to the Cancer Council's Relay for Life that was held in Huonville in southern Tasmania. Firstly, I will give a bit of history about the Relay for Life.

Relay for Life began in May 1985 when American colorectal surgeon Dr Gordy Klatt spent a gruelling 24 hours running and walking around a local oval in Tacoma, Washington, raising awareness of cancer. His efforts raised over $27,000, with people paying $25 to run or walk for 30 minutes with him. Since then, the event has spread across the USA and then across the globe. Relay for Life events are now held in more than 600 communities spanning 20 countries. Relay for Life began in Australia in 1999, when the Victorian community of Murrumbeena raised over $75,000 for the Cancer Council. This event is now held in every state and raises over $14 million annually. Money raised goes towards transport for patients, research grants, scholarships, cancer prevention, education, a helpline and various other important activities and services to reduce the incidence of cancer and support people living with the disease.

In March I entered a team, Catryna's Crusaders, in the inaugural Huonville Relay for Life event in Australia's most southern municipality, the beautiful Huon Valley. The team consisted of family, friends and staff from my office. It is estimated that more than 370 walkers participated in total throughout the duration of the Huonville event. Catryna's Crusaders raised over $1,700 in just two weeks, so we are fairly proud of our support for the Cancer Council. The Huonville Relay for Life Committee had a goal of raising $30,000. This was well exceeded, with a total in excess of $59,000. That was an amazing effort, especially when you consider that it is one of four relay events in Tasmania, Huonville is much smaller than the major population centres and it was also the inaugural event for the area.

In other parts of Tasmania, the Hobart event raised more than $341,000; Launceston, $219,000; and Penguin, on the north-west coast, over $271,000. That is a total of more than $890,000 raised by Tasmania, which I think is a terrific effort for such a small state. I am personally overwhelmed by the amount of support that Relay for Life receives each year in Tasmania, as does the Cancer Council in general. I think they are a great organisation and people in Tasmania are very appreciative of the work they do.

Everyone participating in the Huonville event entered into the spirit of things in their own way. Some participants chose to dress up, with people wearing party hats, wigs, or dressed in animal suits and other costumes such as Spiderman and Darth Vader. My team had a purple theme, with balloons, streamers, a banner and a purple baton. We did have a bit of fun getting our tent and banner up, but they pleasingly did stay up for the whole event.

The relay requires that each team has at least one member on the track for the
duration of the event. We walked together as a team sometimes, while at other times there was only one member on the track. At 1.30 am, I walked for an hour or so and a young man, a 16-year-old, from one of the school teams I knew just ran out and joined me and walked around and around doing the laps with me. I thought that was impressive. Some members of the team jogged or ran but mostly it was a nice leisurely pace, great for keeping up the conversation. There was a real carnival atmosphere, with a jumping castle and carousel set up for the children. There were bands playing, a massage tent for participants, a tug-of-war challenge, and food available courtesy of the local Lions Club. It was wonderful to see so many people involved and to see people of all ages taking part.

I would like to mention the highest fundraisers for the Huonville event. Gary Smith won the individual award for raising $4,029, while the Black Rods team—yes, there was a team called the Black Rods, from the Legislative Council in Tasmania—raised $7,112.50. It was a remarkable effort by everyone concerned. The number of teams were involved in this event. They were: the Huonville Pharmacy; the Huon Valley Little Athletics; the Black Rods—as I said, from Tasmanian Legislative Council; Woolies Huonville; A Law Unto Themselves—which is a firm of lawyers in the local area, Baker Wilson Lawyers; The Bankers Dozen from the ANZ Bank; Lucaston Park Orchards; The Council Crusaders, who were from the Huon Valley Council; Sacred Heart Catholic School, Geeveston; The Bendy Go-Gos, the Bendigo Community Bank; Huon Valley Aquatic; A Drop of Red, the Red Cross; The Flintstones, which is Duggans Earthmoving Equipment; and the St James Flames, St James Catholic College. Prizes were also awarded for a number achievements. Lucaston Park Orchards won the prize for the most laps, Bankers Dozen won best baton and the Black Rods team won best uniform. Huon Valley Little Athletics won the best campsite, while best team name went to A Law Unto Themselves—as I said, a local legal group.

There was a great sense of fun and camaraderie, but everyone knew that we were there to raise money and awareness for cancer. And, of course, we were there to pay tribute to all those people who have fought cancer, those we have lost, those who have triumphed and those who are currently battling the disease.

The opening ceremony included the Relay Oath and the Survivors' Dedication by Miss Barbara Greenstreet. The ribbon was cut by the mayor of the Huon Valley, Councillor Robert Armstrong. The opening ceremony was followed by the first lap of the event, known as the Survivors' Walk. As a survivor of cancer, I had the privilege of participating in the front row of the walk and helping to hold the banner. It was really wonderful to see so many survivors wearing their purple sashes as well. We were then joined in the walk by carers and other participants for the next lap.

We all know the statistics about cancer, but to see so many survivors and their carers in the one place really does bring home to everyone how many people are touched by cancer. On the Saturday night there was a luminary session ceremony, where people could light a candle to remember all those people who have passed away following the battle with cancer. The closing ceremony on the Sunday included Mrs Megan Graham, a team member of the Black Rods, sharing her cancer experience in a very moving speech.

I would like to take this opportunity to thank everyone involved with Relay for Life: the organisers, including the Chief Executive Officer of Cancer Council Tasmania, Mr
Darren Carr and his team; the Lions Clubs of Huon and Port Cygnet and the Kingborough/Huon Rural Youth Club; all the participants, of course; and the many people who donated so generously of their time, their money and their hard work and effort. Thank you also to the Huon Valley News for the wonderful coverage of the event both in the lead-up and following that event.

I would like to say a special thanks to the other members of Catryna's Crusaders: my husband Robert; my staff, Daniel Hulme, Gabrielle Morrison, Brooke Eastley and Scott Faulkner. Other members of the team were: Jeffrey Gough, Colleen Smith, Leah Triffett, Emily Brinckman, Caleb Irwin, Fiona Emmett, David O'Byrne MP and Josephine Sinclair and her children Teagan, Chloe and Toby. Teagan, Chloe and Toby did not stay that long, but they did do a few a laps and they gave me some money that the children had raised through the neighbourhood and the school in the preceding week. It was about $70, and I think that deserves a special mention.

At this point I would also like to acknowledge Senators Furner, Moore, Stephens and MeEwen for their generous donations to the Catryna's Crusaders team. I know that Senator Furner regularly has his own team in Relay for Life and raises a considerable amount of money for the Cancer Council.

The Cancer Council has decided to hold the Huonville event again in 2012, and I look forward to participating and raising even more money for this very worthwhile cause.

Senate adjourned at 19:49

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.]


Customs Act—Tariff Concession Orders—
1049411 [F2011L00720].
1049486 [F2011L00711].
1050848 [F2011L00714].
1051145 [F2011L00715].
1051147 [F2011L00717].
1051306 [F2011L00716].
1051419 [F2011L00718].
1051884 [F2011L00719].
1052069 [F2011L00713].
1052172 [F2011L00712].
1052240 [F2011L00709].

Environment Protection and Biodiversity Conservation Act—Amendments of lists of exempt native specimens—
EPBC303DC/SFS/2011/10 [F2011L00726].

Health Insurance Act—
Health Insurance (Diagnostic Imaging Capital Sensitivity) Determination 2011 [F2011L00724].
Health Insurance (Duplex Scanning for Erectile Dysfunction) Amendment Determination 2011 (No. 1) [F2011L00723].

Tabling

The following documents were tabled:
Australian Industry Development Corporation—Special purpose financial report for the period 1 July to 3 December 2010 [Final report].
Australian River Co. Limited—Report for the period 1 December 2009 to 30 November 2010.


Migration Act 1958—Section 486O—Assessment of detention arrangements—Personal identifiers 620/11, 621/11, 623/11 to 627/11, 629/11 and 630/11—

Commonwealth Ombudsman’s reports.

Government response to Ombudsman’s reports.

Treaties—

Bilateral—Protocol on Investment to the Australia-New Zealand Closer Economic Relations Trade Agreement, done at Wellington on 16 February 2011—Text, together with national interest analysis, regulation impact statement and annexures.

List of multilateral treaty actions under negotiation, consideration or review by the Australian Government as at March 2011.

**Departmental and Agency Contracts**

The following document was tabled pursuant to the order of the Senate of 24 June 2008, as amended:

Departmental and agency appointments and vacancies—Budget estimates—Letter of advice—Defence portfolio.

Foreign Affairs and Trade portfolio.
QUESTIONS ON NOTICE

Banking

(Preference No. 61)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 28 September 2010:

If employee entitlements were to be given a higher priority in respect of any fixed and floating charge security a bank holds, would this not make a bank more proactive in monitoring loans it has and in ensuring a situation is not allowed to deteriorate to a position where only a secured creditor recovers their funds.

Senator Sherry: The Parliamentary Secretary to the Treasurer has provided the following answer to the honourable senator's question:

Employees would only benefit from their entitlements receiving a higher priority in the distribution to creditors to the extent that any of their entitlements are not already covered by the General Employee Entitlements Redundancy Scheme (GEERS). To the extent that that employee entitlements are covered by GEERS, employees would receive no additional advantage by receiving a higher priority in the distribution. Almost all employee entitlements are covered by GEERS.

If payments of employees entitlements were made dependent on the realisation of assets, it is likely that payments to employees of their entitlements would be delayed further, than under GEERS.

A proposal by the former government to place claims for outstanding employee's entitlements before the interests of all secured creditors was considered by the Parliamentary Joint Committee on Corporations and Financial Services in its June 2004 report, Corporate Insolvency Laws: A Stocktake. The PJC recommended against its adoption.

Employees currently receive a special priority in the distribution to creditors under the Corporations Act. If employees ranking was increased to an even higher ranking, it would be expected to increase the costs of secured credit as margins were increased to reflect lower than expected asset recoveries.

Banking

(Preference No. 62)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 28 September 2010

If a bank receives a series of offers for a secured liability: (a) how are these evaluated; and (b) is the decision on which offer to take documented.

Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

The processes by which banks consider and evaluate offers of settlement are dependant on the circumstances. The consideration of offers of settlement is a matter for the Bank. There is no process prescribed by law as to how to consider an offer.

Banking

(Preference No. 63)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:

Do bank staff receive formal training in the realisation of assets.
**Senator Sherry:** The Assistant Treasurer and Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

Under the National Consumer Credit Regime all providers of credit must have a credit licence. The minimum training requirements are set out in ASIC Regulatory Guide 206. The National Consumer Credit Protection Act 2009 requires that credit provider's representatives are adequately trained and competent to engage in the credit activities that are authorised by a credit licence.

The Australian Securities and Investments Commission (ASIC) has released Regulatory Guide 146 which sets out minimum training standards for people providing financial product advice to retail clients.

Training courses and individual advisers meet the training standards if they have been assessed by an authorised assessor as meeting ASIC's knowledge and skill requirements to the relevant educational level.

There is no specific training for enforcing securities and for the realisation of assets. State legislation governs the realisation of land. The realisation of property of companies is governed by the Corporations Act. The Commonwealth is also developing a personal property securities regime.

A bank may appoint a receiver to realise assets. A receiver is required by law to be a registered liquidator. A receiver is primarily obligated to look after the interests of the secured creditor who appointed them. However, the Corporations Act 2001 (Corporations Act) also requires them to take reasonable steps to attempt to sell charged property for not less than its market value, or if there is no market value, the best price reasonably obtainable. In addition, they are under an obligation to incur only reasonable and necessary costs.

In addition to this, their conduct is subject to a range of duties that apply to company officers in general. Receivers are afforded a high degree of independence in the manner in which they carry out their functions. The Courts have the power to review and intervene in the manner in which they legally carry out their functions.

Although a bank cannot be a receiver, it may become a controller of property. The Corporations Act contains extensive obligations on controllers, similar to those imposed on receivers.

**Banking**

(Question No. 64)

**Senator Johnston** asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:

(a) How much training are banks and lending institutions required to undertake each year in training their staff in the recovery of securities; (b) in what areas is this training provided; and (c) who provides this training.

**Senator Sherry:** The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

Under the National Consumer Credit Regime all providers of credit must have a credit licence. The minimum training requirements are set out in ASIC Regulatory Guide 206. The National Consumer Credit Protection Act 2009 requires that credit provider's representatives are adequately trained and competent to engage in the credit activities that are authorised by a credit licence.

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Training courses and individual advisers meet the training standards if they have been assessed by an authorised assessor as meeting ASIC's knowledge and skill requirements to the relevant educational level.

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In addition to this, their conduct is subject to a range of duties that apply to company officers in general. Receivers are afforded a high degree of independence in the manner in which they carry out their functions. The Courts have the power to review and intervene in the manner in which they legally carry out their functions.

Although a bank cannot be a receiver, it may become a controller of property. The Corporations Act contains extensive obligations on controllers, similar to those imposed on receivers.

Banking
(Question No. 66)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:

When any assets are, or property is, sold, does a bank take steps to minimise the costs incurred; if so, why do banks in most cases use higher priced law firms for often routine matters for which the customer is obligated to pay for under the security documents.

Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

Commonly, a receiver is appointed as part of the contract between the bank and the borrower. A receiver is required by law to be a registered liquidator.

A receiver is primarily obligated to look after the interests of the secured creditor who appointed them. However, the Corporations Act 2001 also requires them to take reasonable steps to attempt to sell charged property for not less than its market value or, if there is no market value, the best price reasonably obtainable. In addition, they are under an obligation to incur only reasonable and necessary costs.

In addition to this, their conduct is subject to a range of duties that apply to company officers in general. Receivers are afforded a high degree of independence in the manner in which they carry out their functions. The Courts have the power to review and intervene in the manner in which they legally carry out their functions.

Banking
(Question No. 67)

Senator Johnston the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:

Is there any control over costs incurred, such as a quote obtained for advice on issues.
Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

Commonly, a receiver is appointed as part of the contract between the bank and the borrower. A receiver is required by law to be a registered liquidator.

A receiver is primarily obligated to look after the interests of the secured creditor who appointed them. However, the Corporations Act 2001 also requires them to take reasonable steps to attempt to sell charged property for not less than its market value or, if there is no market value, the best price reasonably obtainable. In addition, they are under an obligation to incur only reasonable and necessary costs.

In addition to this, their conduct is subject to a range of duties that apply to company officers in general. Receivers are afforded a high degree of independence in the manner in which they carry out their functions. The Courts have the power to review and intervene in the manner in which they legally carry out their functions.

Banking

(Question No. 68)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:

Who supervises the recovery process, and to whom are bank staff accountable for the issues that may arise.

Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

The Code of Banking Practice provides that all member banks must follow the ACCC guideline for Debt Collection and the Trade Practices Act (now called the Competition and Consumer Act 2010) dated June 1999. The guide has been updated and is now released by both the Australian Securities and Investments Commission (ASIC) and the Australian Competition and Consumer Commission (ACCC). The guidelines set out the rules regarding: what a debt collector can do with a debtor's personal information, how a debt collector can contact a debtor (including debtors with a special disadvantage) and the role of independent external dispute resolution schemes. The Commonwealth also has in place laws to prohibit the use of physical force, unconscionable conduct, undue harassment and coercion in debt collection.

Under s 912A of The Corporations Act 2001 (Corporations Act) all holders of an Australian financial services licence (AFSL), such as banks, dealing with retail clients are required to have a dispute resolution system in place. The law further requires the dispute resolution system to consist of an internal dispute resolution procedure, as well as membership of at least one external dispute resolution (EDR) scheme.

If the recovery activities relate to a bank appointing a receiver or a bank acting as a controller, the banks conduct will be governed by the Part 5.2 of the Corporations Act which regulates receivers. If a person wishes to make a complaint about a controller's conduct, they can complain to ASIC.

A person aggrieved with the actions of a Bank may be able to complain to the Financial Ombudsman Service which has the ability to resolve some disputes between a consumer and providers of financial services. In addition, aggrieved people can commence legal proceedings if there has been a breach of the law.
Banking
(Question No. 69)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:
Is there an external professional body that monitors the recovery activities of banks, to which aggrieved people can go to with complaints and to have the matter independently investigated.

Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

The Code of Banking Practice provides that all member banks must follow the ACCC guideline for Debt Collection and the Trade Practices Act (now called the Competition and Consumer Act 2010) dated June 1999. The guide has been updated and is now released by both the Australian Securities and Investments Commission (ASIC) and the Australian Competition and Consumer Commission (ACCC). The guidelines set out the rules regarding: what a debt collector can do with a debtor's personal information, how a debt collector can contact a debtor (including debtors with a special disadvantage) and the role of independent external dispute resolution schemes. The Commonwealth also has in place laws to prohibit the use of physical force, unconscionable conduct, undue harassment and coercion in debt collection.

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If the recovery activities relate to a bank appointing a receiver or a bank acting as a controller, the banks conduct will be governed by the Part 5.2 of the Corporations Act which regulates receivers. If a person wishes to make a complaint about a controller's conduct, they can complain to ASIC.

A person aggrieved with the actions of a Bank may be able to complain to the Financial Ombudsman Service which has the ability to resolve some disputes between a consumer and providers of financial services. In addition, aggrieved people can commence legal proceedings if there has been a breach of the law.

Banking
(Question No. 70)

Senator Johnston asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:

Is there a code of conduct that bank staff have to observe in the recovery of securities; if so, how is it monitored and reported.

Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

The Australian Bankers Association Inc has released the Code of Banking Practice. This Code notes that in respect of debt collection, the banks will comply with the Australia Competition and Consumer Commission's guidelines "Debt Collection and the Trade Practices Act" (now called the Competition and Consumer Act 2010). The Code requires banks to participate in a Code Compliance Monitoring Committee to monitor the banks compliance with the Code. The guidelines set out the rules regarding: what a debt collector can do with a debtor's personal information, how a debt collector can contact a debtor (including debtors with a special disadvantage) and the role of independent external dispute resolution schemes. The Commonwealth also has in the Competition and Consumer Act 2010 laws to
prohibit the use of physical force, unconscionable conduct, undue harassment and coercion in debt collection.

**Banking**

*(Question No. 71)*

**Senator Johnston** asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:

Is there a prescribed level of quality control on recovery procedures; (a) if so: (i) can details be provided of where this is documented in the form of a formal manual; and (ii) how and when banks and lending institutions that do have a formal process or manual are certified; and (b) if not, why not.

**Senator Sherry:** The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

The Australian Bankers Association Inc has released the Code of Banking Practice. This Code notes that in respect of debt collection, the banks will comply with the Australia Competition and Consumer Commission's guidelines "Debt Collection and the Trade Practices Act" (now called the Competition and Consumer Act 2010). The Code requires banks to participate in a Code Compliance Monitoring Committee to monitor the banks compliance with the Code. The guidelines set out the rules regarding: what a debt collector can do with a debtor's personal information, how a debt collector can contact a debtor (including debtors with a special disadvantage) and the role of independent external dispute resolution schemes. The Commonwealth also has in the Competition and Consumer Act 2010 laws to prohibit the use of physical force, unconscionable conduct, undue harassment and coercion in debt collection.

**Banking**

*(Question No. 75)*

**Senator Johnston** asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 29 September 2010:

Have there been any situations where the banks' 'all Monies clause' has been used to try to attach a debt to people who were not even aware that they were responsible for the guarantee of a third party.

**Senator Sherry:** The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

In 2009, the Government enacted the National Consumer Credit Protection Act 2009 including the National Credit Code, which introduced for the first time, a nationally consistent legislative regime for the regulation of consumer credit. Section 59 of the National Credit Code makes any guarantee unenforceable unless the credit provider has given the guarantor a copy of the contract document and subsequently obtained the guarantor's written acceptance. Therefore under the Commonwealth's legislation, banks can not use an 'all monies clause' to attach a debt to people who are not aware that they are responsible for the guarantee of a third party.

**Superannuation**

*(Question No. 196)*

**Senator Humphries** asked the Minister for Finance and Deregulation, upon notice, on 16 November 2010:

Given the advice provided by the department's 'Red Book' to the Minister that the 'current unfunded liability' for Commonwealth and military superannuation is $127 billion:
(1) Can an explanation be provided and substantiated as to how this figure was derived when the Future Fund Actuary estimated the liability to be $96.3 billion for the 2009-10 financial year, and the department itself was quoted on page 34 of the Matthews Review report (Review of pension indexation arrangements in Australian Government civilian and military superannuation schemes, by Mr Trevor Matthews, dated December 2008) to have estimated the figure to be $100.3 billion as of 30 June 2008.

(2) Is it not standard practice to quote unfunded liability figures as a discount value in the current year and not in nominal terms unless otherwise specified.

(3) In the department's submission to the Matthews Review, the department estimated the unfunded liability (in nominal terms) would be $147 billion by 2020 (page 19), but the latest 'Red Book' suggested that the figure is $168 billion; what has significantly changed that would account for a $21 billion increase.

Senator Wong: The answer to the honourable senator's question is as follows:

(1) The estimated unfunded superannuation liability as at 30 June 2011, as reported in the 2010-11 Budget Papers was $127.1 billion for the Commonwealth defined benefit superannuation schemes.

The figure of $96.3 billion is not an estimate of the unfunded superannuation liability. It is the Target Asset Level (TAL) for the Future Fund for 2009-10, representing the target assets of the Future Fund that would be required to offset the superannuation liability at that point in time.

The figure of $100.3 billion was the estimated unfunded superannuation liability as at 30 June 2008, as reported in the 2007-08 Final Budget Outcome. Budget Paper No 1of 2009-10, page 9-14, explains that Australian Accounting Standards require the final Budget Outcome valuation to be determined by reference to a discount rate based upon the market "spot value" at the reporting date. This generally differs from the rate used for Budget reporting purposes.

(2) The estimated unfunded superannuation liability at a particular date represents the present value of expected benefit payments from Consolidated Revenue in respect of superannuation entitlements accrued to that time.

(3) The estimate of the unfunded superannuation liability at 2020 of $147 billion that was provided by the Department of Finance and Deregulation to the Matthews Review reflected the number that was presented in the 2008-09 Budget Paper No. 1 at pages 7-8. This was based on assumptions from the actuaries' 2005 Long Term Cost Reports for the relevant superannuation schemes.

The $165 billion reported in the Department's Red Book is based on revised assumptions from the actuaries' 2008 Long Term Cost Reports for the relevant superannuation schemes which takes into account the actual experience of the schemes since 2005.

Superannuation

(Question No. 197)

Senator Humphries asked the Minister for Finance and Deregulation, upon notice, on 16 November 2010:

In both the submissions from the department and the Australian Government Actuary (AGA) to the Matthews Review, there is an explicit assumption made that the 'take up rate of pensions' would be greater under improved indexation arrangements as analysed, which subsequently affected (significantly) the financial estimates generated:

(1) On what historical basis have these assumptions been made.

(2) What hard historical data can be provided to support the assumptions.

(3) Given that the AGA's assumption that the take up rate of pension for the employer component would be from 75 per cent to 90 per cent for officers and 60 per cent to 80 per cent for other ranks (AGA submission, page 2) and that the implied take up rate of civilian schemes would be 50 per cent
(department's submission, page 27), what would the estimates be if this assumption was completely removed from the analysis.

Senator Wong: The answer to the honourable senator's question is as follows:

(1) and (2) Mercer (Australia) Pty Ltd (Mercer), the actuary for the civilian superannuation schemes and the Australian Government Actuary (AGA) assumed that enhanced indexation arrangements would result in a higher proportion of Public Sector Superannuation Scheme (PSS) and Military Superannuation and Benefits Scheme (MSBS) benefits being taken as a pension because pensions would become relatively more valuable and therefore relatively more attractive than lump sum benefits.

The updated estimates of the cost of alternative indexation arrangements for Commonwealth superannuation pensions that is available on the Department of Finance and Deregulation website includes copies of the Mercer and AGA recent actuarial advice. That advice sets out information in relation to the assumptions they have made including in relation to the take-up rate of pensions in the PSS and MSBS.

(3) There would be an increase in the cash payments over the forward estimates, which is a negative impact on the underlying cash balance. There would be a small reduction in the increase in unfunded liability.

Superannuation
(Question No. 198)

Senator Humphries asked the Minister for Finance and Deregulation, upon notice, on 16 November 2010:

(1) Given the impact of previous assumptions on the financial wellbeing of Commonwealth and military retirees, what process is used to peer review assumptions.

(2) Are the main retiree representative organisations consulted on the use and change of underlying assumptions.

Senator Wong: The answer to the honourable senator's question is as follows:

(1) Actuarial assumptions have no bearing on the benefits that are payable to members.

The value of benefits payable to members of the Commonwealth civilian and military defined benefit superannuation schemes, including pensioners, are calculated based on the legislation governing the relevant scheme.

Actuarial assumptions are made in order to value the long-term cost of the Australian Government defined benefit schemes that will be charged to the Consolidated Revenue Fund and paid by the Commonwealth.

Mercer (Australia) Pty Ltd, the actuary for the civilian schemes, and the Australian Government Actuary, the actuary for the defence superannuation schemes undertake peer review of all their advice.

(2) No.

Superannuation
(Question No. 199)

Senator Humphries asked the Minister for Finance and Deregulation, upon notice, on 16 November 2010:

Given that Chapter 1 of Professor Pollard's 1974 report (Report on the Treasurer's Proposals for a new Superannuation Scheme for Australian Government Employees, dated June 1974) made very clear recommendations that he believed that the 'Commonwealth Servant' was entitled to 'a share of national productivity', and that, as such, retirement incomes should be indexed by a factor of 1.4 times the
consumer price index, can the Minister confirm that Mr Matthews was provided with a full and unabridged copy of the 1974 Pollard Report.

Senator Wong: The answer to the honourable senator's question is as follows:
Yes.

Superannuation
(Question No. 200)

Senator Humphries asked the Minister for Finance and Deregulation, upon notice, on 16 November 2010:
The Matthew's Review report (Review of pension indexation arrangements in Australian Government civilian and military superannuation schemes, by Mr Trevor Matthews, dated December 2008) placed considerable emphasis, particularly within the Executive Summary, that consumer price index indexation alone was, and continues to be, adequate in maintaining the 'purchasing power' of Commonwealth provided retirement incomes. However, the Australian Bureau of Statistics (ABS) clearly states in its document 4102.0 (dated 7 August 2007) that 'Purchasing Power' and 'material living standards' are directly proportional to 'real national disposable income per capita' and 'real national net worth per capita', in other words, purchasing power is directly proportional to income and net worth after inflation. Given this does the Minister agree with the ABS analysis and definition of 'Purchasing Power'; if not, is there a preferred alternative.

Senator Wong: The answer to the honourable senator's question is as follows:
The Australian Bureau of Statistics (ABS) has advised that "purchasing power" is the ability of households to acquire goods and services. There are two main determinants of the purchasing power of a household:

- the prices of goods and services—these determine the quantity of goods and services which can be acquired with a given amount of money
- the amount of money available to the household to acquire goods and services—the main sources of this are household income and wealth (net worth).

The CPI measures price change facing households. Indexing the income of the household by the CPI allows the household to maintain its acquisition of goods and services at the same level over time.

Senator Humphries asked the Minister for Finance and Deregulation, upon notice, on 16 November 2010:

Superannuation
(Question No. 201)

Senator Humphries asked the Minister for Finance and Deregulation, upon notice, on 16 November 2010:

Given that on page 42 of the Matthews Review report (Review of pension indexation arrangements in Australian Government civilian and military superannuation schemes, by Mr Trevor Matthews, dated December 2008), the department is quoted as stating that there are no identifiable assets available to offset an increase to the unfunded liability and that the 'Future Fund currently only has sufficient assets to meet superannuation liabilities at and beyond 2020 arising from current indexation arrangements':

(1) Given the investment return of the Future Fund over the past financial year (i.e. 10.7 per cent), is it feasible that the annual cash cost of improved indexation arrangements could be reasonably met (after
prospective legislative amendment) by accessing excess earnings from the Future Fund without creating serious detriment to the Fund's original purpose.

(2) Has the department undertaken any detailed analysis of this proposal including potential 'clawbacks' of age pension and taxation receipts.

Senator Wong: The answer to the honourable senator's question is as follows:

(1) There are no excess earnings from the Future Fund. To the end of 2010 the Future Fund’s earnings have been less than the long-term benchmark return set out in the Investment Mandate.

(2) The updated estimates of the cost of alternative indexation arrangements for Commonwealth superannuation pensions that are available on the Department of Finance and Deregulation website sets out updated information on this matter.

**Defence Force Retirement and Death Benefits**

(Question No. 202)

Senator Humphries asked the Minister for Finance and Deregulation, upon notice, on 16 November 2010:

Given that in the Defence Force Retirement and Death Benefits (DFRDB) annual reports for 2008-09 and 2009-10 (pages 48 and 4 respectively) it states that the 'average annual pensions' as at 30 of June each year were $21 486 for 2008, $22 092 for 2009 and $23 549 for 2010:

(1) Can an explanation be provided as to why there is a seemingly large discrepancy between the COMSUPER annual report figures and that of the average annual pension figures for DFRDB as stated in Table F2 (Appendix F, page 58) of the Matthews Review report (Review of pension indexation arrangements in Australian Government civilian and military superannuation schemes, by Mr Trevor Matthews, dated December 2008).

(2) What bearing did the figures in Table F2 of the report have on the estimates generated by the department.

(3) If the DFRDB figures within the Matthews Review report are in error, what measures will the Government employ to ensure that the estimates within that report are iron clad.

Senator Wong: The answer to the honourable senator's question is as follows:

(1) There is no discrepancy as the tables do not present comparable data.

The ComSuper annual report figures are averages based on the total number of pensions being paid in a particular financial year and the total value of those pensions.

Table F2 of the Matthews Report provides information only for those who became pensioners between 2002-03 and 2007-08 inclusive.

(2) The figures in Table F2 of the report have no bearing on the estimates.

(3) The figures for the DFRDB as stated in Table F2 of the Matthews Review report are not in error.

**Veterans' Affairs: Funding**

(Question No. 223)

Senator Humphries asked the Minister representing the Minister for Veterans' Affairs, upon notice, on 29 November 2010:

(1) Has the Minister received any correspondence on funding issues surrounding the Australian War Memorial; if so:

(a) from whom;

(b) on what date was each piece of correspondence received; and
(c) can a copy of the correspondence be provided.

(2) Has the Minister written to the Prime Minister, the Minister for Finance and Deregulation or the Minister for Defence on the issue of the Australian War Memorial; if so,

(a) when and what was the subject matter; and

(b) can a copy of the correspondence and any response received be provided.

**Senator Chris Evans:** The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) (a) and (b) The request has been taken to be for correspondence concerning the issue of the overall funding for the Memorial and not individuals’ or organisations’ requests for funding from the Memorial to support their activities.

The following table outlines the date each piece of correspondence was received:

<table>
<thead>
<tr>
<th>Correspondence received by the Minister</th>
<th>From</th>
<th>Date rec’d</th>
</tr>
</thead>
<tbody>
<tr>
<td>Response to letter of 14 October 2010 concerning AWM funding position</td>
<td>GILLARD Julia, the Hon Prime Minister</td>
<td>21.10.10</td>
</tr>
<tr>
<td>Letter concerning proposed funding cuts to AWM</td>
<td>DUTTON Peter, obo constituent. Referred by Defence</td>
<td>27.10.10</td>
</tr>
<tr>
<td>Email regarding Liberal Party media release about funding cut to AWM</td>
<td>Private individual</td>
<td>28.10.10</td>
</tr>
<tr>
<td>E-mail request for ‘real situation’ re 20% funding cut to the AWM claimed in Senator the Hon Michael Ronaldson’s Media Release</td>
<td>SAFFIN Janelle, MP</td>
<td>31.10.10</td>
</tr>
<tr>
<td>Letter concerning difficulties experienced by veterans’ organisations as a result of under funding of AWM</td>
<td>DAVENPORT Ian, National and ACT President NMBVAA Inc</td>
<td>20.12.10</td>
</tr>
<tr>
<td>Letter concerning proposed funding cuts to AWM</td>
<td>WINDSOR Tony, MP obo constituent</td>
<td>4.1.11</td>
</tr>
<tr>
<td>Letter concerning recent media coverage of funding of AWM</td>
<td>MOORE Claire, Senator for QLD obo constituent</td>
<td>7.1.11</td>
</tr>
<tr>
<td>E-mail supporting $5M funding for AWM</td>
<td>Private individual</td>
<td>7.1.11</td>
</tr>
<tr>
<td>Letter concerning funding for AWM</td>
<td>TUDGE Alan, MP</td>
<td>18.1.11</td>
</tr>
<tr>
<td>Letter concerning proposed funding cuts to AWM</td>
<td>WINDSOR Tony, MP obo constituent</td>
<td>21.1.11</td>
</tr>
<tr>
<td>Letter expressing concerns about AWM funding announcement</td>
<td>Private individual</td>
<td>14.2.11</td>
</tr>
<tr>
<td>E-mail concerning funding for AWM</td>
<td>Private individual</td>
<td>17.2.11</td>
</tr>
<tr>
<td>Copy of letter in reply to Senator Humphries</td>
<td>LUNDY Kate, the Hon</td>
<td>22.2.11</td>
</tr>
<tr>
<td>E-mail concerning funding for AWM</td>
<td>Private individual</td>
<td>22.2.11</td>
</tr>
<tr>
<td>E-mail copying Herald Sun article of 15.2.11</td>
<td>Private individual</td>
<td>22.2.11</td>
</tr>
<tr>
<td>E-mail concerning funding for AWM (M11/0431)</td>
<td>Private individual</td>
<td>22.2.11</td>
</tr>
<tr>
<td>E-mail concerning funding for AWM (M11/0433)</td>
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<td>22.2.11</td>
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<tr>
<td>E-mail concerning funding for AWM</td>
<td>Private individual</td>
<td>23.2.11</td>
</tr>
<tr>
<td>E-mail concerning funding for AWM</td>
<td>Private individual</td>
<td>24.2.11</td>
</tr>
<tr>
<td>Letter attaching Alliance of Defence Service Organisations media release</td>
<td>BIENKIEWICZ Les, Defence Force Welfare Association</td>
<td>2.3.11</td>
</tr>
<tr>
<td>Letter concerning funding for AWM</td>
<td>CARROLL Graeme,</td>
<td>4.3.11</td>
</tr>
</tbody>
</table>
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Correspondence received by the Minister

<table>
<thead>
<tr>
<th>From</th>
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</thead>
<tbody>
<tr>
<td>RSL and Services Clubs Association</td>
<td>7.3.11</td>
</tr>
<tr>
<td>CARROLL Graeme, RSL and Services Clubs Association</td>
<td>22.3.11</td>
</tr>
</tbody>
</table>

(c) Yes. A copy of the correspondence* is provided with redactions relating to personal information of third parties or where the correspondence included other information not relevant to the question.

(2) (a) Two pieces of correspondence that the Minister has written to the Prime Minister and the Minister for Finance and Deregulation on the issue of funding for the Australian War Memorial have been identified. The following table outlines the dates when this correspondence was sent and the subject matter:

<table>
<thead>
<tr>
<th>Correspondence sent by the Minister</th>
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<th>Date sent</th>
</tr>
</thead>
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<td>14.10.10</td>
</tr>
<tr>
<td></td>
<td>Cc: Minister for Finance and Deregulation; and Treasurer</td>
<td></td>
</tr>
<tr>
<td>Letter outlining the Department of Veterans' Affairs 2011-12 Budget proposals – Cabinet-in-confidence exempt in full</td>
<td>GILLARD Julia, the Hon Prime Minister</td>
<td>29.10.10</td>
</tr>
<tr>
<td></td>
<td>Cc: Minister for Finance and Deregulation; and Treasurer</td>
<td></td>
</tr>
</tbody>
</table>

(b) One piece of correspondence is provided with redactions of sensitive information or information not relevant to the question or is Cabinet-in-confidence. The second item of correspondence has not been provided as it Cabinet-in-Confidence.

*Copies of available correspondence is available from the Senate Table Office.

Veterans' Affairs

(Question No. 301)

Senator Humphries asked the Minister representing the Minister for Veterans' Affairs, upon notice, on 29 November 2010:

Since 14 September 2010, for each Minister and any Parliamentary Secretaries within their portfolio:

(1) Do the Minister and Parliamentary Secretaries have access to a departmental credit card; if so, can a copy be provided of all bank statements.

(2) (a) How many mobile devices are provided to the Minister's office; and (b) what is the total spend on mobile devices for each office to date.

(3) At what level is each staff member employed in the office.

(4) What has been the total cost of travel for the Minister and Parliamentary Secretaries.

(5) What has been the total travel for all staff, by office.

Senator Chris Evans: The Minister for Veterans' Affairs has provided the following answer to the honourable senator's question:

(1) No.
(2) (a) Six Blackberrys and two data cards have been provided by the Department. (b) For the period September 2010 to March 2011 the cost was $7,150.57 (incl GST) – cost is based on usage for the full month.

(3) The employment of staff under the Members of Parliament (Staff) Act 1984 is administered by the Department of Finance and Deregulation. On 19 October 2010, the Department of Finance and Deregulation tabled with the Senate Finance and Public Administration Committee, Government Personal Positions as at 1 October 2010.

(4) In the last week of the June 2011 sittings, the Special Minister of State will table Parliamentarians Travel Paid by the Department of Finance and Deregulation for the period 1 July 2010 to 30 December 2010.

The costs of official travel by Ministers, Parliamentary Secretaries and accompanying staff employed under the Members of Parliament (Staff) Act 1984 are largely paid by the Department of Finance and Deregulation. As such, with the exception of those costs listed below, the information sought will be tabled by the Special Minister of State in the last sitting week of June 2011 in his six-monthly report on Parliamentarians Travel Paid by the Department of Finance and Deregulation.

As at 31 March 2011, the total cost of short-term transport (such as hire cars and taxis) was $10,113.47 (excl GST).

(5) The Special Minister of State will respond on behalf of other ministers.

**International Commission on Nuclear Non-proliferation and Disarmament**

(Question No. 328)

**Senator Ludlam** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:

With reference to disarmament diplomacy:

(1) What is the status of the recommendations in the International Commission on Nuclear Non-proliferation and Disarmament (ICNND) report.

(2) Are there plans to support the Centre it recommends, which is also being promoted by Mr Gareth Evans, the Chair of the ICCND.

(3) (a) How many full-time equivalent staff are working within the department that have expertise in, and are focused on, nuclear disarmament and non-proliferation issues; and (b) for each of these positions, can a list be provided stating the level within the agency at which they work, and the duration of their focus on this issue.

**Senator Conroy**: The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) The Government's response to the report of the International Commission on Nuclear Non-proliferation and Disarmament is set out in a media release of 3 May 2010 by the then Minister for Foreign Affairs, Stephen Smith, which can be found at:


(2) The Government is aware of various ideas for taking this proposal forward but as yet no decision has been made as to what sort of support the Government might extend.

(3) This response focuses on staff currently working on nuclear disarmament and non-proliferation issues within the Department and at posts which have a substantial focus on nuclear disarmament and non-proliferation issues.

   (a) 29.85 Full Time Equivalent Staff

   (b) SES Band 3 x 1—1.5 years
SENATE Band 2 x 3—0.5, 0.8, 1.5 years
SES Band 1 x 6—1, 1, 2, 2, 6, 8 years
EL2 x 9—0.5, 0.5, 1.5, 6, 6, 9, 9, 20, 21 years
EL1 x 13—1, 1, 1.5, 2, 4, 4, 6, 6, 8, 9, 12, 14, 21 years
APS6 x 7—0.75, 1, 1, 1, 2, 2, 3 years
APS5 x 1—2 years
APS4 x 1—0.2 years

Uranium Mining
(Question No. 335)

Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:

In regard to the potential sale of Australian uranium to Nuclear Non-Proliferation Treaty (NPT) states:

(1) Has the department or the Australian Safeguards and Non-Proliferation Office (ASNO) undertaken any consideration or prepared any advice since 2007 on the potential sale of Australian uranium to states that do not observe the NPT; if so, what has been the cost of that work.

(2) With reference to the potential sale of Australian uranium to India, does the department or ASNO identify any of the following as a potential barrier:
   (a) NPT signatory and ratification status;
   (b) Comprehensive Nuclear Test Ban Treaty ratification status;
   (c) the claimed right to renew nuclear weapons testing;
   (d) the continued production of fissile materials for military programs;
   (e) the ongoing nuclear weapons ‘arms race’ between India and Pakistan;
   (f) regional instability; and
   (g) the potential for terrorism in India, including terrorist acts committed in India or terrorist acts potentially committed by Indian nationals, and against Indian nuclear facilities, including reactors.

(3) What other, if any, potential barriers does the department and ASNO identify to the potential sale of Australian uranium to India.

Senator Conroy: The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) Australian Government policy is that uranium is supplied only to countries which are parties to the NPT, have an Additional Protocol with the IAEA and with which Australia has a bilateral nuclear safeguards agreement. The department, including ASNO, in the normal course of its work has considered and prepared advice on the implications of this policy. There is no separate costing.

(2) Government policy excludes the sale of Australian uranium to countries which are not parties to the NPT, including India. Given this actual barrier, the department has seen no reason to identify other potential barriers.

(3) Australian uranium may only be exported for peaceful non-explosive purposes under bilateral safeguards agreements. Australia retains the right to be selective as to the countries with which it is prepared to conclude such agreements. Following any in-principle decision by the Government to sell uranium to another country, the department would initiate negotiation of a bilateral safeguards agreement with that country. The export of uranium could not commence until such an agreement was concluded.
Senator Ludlam asked the Minister representing the Minister for Foreign Affairs, upon notice, on 6 December 2010:

With reference to the proposed new treaty with China for precedent sale of Australian uranium in bulk (copper) concentrates:

(1) Is it proposed that a new treaty, rather than an amended treaty, be negotiated with China to provide for precedent sale of Australian uranium in bulk (copper) concentrates, with intended processing of that uranium into nuclear fuel; if so, is this process being undertaken by the Australian Government at the request of BHP Billiton to facilitate proposed sales from the proposed Olympic Dam new open pit mine of a uranium-infused bulk copper concentrate, with intended processing of that uranium into nuclear fuel in China.

(2) When, and how recently, have negotiations with China occurred since this treaty process began.

(3) Given that the Australian Prime Minister has recently called on China to release the recent Nobel Peace Prize winner Liu Xiaobo from jail in China, will his case and human rights issues be raised in these treaty negotiations; if not, why not.

(4) What potential is recognised for inclusion of human rights and democracy clauses in the proposed new treaty with China, including for the protection of whistle blowers on uranium and nuclear issues.

(5) Will consideration be given to these clauses in the treaty Agreement to be 'conditional clauses' giving Australia the potential to suspend the Agreement if a breach of the relevant conditions has taken place; if not, why not.

(6) Does the Minister recognise the potential to call for the release of a prominent nuclear whistleblower currently jailed in China, Sun Xiaodi and his daughter Sun Dunbai, and to make this call for their immediate release a condition on any continued negotiations on the proposed nuclear treaty.

(7) Given that BHP Billiton recently reported its intention to double the intended scale of production at the proposed Olympic Dam new open pit mine from 1.6 million tonnes to 3 million tonnes per annum (see 2009 draft Environmental Impact Statement on Olympic Dam):

(a) what ramifications does this have for the proposed treaty;

(b) what ramifications does this have for proposed transport by rail through Central Australia and Alice Springs and out of the Port of Darwin;

(c) what ramifications does this have for processing arrangements in China;

(d) what processing facilities in China are intended to receive this concentrate;

(e) what is the ownership or other commercial arrangements intended for these facilities between the Chinese Government and BHP Billiton;

(f) what will happen with the resultant wastes, including long-lived bulk radioactive wastes, left in China each year from this proposed arrangement;

(g) can the Minister confirm that Australia (via BHP Billiton) would be dumping at least 1.2 million tonnes of radioactive mining wastes in China each year, and up to 2.2 million tonnes if the BHP Billiton proposed increase in scale of Olympic Dam new open pit mine operation goes ahead; and

(h) does the Minister acknowledge that these wastes, or some proportion of these wastes, are to be classified as Australian obligated nuclear material (AONM) and to how much of the total volume of resultant wastes would AONM status apply
**Senator Conroy:** The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) ASNO has commenced negotiations on an agreement to amend (or supplement) Annex D of the Australia/China nuclear transfers agreement, to facilitate BHP Billiton's plan to export copper concentrates to China. The amendment would be designed to ensure any uranium extracted from copper concentrates would be subject to provisions of the Australia/China nuclear transfers agreement.

(2) The one and only negotiation was held in Beijing in January 2009.

(3) No. The Government's view is that linking human rights to trade issues is counter-productive. Liu Xiabo's case was raised in the 13th Australia-China Human Rights Dialogue held in Beijing on 20 December 2010.

(4) The Government's view is that linking human rights to trade issues is counter-productive.

(5) Refer to response to question 4.

(6) The Government's view is that linking human rights to trade issues is counter-productive. Sun Xiaodi and Sun Dunbai's cases were submitted as cases of concern for the 13th Australia-China Human Rights Dialogue held in Beijing on 20 December 2010.

(7) (a) The Australia-China nuclear transfers agreement is not affected by BHP Billiton's production volumes.

(b) Any increases in transport by rail would be carried out in accordance with existing regulatory requirements.

(c) This is a matter for China and the commercial entities involved to consider.

(d) This is a matter for China and the commercial entities involved to consider.

(e) This is a matter for China and the commercial entities involved to consider.

(f) This is a matter for China to manage under its domestic laws and arrangements and the commercial entities involved.

(g) Australia would be exporting copper concentrates, not waste.

(h) Australia would be exporting copper concentrates, not waste. Uranium extracted from the copper concentrate would be classified as AONM and would be covered by the Australia-China nuclear transfers agreement.

**Extractive Industries Transparency Initiative**

*(Question No. 343)*

**Senator Ludlam** asked the Minister representing the Minister for Foreign Affairs, upon notice, on 13 December 2010:

With reference to AusAID and the Extractive Industries Transparency Initiative (EITI):

(1) Can the Minister confirm that Australia is a supporter of the EITI and provides funds to assist other countries to implement the EITI while not doing so itself.

(2) Can the Minister confirm the EITI would require all mining, oil and gas companies operating in Australia to publicly publish payments made to the Australian Government (and possibly state and territory governments) and in turn oblige the Government to publish what it receives.

(3) (a) Can an outline be provided of what funds AusAID has allocated to supporting the EITI and who receives those funds; and (b) does the funding include consideration for a secretariat.

(4) Is the Australian Government considering the implementation of an EITI; if not, why not.

(5) Who has responsibility for Australia becoming an implementing country.
(6) Is the department aware the United States of America (US) Financial Reform Act requires all oil, gas and mining companies registered on the US Securities Exchange to disclose all revenue payments made to all governments when the country is operating on a country-by-country basis; and (b) will the department consider progressing similar legislation in Australia noting that such an initiative contributes towards improving the transparency of extractive industries' payments and helps combat corruption; if not, why not.

(7) What is the Government's position regarding the promotion of improved transparency and anti-corruption mechanisms as a G-20 agenda.

(8) Will the Australian Government be promoting the EITI at the next G-20.

Senator Conroy: The Minister for Foreign Affairs has provided the following answer to the honourable senator's question:

(1) Australia is a supporting member country of EITI. Australia provides funding, through the aid program, to support developing countries implement EITI.

(2) EITI is a global initiative promoting the disclosure by both governments and companies of revenue payments relevant to the mining, gas and petroleum sectors. Countries participate in the EITI process on a voluntary basis.

In Australia, each government jurisdiction has its own regulations and financial disclosure obligations. All Australian Government agencies comply with internationally accepted accounting standards and are subject to the Australian National Audit Office. Corporations are regulated under the Corporations Act 2001. Payments made by the mining, oil and gas companies operating in Australia and receipted by the Australian Government are publicly disclosed through these mechanisms.

(3) AusAID has contributed a total of $1.45m to the World Bank administered EITI Multi-Donor Trust Fund, which supports implementation of EITI in developing countries. AusAID has allocated a further $9m over three years for the EITI MDTF. AusAID has also allocated $1m over three years for the EITI Secretariat.

(4) The Government, in conjunction with industry and civil society, is considering the issues around the EITI and its domestic implementation, noting the response to Question 2. The Government has yet to conclude its consideration.

(5) The Commonwealth Government is responsible for considering whether Australia becomes an implementing country, although aspects of implementation may be the responsibility of, and may require the agreement of, state and territory governments.


The Australian Government is not considering implementing similar extra-territorial legislation in Australia as it considers that initiatives such as the Dodd-Frank Act do not demonstrably reduce corruption. Australian companies already operate in compliance with the International Accounting Standard Board's International Financial Reporting Standards, which it adopted in 2005.

(7) The Australian Government is supportive of the promotion of improved transparency, governance and anti-corruption mechanisms through the G20. Australia is an active member of the G20 Anti-Corruption Working Group which was established following the Toronto meeting in June 2010 to make recommendations for the G20 to promote international cooperation to combat corruption.

(8) In the 2009 Statement of the Pittsburgh Summit, G20 Leaders supported voluntary participation in the EITI. The Australian Government continues to support the EITI.
Brodband  
(Question No. 355)

Senator Ludlam asked the Minister for Broadband, Communications and the Digital Economy, upon notice, on 13 December 2010:

With reference to analog self-help retransmission towers in remote areas:

(1) Did the department examine the possibility of upgrading self-help facilities in remote areas.

(2) Was a cost benefit analysis undertaken.

(3) What did any examinations or analyses referred to in paragraphs (1) and (2) cover and what were their findings.

(4) What are the ongoing maintenance costs associated with satellite service in remote areas.

(5) How do these costs compare with ongoing costs associated with using digital retransmission facilities instead of direct-to-the-home satellite.

(6) (a) Under what circumstances will remote communities be given assistance to upgrade their self-help retransmission towers; and (b) for what assistance would they be eligible.

(7) Given that a number of organisations have publicly called for the Satellite Subsidy Scheme (SSS) to allow for individual household subsidies to be pooled and the money used to upgrade self-help retransmission towers for whole communities, has the department examined this suggestion; if so, what were the department's findings.

(8) How many households would a community need to include before the cost of providing SSS payments exceeded the cost of upgrading retransmission facilities to digital.

(9) How many communities meet or exceed this size amongst those that are to receive digital television via satellite if their retransmission facilities are not converted to digital.

(10) In areas where the size of the community means that it would be more expensive for the Commonwealth to convert retransmission facilities to digital than to pay eligible households SSS payments, what scope is there for local governments to contribute the difference (i.e. to partner with the Commonwealth to cover the cost of converting retransmission facilities).

(11) How would an interested local government body or other local organisation initiate such an arrangement.

Senator Conroy: The answer to the honourable senator's question is as follows:

(1) The Government considered a range of options to provide the full suite of digital television channels to self help viewers, including terrestrial and satellite transmissions.

(2) The Government considers that satellite is an efficient and effective means of delivering digital television to remote communities. Terrestrial self-help retransmission facilities have a number of limitations that do not apply to satellite: they impose on-going, and not always predictable, costs on local communities and councils for their operation and maintenance; they have an inflexible coverage area which cannot accommodate population shifts beyond the area served by the transmitter; and they can be subject to extended outages when there are transmitter faults if licensees have difficulty accessing spare parts and/or experienced technicians, particularly when transmitters are located in isolated or remote areas.

(3) The Government decided to fund a satellite service to provide digital television in signal deficient areas, and has implemented the Satellite Subsidy Scheme to assist people in self help communities cover the cost of moving to satellite if the self help facility is not converted to digital.

(4) The Government will subsidise a large part of the cost of installing VAST equipment by eligible households under the Satellite Subsidy Scheme. Under the Scheme, the direct cost to the household is
only around $200-$350 depending on location. This includes remote households currently served by analog self-help services.

Households not eligible for the Scheme subsidy must initially purchase and install equipment, but the ongoing costs are only those arising from any repairs to or replacement of a set top box or satellite dish when and as needed. In return these households will receive 16 channels of digital television plus a news service, a significant improvement over what they would have previously received.

(5) See answer to question (2).

(6) The Government is not providing assistance for communities to upgrade their self-help retransmission towers.

(7) Under the funding arrangements agreed to by the Government for the Satellite Subsidy Scheme, it is not possible to redirect funding from the Scheme for other purposes, such as making payments to licensees to upgrade self-help facilities.

(8), (9), (10), (11) See answer to question (7)

Automotive Transformation Scheme
(Question No. 379)

Senator Colbeck asked the Minister for Innovation, Industry, Science and Research, upon notice, on 3 February 2011:

(1) What amount of funding has been spent and/or committed under the Automotive Transformation Scheme (ATS).

(2) How much funding remains uncommitted under the ATS for the 2010-11 financial year.

(3) What are the annual appropriations for the ATS for each of the financial years from (and including) 2011-12 through to (and including) the final financial year of the program

Senator Carr: The answer to the honourable senator's question is as follows:

(1) Expenses of $101,073,980 have been committed under the Automotive Transformation Scheme as at 31 March 2011.

(2) $29,022,020 remains uncommitted in the 2010-11 year as at 31 March 2011.

(3) Estimated Automotive Transformation Scheme Administered funding:

2011-12 $511,750,000
2012-13 $478,750,000
2013-14 $445,750,000
2014-15 $412,750,000
2015-16 $379,750,000
2016-17 $346,750,000
2017-18 $295,680,000
2018-19 $195,850,000
2019-20 $112,470,000
2020-21 $37,500,000

*All figures shown are GST exclusive.
South Australian Innovation and Investment Fund
(Question No. 384)

Senator Colbeck asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 16 February 2011:

As at 25 January 2011:

(1) What amount of funding has been spent and/or committed as part of the $10 million allocated to assist displaced workers under the South Australian Innovation and Investment Fund (SAIIF).

(2) (a) How many workers have received funding under this part of the program; and
(b) are all of these workers former employees of Mitsubishi; if not, in which businesses were the recipients employed.

(3) How much funding (on an annual basis) remains uncommitted under the SAIIF.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

(1) The amount of funding spent under the Mitsubishi Labour Adjustment Package, which forms part of the SAIIF, to assist displaced workers directly affected by the closure of the company's Tonsley Park plant in Adelaide (as at 25 January 2011) was $5.8 million out of the $10 million originally committed to the Mitsubishi Labour Adjustment Package.

(2) (a) As at 25 January 2011, there was a total of 2,367 job seekers who received support as a result of funding provided under the Mitsubishi Labour Adjustment Package.
(b) Apart from Mitsubishi workers, others were employed at the following eligible suppliers: Aunde Trin Pty Ltd, Ceva Logistics, Continental Corporation (Siemens), Custom Cartons, Exacto Plastics, ISS Facility Services, Tenneco Automotive, TI Automotive.

(3) Of the $50 million allocated to the SAIIF: As at 25 January 2011 there is $7.4 million uncommitted funds under the $30 million industry development component of the SAIIF. This is made up of a Commonwealth component of $6.7 million and a South Australian Government component of $0.7 million. There is also $4.2 million uncommitted funds under the $10 million Mitsubishi Labour Adjustment Package. The $10 million allocated to the infrastructure development projects is administered by the South Australian Government.

Tertiary Education, Skills, Jobs and Workplace Relations: Furniture
(Question No. 388)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

What is the total cost of office furniture (whether new or refurbished): (a) purchased; and (b) leased, by the department and its agencies (listed separately) for each financial year since 2008-09.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

(a) The cost of office furniture purchased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$722,230</td>
<td>$848,306</td>
<td>$5,839,875</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$1,195</td>
<td>$620</td>
</tr>
<tr>
<td>FWO</td>
<td>$5,842</td>
<td>$8,398</td>
<td>$4,010</td>
</tr>
<tr>
<td>ALTC</td>
<td>$33,128</td>
<td>$41,428</td>
<td>$3,559</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$162,383</td>
<td>$12,066</td>
</tr>
<tr>
<td>Comcare</td>
<td>$533,518</td>
<td>$398,229</td>
<td>$5,596</td>
</tr>
</tbody>
</table>
(b) The cost of office furniture leased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th>Agency</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$0</td>
<td>$266,670</td>
<td>$22,283</td>
</tr>
<tr>
<td>ABCC</td>
<td>$0</td>
<td>$0</td>
<td>$569</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$5,777</td>
</tr>
</tbody>
</table>

\[1 \] $5.8 million expensed by the department in 2010-11 relates to the furnishing of the new National office building at 50 Marcus Clarke Street, Canberra, from July 2010

**Tertiary Education, Skills, Jobs and Workplace Relations: Water**

(Question No. 389)

**Senator Mason** asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

(1) What is the total cost of water coolers: (a) purchased; and (b) leased, by the department and each of its agencies (listed separately) for each financial year since 2008-09.

(2) What is the total cost of water consumed by the department and each of its agencies (listed separately) for each financial year since 2008-09.

**Senator Chris Evans:** The answer to the honourable senator's question is as follows:

(a) The total cost of water coolers purchased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th>Agency</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$3,288</td>
<td>$3,286</td>
<td>$2,574</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWO</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Comcare</td>
<td>$1,898</td>
<td>$1,505</td>
<td>$616</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ABC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

(b) The total cost of water coolers leased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th>Agency</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$129</td>
<td>$137</td>
<td>$0</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$0</td>
<td>$306</td>
</tr>
<tr>
<td>FWO</td>
<td>$339</td>
<td>$390</td>
<td>$180</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$225</td>
<td>$335</td>
</tr>
</tbody>
</table>
(2) The total cost of water consumed by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th>Agency</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$541</td>
<td>$50</td>
<td>$0</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$0</td>
<td>$65</td>
</tr>
<tr>
<td>FWO</td>
<td>$1,935</td>
<td>$2,078</td>
<td>$1,388</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$680</td>
<td>$500</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Comcare</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$4,288</td>
<td>$3,367</td>
</tr>
<tr>
<td>ABCC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$494</td>
</tr>
</tbody>
</table>

Tertiary Education, Skills, Jobs and Workplace Relations: Plants

(Question No. 390)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

What is the total cost of plants: (a) purchased; and (b) leased, by the department and each of its agencies (listed separately) for each financial year since 2008-09.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

(a) The cost of plants purchased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th>Agency</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWO</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Comcare</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ABCC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

(b) The cost of plants leased by the department and its agencies for each financial year from 2008-09 is:

<table>
<thead>
<tr>
<th>Agency</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$340,145</td>
<td>$318,744</td>
<td>$191,937</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$11,754</td>
<td>$5,789</td>
</tr>
<tr>
<td>FWO</td>
<td>$21,566</td>
<td>$16,157</td>
<td>$13,795</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$221</td>
<td>$2,878</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$0</td>
<td>$1,621</td>
</tr>
<tr>
<td>Comcare</td>
<td>$31,747</td>
<td>$28,159</td>
<td>$17,449</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$3,360</td>
<td>$1,974</td>
</tr>
</tbody>
</table>
Tertiary Education, Skills and Workplace Relations: Floor Coverings
(Question No. 391)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

What are the total costs of floor coverings (whether new or refurbished): for tiles, carpets, rugs, vinyl and other (listed separately) (a) purchased; and (b) leased, by the department and its agencies (listed separately) for each financial year since 2008-09

Senator Chris Evans: The answer to the honourable senator's question is as follows:

(a) The cost of floor coverings purchased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$130,760</td>
<td>$16,107</td>
<td>$76,080</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWO</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$69,500</td>
<td>$0</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$22,574</td>
<td>$320</td>
</tr>
<tr>
<td>Comcare</td>
<td>$67,262</td>
<td>$37,603</td>
<td>$880</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$22,896</td>
<td>$0</td>
</tr>
<tr>
<td>ABCC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$8,500</td>
</tr>
</tbody>
</table>

(b) The cost of floor coverings leased by the department and its agencies for each financial year from 2008-09 cannot be separated as an identified cost from the total property lease costs.

Tertiary Education, Skills, Jobs and Workplace Relations: Window Furnishings
(Question No. 392)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

What are the total costs for window furnishings (whether new or refurbished): (a) purchased; and (b) leased, by the department and its agencies (listed separately) for each financial year since 2008-09.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

(a) The cost of window furnishings purchased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$0</td>
<td>$64,570</td>
<td>$14,978</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWO</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$4,518</td>
<td>$0</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$9,240</td>
<td>$240</td>
</tr>
<tr>
<td>Comcare</td>
<td>$0</td>
<td>$0</td>
<td>$6,570</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$11,750</td>
<td>$0</td>
</tr>
<tr>
<td>ABCC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>
(b) The cost of window furnishings leased by the department and its agencies for each financial year from 2008-09 cannot be separated as an identified cost from the total property lease costs.

**Tertiary Education, Skills, Jobs and Workplace Relations: Coffee Machines**  
(Question No. 393)

**Senator Mason** asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

(1) What is the total cost of coffee machines (whether new or refurbished) and consumables purchased by the department and its agencies (listed separately) for each financial year since 2008-09.

(2) What is the total cost of coffee machines leased by the department and its agencies (listed separately) for each financial year since 2008-09.

**Senator Chris Evans**: The answer to the honourable senator's question is as follows:

(1) The cost of coffee machines and consumables purchased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$0</td>
<td>$0</td>
<td>$6,566</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWO</td>
<td>$1,500</td>
<td>$668</td>
<td>$616</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$7,790</td>
<td>$1,058</td>
</tr>
<tr>
<td>ACARA</td>
<td>$3,419</td>
<td>$3,456</td>
<td>$6,875</td>
</tr>
<tr>
<td>Comcare</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$3,147</td>
<td>$245</td>
</tr>
<tr>
<td>ABCC</td>
<td>$3,684</td>
<td>$3,878</td>
<td>$2,262</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$3,538</td>
</tr>
</tbody>
</table>

(2) The cost of coffee machines leased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWO</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ALTC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Comcare</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>ABCC</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
</tbody>
</table>

**Tertiary Education, Skills, Jobs and Workplace Relations: Subscriptions**  
(Question No. 395)

**Senator Mason** asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

What is the total cost of newspapers, magazines, circular subscriptions and other externally-produced publications for the department and its agencies (listed separately) for each financial year since 2008-09.

**Senator Chris Evans**: The answer to the honourable senator's question is as follows:

The expenditure on newspapers, magazines, circular subscriptions and other externally produced publications for the Department and portfolio agencies for each financial year since 2008-09 is:
**Tertiary Education, Skills, Jobs and Workplace Relations: Stationery**

(Question No. 397)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

What is the total quantity and cost of A4 paper used by the department and its agencies (listed separately) for each financial year since 2008/09.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

The cost of A4 paper purchased by the department and its agencies for each financial year since 2008-09 is:

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>$426,134</td>
<td>$469,156</td>
<td>$171,982</td>
</tr>
<tr>
<td>SWA</td>
<td>$0</td>
<td>$6,485</td>
<td>$4,338</td>
</tr>
<tr>
<td>FWO</td>
<td>$57,786</td>
<td>$45,005</td>
<td>$21,518</td>
</tr>
<tr>
<td>ALTC</td>
<td>$2,569</td>
<td>$2,770</td>
<td>$1,408</td>
</tr>
<tr>
<td>ACARA</td>
<td>$0</td>
<td>$3,419</td>
<td>$4,165</td>
</tr>
<tr>
<td>Comcare</td>
<td>$74,552</td>
<td>$69,618</td>
<td>$29,067</td>
</tr>
<tr>
<td>FWA</td>
<td>$0</td>
<td>$37,638</td>
<td>$18,449</td>
</tr>
<tr>
<td>ABCC</td>
<td>$12,441</td>
<td>$12,107</td>
<td>$4,976</td>
</tr>
<tr>
<td>AITSL</td>
<td>$0</td>
<td>$0</td>
<td>$8,250</td>
</tr>
</tbody>
</table>

The quantity (in reams) of A4 paper used by the department and its agencies for each financial year from 2008-09 is:

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (YTD-Jan)</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEEWR</td>
<td>82,537</td>
<td>79,328</td>
<td>28,214</td>
</tr>
<tr>
<td>SWA</td>
<td>0</td>
<td>1,324</td>
<td>900</td>
</tr>
<tr>
<td>FWO</td>
<td>8,053</td>
<td>6,974</td>
<td>4,039</td>
</tr>
<tr>
<td>ALTC</td>
<td>523</td>
<td>559</td>
<td>278</td>
</tr>
<tr>
<td>ACARA</td>
<td>858</td>
<td>980</td>
<td>1,838</td>
</tr>
<tr>
<td>Comcare</td>
<td>12,300</td>
<td>11,500</td>
<td>4,830</td>
</tr>
<tr>
<td>FWA</td>
<td>0</td>
<td>6,363</td>
<td>3,155</td>
</tr>
<tr>
<td>ABCC</td>
<td>2,010</td>
<td>1,956</td>
<td>804</td>
</tr>
<tr>
<td>AITSL</td>
<td>0</td>
<td>0</td>
<td>1,500</td>
</tr>
</tbody>
</table>

During 2010-11, as part of its implementation of the government’s sustainability policy, the department adopted a range of specific environmental initiatives that have reduced paper usage. For example, it has retired over 500 desktop printers, introduced new centralised ‘print on demand’ technology, defaulted all printers capable of duplex printing to duplex and encouraged staff to limit the volume of printed material. In addition, the department has adopted a paper sustainability policy which focuses on purchasing 80% recycled A4 paper and 10% recycled A3 paper.
Tertiary Education, Skills, Jobs and Workplace Relations: Reports
(Question No. 398)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

Can a list be provided detailing:
(a) the reports generated by the department and each of its agencies (listed separately) for each financial year since 2008-09; and for each report:
   (i) its number of pages,
   (ii) the number ordered to be printed (including any reprints),
   (iii) the number actually printed,
   (iv) the aggregate cost of printing,
   (v) the number distributed,
   (vi) the number still held by the department (or its agencies),
   (vii) the number that were destroyed and the cost of destruction, and
   (viii) the cost of storage; and
(b) the weight of paper stock that was used for the internal pages.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

The department publishes a number of reports each year including corporate reports such as the annual report and reports from various programs and initiatives across the portfolio.

All reports are published on the department’s website as the first preference. If a report is printed, the department actively encourages smaller digital print runs of between 50 to 200 copies. Some print runs may be larger depending on the nature of the report.

The reports range in page numbers, hard copies produced and channels used for distribution. As a general rule reports are between 40 pages and 240 pages, however some reports may be larger. Printing is generally done on standard paper stock at the lower end of the price scale. Stock weights range from 250 to 300 gsm for covers and 90 to 115 gsm for internal pages. The department also uses paper stock with a recycled content.

Tertiary Education, Skills, Jobs and Workplace Relations
(Question No. 402)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

Can a list be provided detailing the number of laptops, Netbooks, iPads, Blackberries or other portable digital assistants or devices (listed separately) purchased or leased by the department, its agencies and the Minister’s office (listed separately) for each financial year since 2007-08, identifying:
(a) the capital cost;
(b) the annual leasing payment;
(c) the number of each type of device purchased or leased;
(d) the number of each type of device lost, damaged, reported stolen or missing and the cost of replacement;
(e) the cost of providing IT support and maintenance for these devices; and
(f) the cost of software or applications for these devices.
Senator Chris Evans: The answer to the honourable senator’s question is as follows:

Please contact the Senate Table Office for the relevant tables provided as an attachment.

Tertiary Education, Skills, Jobs and Workplace Relations: Staffing
(Question No. 403)

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

With reference to staffing levels in the department and each of its agencies (listed separately) as at 8 February 2011, can a list be provided detailing the total number of:

(a) actual staff;
(b) full-time equivalent staff;
(c) actual staff that are:
   (i) permanent,
   (ii) casual, and
   (iii) contract; and
(d) full-time equivalent staff that are:
   (i) permanent,
   (ii) casual, and
   (iii) contract.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

For the Department of Education, Employment and Workplace Relations:

(a) actual staff; 5496
(b) full-time equivalent staff; 5298.95
(c) actual staff that are:
   (i) permanent, 5362
   (ii) casual, and 0
   (iii) contract; and 134
(d) full-time equivalent staff that are:
   (i) permanent, 5171.73
   (ii) casual, and 0
   (iii) contract. 127.2

For Fair Work Australia:

(a) actual staff; 307
(b) full-time equivalent staff; 285.6
(c) actual staff that are:
   (i) permanent, 268
   (ii) casual, and 0
   (iii) contract; and 39
(d) full-time equivalent staff that are:
   (i) permanent, 246.9
(ii) casual, and 0  
(iii) contract. 38.

**For Comcare**  
(a) actual staff; 654  
(b) full-time equivalent staff; 632.12  
(c) actual staff that are:  
(i) permanent, 588  
(ii) casual, and 0  
(iii) contract; and 66  
(d) full-time equivalent staff that are:  
(i) permanent, 568.41  
(ii) casual, and 0  
(iii) contract. 63.7

**For the Office of the Australian Building and Construction Commissioner:**  
(a) actual staff; 146  
(b) full-time equivalent staff; 140.44  
(c) actual staff that are:  
(i) permanent, 143  
(ii) casual, and 0  
(iii) contract; and 3  
(d) full-time equivalent staff that are:  
(i) permanent, 137.44  
(ii) casual, and 0  
(iii) contract.

**For the Fair Work Ombudsman:**  
(a) actual staff; 932  
(b) full-time equivalent staff; 895.93  
(c) actual staff that are:  
(i) permanent, 887  
(ii) casual, and 0  
(iii) contract; and 45  
(d) full-time equivalent staff that are:  
(i) permanent, 851.7  
(ii) casual, and 0  
(iii) contract. 44.2

**For Safe Work Australia:**  
(a) actual staff; 118  
(b) full-time equivalent staff; 117.82  
(c) actual staff that are:
(i) permanent, 116
(ii) casual, and 0
(iii) contract; and 2
d) full-time equivalent staff that are:
(i) permanent, 115.82
(ii) casual, and 0
(iii) contract. 2

For the Australian Curriculum Assessment and Reporting Authority
(a) actual staff 112
(b) full-time equivalent staff 112
(c) actual staff that are:
(i) permanent 88
(ii) casual, and 0
(iii) contract 24
d) full-time equivalent staff that are:
(i) permanent 88
(ii) casual, and 0
(iii) contract. 24

For the Australian Institute for Teaching and School Leadership
(a) actual staff 36
(b) full-time equivalent staff 35.23
(c) actual staff that are:
(i) permanent 27
(ii) casual, and 0
(iii) contract 9
d) full-time equivalent staff that are:
(i) permanent 26.23
(ii) casual, and 0
(iii) contract. 9

For the Australian Learning and Teaching Council Limited
(a) actual staff 33
(b) full-time equivalent staff 30.3
(c) actual staff that are:
(i) permanent 28
(ii) casual, and 0
(iii) contract 5
d) full-time equivalent staff that are:
(i) permanent 26.3
(ii) casual, and 0
(iii) contract. 4

**Tertiary Education, Skills, Jobs and Workplace Relations: Staffing**
*(Question No. 404)*

Senator Mason asked the Minister for Tertiary Education, Skills, Jobs and Workplace Relations, upon notice, on 10 February 2011:

Can a list be provided detailing the number and classifications of:

(a) Personal staff
(b) Departmental Liaison Officers, based in or attached to the Minister's office for each financial year since 2007-08.

Senator Chris Evans: The answer to the honourable senator's question is as follows:

(a) Details of personal staff are provided in the Members of Parliament (Staff) Act 1984 Annual Reports, available through the following link on the Finance website:


The figures are based on information as at 30 June of each year and the reports cover 30 June 2008, 30 June 2009 and 30 June 2010.

(b) See Attachment A.

**Attachment A**

<table>
<thead>
<tr>
<th>Minister/Parliamentary Secretary</th>
<th>Number of DLOs* 2007-08</th>
<th>Number of DLOs* 2008-09</th>
<th>Number of DLOs* 2009-10</th>
<th>Numbers of DLOs* 2010-11</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Hon Julia Gillard MP</td>
<td>3 **</td>
<td>3 **</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Deputy Prime Minister</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister for Education</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister for Employment and</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Workplace Relations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister for Social Inclusion</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Hon Brendan O'Connor MP</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister for Employment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Participation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Hon Kate Ellis MP ***</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Minister for Youth and Sport</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister for Early Childhood</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Education, Childcare and Youth</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister to Employment Participation, and Child Care ***</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senator the Hon Ursula Stephens</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Parliamentary Secretary for Social Inclusion and the Voluntary Sector</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The Hon Maxine McKew MP</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parliamentary Secretary for Early Childhood Education and Child Care</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Senator the Hon Mark Arbib***</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Minister for Employment Participation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minister for Indigenous Employment and Economic Development ***</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>The Hon Jason Clare MP</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Parliamentary Secretary for Employment</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
QUESTIONS ON NOTICE

Special Minister of State
(Question No. 431)

Senator Cormann asked the Minister representing the Special Minister of State, upon notice, on 11 March 2011:

1. According to what criteria are act of grace and ex-gratia payments granted by the Government.
2. Under what circumstances do these payments extend to compensation for loss of life resulting from government policy.
3. What was the total expenditure on act of grace and ex-gratia payments for each of the following financial years:
   a. 2008-09;
   b. 2009-10; and
   c. 2010-11 (to date).
4. Have act of grace or other discretionary payments been made by the Government in relation to injuries or loss of life resulting from the Home Insulation Program.
5. Can details be provided on the ten largest act of grace or compensation payments that the Government has paid for each of the past 3 financial years.
6. Have any discretionary government payments been made as a result of Australian Military action overseas in each of the past 3 financial years; if so, what were the circumstances of these payments.
7. What is the total number of act of grace and ex-gratia payments that the Government has made for each of the following financial years:
   a. 2006-07;
   b. 2007-08;
   c. 2008-09;
   d. 2009-10; and
   e. 2010-2011 (to date).
Senator Wong: The Special Minister of State has supplied the following answer to the honourable senator's question:

(1) The general principles under which act of grace payments are granted can broadly be characterised as where the Minister or delegate considers it appropriate, because of special circumstances, to provide redress because:

- the direct role of an agent or agency of the Australian Government has caused an unintended or inequitable result for the individual or entity concerned;
- the application of Commonwealth legislation has produced a result that is unintended, anomalous, inequitable or otherwise unacceptable in a particular case (including in cases where the agency has acted correctly in administering the legislation involved); or
- the matter is not covered by legislation or specific policy, but it is intended to introduce such legislation or policy, and it is considered desirable in a particular case to apply the benefits of the proposed provisions prospectively.

Ex gratia payments are used to deliver financial relief at short notice generally to a group of people. The mechanism is flexible with no pre-set criteria to deal with matters that are urgent or unforeseen.

(2) The act of grace and ex gratia mechanisms are generally avenues of last resort and may extend to compensation for loss of life resulting from government policy only where there is no other viable avenue to provide redress. Additionally, as the mechanisms are discretionary, there is no automatic entitlement to payment.

(3) The total expenditure on act of grace payments by financial year is as follows:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Total Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008-09</td>
<td>$3,230,333.30</td>
</tr>
<tr>
<td>2009-10</td>
<td>$949,342.88</td>
</tr>
<tr>
<td>2010-11</td>
<td>$1,209,172.98</td>
</tr>
<tr>
<td>(as at 31 March 2011)</td>
<td></td>
</tr>
</tbody>
</table>

Ex gratia payments are reported in an agency's financial statements.

(4) Yes.

(5) The details of individual act of grace payments are not publicly disclosed due to privacy requirements.

(6) Yes. The circumstances leading to discretionary government payments resulting from Australian military action overseas are not publicly disclosed due to privacy, and in some cases, national security, requirements.

(7) The total number of act of grace payments that the Government has made by financial year is as follows:

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Total Number of Payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006-07</td>
<td>100</td>
</tr>
<tr>
<td>2007-08</td>
<td>109</td>
</tr>
<tr>
<td>2008-09</td>
<td>107</td>
</tr>
<tr>
<td>2009-10</td>
<td>99</td>
</tr>
<tr>
<td>2010-11</td>
<td>52</td>
</tr>
<tr>
<td>(as at 31 March 2011)</td>
<td></td>
</tr>
</tbody>
</table>

Ex gratia payments are reported in an agency's financial statements.
Superannuation
(Question No. 432)

Senator Cormann asked the Minister representing the Minister for Financial Services and Superannuation, upon notice, on 11 March 2011:

(1) How many complaints did the Superannuation Complaints Tribunal receive in each of the following financial years:
   (a) 2008-09;
   (b) 2009-10; and
   (c) 2010-11 (to date).

(2) How many of these complaints were resolved:
   (a) in favour of the complainant;
   (b) by conciliation; and
   (c) by determination of the Tribunal.

(3) What is the first and second most common cause for complaints.

(4) What is the average period of time between the filing of a complaint and its resolution.

Senator Sherry: The Minister for Financial Services and Superannuation has provided the following answer to the honourable senator's question:

(1) (a): 2,546
   (b): 2,481
   (c): The Tribunal has received 1,737 complaints for the year to date (to 18 March 2011)

(2) (a):

<table>
<thead>
<tr>
<th>Review determination – trustee decision set aside &amp; new decision substituted; or decision varied or remitted</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (to date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Withdrawn by the complainant without a conciliation conference</td>
<td>227</td>
<td>246</td>
<td>165</td>
</tr>
<tr>
<td>Withdrawn by the complainant as a result of resolution by conciliation</td>
<td>282</td>
<td>283</td>
<td>260</td>
</tr>
<tr>
<td>Withdrawn by the complainant after hearing but before Determination issued</td>
<td>4</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Withdrawn by the complainant after listing the complaint for review</td>
<td>0</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>TOTAL</td>
<td>542</td>
<td>553</td>
<td>452</td>
</tr>
</tbody>
</table>

(b):

<table>
<thead>
<tr>
<th>Complaints resolved by conciliation</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (to date)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>282</td>
<td>283</td>
<td>260</td>
</tr>
</tbody>
</table>

(c):

<table>
<thead>
<tr>
<th>Complainants resolved by determination of the Tribunal*</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (to date)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>100</td>
<td>78</td>
<td>65</td>
</tr>
</tbody>
</table>

(*Note: this includes complaints resolved in favour of the trustee)
(3) The first and second most common types of complaints are:

2008/09 – death benefit distribution disputes and payments disputes (delays, account balances, early release)
2009/10 – death benefit distribution disputes and payments disputes (delays, account balances, early release)
2010/11 (to date) – death benefit distribution disputes and payments disputes (delays, account balances, early release)

(4):

<table>
<thead>
<tr>
<th></th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11 (to date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Days</td>
<td>235</td>
<td>256</td>
<td>302</td>
</tr>
</tbody>
</table>